

TITLE 5

MUNICIPAL FINANCE AND TAXATION¹

CHAPTER

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CHAPTER 1

REAL PROPERTY TAXES

SECTION

- 5-101. When due and payable.
5-102. When delinquent--penalty and interest.

5-101. When due and payable.² Taxes levied by the City of Gatlinburg against real property shall become due and payable annually on the first day of November of the year for which levied. Any taxpayer who pays his taxes before November 1st, aforesaid, shall receive a discount of two (2) percent from the amount due thereof. (1976 Code, § 6-101)

¹Charter reference: § 13.

²State law references

Tennessee Code Annotated, §§ 67-1-701, 67-1-702 and 67-1-801, read together, permit a municipality to collect its own property taxes if its charter authorizes it to do so, or to turn over the collection of its property taxes to the county trustee. Apparently, under those same provisions, if a municipality collects its own property taxes, tax due and delinquency dates are as prescribed by the charter; if the county trustee collects them, the tax due date is the first Monday in October, and the delinquency date is the following March 1.

5-102. When delinquent--penalty and interest.¹ All real property taxes shall become delinquent on and after the first day of March next after they become due and payable and shall thereupon be subject to such penalty of two (2) percent on all such taxes remaining unpaid. An additional penalty of two (2) percent shall be added for each month that such taxes remain unpaid for twelve (12) months. (1976 Code, § 6-102)

¹Charter and state law reference

Tennessee Code Annotated, § 67-5-2010(b), provides that if the county trustee collects the municipality's property taxes, a penalty of ½ of 1% and interest of 1% shall be added on the first day of March, following the tax due date and on the first day of each succeeding month.

CHAPTER 2

PRIVILEGE TAX

SECTION

- 5-201. Tax levied on gross receipts.
- 5-202. Gross receipt tax report to be filed monthly.
- 5-203. Failure to file return on time.
- 5-204. Distress warrants issued for collection.
- 5-205. Return to be made on sale of business.
- 5-206. Credit memorandum for overpayment.

5-201. Tax levied on gross receipts. Every person doing business within the City of Gatlinburg shall pay a tax of one and one-fourth percent (1¼%) upon the gross receipts of such business. The tax so levied shall specifically include, but shall not be limited to, the following privileges.

(1) The privilege of selling tangible personal property at wholesale or retail; the privilege of renting or furnishing things or services; the privilege of storing tangible personal property within the limits of said municipality for sale; the privilege of renting any rooms, lodgings or accommodations furnished to transients by any hotel, inn, tourist cabin, tourist court, tourist camp, motel, or any other place in which rooms, lodgings or accommodations are furnished to transients for a consideration; the privilege of operating or conducting a garage, parking lot, and other place of business for the purpose of parking or storing motor vehicles; the privilege of operating places of amusement, sports or entertainment, including billiard or pool halls, bowling alleys, amusement devices, musical devices, amusement parks, carnivals, circuses, horse shows, athletic contests, wrestling matches, prize fights, boxing or wrestling exhibitions, skating rinks, public bathing houses, public dance halls, museums, riding academies, tourist guide services, "sky-lift" services, swimming pools, shooting galleries, miniature golf courses or any other place at which any exhibition, display, amusement, or entertainment is offered to the public or place or places where an admission fee is charged.

(2) The said tax is hereby levied upon all persons doing business, within the corporate limits of the City of Gatlinburg, regardless of whether or not such business privilege is enumerated in this chapter.

(3) The said tax shall be collected from all persons as defined herein and paid at the time and in the manner as hereinafter provided.

(4) The tax so levied is and shall be in addition to all other taxes, whether levied in the form of excise, license or privilege taxes, and shall be in addition to all other fees and taxes levied.

(5) It is specifically provided that said tax shall be paid by and absorbed by the person, or corporation doing business or exercising any of the

foregoing privileges, and shall not be passed on to or paid by customers, vendees, consumers and patrons paying therefor.

(6) One percent (1%) of the gross receipts tax levied shall be paid into the General Fund of the City of Gatlinburg. One-half ($\frac{1}{2}$) of one-fourth percent ($\frac{1}{4}\%$) shall be used for capital improvement projects and one-half ($\frac{1}{2}$) of one-fourth percent ($\frac{1}{4}\%$) shall be used to advertise the City of Gatlinburg in a manner as directed by the board of commissioners. (1976 Code, § 6-501)

5-202. Gross receipt tax report to be filed monthly. (1) The gross receipts tax of one and one-fourth percent ($1\frac{1}{4}\%$) levied hereunder shall be due and payable monthly, beginning on the 15th day of July, and for the purpose of ascertaining the amount of tax payable under this chapter it shall be the duty of all persons subject to this tax on or before the 20th day of the month following the month in which this tax shall become effective to submit to the finance director, upon forms prescribed, prepared and furnished by him, returns, showing the gross receipts arising from the doing of business during the preceding calendar month; and thereafter like returns shall be prepared and submitted to said finance director by all persons subject to this chapter on or before the 20th of each month, for the preceding calendar month.

(2) When any person subject to this chapter shall fail to make any return and pay the full amount of the tax required by this chapter there shall be imposed, in addition to other penalties provided herein, a specific penalty to be added to the tax in the amount of five percent (5%), if the failure is for not more than thirty (30) days, with an additional five percent (5%) for each additional thirty (30) days, or fraction thereof, during which the failure continues, not to exceed twenty-five percent (25%) in the aggregate. In the case of a false or fraudulent return, where willful intent exists to defraud the City of Gatlinburg of any tax due under this chapter, a specific penalty of fifty percent (50%) of the tax bill shall be assessed.

When any person fails to remit any tax, or any portion thereof, on or before the date when such tax shall be required by law to be paid, there shall be added to the amount due interest at the rate of ten percent (10%) per annum from the date due until paid.

All penalties and interest imposed by this chapter shall be payable to and collectible by the finance director in the same manner as if they were a part of the tax imposed.

The finance director for good cause may extend for not to exceed thirty (30) days the time for making any returns required under the provisions of this chapter.

(3) In the event any person fails to make a report and pay the tax as provided by this chapter, or in case any person makes a grossly incorrect return, or a return that is false or fraudulent it shall be the duty of the finance director to make an estimate for the taxable period of such person's gross receipts, and assess and collect the tax and interest, plus penalty, if such have accrued, on the

basis of such assessment, which shall be considered prima facie correct, and the burden to show the contrary shall rest upon the person owing said tax.

