

TITLE 5

MUNICIPAL FINANCE AND TAXATION

CHAPTER

1. MISCELLANEOUS.
2. REAL PROPERTY TAXES.
3. PRIVILEGE TAXES.
4. WHOLESALE BEER TAX.
5. HOTEL/MOTEL TAX.

CHAPTER 1

MISCELLANEOUS

SECTION

- 5-101. Official depository for city funds.
- 5-102. Creation of special revenue fund.

5-101. Official depository for city funds. Union Planters, First Bank, Bank of Lexington, Local Government Investment Pool, Community National Bank of Tennessee, and First Tennessee are hereby designated as the official depositories for all city funds.

5-102. Creation of special revenue fund. (1) A special revenue fund known as the "special projects fund" shall be created to account for and report the proceeds and expenditures associated with the revenue received for the inspection fee adopted by the City of Lexington Ordinance 201106 and contained in § 8-114 of the City of Lexington Municipal Code.

(2) An account to be known as "Lexington Special Projects" shall be established with a local bank and/ or the Local Government Investment Pool. All revenue derived from these inspection fees shall be deposited in this account.

(3) Expenditures shall be made from this fund only by authorization through an ordinance adopted by the board.

(4) The city recorder/ CFO shall be responsible for implementing the provisions and parameters of this special fund for the City of Lexington as set out in this section.

(5) Any amendments and/or adjustments of these provisions and parameters shall only be made through an ordinance adopted the board. (as added by Ord. #201212, Oct. 2012)

CHAPTER 2

REAL PROPERTY TAXES

SECTION

5-201. When due and payable.

5-202. When delinquent--penalty and interest.

5-201. When due and payable.¹ Taxes levied by the city against real property shall become due and payable annually on the first day of October of the year for which levied.

5-202. When delinquent--penalty and interest.² All real property taxes becoming delinquent shall be subject to such penalty and interest as is authorized and prescribed by the charter.³

¹State 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.

²Charter 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 1/2 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.

³Charter and state law references

A municipality has the option of collecting delinquent property taxes any one of three ways:

- (1) Under the provisions of its charter for the collection of delinquent property taxes.
- (2) Under Tennessee Code Annotated, §§ 6-55-201--6-55-206.
- (3) By the county trustee under Tennessee Code Annotated, § 67-5-2005.

CHAPTER 3**PRIVILEGE TAXES****SECTION**

5-301. Tax levied.

5-302. License required.

5-301. Tax levied. Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by state laws. The taxes provided for in the state's "Business Tax Act" (Tennessee Code Annotated, § 67-4-701, et seq.) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the city at the rates and in the manner prescribed by the act.

5-302. License required. No person shall exercise any such privilege within the city without a currently effective privilege license, which shall be issued by the recorder to each applicant therefor upon the applicant's compliance with all regulatory provisions in this code and payment of the appropriate privilege tax.

CHAPTER 4

WHOLESALE BEER TAX

SECTION

5-401. To be collected.

5-401. To be collected. There is hereby levied against the wholesaler and/or distributor a tax in the sum of seventeen (17%) per cent of the wholesale cost to be collected by the wholesaler and/or distributor and paid to the municipality of the City of Lexington, Tennessee, and certified copies of this section shall be his authority to collect and remit said tax. Said wholesaler and/or distributor shall furnish the board or commission with the wholesale price lists of beverages distributed in this area and pay said tax each and every month.¹ (Ord. of Feb. 6, 1979)

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.

Municipal code references

Alcohol and beer regulations: title 8.

Beer privilege tax: § 8-208.

CHAPTER 5

HOTEL/MOTEL TAX

SECTION

- 5-501. Definitions.
- 5-502. Levy of occupancy tax.
- 5-503. Collection by operator; inclusion in rate.
- 5-504. Remittance of tax by operator.
- 5-505. Collection of tax by city.
- 5-506. Disclosure of tax.
- 5-507. Failure of operator to collect tax.
- 5-508. Rules and regulations; reports; records.
- 5-509. Allocation of funds.

5-501. Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

"Consideration" means the consideration charged, whether or not received, for occupancy in a hotel, 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 space provided to the person is complimentary from the operator and no consideration is charged to or received from any person.

"City Recorder" means the city recorder of Lexington.

"Hotel" means any structure or space, or any portion thereof, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist camp, tourist court, tourist cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration.

"Occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings or accommodations in any hotel.

"Operator" means the person operating the hotel whether as owner, lessee or otherwise.

"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.

"Transient" means any person who exercises occupancy or is entitled to occupancy for any rooms, lodgings or accommodation in a hotel for a period of less than thirty (30) continuous days. (as added by Ord. #201201, Feb. 2012)

5-502. Levy of occupancy tax. The city hereby levies a privilege tax upon the privilege of occupancy in a hotel of each transient in an amount of five percent (5%) of the rate charged by the operator. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided in this chapter. (as added by Ord. #201201, Feb. 2012)

5-503. Collection by operator; inclusion in rate. (1) Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of the hotel and given directly or transmitted to the transient for the occupancy of the operator's hotel. Such tax shall be collected by such operator from the transient and remitted to the city.

