

ORDINANCE 2024/15

AN ORDINANCE AMENDING CHAPTER 66 TAXATION, ARTICLE V LOCAL HOSPITALITY TAX

WHEREAS, In 2005 Beaufort County enacted Chapter 66 Article V Hospitality Tax pursuant to the authority granted by South Carolina Code of Laws, 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 pursuant to the laws enumerated in Title 6-1-700 et seq.; and

WHEREAS, by enacting Chapter 66 Article V Hospitality Tax, Beaufort County imposed a local hospitality tax of two percent on the gross proceeds derived from the sale of prepared meals and beverages sold in establishments located in unincorporated areas of Beaufort County; and

WHEREAS, The South Carolina General Assembly ratified Act 146 on September 25, 2020 and the Governor approved and signed it on September 28, 2020. The Act became effective on September 28, 2020, whereby South Carolina Code of Laws Section 6-1-730 relating to the use of revenue from Local Hospitality Tax was amended to add additional purposes for the expenditure of revenue from the tax; and

WHEREAS, staff now wishes to amend Chapter 66, Article V to bring it into compliance with the South Code of Laws (as amended) to reflect the language found within Chapter 66, Article V contained here within as exhibit A.

NOW, THEREFORE, BE IT ORDAINED BY BEAUFORT COUNTY COUNCIL that Chapter 66, Taxation, Article V Hospitality Tax which appears in Beaufort County Code of Ordinances is hereby amended to reflect the language as depicted in exhibit A.

Adopted this 8th day of April 2024.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: 
Joseph Passiment, Chairman

ATTEST:



Sarah w. Brock, JD, Clerk to Council

First Reading: January 22, 2024 / 6:5

Second Reading: March 25, 2024 / 9:2

Public Hearing: April 8, 2024

Third Reading: April 8, 2024 / 8:2

EXHIBIT A

ARTICLE V. LOCAL HOSPITALITY TAX

Sec. 66-531. Authority.

This article 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 § 6-1-700 et seq. (1976, as amended) which expressly provides authorization for the imposition of a hospitality tax.

(Ord. No. 2005/9, § 1, 3-28-2005)

Sec. 66-532. Hospitality tax—Definitions.

- (a) *Local hospitality tax* is a tax imposed within the unincorporated areas of Beaufort County on the sales of prepared meals and beverages sold in establishments or sales of prepared meals and beverages sold in establishments licensed for on-premises consumption of alcoholic beverages, beer, or wine. In addition, the tax shall be imposed for all food and beverages prepared or modified by convenience stores or grocery stores within the unincorporated areas of Beaufort County.
- (b) ~~A hospitality tax equal to two percent is hereby imposed on the gross proceeds derived from the sale of prepared meals and beverages sold in establishments located in unincorporated areas of Beaufort County.~~
- (c) *Beverages* shall include all beverages, including, but not limited to, alcoholic beverages, beer, wine, and any nonalcoholic beverage.
- (d)(c) *Establishments* shall mean any individual, partnership, corporation or business entity, regardless of form which, as a part of its business offers prepared meals, whether for consumption on the premises or off.
- (e)(d) *Establishments licensed for on-premises consumption of alcoholic beverages, beer or wine* shall mean any individual, partnership, corporation or business entity, regardless of form, which is licensed by the State of South Carolina alcoholic beverage commission to offer alcoholic beverages, beer or wine for sale or consumption on its premises.
- (f)(e) *Gross sales price* shall mean the total charge for any prepared meal or beverage, exclusive of any other taxes, fees or gratuity.
- (g)(f) *Prepared meals* shall mean any prepared food item prepared or offered for sale by any establishments or establishments licensed for on-premises consumption of alcoholic beverages, beer or wine, whether consumed on the premises or off.

(Ord. No. 2005/9, § 2, 3-28-2005; Ord. No. 2009/35, 10-12-2009 ; Ord. No. 2012/1, 2-13-2012)

Sec. 66-533. Payment of hospitality tax.

- (a) ~~A hospitality tax equal to two percent is hereby imposed on the gross proceeds derived from the sale of prepared meals and beverages sold in establishments located in unincorporated areas of Beaufort County.~~
- (b) Payment of the local hospitality tax shall be the liability of the consumer of prepared meals and beverages as described in section 66-532. The local hospitality tax shall be paid at the time of the purchase of the

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prepared meals and beverages and shall be collected by the establishments or establishments licensed for on-premises consumption of alcoholic beverages, beer or wine selling the prepared meals and beverages.