(4) It shall be the duty of every person required to make a return and pay said tax under this chapter to keep and preserve suitable records of the gross receipts of such person taxable under this chapter, and such other books of account as may be necessary to determine the amount of tax due hereunder, and other information as may be required by the finance director, and it shall be the duty of every such person, moreover, to keep such books of account for a period of two years, and all such books of account or other records shall be open to examination at all reasonable hours to the finance director or any of his authorized agents. (1976 Code, § 6-502)

5-203. Failure to file return on time. (1) If any person subject to making and filing a return required by the provisions of this chapter fails to render such return within the time required or renders a return which is false or fraudulent in that it contains statements which differ from the true gross receipts taxable under this chapter, or otherwise fails to comply with the provisions of this chapter for the taxable period for which said return is made, the finance director shall give such person ten (10) days notice in writing requiring such person to appear before him or his assistant with such books, records and papers as he may require relating to the business of such person for such taxable period; and said finance director may require such person, or the agents and employees of such person, to give testimony or to answer interrogatories under oath administered by the finance director or his assistants respecting the gross receipts of such person subject to tax or the failure to make report thereof as provided in this chapter.

(2) If any such person fails to make any such return or refuses to permit an examination of his books of account or records, or to appear and answer questions within the scope of such investigation relating to his gross receipts, the finance director is hereby authorized to make an assessment based upon such information as may be available to him and to issue a distress warrant for the collection of any such taxes, interest or penalties found to be due. Any such assessment shall be deemed prima facie correct.

(3) At the time of submitting the return required hereunder to the finance director, the persons subject to this chapter shall remit to him therewith the amount of tax due under the applicable provisions of this chapter and failure to so remit such tax shall cause said tax to become delinquent.

(4) All taxes, interest and penalties imposed under this chapter shall be paid to the finance director of the City of Gatlinburg in the form of remittance required by him.

(5) All persons subject to the provisions of this chapter failing or refusing to furnish any return herein required to be made or failing or refusing to furnish a supplemental return or other data required by the finance director, or who shall violate any other provisions of this chapter, shall be guilty of a

misdeemeanor and upon conviction shall be punished in accordance with the general penalty clause in this code. (1976 Code, § 6-503)

5-204. Distress warrants issued for collections. The tax imposed by this chapter shall for each month become delinquent on the twenty-first day of each succeeding month.

The finance director is hereby empowered and it shall be his duty when any tax becomes delinquent under this chapter to issue in the name of the city a distress warrant for the collection of the tax, interest, and penalty from each delinquent taxpayer. Said distress warrant shall run in the name of the city and shall be addressed to, and may be executed by, the chief of police or any police officer of the city, or by the sheriff or any deputy sheriff of Sevier County, and may be made returnable at any time not exceeding thirty (30) days from the date of issuance to the office of the finance director.

Upon levy of such distress warrant upon the property of any person who may be delinquent on the payment of said tax, the officer making said levy will advertise the same for sale as in cases of execution sales under the laws of the State of Tennessee, and, upon making sale, shall make due return of the said warrant to the office of said finance director, and will pay over to the said finance director all sums realized therefrom.

In case any officer shall make a levy under a distress warrant so issued and he shall not have sufficient time to advertise and make sale before the return day of said warrant, the said finance director is authorized upon the return thereof to issue a new distress warrant or extend the time of the old distress warrant so the legal advertisement and sale may be made pursuant to said levy. (1976 Code, 6-504)

5-205. Return to be made on sale of business. If any person liable for any tax, interest, or penalty levied hereunder shall sell out his business or stock of goods, or shall quit the business, he shall make a final return and payment within fifteen (15) days after the date of selling or quitting the business. His successor, successors, or assigns, if any, shall withhold sufficient of the purchase money to cover any amount of such taxes, interest, and penalties due and unpaid until such former owner shall produce a receipt from the finance director showing that they have been paid, or a certificate stating that no taxes, interest or penalties are due. If the purchaser of a business or stock of goods shall fail to withhold the purchase money as above provided, said purchaser shall be personally liable for the payment of the taxes, interest, and penalties accruing and unpaid on account of the operation of the business by any former owner, owners, or assigns. (1976 Code, § 6-505)

5-206. Credit memorandum for over payment. The finance director is hereby empowered, for good cause shown, to refund to any taxpayer any overpayment of the taxes due under this chapter, and for this purpose the

finance director may issue to any person an official credit memorandum for such overpayment of taxes which may be accepted by the finance director at full face value from the person to whom it is issued in the remittance for subsequent taxes accrued under the provisions of this chapter. Provided, however, in cases where a person has retired from business and has filed a final return, a refund of taxes may be made if it can be established to the satisfaction of the finance director that the tax was not due. Application for such refund, however, must be made within a period of ninety (90) days after the filing of such final return.

The finance director shall design, prepare, print and furnish to all persons, or make available to all persons who are subject to this chapter, all necessary forms for filing returns and instructions to insure a full collection from such persons and an accounting for the taxes due, but failure of any person to secure such forms shall not relieve such person from the payment of said tax at the time and in the manner herein provided.

The finance director and his assistants are hereby authorized and empowered to administer the oath for the purpose of enforcing and administering the provisions of this chapter.

The finance director shall have the power to make and publish reasonable rules and regulations not inconsistent with this chapter or other laws, or the constitution of the State of Tennessee or the United States, for the enforcement of the provisions of this chapter and the collection of revenues hereunder. (1976 Code, § 6-506)

CHAPTER 3**WHOLESALE BEER TAX****SECTION**

5-301. To be collected.

5-301. To be collected. The recorder is hereby directed to take appropriate action to assure payment to the municipality of the wholesale beer tax levied by the “Wholesale Beer Tax Act,” as set out in Tennessee Code Annotated, title 57, chapter 6.¹ (1976 Code, § 6-401, modified)

¹State law reference

Tennessee Code Annotated, title 57, chapter 6 provides for a tax of 17% on the sale of beer at wholesale. Every wholesaler is required to remit to each municipality the amount of the net tax on beer wholesale sales to retailers and other persons within the corporate limits of the municipality.

CHAPTER 4

SALES TAX

SECTION

5-401. Sales tax enacted.

5-402. To be collected by the department of revenue.

5-403. Suit against city manager for recovery of tax paid.

