

ORDINANCE NO. 7-2022

**AN ORDINANCE LEVYING A PRIVILEGE TAX UPON THE OCCUPANCY
IN ANY HOTEL OR MOTEL OR ANY PLACE IN WHICH ROOMS,
LODGING OR ACCOMMODATIONS ARE FURNISHED
TO TRANSIENTS FOR CONSIDERATION**

WHEREAS, Tennessee Code Annotated § 67-4-1401, et seq. authorizes the Town of Cumberland Gap, Tennessee, to levy by Ordinance an occupancy or hotel/motel tax; and

WHEREAS, the Town of Cumberland Gap, Tennessee, deems it to be in the best interest of the Town to have such a tax.

WHEREAS, the health, safety, and welfare of the citizens of the Town of Cumberland Gap, Tennessee, will be positively impacted by the adoption of this Ordinance.

NOW, THEREFORE BE IT ENACTED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF CUMBERLAND GAP, TENNESSEE, AS FOLLOWS:

- (1) "Exhibit A" attached herein is hereby adopted and shall be codified in its entirety.
- (2) All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.
- (3) This Ordinance shall take effect on July 1, 2023, the public welfare requiring it.

ENACTED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF CUMBERLAND GAP, TENNESSEE, this, the 6th day of February, 2023.

Passed on first reading: January 9, 2023

Public hearing held: January 30, 2023

Passed on second reading: February 6, 2023

Mayor

Town Recorder

“EXHIBIT A”

TITLE 5

MUNICIPAL FINANCE AND TAXATION

CHAPTER 5

HOTEL/MOTEL TAX

SECTION

- 5-501. Definitions.
- 5-502. Rooms to be numbered.
- 5-503. Tax levied.
- 5-504. Collection.
- 5-505. Remission to town.
- 5-506. Collection, development of report, audit, etc.
- 5-507. Operator cannot advertise that he will assume tax.
- 5-508. Delinquent taxes; offenses by operators and/or transients.
- 5-509. Operators to keep records.
- 5-510. Additional powers of recorder remedies available to tax payer.
- 5-511. Recorder to collect; disposition of proceeds.

Section 5-101. Definitions. As used in this chapter:

- (1) “*Consideration*” means the consideration charged, whether or not received, for the occupancy in a hotel valued in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction therefrom whatsoever;
- (2) “*Hotel*” means any structure or space, or any portion thereof, that is occupied or intended or designed for occupancy by transients for dwelling, lodging, or sleeping purposes, and includes privately, publicly, or government-owned hotels, inns, tourist camps, tourist courts, tourist cabins, motels, short-term rental units, primitive and recreational vehicle campsites and campgrounds, or any place in which rooms, lodgings, or accommodations are furnished to transients for consideration;;
- (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, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit;
- (6) “*Tourism*” means attracting nonresidents to visit a particular municipality and encouraging those nonresidents to spend money in the municipality, which includes travel related to both leisure and business activities;
- (7) “*Tourism development*” means the acquisition and construction of, and financing and retirement of debt for, facilities related to tourism; and

- (8) “*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 thirty (30) continuous days.

Section 5-102. Rooms to be numbered. Each sleeping room and in every hotel in the town shall be numbered in a plain and conspicuous manner. The number of each room shall be placed on the outside of the door of such room, and no two (2) doors shall bear the same number.

Section 5-103. Tax levied. There is hereby levied, assessed and imposed, and shall be paid and collected, a privilege tax upon the privilege of occupancy in any hotel of each transient in an amount equal to one percent (1%) 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 herein.

Section 5-104. Collection. Such tax shall be added by each operator to each invoice prepared by the operator for the occupancy in his hotel to be given directly or transmitted to the transient and shall be collected by such operator from the transient and remitted to the town.

Section 5-105. Remission to town. The tax hereby levied shall be remitted by all operators who lease, rent or charge for occupancy within a hotel in the town to the town recorder of the town, such tax to be remitted to such officer no later than the twentieth (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 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 town entitled to such tax shall be that of the operator.

Section 5-106. Collection, development of report, audit, etc. The town shall be responsible for the collection of such tax. A monthly tax return under oath shall be filed with the town recorder by the operator with such number of copies thereof as the town 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 town recorder and approved by the Board of Mayor and Aldermen prior to use. The town recorder shall audit each operator in the town at least once per year and shall report on the audits made on a quarterly basis to the Board of Mayor and Aldermen.

Section 5-107. Operator cannot advertise that his will assume 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.

Section 5-108. Delinquent taxes; offenses by operators and/or transients. Taxes collected by the operator which are not remitted to the town 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 twelve percent (12%) per annum, and in addition, for the penalty of one percent (1%) for each month or fraction thereof such taxes are delinquent. Such interest shall become a part of the tax. 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 declared to be unlawful and shall be punishable upon conviction by a fine not in excess of fifty dollars (\$50.00).

Section 5-109. Operators to keep records. It shall be the duty of every operator liable for the collection and payment to the town of the tax imposed by this article to keep and preserve for a period of three (3) years all records as may be necessary to determine the amount of such tax as he may have been liable for the collection of and payment to the town. Every person to whom a permit is issued under this chapter shall at all times keep a standard hotel register, in which shall be inscribed the names of all guests renting or occupying rooms and the number of the room which guest is to occupy, together with the time such room is rented, which records the town recorder shall have the right to inspect at all reasonable times.

Section 5-110. Additional powers of recorder; remedies available to tax payer. The town recorder or other authorized collector of the tax in administering and enforcing the provisions of this act shall have, as additional powers, those powers and duties with respect to collecting taxes as provided by law for the county clerks.

Upon any claim of illegal assessment and collection, the taxpayer shall have the remedy provided in Tennessee Code Annotated, title 67. The town recorder shall have all those powers and duties as provided in Tennessee Code Annotated § 67-1-707(b). Any tax paid under protest shall be paid to the town recorder Any suit filed to recover taxes paid under protest may be brought by filing the same against the town recorder of the town.

Section 5-111. Recorder to collect; disposition of proceeds. The town recorder is hereby charged with the duty of collection of the tax herein levied and the proceeds received by the town from the tax shall be used exclusively for tourism and tourism development within the town as required by Tennessee Code Annotated § 67-4-1403.