

ORDINANCE 2024/13

AN ORDINANCE AMENDING CHAPTER 66 TAXATION, ARTICLE II ACCOMMODATIONS TAX BOARD, DIVISION 1. GENERALLY AND DIVISION 2. ACCOMMODATIONS (3%) TAX

WHEREAS, In 1982, Beaufort County enacted Chapter 66 Taxation Division 1 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 6-4-5 et seq.; and

WHEREAS, by enacting Chapter 66 Beaufort County created the Accommodations Tax Board for the purpose of advising County Council in matters concerning the expenditure of revenues received by the county by means of a two-percent state tax on tourist lodging facilities; and

WHEREAS, In 2002, Beaufort County adopted Chapter 66, Taxation, Division 2, Accommodations (3%) 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 6-1-500 et seq. (1976 as amended) which expressly provides authorization for the imposition of a local accommodations tax; and

WHEREAS, The South Carolina General Assembly ratified Act 57 on May 17, 2023 and the Governor approved and signed Act 57 on May 19, 2023 whereby South Carolina Code of Laws Section 6-1-530 relating to the use of revenue from local accommodations tax and Section 6-4-10 were amended so as to provide that the development of workforce housing is one of the purposes for which funds from these two taxes may be used until December 31, 2030; and

WHEREAS, Act 57 amended South Carolina Code of Laws Section Sections 6-1-530 and 6-4-10 relating to the use of revenue from local accommodations tax to provide that the county may not expend or dedicate more than fifteen percent of its annual local accommodations tax revenue from the two local accommodations tax funds (state 2% and local 3%) for the development of workforce housing until December 31, 2030; and

WHEREAS, The South Carolina Attorney General issued an opinion dated October 16, 2023 wherein his office opined that “A plain reading of 6-4-10(4)(b)(ix) indicates the fifteen percent limitation is calculated based on the total annual local accommodations tax a local government receives, not on the amount allocated for tourism-related expenditures. As such, we believe the plain language of the statute best expresses the intent of the legislature to base the fifteen percent limitation on the annual local accommodations tax received rather than the amount allocated for tourism-related expenditures under Section 6-4-10(4)(a).”; and

WHEREAS, Act 57 amended South Carolina Code of Laws Section 6-4-15 relating to the

use of revenue to finance bonds, so as to provide that the development of workforce housing is one of the purposes for which bonds may be issued; and

WHEREAS, Act 57 also added South Carolina Code of Laws Section 6-4-12 so as to require local governments to prepare a housing impact analysis before using such funds for workforce housing; and

WHEREAS, Act 57 amended South Carolina Code of Laws Section 6-4-5 and 6-1-510 so as to add certain definitions; and

WHEREAS, Act 57 amended South Carolina Code of Laws Section 6-29-510 relating to local planning, so as to require the Planning Commission to solicit input for the analysis from homebuilders and other experts when developing a housing element for the local comprehensive plan; and

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

NOW, THEREFORE, BE IT ORDAINED BY BEAUFORT COUNTY COUNCIL that Chapter 66, Taxation, Article II, Accommodations Tax Board, Divisions 1 and 2 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. These Ordinance Amendments shall take effect on July 01, 2024.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: 
Joseph Passiment, Chairman

ATTEST:



Sarah w. Brock, JD, Clerk to Council

First Reading: March 11, 2024 / 10:1

Second Reading: March 25, 2024 / 9:1

Public Hearing: March 25, 2024

Third Reading: April 8, 2024 / 8:2

EXHIBIT A

ARTICLE II. ACCOMMODATIONS TAXES BOARD¹

DIVISION 1. STATE ACCOMODATIONS (2%) TAX~~GENERALLY~~

Sec. 66-26. Purpose.

The purpose of the county's state accommodations tax board committee shall be to advise the county council in matters concerning the expenditure of revenues received by the county by means of a two-percent state tax on tourist lodging facilities; provisions of the state act (South Carolina Code of Laws Section 6-4-5 et seq) require the council to comply with specified criteria for the expenditure of revenues derived from the tax, and the council wishes to comply with the provisions of the state act.

(Code 1982, § 7-21(a))

SECTION 66-27. Definitions.

As used in this chapter:

(1) "County area" means Beaufort County and municipalities within the geographical boundaries of Beaufort County.

(2) "Cultural", as it applies to members of the accommodations tax committee, means persons actively involved and familiar with the cultural community of the area including, but not limited to, the arts, historical preservation, museums, and festivals.

(3) "Hospitality", as it applies to members of the accommodations tax committee, means persons directly involved in the service segment of the travel and tourism industry including, but not limited to, businesses that primarily serve visitors such as lodging facilities, restaurants, attractions, recreational amenities, transportation facilities and services, and travel information and promotion entities.

(4) "Travel" and "tourism" mean the action and activities of people taking trips outside their home communities for any purpose, except daily commuting to and from work.

(5) "Housing costs" for housing occupied by the owner means:

(a) the principal and interest on a mortgage loan that finances the purchase of the housing;

(b) the closing costs and other costs associated with a mortgage loan;

(c) mortgage insurance;

(d) property insurance;

(e) utility-related costs;

(f) property taxes; and

(g) if the housing is owned and occupied by members of a cooperative or an unincorporated cooperative association, fees paid to a person for managing the housing.

(6) "Housing costs" for rented housing means:

(a) rent; and

¹Cross reference(s)—Boards and commissions, § 2-191 et seq.