5-401. Sales tax enacted. As authorized by Pub. Acts 1963, ch. 329, there is levied a tax in the same manner and on the same privileges subject to the “Retailers Sales Tax Act” under Tennessee Code Annotated, title 67, chapter 6, as the same may be amended, which are exercised in the City of Gatlinburg. The tax is levied on all such privileges at a rate of one-third (1/3) of the rates levied in the Retailers’ Sales Tax Act codified in Tennessee Code Annotated, title 67, chapter 6. Provided the tax shall not exceed \$5 on the sale or use of any single article of personal property, and there is excepted from the tax levied by this chapter the sale, purchase, use, consumption or distribution of electric power or energy, or natural or artificial gas, or coal and fuel oil. Penalties and interest for delinquencies shall be the same as provided in Tennessee Code Annotated, §§ 67-6-505, 67-6-506, and 67-6-516. (1976 Code, § 6-201, modified)

5-402. To be collected by the department of revenue. It having been determined by the Department of Revenue of the State of Tennessee that it is feasible for this tax to be collected by that department, said determination being evidenced by local option sales and use tax rules and regulations heretofore promulgated by the department of revenue, the department shall collect such tax concurrently with the collection of the state tax in the same manner as the state tax is collected in accordance with rules and regulations promulgated by said department. The city manager of the City of Gatlinburg is hereby authorized to contract with the department of revenue for the collection of the tax by the department and to provide in said contract that the department may deduct from the tax collected a reasonable amount or percentage to cover the expense of the administration and collection of said tax. (1976 Code, § 6-202)

5-403. Suit against city manager for recovery of tax paid. In the event the tax is collected by the department of revenue, suits for the recovery of any tax illegally assessed or collected shall be brought against the city manager of the City of Gatlinburg. (1976 Code, § 6-203)

CHAPTER 5

BUSINESS TAX

SECTION

5-501. Tax levied.

5-501. Tax levied. Except as otherwise specifically set forth in this code, the taxes provided for in the state's "Business Tax Act" are hereby expressly enacted, ordained and levied on the businesses, business activities, vocations and occupations carried on within the municipality at the rates in the manner prescribed. (1976 Code, § 6-301)

CHAPTER 6

HOTEL/MOTEL TAX

SECTION

- 5-601. Definitions.
- 5-602. Levy of tax.
- 5-603. Tax added to room invoice.
- 5-604. Remittance to director of finance.
- 5-605. Offer to absorb tax prohibited.
- 5-606. Penalties and interest for delinquency.
- 5-607. Records.
- 5-608. Administration.
- 5-609. Expending and distributing tax.
- 5-610. Tax is additional tax.
- 5-611. Rules and regulations.

5-601. Definitions. For the purposes of this chapter, the following definitions shall apply:

(1) “Person” means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

(2) “Hotel” means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist court, tourist camp, tourist cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration, the definition shall also include the rental of time-share units or interval ownership units for consideration.

(3) “Occupancy” means the use or possession, or the right to the use or possession, of any room, lodgings or accommodations in any hotel.

(4) “Transient” means any person who exercises occupancy or is entitled to occupancy of any rooms, lodgings, or accommodations in a hotel for a period of less than ninety (90) continuing days.

(5) “Consideration” means the consideration charged whether or not received, for the occupancy of a hotel valued in money whether received in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction therefrom whatsoever. Nothing in this definition shall be construed to imply that consideration is charged when the space provided to the person is complimentary from the operator and no consideration is charged to or received from any person.

(6) “Operator” means the person operating the hotel whether as owner, lessee or otherwise.

(7) "Tourism" means the planning and conducting of programs of information and publicity designed to attract to the municipality tourists, visitors and other interested persons from outside the area and also encouraging and coordinating the efforts of other public and private organization or groups of citizens to publicize the facilities and attractions of the area for the same purposes. It also means the acquisition, construction, and remodeling of facilities useful in the attraction and promoting of tourist, conventions, and recreational business. (1976 Code, § 6-701)

5-602. Levy of tax. There is hereby levied a privilege tax upon the privilege of occupancy in any hotel of each transient in the amount of three percent (3%) of the consideration charged by the operator. Said tax so imposed is a privilege tax upon the transient occupying said room and is to be collected and distributed as hereinafter provided. (1976 Code, § 6-702)

5-603. Tax added to room invoice. Said tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of his hotel, such invoice to be given directly or transmitted to the transient, and shall be collected by such operator from the transient and remitted to the Department of Finance. (1976 Code, § 6-703)

5-604. Remittance to director of finance. The tax hereby levied shall be remitted by all operators who lease, rent, or charge for any rooms to the director of finance. Said tax to be remitted to such officer not later than the 20th day of each month next following collection from the transient.

For the purpose of compensating the operator in accounting for and remitting the tax levied by this chapter, said operator shall be allowed two percent (2%) of the amount of tax due and accounted for and remitted to the director of finance in the form of a deduction in submitting his report and paying the amount due by him; provided the amount due was not delinquent at the time of payment. (1976 Code, § 6-704)

5-605. Offer to absorb tax prohibited. No operator of a hotel shall advertise or state in any manner whether directly or indirectly that the tax or any part thereof will be assumed or absorbed by the operator, or that it will be added to the rent, or that, if added, any part will be refunded. (1976 Code, § 6-705)

5-606. Penalties and interest for delinquency. Taxes collected by an operator which are not remitted to the department of finance on or before the due dates are delinquent. An operator shall be liable for interest on such delinquent taxes from the due date at the rate of six percent (6%) per annum, and in addition for penalty of one-half of one percent (1/2 of 1%) for each month or fraction thereof such taxes are delinquent. Such interest and penalty shall

become a part of the tax herein required to be remitted. Willful refusal of an operator to collect or remit the tax or willful refusal of a transient to pay the tax imposed is hereby declared to be unlawful and shall constitute a misdemeanor punishable upon conviction by a fine not in excess of fifty dollars (\$50.00). The fine levied herein shall be applicable to each individual transaction involving lodging services paid by a customer to the operator in those cases when the operator fails or refuses to pay the tax payable to the department of finance. (1976 Code, § 6-706)

5-607. Records. It shall be the duty of every operator liable for the collection and payment of this tax, to keep and preserve for a period of three (3) years all records necessary to determine the amount of such tax for whose collection and payment to the municipality he may have been liable, which records the director of finance shall have the right to inspect at all reasonable times. (1976 Code, § 6-707)

5-608. Administration. In administering and enforcing the provisions of this chapter, the director of finance shall have as additional powers the powers and duties with respect to collection of taxes provided in Tennessee Code Annotated, title 67, or otherwise provided by law.

