

CHAPTER 10

AMUSEMENT TAX

SECTION

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5-1001. 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, whether as a participant, as a spectator or otherwise, 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 event, recreational facility, playing field, race track, exhibition, pageant, show, production, demonstration, play, performance, concert, musicale, recital, reading, circus, carnival, act, exhibit, lecture, address, trade show, 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, that actual play on coin operated machines of skill or chance is exempt from the provisions of this tax;

(3) "Charitable organization" means a group that is a benevolent, educational, voluntary health, philanthropic, humane, patriotic, religious or eleemosynary organization, or for the benefit of law enforcement personnel, firefighters, or other persons who protect the public safety, and in which no part of the net earnings inures or may lawfully inure to the benefit of any private shareholder or individual.

(4) "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;

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

(6) "Educational institution" means an organization organized and operated exclusively for educational purposes, that maintains a regular faculty and curriculum, that has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on, and that is approved by the State Board of Education (or exempt from such approval under the regulations of the State Board of Education) or accredited by an agency recognized by the State Board of Education or by the United States Department of Education. "Educational institution" also includes private foundations soliciting contributions exclusively for such organizations, and organizations composed of parents of students and other persons connected with the institution that are organized and operated for the purpose of conducting activities in support of the operations or extracurricular activities of the institution;

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

(8) "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;

(9) "Religious organization" means any nonprofit entity that is tax exempt under United States Internal Revenue Code § 501(c)(3), codified in 26 U.S.C. § 501(c)(3), as a religious organization; and

(10) "Tourism" means the planning and conducting of programs of information and publicity designed to attract to the City of Sevierville 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.

5-1002. 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 City of Sevierville 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.

5-1003. 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 City Recorder. 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.

5-1004. Remittance to City Recorder. The tax hereby levied shall be remitted by all operators who lease, rent, or own an amusement to the City Recorder, to be remitted to such officer not later than the twentieth day of each month next following collection from the consumer. The City Recorder 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.

5-1005. 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.

5-1006. Exemptions. The tax shall not apply to activities sponsored by any religious organization 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.

5-1007. Penalties and interest for delinquency. Taxes collected by an operator which are not remitted to the City Recorder 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 City Recorder.

5-1008. 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 City Recorder shall have the right to inspect at all reasonable times.

5-1009. Administration. In administering and enforcing the provisions of this chapter, the City Recorder 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 for county clerks.

Upon any claim of illegal assessment and collection, the taxpayer shall have the remedy provided in Tennessee Code Annotated, Title 67, 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. The City

Recorder shall possess those powers and duties provided in Tennessee Code Annotated § 67-1-707 with respect to the adjustment and refund of the taxes provided for in this chapter. With respect to the adjustment and settlement with taxpayers of all errors of taxes collected by the City Recorder under the authority of this chapter, the City Recorder shall have the power to refund same. Notice of any tax paid under protest shall be given to the City Recorder, and suit for recovery shall be brought against the City Recorder.

5-1010. Use of Proceeds. Tax proceeds generated by the provisions of this chapter shall be used as determined by the board of Mayor and Alderman of the City of Sevierville; provided, however, that seventy- five percent (75%) of the proceeds shall be used for tourism promotion, tourism advertising or tourism infrastructure, including, but not limited to, municipally owned or operated event centers and golf courses.

5-1011. 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.

5-1012. Rules and regulations. The City Recorder 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 City Recorder 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.

5-1013. 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.