- (b) Advertising expenditures using these county funds cannot be spent within Beaufort County except for notifications of festivals or other events similar in nature.
- ~~(c) Adoption of this section goes into effect immediately; however, any changes to this section of the Code after initial adoption shall go into effect one year from date of adoption.~~
- (4) (a) The remaining balance plus earned interest received by the county must be allocated to a special fund and used for tourism-related expenditures.
- (b) The funds may be used to provide additional county services including, but not limited to, law enforcement, traffic control, public facilities, highway and street maintenance, as well as the continual promotion of tourism. These expenditures shall be ~~dispersed~~ awarded through a grant process of which the accommodations (2% state) tax ~~board~~ committee evaluates requests and makes recommendations to county council. Grant requests must not be used as an additional source of revenue to provide services normally provided by the county, but to promote tourism and enlarge its economic benefits through advertising, promotion, and providing those facilities and services which enhance the ability of the county to attract and provide for tourists. Tourism-related expenditures include:
- i. Advertising and promotion of tourism so as to develop and increase tourist attendance through the generation of publicity;
 - ii. Promotion of the arts and cultural events;
 - iii. Construction, maintenance, and operation of facilities for civic and cultural activities including construction and maintenance of access and other nearby roads and utilities for the facilities;
 - iv. The criminal justice system, law enforcement, fire protection, solid waste collection, and health facilities when required to serve tourists and tourist facilities. This is based on the estimated percentage of costs directly attributed to tourists;
 - v. Public facilities such as restrooms, dressing rooms, parks, and parking lots;
 - vi. Tourist shuttle transportation;
 - vii. Control and repair of waterfront erosion, including beach renourishment;
 - viii. Operating visitor information centers.
- (ix) Development of workforce housing, which must include programs to promote home ownership. However, a county or municipality may not expend or dedicate more than fifteen percent of its annual local accommodations tax revenue for the purposes set forth in this item (4)(b)(ix). The provisions of this item (4)(b)(ix) are no longer effective after December 31, 2030.
- ~~(b)(c)(i)~~ Allocations to the special fund must be spent by the county within two years of receipt. However, the time limit may be requested to be extended upon the recommendation of the county council and approval of the oversight committee established pursuant to Section 6-4-35. An extension must include provisions that funds be committed for a specific project or program.
- (ii) Notwithstanding the provisions of subsubitem (i), upon a two-thirds affirmative vote of the membership of the county council, the county may carry forward unexpended allocations to the special fund beyond two years provided that the county commits use of the funds exclusively to the control and repair of waterfront erosion, including beach renourishment or development of workforce housing, which must include programs to promote home ownership. The county annually shall notify the oversight committee, established pursuant to Section 6-4-35, of the basic activity of the committed funds, including beginning balance, deposits, expenditures, and ending balance.

DIVISION 2. LOCAL ACCOMMODATIONS (3%) TAX

Sec. 66-41. 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 § 6-1-500 et seq. (1976, as amended) which expressly provides authorization for the imposition of a local accommodations tax.

(Ord. No. 2002-11, § 1, 3-11-2002; Ord. No. 2005/10, § 1, 3-28-2005)

Sec. 66-42. Local (3%) 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 90 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) "Workforce housing" means residential housing for rent or sale that is reasonably and appropriately priced for rent or sale to a person or family whose income falls within thirty percent and one hundred twenty percent of the median income for the local area, with adjustments for household size, according to the latest figures available from the United States Department of Housing and Urban Development (HUD).
- ~~(c) A local accommodations tax equal to three percent is hereby imposed on the gross proceeds derived from the rental of any room(s) (excluding meeting rooms) as provided above.~~

(Ord. No. 2002-11, § 2, 3-11-2002; Ord. No. 2005/10, § 2, 3-28-2005 ; Ord. No. 2009/15, 3-30-2009)

Sec. 66-43. Imposition of Tax and Payment of local (3%) accommodations tax.

- (a) A local accommodations tax equal to three percent is hereby imposed on the gross proceeds derived from the rental of any room(s) (excluding meeting rooms) camping spaces, lodgings, or sleeping accommodations furnished to transients as provided above in Section 66-42.
- ~~(a)~~(b) 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)~~(c) 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 taxes 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.

accommodations tax revenue for the purposes set forth in this item. The provisions of this item are no longer effective after December 31, 2030.

~~(7)~~(8) 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)~~(9) 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 ordinance duly adopted by the county council for the County of Beaufort, South Carolina, except for expenditures following an emergency as provided in Ordinance 2020/46 , which may be authorized by approval of a resolution.

(Ord. No. 2002-11, § 4, 3-11-2002; Ord. No. 2005/10, § 4, 3-28-2005 ; Ord. No. 2009/15, 3-30-2009 ; Ord. No. 2020/46, § 2, 10-26-2020)

Sec. 66-45 46. 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. 2002-11, § 5, 3-11-2002; Ord. No. 2005/10, § 5, 3-28-2005 ; Ord. No. 2009/36, 10-12-2009)

Sec. 66-46 47. 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 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 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 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.

(Ord. No. 2002-11, § 7, 3-11-2002; Ord. No. 2005/10, § 7, 3-28-2005 ; Ord. No. 2009/15, 3-30-2009 ; Ord. No. 2018/22, 6-11-2018)

Sec. 66-48. Applicability and effective date.

- (a) This division shall become effective ~~on October 12, 2009~~ on July 01, 2024.
- (b) The business license department is authorized to adopt guidelines, policies and procedures to implement this division.

(Ord. No. 2009/36, 10-12-2009)

Sec. 66-49. 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. 2009/36] without such unconstitutional, illegal or invalid provision, and the remainder of this division shall be deemed and held to be constitutional, lawful and valid as if such portion had not been included. If this division 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. 2009/36, 10-12-2009)

Sec. 66-50. Reserved.