Upon any claim of illegal assessment and collection, the taxpayer shall have the remedy provided in Tennessee Code Annotated, § 67-1-911, it being the intent of this chapter that the provisions of law which apply to the recovery of taxes illegally assessed and collected shall apply to the tax collected under the authority of this chapter; provided, the director of finance shall possess those powers and duties as provided in Tennessee Code Annotated, § 67-1-707(a), with respect to the adjustment and settlement with taxpayers of all errors of taxes collected by him under the authority of this chapter and to direct the refunding of the same. Notice of any tax paid under protest shall be given to the director of finance, and suit for recovery shall be brought against him. (1976 Code, § 6-708, modified)

5-609. Expending and distributing tax. The proceeds from the tax levied herein shall be retained by the municipality and distributed as follows:

- (1) One-third (1/3) of the proceeds shall be used for direct promotion of tourism.
- (2) One-third (1/3) of the proceeds shall be used for tourist related activities.
- (3) One-third (1/3) of the proceeds shall be deposited in the general funds of the municipality.

Proceeds of this tax may not be used to provide a subsidy in any form to any hotel or motel. (1976 Code, § 6-709)

5-610. Tax is additional tax. The tax herein levied shall be in addition to all other taxes levied or authorized to be levied whether in the form of excise, license, or privilege taxes, and shall be in addition to all other fees and taxes now levied or authorized to be levied. (1976 Code, § 6-710)

5-611. Rules and regulations. The finance director shall have the power to make and publish reasonable rules and regulations not inconsistent with this chapter or other laws, for the enforcement of the provisions of this chapter and the collection of revenues hereunder. Further the finance director shall design, prepare, print and make available to all persons who are subject to this chapter, all necessary forms for filing returns and instructions to insure full compliance with the provisions of this chapter. (1976 Code, § 6-711)

CHAPTER 7

TOURIST RESIDENCY PERMITS

SECTION

5-701. Definition.

5-702. Permit.

5-703. Fee.

5-704. Person required to obtain permit.

5-705. Penalty.

5-701. Definition. “Tourist residency” (sometimes referred to as a tourist residence) is defined as the practice of renting single family residences, specifically including cabins and chalets and similar residences, including condominiums and apartments, which are not otherwise inspected by the State of Tennessee, on an overnight, weekly or other basis of less than thirty days duration, to tourists and/or visitors.

Tourist residencies shall be reviewed and permitted under the adopted building codes and Life Safety 101 Code using one (1) of the following criteria:

(1) Tourist residency, as defined herein, consisting of three (3) or less stories, less than five thousand (5,000) gross square feet, and twelve (12) or fewer occupants shall be classified as one- and two-family dwellings. These dwellings are subject to the fire sprinkler exemptions of Tennessee Code Annotated, § 68-120-101(a)(8)(A);

(2) Tourist residency, as defined herein, consisting of more than (3) stories, more than five thousand (5,000) gross square feet, or more than twelve (12) occupants, shall be classified as R-1 or R-3 as determined by the provisions of NFPA 101-Life Safety Code and the International Building Code requirements. These dwellings are not subject to the fire sprinkler exemptions of Tennessee Code Annotated, § 68-120-101(a)(8)(A). (1976 Code, § 6-801, as replaced by Ord. #2325, Dec. 2004, and amended by Ord. #2453, Nov. 2012, Ord. #2461, March 2013, and Ord. #2503, Sept. 2016)

5-702. Permit. Each tourist residence as defined above must have a tourist residency permit and have an annual tourist residency inspection. (1976 Code, § 6-802, as replaced by Ord. #2325, Dec. 2004)

5-703. Fee. The base fee for a tourist residency permit shall be the sum of \$200 per residence. This will include the residence and two bedrooms. For all tourist residences which ave more than two bedrooms, an additional \$75 per bedroom shall be charged. (1976 Code, § 6-803, as replaced by Ord. #2325, Dec. 2004)

5-704. Person required to obtain permit. The owner of the tourist residence or his/her agent, if being rented by an overnight rental agent, shall be

required to obtain the tourist residency permit. (1976 Code, § 6-804, as replaced by Ord. #2325, Dec. 2004)

5-705. Penalty. Any owner, or rental agent on behalf of an owner, who rents a tourist residence without first obtaining a tourist residency permit shall be in violation of this chapter. Each rental shall constitute a separate violation of same. Upon conviction of any such violation, such person shall be punished by levying a fine not to exceed fifty dollars (\$50.00) per violation. (1976 Code, § 6-805, as replaced by Ord. #2325, Dec. 2004)

CHAPTER 8

RESTAURANT PRIVILEGE TAX

SECTION

- 5-801. Levy of tax.
- 5-802. Tax added to food invoice.
- 5-803. Remittance to director of finance.
- 5-804. Exemptions.
- 5-805. Penalties and interest for delinquency.
- 5-806. Records.
- 5-807. Administration.
- 5-808. Tax is additional tax.
- 5-809. Rules and regulations.
- 5-810. Use of proceeds.
- 5-811. Severability.

5-801. Levy of tax. There is hereby levied a privilege tax upon the privilege of purchasing food from restaurants, cafes, cafeterias, caterers and other similar establishments engaged in selling prepared food in the City of Gatlinburg. Said privilege tax shall be in an amount equal to one and one-half percent (1½%) of the consideration charged by the operator of said establishments. Said tax so imposed is a privilege upon the purchasing of food by patrons of said establishments and is to be collected and distributed as hereinafter provided.

