

Sec. 5-503. Rulemaking authority.

The board of mayor and aldermen is authorized to adopt regulations providing for purchasing procedures in the city to carry out the provisions of this chapter and the Municipal Purchasing Law of 1983.

(1976 Code, § 6-503)

CHAPTER 6. MUNICIPAL DEPOSITORIES**Sec. 5-601. Funds to be invested in any bank; limitations.**

Funds may be invested through or deposited with any bank or savings and loan association organized and operating under the laws of the State of Tennessee or the United States of America whose deposits are insured by the Federal Deposit Insurance Corporation, have either its principal office or a full-service branch office located within the City of Franklin, and have an asset base of \$50,000,000.00 or greater.

(Ord. No. 1292, 11- -1994)

Sec. 5-602. Deposits exceeding insurance limits.

Deposits or investments with any particular bank or savings and loan association in excess of the limits of such insurance may not be made unless the deposits or investments are secured by obligations of the United States or the State of Tennessee having a market value of at least 105 percent of the deposit or investment, provided further that said securities are held by a third party, preferably a Federal Reserve Bank or a Federal Home Loan Bank.

(Ord. No. 1292, 11- -1994)

Sec. 5-603. Financial institution required to submit annual report.

All institutions designated as municipal depositories shall file an annual report of the financial institution with the city treasury.

(Ord. No. 1292, 11- -1994)

CHAPTER 7. HOTEL/MOTEL TAX**Sec. 5-701. Short title.**

This chapter shall be known and cited as the Franklin Hotel/Motel Tax Ordinance.

(Ord. No. 96-61, Amendment 1, 1- -1997)

Sec. 5-702. Definitions.

As used in this chapter, unless the context otherwise requires:

- (1) *Consideration* means the consideration charged, whether or not received, for the 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; provided, however, 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.
- (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 camp, tourist court, tourist cabin, motel or any place in which rooms, lodgings, or accommodations are furnished to transients for a consideration. However, "hotel" shall not mean or include a "bed and breakfast" as defined in section 5.4(5) of the Franklin Zoning Ordinance, so long as such "bed and breakfast" has fewer than five rooms for rent.
- (3) *Occupancy* means the use or possession, or the right to use or possession, of any room, lodgings, or accommodations in any hotel.
- (4) *Operator* means the person operating the hotel whether as owner, lessee, or otherwise.
- (5) *Person* means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.
- (6) *Transient* means any person who exercises occupancy or is entitled to occupancy for any rooms, lodgings or accommodations in a hotel for a period of less than 90 continuous days.

(Ord. No. 96-61, Amendment 1, 1- -1997)

Sec. 5-703. Levy of tax authorized.

The Board of Mayor and Aldermen of the City of Franklin does hereby levy upon the occupancy in any hotel of each transient a privilege tax of four percent of the consideration 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.

(Ord. No. 96-61, Amendment 1, 1- -1997, Ord. No. 2004-51, 6- -2004)

Sec. 5-704. Disposition of tax.

The proceeds received by the City of Franklin shall be designated and used for such purposes as the board may by ordinance direct.

(Ord. No. 96-61, Amendment 1, 1- -1997)

Sec. 5-705. Collection and refund.

(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. Such tax shall be collected by such operator from the transient and remitted to the city.

(2) When a person has maintained occupancy for 30 continuous days, that person shall received 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 of Franklin.

(Ord. No. 96-61, Amendment 1, 1- -1997)

Sec. 5-706. Remittance of tax.

(1) The tax hereby levied shall be remitted by all operators who lease, rent or charge for any rooms, lodgings, spaces or accommodations in hotels within the city to the city recorder, such tax to 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 as the time of the presentation of the invoice for such 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 entitled to such tax shall be that of the operator.

(2) For the purpose of compensating the operator for remitting tax levied by this chapter, the operator shall be allowed two percent of the amount of the tax due and remitted to the city recorder in the form of a deduction in submitting the report and paying the amount due by such operator, provided the amount due was not delinquent at the time of payment.

(Ord. No. 96-61, Amendment 1, 1- -1997)

Sec. 5-707. Monthly tax return—Annual audit.