~~(b)~~(c) The county shall provide a hospitality tax return, which shall be utilized by the provider of the services to calculate the amount of hospitality taxes collected and due. Payment shall be made to Beaufort County and shall be made at the same time as the return is required to be filed as provided below.

~~(c)~~(d) The hospitality 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 shall be collected and remitted monthly starting January 1, 2010 and each month thereafter.
- (2) Payments are due on or before the twentieth day following the end of the filing period.

~~(d)~~(e) 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 Hospitality Tax Account" is hereby established. All revenue and interest generated by the local hospitality tax shall be deposited into this account. The County of Beaufort, South Carolina, Hospitality 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)~~(f) Deposits into "The County of Beaufort, South Carolina, Hospitality 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.

(Ord. No. 2005/9, § 3, 3-28-2005; Ord. No. 2009/35, 10-12-2009)

Sec. 66-534. Permitted uses of hospitality tax funds.

(a) The county council is hereby authorized to utilize the funds collected from the imposition and collection of the hospitality tax and other funds deposited into "The County of Beaufort, South Carolina, Hospitality Tax Account." The revenue generated by the hospitality tax must be used exclusively for the following purposes:

- (1) Tourism-related buildings, including, but not limited to, civic centers, coliseums, and aquariums;
- (2) Tourism-related cultural, recreational, or historic facilities, or land acquisition;
- (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;
- (7) Control and repair of flooding and drainage within or on tourism-related lands or areas; or
- (8) Site preparation for items in this section including, but not limited to, demolition, repair, or construction;

~~(7)~~(b) 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.~~

(C) If applying the provisions of subsection (a)(7), then the revenues must be expended exclusively on public works projects designed to eliminate or mitigate the adverse effects of recurrent nuisance flooding, including that which is attributable to sea-level rise, or other recurrent flooding. Such adverse effects include road closures and other transportation disruptions, stormwater drainage issues, and compromised public infrastructure. The public works

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projects must be within or on tourism-related lands or areas. Revenues must not be used to pay claims or otherwise settle litigation that may arise from time to time due to the harmful impacts of nuisance or other flooding.

~~(b)~~(d) Authorization to utilize any funds from the "County of Beaufort, South Carolina, Hospitality Tax Account," shall be by ordinance duly adopted by the county council for the County of Beaufort, South Carolina.

(Ord. No. 2005/9, § 4, 3-28-2005)

Sec. 66-~~535~~ 536. Inspections and audits.

- (a) For the purpose of enforcing the provisions of this article, the license official 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 article 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 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 license official may make systematic inspections of all businesses within the unincorporated areas of the County of Beaufort, South Carolina, to ensure compliance with this chapter.

(Ord. No. 2005/9, § 5, 3-28-2005; Ord. No. 2009/35, 10-12-2009)

Sec. 66-~~536~~ 537. Violations and penalty.

- (a) It shall be a violation of this chapter to:
 - (1) Fail to collect the hospitality tax in connection with the sale of prepared meals and beverages sold in establishments in the unincorporated areas of Beaufort County.
 - (2) Fail to remit to the County of Beaufort, South Carolina, any hospitality taxes collected pursuant to this article by the twentieth 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 to an authorized agent of the County of Beaufort, South Carolina, for the purpose of an examination or audit upon 24 hours' written notice as provided herein.
- (b) In the event that hospitality 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 percent 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 conviction for a violation hereof. The violator shall be guilty of a misdemeanor and subject to the penalties provided in section 1-6 of the Code of the County Council of Beaufort County, South Carolina.
- (d) Upon identification of a delinquent account, the director of business license or his/her designee has the authority to establish payment plans, revenue procedures, and reduce or waive penalties based on the revenue procedures as adopted with this amendment.

(Ord. No. 2005/9, § 6, 3-28-2005; Ord. No. 2009/35, 10-12-2009)

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Sec. 66-537 535. Management and use of hospitality tax.