For purposes of this chapter, restaurant shall be deemed to include any establishment selling prepared food whether for consumption on-premise or off-premise and is to include delicatessen, snack bars, ice cream parlors, lunch rooms or counters within other retail businesses, and other similar establishments, and specifically includes all 'food service establishments' as defined by Tennessee Code Annotated, title 68. (1976 Code, § 6-901)

5-802. Tax added to food invoice. Said tax shall be added by each and every operator of establishments covered by this chapter to each invoice prepared by the operator of said facility. Said invoice shall be given directly to the purchaser and shall be collected by the operator from the purchaser at the time of sale and remitted to the director of finance of the City of Gatlinburg. (1976 Code, § 6-902)

5-803. Remittance to director of finance. The tax hereby levied shall be remitted by all operators of establishments subject to said tax to the director of finance. Said tax shall be remitted to the finance director not later than the 20th day of each month next following collection from the purchaser. (1976 Code, § 6-903)

5-804. Exemptions. The provisions of this chapter shall not apply to food prepared to be served at churches, schools, senior citizen centers, nursing homes and at boarding houses where the cost of food is included in the rental rate. The provisions of this chapter shall also not apply to the sale of alcoholic beverages in any form, manner, time or place. (1976 Code, § 6-904)

5-805. Penalties and interest for delinquency. Taxes collected by an operator which are not remitted to the department of finance on or before the due dates are delinquent. An operator shall be liable for interest on such delinquent taxes from the due date at the rate of ten percent (10%) per annum and in addition for penalty of one-half of one percent ($\frac{1}{2}$ of 1%) for each month or fraction thereof such taxes are delinquent. Such interest and penalty shall become a part of the tax herein required to be remitted. Willful refusal of an operator to collect or remit the tax or willful refusal of a purchaser to pay the tax imposed is hereby declared to be unlawful and shall constitute a misdemeanor punishable upon conviction by a fine not in excess of fifty dollars (\$50.00). The fine levied herein shall be applicable to each individual transaction involving food services paid by a customer to the operator in those cases where the operator fails or refuses to pay the tax payable to the department of finance. (1976 Code, § 6-905)

5-806. Records. It shall be the duty of every operator liable for the collection and payment of this tax, to keep and preserve for a period of three (3) years all records necessary to determine the amount of such tax for whose collection and payment to the municipality he may have been liable, which records the director of finance shall have the right to inspect at all reasonable times. (1976 Code, § 6-906)

5-807. Administration. In administering and enforcing the provisions of this chapter, the director of finance shall have, as additional powers, the powers and duties with respect to collection of taxes provided in Tennessee Code Annotated, title 67, or otherwise provided by law.

Upon any claim of illegal assessment and collection, the taxpayer shall have the remedy provided in Tennessee Code Annotated, § 67-1-911, it being the intent of this chapter that the provisions of law which apply to the recovery of taxes illegally assessed and collected shall apply to the tax collected under the authority of this chapter; provided, the director of finance shall possess those powers and duties as provided in Tennessee Code Annotated, § 67-1-707, with respect to the adjustment and settlement with taxpayers of all errors of taxes collected by him under the authority of this chapter and to direct the refunding of the same. Notice of any tax paid under protest shall be given to the director of finance, and suit for recovery shall be brought against him. (1976 Code, § 6-907)

5-808. Tax is additional tax. The tax herein levied shall be in addition to all other taxes levied or authorized to be levied whether in the form of excise, license, or privilege taxes, and shall be in addition to all other fees and taxes now levied or authorized to be levied. (1976 Code, § 6-908)

5-809. Rules and regulations. The finance director shall have the power to make and publish reasonable rules and regulations not inconsistent with this chapter or other laws, for the enforcement of the provisions of this chapter and the collection of revenues hereunder. Further the finance director shall design, prepare, print and make available to all persons who are subject to this chapter, all necessary forms for filing returns and instructions to insure full compliance with the provisions of this chapter. (1976 Code, § 6-909)

5-810. Use of proceeds. Tax proceeds generated by the provisions of this chapter shall be used as determined by the board of commissioners of the City of Gatlinburg. The use of said funds, however, shall be limited to Capital Improvements Projects as established by the Capital Improvement Program of the City of Gatlinburg, including the Gatlinburg Convention Center. (1976 Code, § 6-910)

5-811. Severability. If any provision of this chapter is deemed by a court of competent jurisdiction to be invalid, such invalidity shall not affect the other provisions or applications of this chapter which can be given effect without the invalid application and to that end, the provisions of this chapter are declared severable. (1976 Code, § 6-911)

CHAPTER 9

PURCHASE, SALE, AND INVENTORY OF CITY PROPERTY

SECTION

- 5-901. City manager to authorize purchases.
- 5-902. Terms, conditions and procedures for purchasing.
- 5-903. Notice inviting bids.
- 5-904. Submittal and opening of bids.
- 5-905. Acceptance or rejection of bids.
- 5-906. Determination of lowest responsible bidder.
- 5-907. Awards to other than lowest bidders.
- 5-908. Bid deposits.
- 5-909. Performance bond.
- 5-910. Purchases by the state.
- 5-911. When competitive bids required.
- 5-912. Inventory on property required.
- 5-913. Transfer and sale of property.
- 5-914. Procedure for sales.
- 5-915. Award protest procedures.

5-901. City manager to authorize purchases. The purchasing agent, as directed by the city manager, for the city shall oversee all purchases of supplies, materials, equipment and services as authorized by the commission in the manner prescribed by this chapter and subject to the limitations imposed by law. (1976 Code, § 1-1501)

5-902. Terms, conditions and procedures for purchasing. The following terms, conditions and procedures shall be followed by the purchasing agent and/or the city manager and suppliers in the procurement of goods and services for the City of Gatlinburg.

(1) All purchases of supplies, materials and equipment and services shall be pursuant to a written requisition from the head of the office, department or agency whose appropriation will be charged therewith, and such supplies, materials, equipment and services shall conform with specifications approved, established and enforced by the purchasing agent and/or the city manager.

(2) No purchase order shall be issued or contract executed, nor shall any other agreement purporting to obligate the city be entered into, without the written approval of the director of finance, that there is a sufficient unencumbered appropriation and allotment balance to cover the obligation.

(3) Competitive bids on all supplies, materials, equipment and services, except those specified elsewhere in this chapter, and contracts for public improvements shall be obtained, whenever practicable, and the purchase

or contract awarded to the lowest responsible bidder, provided that any or all bids may be rejected as prescribed in this chapter.

(4) “Split-bidding” is prohibited. The practice of “split bidding” is hereby defined to be the device of submitting multiple requisitions for the same supplies, materials, equipment or services where the sum of the cost of the several requisitions is equal to current state law requirements and splitting the department’s requirements into several requisitions would thereby avoid the necessity for the city manager to require competitive sealed bids or quotations. The practice of “split-bidding” is hereby declared to be improper, illegal and against the public interest, and the head of the office, department or agency shall state on each requisition that such requisition represents the entire quantity presently known to be required and that the requisition is not a part of a device or scheme to avoid purchasing on competitive bidding or to otherwise evade the established purchasing procedures of the city.