The city recorder shall be responsible for the collection of such tax. A monthly tax return under oath shall be filed 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 audit each operator in the city at least once per year and shall report on the audits made on a quarterly basis to the board of mayor and aldermen. The board of mayor and aldermen is hereby authorized to adopt ordinances to provide reasonable rules and regulations for the implementation of the provisions of this chapter.

(Ord. No. 96-61, Amendment 1, 1- -1997)

Sec. 5-708. No advertising of rebates.

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.

(Ord. No. 96-61, Amendment 1, 1- -1997)

Sec. 5-709. Delinquent taxes—Interest and penalty.

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 12 percent per annum, and is liable for an additional penalty of one percent 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 refusal of an operator to collect or remit the tax or willful refusal of a transient to pay the tax imposed is unlawful and shall be punishable by a civil penalty not in excess of \$50.00.

(Ord. No. 96-61, Amendment 1, 1- -1997)

Sec. 5-710. Records—Inspection.

It is the duty of every operator liable for the collection and payment to the city of any tax imposed by this chapter to keep and preserve for a period of three years all records as may be necessary to determine the amount of such tax as he may have been liable for the collection of the payment to the city, which records the city recorder shall have the right to inspect at all reasonable times.

(Ord. No. 96-61, Amendment 1, 1- -1997)

Sec. 5-711. Administration and enforcement.

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, title 67, or otherwise provided by law for the county clerks.

- (1) Upon any claim of illegal assessment and collection, the taxpayer has the remedies provided in Tennessee Code Annotated, title 67, chapter 23, it being the intent of this chapter that the provision of law which apply to the recovery of state taxes illegally assessed and collected shall also apply to the tax levied under the authority of this chapter. The city recorder shall also possess those powers and duties as provided in Tennessee Code Annotated, section 67-1-707, for the county clerks with respect to the adjustment and refunds of such tax.
- (2) With respect to the adjustment and settlement with taxpayers all errors of taxes collected by him under authority of this chapter shall be refunded by the city. The city recorder shall

have the authority to direct the refunding of same. Notice of any tax paid under protest shall be given to the city recorder and any suit brought for recovery of tax paid under protest shall name the city recorder.

(Ord. No. 96-61, Amendment 1, 1- -1997)

Sec. 5-712. Deposits of funds.

The city recorder is hereby charged with the duty of collection of the tax herein authorized and shall place the proceeds of such tax in an account as designated in accordance with section 5-704.

(Ord. No. 96-61, Amendment 1, 1- -1997)

Sec. 5-713. Severability clause.

The provisions of this chapter are hereby declared to be severable. If any of its sections, provisions, exceptions, or parts be held unconstitutional or void, the remainder of the chapter shall continue to be in full force and effect, if being the legislative intent now hereby declared, that this chapter would have been adopted even if such unconstitutional or void matter had not been included herein.

(Ord. No. 96-61, Amendment 1, 1- -1997)

CHAPTER 8. DISPOSAL OF SURPLUS CITY PROPERTY

Sec. 5-801. Disposal of surplus personal property.

The city administrator may sell or dispose of any personal property owned by the city which is obsolete, surplus, or unusable. If the proceeds of sale are reasonably anticipated to exceed \$4,000.00, then sealed bids shall be taken or a public auction held after reasonable public notice. Otherwise, no bidding or auction procedure shall be required. No city employee or officer shall be permitted to purchase or acquire surplus city property except by sealed bid or at public auction.

(Ord. No. 98-08, § 1, 3- -1998)

Sec. 5-802. Disposal of surplus real property.

(1) The mayor and city administrator, with the prior approval of the board of mayor and aldermen, by resolution, may sell, lease, or abandon any real property owned by the city, or any interests or rights therein, when such property is determined to be of no further feasible use to the city.

(2) When the board has determined that the value of the property is reasonably likely to be greater than \$25,000.00, then the property shall be sold by sealed bid, after 45 days public notice in a newspaper of general circulation, provided that the city shall have the right to reject and refuse any and all bids. Such notice shall be advertised at least twice during the forty-five-day notice