- (a) ~~Fund the approved annual operating expenditures of the program at an amount not to exceed eight percent of the funds collected;~~
- (b) ~~All hospitality tax funds shall be allocated~~ Allocate the remaining balance through the county's annual budget ordinance process; except
- (~~e~~)(b) County council may make emergency appropriations as provided in 2020 Ordinance number 2020/46 by approval of a resolution.

(Ord. No. 2005/9, § 7, 3-28-2005; Ord. No. 2020/46, § 3, 10-26-2020)

Sec. 66-538. Applicability and effective date.

- (a) This article shall become effective upon adoption by county council. ~~on October 12, 2009.~~
- (b) The director of business license department is authorized to adopt guidelines, policies and procedures to implement this article.

(Ord. No. 2009/35, 10-12-2009)

Sec. 66-539. Severability.

If any part of the ordinance is held by a court of competent jurisdiction be unconstitutional, illegal, or invalid for any reason, it shall be construed to have been the legislative intent of the County Council of Beaufort County, South Carolina, to pass this Ordinance [Ord. No. 2009/35] without such unconstitutional, illegal or invalid provision, and the remainder of this Ordinance shall be deemed and held to be constitutional, lawful and valid as if such portion had not been included. If this article or any provision thereof is held by a court of competent jurisdiction to be inapplicable to any person, group of persons, property, kind of property, circumstances, or set of circumstances, such holding shall not affect the applicability thereof to any other persons, property or circumstances.

(Ord. No. 2009/35, 10-12-2009)

ARTICLE 7
Local Hospitality Tax

SECTION 6-1-700. Short title.

This article may be cited as the "Local Hospitality Tax Act".

HISTORY: 1997 Act No. 138, Section 9.

SECTION 6-1-710. Definitions.

As used in the article:

- (1) "Local governing body" means the governing body of a county or municipality.
- (2) "Local hospitality tax" is a tax on the sales of prepared meals and beverages sold in establishments or sales of prepared meals and beverages sold in establishments licensed for on-premises consumption of alcoholic beverages, beer, or wine.
- (3) "Positive majority" means a vote for adoption by the majority of the members of the entire governing body, whether present or not. However, if there is a vacancy in the membership of the governing body, a positive majority vote of the entire governing body as constituted on the date of the final vote on the imposition is required.

HISTORY: 1997 Act No. 138, Section 9.

SECTION 6-1-720. Imposition of local hospitality tax.

(A) A local governing body may impose, by ordinance, a local hospitality tax not to exceed two percent of the charges for food and beverages. However, an ordinance imposing the local hospitality tax must be adopted by a positive majority vote. The governing body of a county may not impose a local hospitality tax in excess of one percent within the boundaries of a municipality without the consent, by resolution, of the appropriate municipal governing body.

(B) All proceeds from a local hospitality tax must be kept in a separate fund segregated from the imposing entity's general fund. All interest generated by the local hospitality tax fund must be credited to the local hospitality tax fund.

HISTORY: 1997 Act No. 138, Section 9.

SECTION 6-1-730. Use of revenue from local hospitality tax.

- (A) The revenue generated by the hospitality tax must be used exclusively for the following purposes:
- (1) tourism-related buildings including, but not limited to, civic centers, coliseums, and aquariums;
 - (2) tourism-related cultural, recreational, or historic facilities;
 - (3) beach access and renourishment;
 - (4) highways, roads, streets, and bridges providing access to tourist destinations;
 - (5) advertisements and promotions related to tourism development;
 - (6) water and sewer infrastructure to serve tourism-related demand;
 - (7) control and repair of flooding and drainage within or on tourism-related lands or areas; or
 - (8) site preparation for items in this section including, but not limited to, demolition, repair, or construction.

(B)(1) In a county in which at least nine hundred thousand dollars in accommodations taxes is collected annually pursuant to Section 12-36-920, the revenues of the hospitality tax authorized in this article may be used for the operation and maintenance of those items provided in (A)(1) through (6) including police, fire protection, emergency medical services, and emergency-preparedness operations directly attendant to those facilities.

(2) In a county in which less than nine hundred thousand dollars in accommodations taxes is collected annually pursuant to Section 12-36-920, an amount not to exceed fifty percent of the revenue in the

preceding fiscal year of the local hospitality tax authorized pursuant to this article may be used for the additional purposes provided in item (1) of this subsection.