(5) The city manager shall not accept the bid of any vendor or contractor who is in default on the payment of any taxes, licenses, fees or other monies of whatever nature that may be due the city by such vendor or contractor.

(6) A bidder, to qualify for an award of contract, shall have available experienced personnel to give adequate service on any equipment bid on, and maintain a supply of essential repair parts. (1976 Code, § 1-1502)

5-903. Notice inviting bids. Notice inviting bids shall be published at least once in a local newspaper as the city manager may direct and may be published in other publications. Such notice shall include a general description of the articles to be purchased, shall state where bid blanks and written specifications may be secured, and the time and place for opening bids. Additional notice of such invitations to bid shall be posted on the public bulletin board in the municipal building. (1976 Code, § 1-1503)

5-904. Submittal and opening of bids. Bids shall be submitted sealed as prescribed in bid specifications and shall be identified as bids on the envelope. Such bids shall be opened in public in the presence of at least three (3) persons at the time and place stated in the public notice, and a tabulation of all bids so received shall be made available upon request. (1976 Code, § 1-1504)

5-905. Acceptance or rejection of bids. The city manager shall have and hereby is granted the authority to reject any or all bids, parts of all bids, or all bids for any one or more supplies or contractual services included in the proposed contract, when the public interest will be served thereby; shall have the right to reject any bid in any instance where there are not at least two bidders on the same invitation to bid; however, this shall not prevent the city manager from accepting a bid and presenting it to the commission to award a contract where there is only one bidder, if, in his opinion, the best interest of the

city will be served by doing so. No contract shall then be awarded without commission's approval. The city manager is hereby authorized to execute contracts on behalf of the City of Gatlinburg without the board of commissioners' approval if the amount of the contract is less than twenty thousand dollars (\$20,000.00). All contracts for an amount in excess of \$20,000 shall be approved by the board of commissioners and executed either by the mayor or the city manager as authorized in the approval. All change orders to contracts approved by the board of commissioners shall likewise be approved by the board of commissioners prior to execution. Change orders to contracts not approved by the board of commissioners may be administratively approved and executed by the city manager provided the change order is in an amount less than seven thousand five hundred dollars (\$7,500.00) and the funds for same have been approved by the board of commissioners. The city manager shall notify the board of commissioners of such change orders but their previous approval of same is not required. The city manager is further authorized to execute purchase orders on behalf of the city for such items or goods as approved and funded in the budget, without regard to amount. (1976 Code, § 1-1505, as amended by Ord. #2189, Sept. 1999)

5-906. Determination of lowest responsible bidder. In determining the lowest responsible bidder, as referred to in § 5-902(3), in addition to price, the city manager shall consider:

- (1) The ability, capacity and skill of the bidder to perform the contract or provide the services required.
- (2) Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference.
- (3) The character, integrity, reputation, judgment, experience and efficiency of the bidder.
- (4) The quality or performance of previous contracts or services.
- (5) The previous and existing compliances by the bidder with laws and ordinances relating to the contract or service.
- (6) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service.
- (7) The quality, availability and adaptability of the supplies or contractual services to the particular use required.
- (8) The ability of the bidder to provide future maintenance and services for the use of the subject of the contract.
- (9) The number and scope of conditions attached to the bid.(1976 Code, § 1-1506, as amended by Ord. #2509, Feb. 2017)

5-907. Awards to other than lowest bidders. When the award is not recommended by the city manager to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared by the city manager and filed with all the other papers relating to the transaction.

Award to other than the low bidder must be approved by the city commission. (1976 Code, § 1-1507)

5-908. Bid deposits. When deemed necessary, bid deposits shall be prescribed and noted in the public notices inviting bids. The deposit shall be in such amount as the city manager shall determine and unsuccessful bidders shall be entitled to return of the deposits where such has been required. A successful bidder shall forfeit any required deposit upon failure on his part to enter a contract within ten (10) days after the award, if a specified time is not stated in the bid specifications. (1976 Code, § 1-1508)

5-909. Performance bond. The city manager may and is hereby granted the authority to require a performance bond, before entering a contract, in such amount as he shall find reasonably necessary to protect the best interests of the city. (1976 Code, § 1-1509)

5-910. Purchases by the state. Notwithstanding the procedures as are set out in § 5-901 through § 5-909, the city manager is hereby authorized to request the Department of General Services of the state to purchase supplies and equipment for the city pursuant to Tennessee Code Annotated, § 12-3-401, when it is deemed that such purchases will result in a substantial savings to the city. (1976 Code, § 1-1510)

5-911. When competitive bids required. (1) Purchases less than \$2,500.00. All purchases of any single item or multiple items totaling less than two thousand five hundred dollars (\$2,500.00) are at the discretion of the respective department head and require no public advertisement or competitive bidding. While bidding or quotations are not mandatory for purchases under two thousand five hundred dollars (\$2,500.00) they are still desirable and every effort should be made to acquire products and services at best possible price.

(2) Purchases from \$2,500.00 to \$10,000.00. Purchases greater than two thousand five hundred dollars (\$2,500.00) but less than ten thousand dollars (\$10,000.00) will be made only after obtaining at least three (3) documented quotes unless there are less than three (3) vendors that can supply the goods or services. For purposes of this section, a vendor that fails to respond to an invitation to quote, resulting in a no quote, constitutes a documented quote. Competitive bidding and public advertisement is not required. Quotes may be received via fax, telephone, internet, and the like. The business will be awarded to the vendor providing the lowest and best quote conforming to the specifications and delivery requirements, provided that the city manager or his/her designee approves the quote and purchase. Department heads or others authorized to make purchases on behalf of the city will not divide the quantity of items required into multiple purchases totaling between two thousand five hundred dollars (\$2,500.00) but less than ten thousand dollars (\$10,000.00) or

otherwise contrive to circumvent the provisions of this section and/or subsequent sections.

(3) Purchases greater than \$10,000.00. Unless otherwise provided by statute, competitive bidding and public advertisement will be required for all purchases over ten thousand dollars (\$10,000.00) except for:

(a) Purchases for goods or services that are subject to daily price changes (e.g. gasoline).

(b) Purchases from any federal, state or governmental unit or agency or any other cooperative purchasing agreement (U.S. Communities, NJPA, etc.) allowed by the state.