(2) When a person has maintained occupancy for thirty (30) continuous days, that person shall receive from the operator a refund or credit for the tax previously collected from or charged to him, and the operator shall receive credit for the amount of such tax if previously paid or reported to the city. (as added by Ord. #201201, Feb. 2012)

5-504. Remittance of tax by operator. (1) The tax levied shall be remitted to the city recorder or their designee by all operators who lease, rent or charge for rooms or spaces in hotels within the city, and the city recorder is charged with the duty of collection thereof. Such tax shall be remitted to such officer not later than the 20th day of each month for the preceding month. The operator is hereby required to collect the tax from the transient at the time of the presentation of the invoice for occupancy whether prior to occupancy or after occupancy as may be the custom of the operator, and if credit is granted by the operator to the transient, then the obligation to the city for such tax shall be that of the operator.

(2) For the purpose of compensating the operator in accounting for and remitting the tax authorized and levied pursuant hereto and the related ordinances of the city, the operator shall be allowed two percent (2%) of the amount of the tax due and accounted for and remitted to the city in the form of a deduction in submitting his report and paying the amount due by such operator, provided the amount due was not delinquent at the time of payment. (as added by Ord. #201201, Feb. 2012)

5-505. Collection of tax by city. (1) The city recorder shall be responsible for the collection of such tax and shall place the proceeds of such tax in the general funds account of the city. A monthly tax return shall be filed under oath with the city recorder by the operator, with such number of copies thereof as the city recorder may reasonably require for the collection of such tax. The report of the operator shall include such facts and information as may be deemed reasonable for the verification of the tax due. The form of such report shall be developed by the city recorder and approved by the board of mayor and aldermen prior to use. The city recorder shall cause an audit of each operator

in the city at least once per year and shall report on the audits made to the board of mayor and aldermen.

(2) The board of mayor and aldermen is hereby authorized to adopt reasonable rules and regulations for the implementation of the provisions of this chapter. (as added by Ord. #201201, Feb. 2012)

5-506. Disclosure of tax. 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 not be added to the rent, or that if added, any part will be refunded. (as added by Ord. #201201, Feb. 2012)

5-507. Failure of operator to collect tax. Taxes collected by an operator which are not remitted to the city recorder on or before the due dates shall be delinquent. An operator shall be liable for interest on such delinquent taxes from the due date at the rate of twelve percent (12%) per annum, and, in addition, a penalty of one percent (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. Each occurrence of willful failure or refusal of an operator to collect or remit the tax or the willful refusal of a transient to pay the tax imposed is hereby declared to be unlawful and shall be punishable by a civil penalty not in excess of fifty dollars (\$50.00). In addition, it is unlawful for any operator to knowingly file a false tax return, and a violation shall be punishable by a civil penalty of not more than fifty dollars (\$50.00). (as added by Ord. #201201, Feb. 2012)

5-508. Rules and regulations; reports; records. (1) It is the duty of every operator liable for the collection and payment to the city of any tax imposed under the authority of this chapter to keep and preserve, for a period of three (3) years, all records as may be necessary to determine the amount of such tax for which he may have been liable for the collection of and payment to the city, which records the city recorder, his designee or any accounting firm or accountant employed by the city, shall have the right to inspect at all reasonable times.

(2) The city recorder, in administering and enforcing the provisions of this chapter, shall have as additional powers those powers and duties with respect to collecting taxes as provided in Tennessee Code Annotated, § 67-1-101 et seq. or otherwise provided by law for county clerks and/or municipal officers.

(3) Upon any claim of illegal assessment and collection, the taxpayer shall have the remedies provided in Tennessee Code Annotated, § 67-1-1801 et seq., it being the intent of this chapter that the provisions of law which apply to the recovery of state taxes illegally assessed and collected also apply to taxes illegally assessed and collected under the authority of this chapter. The city recorder shall also possess those powers and duties as provided in Tennessee

Code Annotated, § 67-1-707 for county clerks with respect to the adjustments and refunds of such tax.

(4) With respect to the adjustment and settlement with taxpayers, all errors of taxes collected by the city recorder under the authority of this chapter shall be refunded by the city.

(5) Notice of any tax paid under protest shall be given to the city recorder, and suit may be brought for recovery of such tax against the mayor of the city in his official capacity. (as added by Ord. #201201, Feb. 2012)

5-509. Allocation of funds. The proceeds of the tax authorized by this chapter shall be allocated to such funds dedicated solely for tourism development. (as added by Ord. #201201, Feb. 2012)