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Nolichucky White Water Amusement Tax

Dear Reader:

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Nolichucky White Water Amusement Tax

Private Acts of 1983 Chapter 40

WHEREAS, an increasing number of WHITE WATER canoeists and rafters are attracted to and are accepting the challenge offered by the Nolichucky River; and
WHEREAS, the number of these enthusiasts is creating safety problems by overcrowding and exceeding the capacity of the river to safely transit such river; and

WHEREAS, the influx of these enthusiasts has placed an increased burden on Unicoi County's local inhabitants to provide law enforcement, traffic control, first aid, ambulance services and ensure safe operating conditions on the river; and

WHEREAS, at least a portion of the expenses of this requirement of greater service should be borne by the customers and others for whom the use and protection such services are provided; now, therefore,

SECTION 1. As used in this Act, unless the context otherwise requires:

- (1) "Admission" means admission for an amusement for a consideration and shall apply on admission fees or charges, whether or not a ticket is actually issued;
- (2) "Amusement" includes any ride, excursion or float trip by canoe, raft, or similar floating device on a WHITE WATER river where a fee is charged by any person for such ride, excursion, or float trip, which charge is otherwise not included as a taxable privilege under the "Retailers' Sales Tax Act" imposed by Tennessee Code Annotated, Title 67, Chapter 30;
- (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; provided, however, that nothing in this definition shall be construed to imply that consideration is charged when the service provided is complimentary and no consideration is charged to or received from any person by an operator;
- (4) "Consumer" or "Customer" means any person who pays consideration for an amusement;
- (5) "Operator" means the person operating an 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 entity, or group or combination acting as a unit;
- (7) "Watercraft" or "Rivercraft" means any canoe, raft, kayak or similar floating or powered device; and
- (8) "WHITE WATER river" means that portion of the Nolichucky River which is located within the boundaries of Unicoi County.

SECTION 2. The legislative body of Unicoi County is authorized to issue licenses or permits to operators and to levy a privilege tax upon the privilege of a consumer paying consideration for admission for an amusement, in the following manner:

- (1) The Board of Commissioners of Unicoi County shall through the county clerk issue a license or permit to each operator which authorizes such operators to conduct amusements on a WHITE WATER river; provided, however, that each operator must furnish proof of liability insurance in the amount of five hundred thousand dollars (\$500,000.00) or more and that Unicoi County will be specifically named or a co-insured party. Failure to provide proof of liability insurance in the minimum amount specified above will result in a denial of a license or permit.
- (2) A License or permit issued to an operator by Unicoi County shall entitle such operator to operate watercraft and transport customers on any portion of the Nolichucky River within Unicoi County and to disembark a maximum of sixty (60) customers per day in Unicoi County on any one (1) day on that portion of the river South of the Old Highway Bridge at Chestoa.

A. The number of permits issued shall be limited so that no more than four hundred eighty (480) customers shall transit that portion of the Nolichucky River South of the Old Highway Bridge at Chestoa on any one (1) day. There is no restriction on the number of customers embarking or disembarking on that portion of the river located North of the Old Highway Bridge at Chestoa provided the privilege tax is paid as set forth in Section 3 of this Act.

B. Issuance of licenses shall be based upon the operator's knowledge of and experience on their qualifications for a license.

C. Licenses shall be valid for one year after date of issuance. Applications for renewal of a license shall be filed with the County Clerk of Unicoi County and the license shall be issued for the first time not later than thirty (30) days after the application has been approved by the Unicoi County Commission. In no event will licenses be issued for a period of more than one (1) calendar year provided however, the County Clerk may, with the approval of the Unicoi County

Commission, grant an operator an option for license renewal for two (2) additional years at time of issuance or renewal of licenses and all licenses issued will indicate thereon whether the two (2) year option has been approved.

D. A non-refundable fee of one hundred dollars (\$100.00) per year for a license shall be paid by each operator and no operator shall be authorized to conduct amusements on any portion of the Nolichucky River without first having paid the fee and obtained a license from the County Clerk of Unicoi County to do so. A failure to obtain such license or permit shall be unlawful punishable by a civil penalty of not less than fifty dollars (\$50.00) and not more than one thousand dollars (\$1,000.00). Each individual transaction without such license or permit shall constitute a separate offense. If there is a willful failure to comply with the provisions of this Act, the operator's license or permit shall be revoked. Any violation of the provisions of this act shall be grounds for denial of a permit or license.