(c) Purchases for goods or services that are sold, distributed or manufactured by a single source ("sole source purchases"); and

(d) Purchases made during a declared area-wide emergency or for the immediate delivery in actual emergencies arising from the unforeseen causes, including delays by contractors or transportation or unanticipated volume of work. (1976 Code, § 1-1511, as replaced by Ord. #2509, Feb. 2017)

5-912. Inventory on property required. The city manager shall maintain an inventory of all public property and equipment. When possible, each item of such property shall be labeled, serially numbered, or identifiable in some way as city property. When such inventory is made, one copy thereof shall be filed in the office of the director of finance and such additional copies with other public officials as the commission may designate, so that the same may be made a part of the permanent records of the city. The inventory shall be adjusted annually as additional properties are acquired or disposed of by the city. (1976 Code, § 1-1512)

5-913. Transfer and sale of property. The city manager may transfer to or between departments supplies, materials and equipment. When it is determined by the city manager that material and/or equipment exists which is not needed by any city department, the city commission may authorize the city manager to direct the sale thereof, and the proceeds from any sale or sales shall be deposited in the appropriate fund of the city. (1976 Code, § 1-1513)

5-914. Procedure for sales. The city manager, duly authorized, shall obtain competitive and formal quotations for the sale and disposal of surplus, obsolete, unused materials or equipment, when any one item or group of items offered for sale amounts to more than \$1,000.00 in appraised resale value.

(1) In such event, the city manager shall cause notice of sale to be published in a newspaper or newspapers of general circulation, giving a general description of the items to be sold, where bids are to be received and the time and place of the sale. The city manager may, in addition, solicit sealed or informal quotations, as the case may be, from prospective buyers, by telephone,

by sending them copies of newspaper notices, or other methods designed to reach the greatest number of prospective buyers.

(2) When any separate item or items of such surplus to be offered for sale amounts to less than \$1,000.00, the city manager may accept informal bids or quotations for the sale of such item or items.

(3) Surplus is to be sold to the highest and best bidder with the right retained by the city to reject any or all bids or to waive any informalities or immaterial defects contained in said bids.

(4) At the time and place of sale of such surplus, sealed bids shall be submitted to the city manager, and shall be identified as bids on the envelope. Such bids shall be opened in public in the presence of at least (3) persons. Oral bids at a public auction may be considered by the city manager, after giving proper notice of such fact.

(5) Depending upon the nature of such surplus offered, the city manager may require that cash or a cashier's check in an amount equal to 10% of the price bid shall be deposited by the bidder at the time of making or submitting the bid. The person to whom property is sold, either by sealed bid or at public auction, shall consummate the purchase within five (5) days from and excluding the date of the award of such bid.

(6) The provisions of this section shall not apply when the city is selling surplus, obsolete, or unused materials or equipment to any other federal, state or local governmental unit or agency.

(7) In addition to any other procedure for the sale of surplus property set out in this section, the city is hereby authorized to dispose of surplus city property through sale using the internet. The city may conduct such sale itself or may employ a third-party provider for the purpose of said sale. The city is authorized to enter into an agreement with said third-party provider setting forth the process and procedures for such sale. The use of the internet for sales of surplus property shall be an additional means of doing so, and whether such process is used shall be administratively determined by the city manager. (1976 Code, § 1-1514, as amended by Ord. #2327, Feb. 2005)

5-915. Award protest procedures. Occasionally, there may be complaints from vendors that the process of awarding a sealed bid has been unfair in some manner. While the City of Gatlinburg maintains excellent vendor relations, procedures do exist should a vendor claim that the process is not fair. The City of Gatlinburg has established the following procedures concerning protests of awards. The goal of these procedures is to arrive at a just settlement of disputes between the city and its vendors. As a first step, vendors who believe there has been a problem with the process or decision should contact the party associated with the bid in question. Most of the time this will be the finance director unless the bid has been handled by an outside engineer or architect. Usually one (1) of these aforementioned parties will be able to explain the city's

rationale for the decision and the vendor will be satisfied. However, if the vendor is still not satisfied the following steps may be taken:

(1) The vendor must notify the Gatlinburg Finance Director, in writing, during the next three (3) business days. The city will not consider complaints filed electronically. Complaints received more than three (3) business days after the award decision has been made will not be considered for review.

(2) The envelope in which the protest is mailed should be clearly marked "protest of award decision." The written protest should include:

(a) The name and address of the protestor.

(b) The bid name, date, and any other pertinent information.

(c) A statement of reason for the protest.

(d) Any supporting documents, exhibits, or evidence to substantiate the protest.

(3) The finance director will deliver the protest to the city manager for review and a decision will be made in writing. Recognize that holding the procurement process up any longer than necessary is detrimental to the interests of the city. In any case, a decision will be made within five (5) business days of the receipt of the protest.

Please note that in those cases where delaying the procurement process would endanger the health of the residents of the City of Gatlinburg, cause additional and extensive damage to the city or would adversely affect its programs, the city will not stop the purchasing process. (as added by Ord. #2509, Feb. 2017)

CHAPTER 10

MISCELLANEOUS

SECTION

5-1001. Depositories.

5-1001. Depositories. The following financial institutions or their successors are hereby designated as official depositories for City of Gatlinburg funds:

BB&T
Citizens National Bank
Tennessee State Bank
First Tennessee Bank
Home Federal Bank
Sevier County Bank
SmartBank

In addition to the banks specifically named herein, the city may deposit city funds with banks which are named as trustees in any bond resolution of the City of Gatlinburg. Any depository named either in this section or in any future bond resolution shall be required to provide adequate collateral for city funds deposited as required by state law and of the City of Gatlinburg or, in the alternative, to be a member of the Tennessee Collateral Pool. (As added by Ord. #2207, May 2000, and amended by Ord. #2418, Oct. 2009, and Ord. #2479, Nov. 2014)

CHAPTER 11

AMUSEMENT TAX

SECTION

- 5-1101. Definitions.
- 5-1102. Levy of tax.
- 5-1103. Tax added to amusement price.
- 5-1104. Remittance to director of finance.
- 5-1105. Offer to absorb tax prohibited.
- 5-1106. Exemptions.
- 5-1107. Penalties and interest for delinquency.
- 5-1108. Records.
- 5-1109. Administration.
- 5-1110. Deposit of tax.
- 5-1111. Tax is additional tax.

