

AN ORDINANCE FOR THE PURPOSE OF ESTABLISHING AN ACCOMMODATIONS FEE TO APPLY TO ALL ACCOMMODATIONS LOCATED IN UNINCORPORATED AREAS OF BEAUFORT COUNTY, SOUTH CAROLINA AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Beaufort County desires to build, maintain, and enhance the facilities and provide services that serve tourists who visit Beaufort County, and

WHEREAS, Beaufort County desires to support tourism-related buildings including but not limited to parks, recreational facilities, civic centers, coliseums, aquariums, tourism-related cultural, recreational, or historical facilities, beach and river access and renourishment, highways, roads, streets, bridges providing access to tourist destinations, advertisements and promotions related to tourism development, water and sewer infrastructure to serve tourism-related demand, police, fire protections, emergency medical services and emergency-preparedness operations related to the foregoing facilities as well as other recreational services and public services that are available to tourists all in order to promote and further encourage tourism in the County, and

WHEREAS, Beaufort County is authorized to enact this ordinance pursuant to S.C. Code §6-1-500 *et seq.* (1976, as amended); and

WHEREAS, tourists and other non-residents of Beaufort County, South Carolina account for the overwhelming use of lodging facilities in Beaufort County and, further, that tourism is a year-round industry in Beaufort County; and

WHEREAS, Beaufort County believes that the imposition of a three (3%) per cent local accommodations tax upon the rental or charges for any rooms, campground spaces, lodgings, or sleeping accommodations furnished to transients by any hotel, inn, tourist court, tourist camp, motel, campground, residence, or any place in which rooms, lodgings, or sleeping accommodations are furnished to transients for consideration can be used for the purpose of providing and improving services and facilities for tourism.

NOW THEREFORE, BE IT ORDAINED, by the County Council of Beaufort County, South Carolina, duly assembled and by the authority of the same as follows: Chapter 66, LOCAL ACCOMMODATIONS TAX.

SECTION 1: AUTHORITY

This Ordinance is enacted pursuant to the authority S.C. Code §4-9-30 (1976, as amended) which provides that the County may adopt all ordinances which appear necessary and proper for the security, general welfare and convenience of the County and for the preservation of the general health, peace and order in the County and S.C. Code §6-1-500 *et seq.* (1976, as

amended) which expressly provides authorization for the imposition of a Local Accommodations Tax.

SECTION 2: LOCAL ACCOMMODATIONS TAX –DEFINITIONS

A. "Tourist" and "Transient" means a person traveling to and staying in places outside his or her usual environment for one night or more for leisure, business, or any other purpose for consideration within the unincorporated areas of Beaufort County, South Carolina. A person meeting this definition may be staying in places of public accommodations such as hotels, motels, inns, condominium, bed and breakfasts, tourist courts, campgrounds or the residences of family or friends for consideration.

B. "Local Accommodations Tax" means a tax on the gross proceeds derived from the rental or charges for any rooms, campground spaces, lodgings, or sleeping accommodations furnished to transients by any hotel, inn, tourist court, tourist camp, motel, campground, residence or any place in which rooms, lodgings, or sleeping accommodations are furnished to transients for consideration. This tax does not apply where the facilities consist of less than six sleeping rooms, contained on the same premises, which is used as the individual's place of abode. The gross proceeds derived from the lease or rental of sleeping accommodations supplied to the same person for a period of ninety continuous days are not considered proceeds from transients. The tax imposed herein does not apply to additional guest charges as defined in S.C. Code §12-36-920(B) (1976, as amended).

C. A local accommodations tax equal to three (3%) percent is hereby imposed on the gross proceeds derived from the rental of any room(s) (excluding meeting rooms) as provided above.

SECTION 3: PAYMENT OF LOCAL ACCOMMODATIONS TAX

A. Payment of the local accommodations tax established herein shall be the liability of the consumer of the services described herein. The local accommodations tax shall be paid at the time of delivery of the services to which the local accommodations tax applies, and shall be collected by the provider of the services.