(C) If applying the provisions of subsection (A)(7), then the revenues must be expended exclusively on public works projects designed to eliminate or mitigate the adverse effects of recurrent nuisance flooding, including that which is attributable to sea-level rise, or other recurrent flooding. Such adverse effects include road closures and other transportation disruptions, stormwater drainage issues, and compromised public infrastructure. The public works projects must be within or on tourism-related lands or areas. Revenues must not be used to pay claims or otherwise settle litigation that may arise from time to time due to the harmful impacts of nuisance or other flooding.

HISTORY: 1997 Act No. 138, Section 9; 1999 Act No. 93, Section 14; 2006 Act No. 314, Section 2, eff June 1, 2006; 2010 Act No. 290, Section 36, eff January 1, 2011; 2020 Act No. 146 (S.217), Sections 1, 2, eff September 28, 2020.

Editor's Note

2020 Act No. 146, Section 3, provides as follows:

"SECTION 3. Due to interruptions and delays in local government operations caused by the COVID-19 pandemic, any local government that has a comprehensive plan due December 31, 2020, may delay submission of the plan until December 31, 2021."

Effect of Amendment

The 2006 amendment, in subsection (B), designated subparagraph (1) and added subparagraph (2).

The 2010 amendment, in subsection (B)(2), substituted "fifty" for "twenty".

2020 Act No. 146, Section 1, in (A), added (7) and (8).

2020 Act No. 146, Section 2, added (C).

SECTION 6-1-740. Cumulative rate of local hospitality tax.

The cumulative rate of county and municipal hospitality taxes for any portion of the county area may not exceed two percent, unless the cumulative total of such taxes was in excess of two percent or were authorized to be in excess of two percent prior to December 31, 1996, in which case the cumulative rate may not exceed the rate that was imposed or adopted as of December 31, 1996.

HISTORY: 1997 Act No. 138, Section 9.

SECTION 6-1-750. Local hospitality tax revenue upon annexation.

In an area of the county where the county has imposed a local hospitality tax that is annexed by a municipality, the municipality must receive only that portion of the revenue generated in excess of the county local hospitality tax revenue for the previous twelve months in the area annexed.

HISTORY: 1997 Act No. 138, Section 9.

SECTION 6-1-760. Ordinances prior to March 15, 1997; calculation; revenue.

(A) With respect to capital projects and as used in this section, "tourist" means a person who does not reside in but rather enters temporarily, for reasons of recreation or leisure, the jurisdictional boundaries of a municipality for a municipal project or the immediate area of the project for a county project.

(B) Notwithstanding any provision of this article, any ordinance enacted by county or municipality prior to March 15, 1997, imposing an accommodations fee which does not exceed the three percent maximum cumulative rate prescribed in Section 6-1-540, is calculated upon a base consistent with Section 6-1-510(1), and the revenue from which is used for the purposes enumerated in Section 6-1-530, remains authorized and effective after the effective date of this section. Any county or municipality is authorized to issue bonds, pursuant to Section 14(10), Article X of the Constitution of this State, utilizing the procedures of Section 4-29-68, Section 6-17-10 and related sections, or Section 6-21-10 and related sections, for the purposes enumerated in Section 6-1-530, to pledge as security for such bonds and to retire such bonds with the

proceeds of accommodations fees imposed under Article 5 of this chapter, hospitality fees imposed under this chapter, state accommodations fees allocated pursuant to Section 6-4-10(1), (2), and (4), or any combination thereof, and the pledge of such other nontax revenues as may be available for those purposes for capital projects used to attract and support tourists.

HISTORY: 1997 Act No. 138, Section 10; 2010 Act No. 284, Section 1, eff upon approval (became law without the Governor's signature on June 28, 2010).

Code Commissioner's Note

This section was classified as Section 6-1-760 at the direction of the Code Commissioner.

Effect of Amendment

The 2010 amendment rewrote this section.

SECTION 6-1-770. Remitting tax to local governing body; frequency determined by estimated average amounts.

The tax provided for in this article must be remitted to the local governing body on a monthly basis when the estimated amount of average tax is more than fifty dollars a month, on a quarterly basis when the estimated amount of average tax is twenty-five dollars to fifty dollars a month, and on an annual basis when the estimated amount of average tax is less than twenty-five dollars a month.

HISTORY: 1998 Act No. 419, Part II, Section 63B.