5-1101. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions shall apply:

(1) "Admission" means admission into or for an amusement after consideration paid by single ticket, season ticket or subscription; for any admission charged within any enclosure in addition to the initial charge for admission to such enclosure; and for the use of sporting or recreational facilities or equipment, including the rental of such facilities or equipment; and shall apply on admission fees or charges, whether or not a ticket is actually issued;

(2) "Amusement" means any theater, motion picture house, cinema, athletic contest, exhibition, pageant, show, production, demonstration, play, performance, concert, musicale, recital, reading, circus, carnival, act, exhibit, lecture, address, nightclub, cabaret, dance, dance hall, restaurant which provides either floor show, singing, dancing, or dancing facilities for patrons, and ride or excursion where passengers are taken on and discharged within the county boundaries and shooting galleries, as well as all mechanical or electrical devices operated for pleasure or skill where a fee is charged for admission or entrance or for the purpose of playing them, or where there is any charge whatever for them or in connection with them either directly or indirectly, where such games or devices are located in any amusement park or amusement center, provided, however, actual play on coin operated machines of skill or chance are exempt from the provisions of this tax;

(3) "Consideration" means the consideration charged whether or not received, for an admission for an amusement valued in money whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction therefrom whatsoever. Nothing in this definition shall be construed to imply that consideration is charged when the service provided to the person is

complimentary from the operator and no consideration is charged to or received from any person;

(4) "Consumer" means any person who pays consideration into or for an amusement;

(5) "Operator" means the person operating the amusement;

(6) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit; and

(7) "Tourism" means the planning and conducting of programs of information and publicity designed to attract to the municipality tourists, visitors and other interested persons from outside the area and also encouraging and coordinating the efforts of other public and private organizations or groups of citizens to publicize the facilities and attractions of the area for the same purposes. It also means the acquisition, construction, and remodeling of facilities useful in the attraction and promoting of tourist, conventions, and recreational business. (as added by Ord. #2301, Nov. 2003)

5-1102. Levy of tax. There is hereby levied a privilege tax upon the privilege of a consumer paying consideration for admission into or for an amusement in the amount of two percent (2%) of the consideration charged by the operator. Such tax so imposed is a privilege tax upon the consumer enjoying the amusement and is to be collected and distributed as hereinafter provided. (as added by Ord. #2301, Nov. 2003)

5-1103. Tax added to amusement price. Such tax shall be added by each and every operator to each ticket sold for a consideration for admission into and for such amusement, and shall be collected by such operator from the consumer and remitted to the department of finance of the municipality in which the amusement is located. The tax shall not be assumed by the operator. Where the tax calculated on any individual admission ticket includes any fraction of a cent, the next highest full cent shall be charged. (as added by Ord. #2301, Nov. 2003)

5-1104. Remittance to director of finance. The tax hereby levied shall be remitted by all operators who lease, rent, or own an amusement to the director of finance, to be remitted to such officer not later than the twentieth day of each month next following collection from the consumer. The director of finance may promulgate reasonable rules and regulations for the enforcement and collection of the tax, shall prescribe any necessary forms, and may, by regulations, set other reporting and paying dates and periods. (as added by Ord. #2301, Nov. 2003)

5-1105. Offer to absorb tax prohibited. No operator of an amusement shall advertise or state in any manner whether directly or indirectly that the tax or any part thereof will be assumed or absorbed by the operator, or that it will be added to the consideration, or that, if added, any part will be refunded. (as added by Ord. #2301, Nov. 2003)

5-1106. Exemptions. The tax shall not apply to activities sponsored by any religious or charitable organization or any public or private educational institution where the receipts are devoted exclusively to the use of such organization or institution. Neither shall it apply to charges for admission to any activity sponsored or operated by the city. (as added by Ord. #2301, Nov. 2003)

5-1107. Penalties and interest for delinquency. Taxes collected by an operator which are not remitted to the department of finance on or before the due dates are delinquent. An operator shall be liable for interest on such delinquent taxes from the due date at the rate of six percent (6%) per annum, and in addition for penalty of one-half of one percent ($\frac{1}{2}$ of 1%) for each month or a fraction thereof such taxes are delinquent. Such interest and penalty shall become a part of the tax herein required to be remitted. Willful refusal of an operator to collect or remit the tax or willful refusal of a consumer to pay the tax imposed is hereby declared to be unlawful and shall constitute a misdemeanor punishable upon conviction by a fine not in excess of fifty dollars (\$50.00). The fine levied herein shall be applicable to each individual transaction involving an amusement taxable by this chapter when the operator fails or refuses to pay the tax payable to the department of finance. (as added by Ord. #2301, Nov. 2003)

5-1108. Records. It shall be the duty of every operator liable for the collection and payment to the municipality of any tax levied under the authority granted by this chapter to keep and preserve for a period of three (3) years all records necessary to determine the amount of such tax for whose collection and payment to the municipality he may have been liable, which records the director of finance shall have the right to inspect at all reasonable times. (as added by Ord. #2301, Nov. 2003)

5-1109. Administration. In administering and enforcing the provisions of this chapter, the director of finance shall have as additional powers the powers and duties with respect to collection of taxes provided in Tennessee Code Annotated, title 67, or otherwise provided by law.

Upon any claim of illegal assessment and collection, the taxpayer shall have the remedy provided in Tennessee Code Annotated, § 67-1-911, it being the intent of this chapter that the provisions of law which apply to the recovery of taxes illegally assessed and collected shall apply to the tax collected under the authority of this chapter; provided, the director of finance shall possess those

powers and duties as provided in Tennessee Code Annotated, § 67-1-707, with respect to the adjustment and settlement with taxpayer of all errors of taxes collected by him under the authority of this chapter and to direct the refunding of same. Notice of any tax paid under protest shall be given to the director of finance, and suit for recovery shall be brought against him. (as added by Ord. #2301, Nov. 2003)

5-1110. Deposit of tax. The proceeds from the tax levied herein shall be deposited in the general fund of the municipality and shall be expended so that one-half ($\frac{1}{2}$) shall be used to advertise and promote the city and one-half ($\frac{1}{2}$) shall be used for capital improvement projects for the city. (as added by Ord. #2301, Nov. 2003)

5-1111. Tax is additional tax. The tax herein levied shall be in addition to all other taxes levied or authorized to be levied whether in the form of excise, license, or privilege taxes, and shall be in addition to all other fees and taxes now levied or authorized to be levied. (as added by Ord. #2301, Nov. 2003)