SECTION 3. A privilege tax of two dollars (\$2.00) per consumer may be levied and imposed on the consideration charged by the operator and on each individual consumer or customer transported by any operator for promotional purposes. Such tax so imposed is a privilege tax upon the consumer and shall be collected and distributed as provided in this act.

A. The tax authorized by this Act shall be added by each operator to the consideration charged for admission for such amusement and shall be collected by such operator from the consumer and remitted by such operator to the County Clerk. The tax shall not be assumed by the operator.

B. Such tax shall be remitted to the County Clerk not later than the twentieth (20th) day of each month next following collection from the consumer. The County Clerk may promulgate reasonable rules and regulations for the enforcement and collection of such tax, shall prescribe any necessary forms, and may, by regulations, set other reporting and paying dates and periods. Provided, however, that an operator shall be required to file statements, reports or returns with the In any month when no taxes are collected by an operator, such operator shall not be required to file any statement, report or return with the County Clerk, and no penalty or interest under the provisions of this act shall be imposed for failing to file such statement, report or return in any such month.

C. No operator of an amusement shall advertise or state in any manner, whether directly or indir

D. The privilege tax shall apply to all consumers or customers paying a consideration for any trip and to all individuals furnished an amusement by an operator for promotional purposes regardless of whether or not a consideration is charged for the promotional activities.

E. Taxes collected by an operator which are not remitted to the County Clerk on or before the due dates as provided in this act are delinquent. If an operator fails to remit the tax due, or any portion thereof, required by this Act on or before such due date there shall be imposed a specific penalty, to be added to the amount of the tax which is delinquent in the amount of five percent (5%), if the failure is not for more than thirty (30) days, with an additional five percent (5%) for each additional thirty (30) days, or fraction thereof, not to exceed twenty-five (25%) in the aggregate. Provided, however, if a return is delinquent at the time it is filed the minimum penalty shall be five dollars (\$5.00) regardless of the amount of tax due or whether or not any tax is due. If an operator fails to remit such tax due, or any portion thereof on or before such due date, there shall be added to the amount due, interest at the rate of twelve percent (12%) per annum from such date due until paid. Such interest and penalty shall become a part of the tax required to be remitted. The fine levied herein shall apply to each individual transaction involving an amusement taxable by this act if such operator willfully fails or refuses to collect or remit the tax payable to the County Clerk. Willful refusal of an operator to collect or remit the tax imposed shall be unlawful and shall be punishable by a civil penalty of not less than fifty dollars (\$50.00) and not more than one thousand dollars (\$1,000.00). The penalty levied herein shall apply to each individual transaction involving an amusement taxable by this Act is such operator willfully fails or refuses to collect or remit the tax payable to the County Clerk.

F. It shall be the duty of every operator to keep and preserve for a period of three (3) years all records necessary to determine the amount of the tax levied by this act. The County Clerk shall have the right to inspect such records at all reasonable times.

G. The proceeds from the tax levied by this Act shall be deposited in the general fund of the cou

H. 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 amended by: Private Acts of 1989, Chapter 30,
Private Acts of 1996, Chapter 210.

SECTION 4. The Unicoi County Commission may adopt any local safety regulations determined necessary to ensure the safety of persons transiting the Nolichucky River. This shall include the adoption of all or any portion of the United States Forest Service operating plan for commercial use of the river.

As amended by: Private Acts of 1989, Chapter 30,
Private Acts of 1994, Chapter 178.

SECTION 5. [Deleted by Private Acts of 1994, Chapter 178].

SECTION 6. [Deleted by Private Acts of 1994, Chapter 178].

SECTION 7. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared to be severable.

SECTION 8. Chapter 214 of the Private Acts of 1982 is repealed.

SECTION 9. This Act shall have no effect unless it is approved by a two-thirds ($\frac{2}{3}$) vote of the county legislative body of Unicoi County. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body and certified by him to the Secretary of State.

SECTION 10. For the purpose of approving or rejecting the provisions of this Act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 9.

Passed: March 10, 1983

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