B. The County shall provide a Local Accommodations Tax Return, which shall be utilized by the provider of the services to calculate the amount of Local Accommodation Fees collected and due. Payment shall be made to Beaufort County and shall be made at the same time the Return is required to be filed as provided below.

Real estate agents, brokers, corporations, or listing services required to remit taxes under this Ordinance must notify the County if rental property, previously listed by them, is dropped from their listings. The notice shall be on a form provided by the County.

C. The local accommodations tax collected by the provider of the services as required herein shall be remitted to the County of Beaufort, South Carolina, as follows:

1. Payment of the local accommodations tax collected in the first quarter of the calendar year shall be due on April 20th of each calendar year;
2. Payment of the local accommodations tax collected in the second quarter of the calendar year shall be due on July 20th of each calendar year;
3. Payment of the local accommodations tax collected in the third quarter of the calendar year shall be due on October 20th of each calendar year;
4. Payment of the local accommodations tax collected in the fourth quarter of the calendar year shall be due on January 20th of each following calendar year.

D. An interest bearing restricted account, kept in a separate fund segregated from the County's general fund and to be known as "The County of Beaufort, South Carolina, Local Accommodations Tax Account" is hereby established. All revenue and interest generated by the local accommodations tax shall be deposited into this account. "The County of Beaufort, South Carolina, Local Accommodations Tax Account," shall be controlled by the County Administrator for the County of Beaufort, South Carolina. The principal and any accrued interest thereon shall be spent only as provided herein.

E. Deposits into "The County of Beaufort, South Carolina, Local Accommodations Tax Account" may also include appropriations from the general fund by the County Council and voluntary contributions of money and other liquid assets from any source. Once any such funds are so deposited, the funds become dedicated funds and may only be spent as provided herein.

SECTION 4: PERMITTED USES OF LOCAL ACCOMMODATIONS TAX FUNDS

A. The County Council is hereby authorized to utilize the funds collected from the imposition and collection of the local accommodations tax and other funds deposited into "The County of Beaufort, South Carolina, Local Accommodations Tax Account." The revenue generated by the local accommodations tax must be used exclusively for the following purposes:

1. Tourism-related buildings, including, but not limited to, civic centers, coliseums, and aquariums;
2. Cultural, recreational, or historic facilities;
3. River/beach access and renourishment;
4. Highways, roads, streets, bridges and boat ramps providing access to tourist destinations;
5. Advertisements and promotions related to tourism development;
6. Water and sewer infrastructure to serve tourism-related demand; and
7. The operation and maintenance of those items provided in (A)(1) through (A)(6) above, including police, fire protection, emergency medical services, and emergency-preparedness operations directly attendant to those facilities;
8. For all other proper purposes including those set forth herein.

B. Authorization to utilize any funds from the "County of Beaufort, South Carolina, Local Accommodations Tax Account," shall be by ~~the annual budget~~ ordinance duly adopted by the County Council for the County of Beaufort, South Carolina.

SECTION 5: INSPECTIONS AND AUDITS

A. For the purpose of enforcing the provisions of this Ordinance, the code enforcement officer or other authorized agent of the County of Beaufort, South Carolina, is empowered to enter upon the premises of any person or establishment subject to this Ordinance to make inspections, examine and audit books and records of such person or establishment.

B. It shall be unlawful for any person to fail or refuse to make available the necessary books and records during normal business hours upon twenty-four (24) hours' written notice. In the event that the audit reveals that false information has been filed by the remitter, the costs of the audit shall be added to the correct amount determined to be due in addition to the penalties provided herein. The code enforcement officer may make systematic inspections of all businesses within the unincorporated areas of the County of Beaufort, South Carolina, to ensure compliance with this chapter.

SECTION 6: VIOLATIONS AND PENALTY

A. It shall be a violation of this chapter to:

1. Fail to collect the local accommodations tax in connection with the rental of accommodations to tourists or transients as set forth herein.
2. Fail to remit to the County of Beaufort, South Carolina, any local accommodations taxes collected pursuant to this Ordinance by the 20th day of the following month, as set forth herein.
3. Knowingly provide false information on a Return submitted to the County of Beaufort, South Carolina, as set forth herein.
4. Fail or refuse to provide books and records an authorized agent of the County of Beaufort, South Carolina, for the purpose of an examination or audit upon twenty-four (24) hours' written notice as provided herein.

B. In the event that a local accommodations taxes are not timely remitted to the County of Beaufort, South Carolina as provided herein, the person or establishment failing to remit shall also pay a penalty equal to one and one-half (1½%) per cent of the unpaid amount for each month or portion thereof that such taxes remain unpaid.

C. A person or establishment failing or refusing to timely file a return and make appropriate payment and/or provide books and records as provided herein may be subject to a civil penalty in the amount of \$500.00.

SECTION 7: MANAGEMENT AND USE OF LOCAL ACCOMMODATIONS TAX.

~~A. The County may, upon direction of the Administrator, set aside an amount up to five (5%) percent of the annual receipts in local accommodations taxes for promotion of festivals and other similar events. The County Administrator is authorized to select one (1) organization to manage and direct such fund expenditures. To be eligible for selection, the organization must be local, organized as a nonprofit (501c), and whose membership consists of representatives from the lodging, restaurant, golf, tennis and related hospitality industry. The organization must employ a full time executive director and provide an annual audited financial report in accordance with generally accepted accounting principles. The organization must not otherwise be designated as the official tourism agency by the County or any other governmental agency. The organization is required to submit an annual budget to the County of Beaufort on or before April 1 of each calendar year. The Administrator shall review and make recommendations to the County Council by May 15 of each calendar year. Funds shall be distributed to the designated organization on a quarterly basis no later than thirty (30) days after the end of the quarter.~~

A. Fund the approved annual operating expenditures of the program at an amount not to exceed 8% of the funds collected;

B. Allocate \$350,000 annually for county wide advertising and promotion program related to tourism development (section 4, item 5);

C. Allocate the remaining balance of collections as follows:

1. 20% to establish a reserve fund for emergency or other unforeseen needs;
2. 20% for river/beach access and renourishment (Section 4, item 3);
3. 60% for tourism-related buildings, including, but not limited to, civic centers, coliseums and aquariums (Section 4, item 1); cultural, recreational, or historic facilities; highways, roads, streets, bridges and boat ramps providing access to tourist destinations (Section 4, item 2); water and sewer infrastructure to serve tourism related demand (Section 4, item 6); the operation and maintenance, including police, fire protection, emergency medical services and emergency preparedness operations directly attendant to those facilities as referenced above (Section 4, item 7); and for all other proper purposes (Section 4, item 8).

SECTION 8: EFFECTIVE DATE

This Ordinance becomes effective April 1, 2005.

SECTION 9: CODIFICATION

This Ordinance shall be codified in the Code of County Ordinances in the manner required by law.

SECTION 10: SEVERABILITY

If any section, phrase, sentence or portion of this Ordinance is, for any reason, held or deemed to be invalid or unconstitutional by any court of competent jurisdiction, then such section, phrase, sentence or portion shall be deemed separate, distinct and an independent provisions and shall not affect the remaining portion thereof.

Adopted this 28th day of March, 2005.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: Wm. Weston J. Newton
Wm. Weston J. Newton, Chairman

APPROVED AS TO FORM:

Kelly J. Golden
Kelly J. Golden, Staff Attorney

ATTEST:

Suzanne M. Rainey
Suzanne M. Rainey, Clerk to Council

First Reading: February 28, 2005
Second Reading: March 14, 2005
Public Hearing: March 28, 2005
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(Amending 2002/11)