



## ORDINANCE NO. 725

First Reading (By Title Only): May 28, 2019  
Second Reading: June 10, 2019  
Public Hearing: June 10, 2019  
Third and Final Reading: June 24, 2019

**AN ORDINANCE OF THE COUNTY COUNCIL OF FAIRFIELD COUNTY, SOUTH CAROLINA, TO AMEND AND RESTATE ORDINANCE NO. 718 AUTHORIZING FAIRFIELD COUNTY TO ESTABLISH A LOCAL HOSPITALITY TAX TO APPLY TO ALL ESTABLISHMENTS WHICH SELL PREPARED MEALS AND BEVERAGES LOCATED IN FAIRFIELD COUNTY PURSUANT TO SECTION 6-1-700 ET. SEQ. OF THE SOUTH CAROLINA CODE OF LAWS.**

**WHEREAS**, Fairfield County, South Carolina (the "County") desires to build and enhance the facilities that serve tourists who visit the County; and

**WHEREAS**, the County wants to more strongly support the public services that are available to tourists in order to promote and further encourage tourism in the County; and

**WHEREAS**, Article 7 of Chapter I of Title 6 of the Code of Laws of South Carolina 1976, as amended (the "Act"), authorizes local governing bodies by Ordinance to impose a local hospitality tax not to exceed two percent (2%) on the gross proceeds of sales of prepared meals and beverages; and

**WHEREAS**, the County finds that a two percent (2%) Local Hospitality Tax (as defined herein) upon the sales of prepared meals and beverages sold in establishments in the County, subject to restrictions within, will result in revenues which will be used for the dedicated purpose of improving services and facilities for tourists which constitutes a public purpose of the County; and

**NOW, THEREFORE**, by the power and authority granted to the Fairfield County Council by the Constitution of the State of South Carolina and the powers granted to the County by the General Assembly of the State, it is ordained and enacted that:

### **Section 1 – Definitions**

- (a) "County" means Fairfield County, South Carolina as existing on the date of adoption of this Ordinance.
- (b) "County Council" means the governing body of the County.
- (c) "Local Hospitality Tax" means a tax on the sales of prepared meals and beverages sold in establishments within the unincorporated areas of Fairfield County.
- (d) "Prepared Meals and Beverages" means the products regularly sold ready for consumption either on premises or off-premises in businesses classified as eating and drinking places under the Standard Industrial Code Classification Manual and including, but not limited to, lunch counters, restaurants, drinking places operated as a subordinate facility by other establishments, convenience stores, grocery

delicatessens, and bars and restaurants owned by and operated for members of civic, social and fraternal associations.

## **Section 2 - Local Hospitality Tax**

A uniform tax equal to two percent (2%) is hereby imposed on the sales of the prepared meals and beverages sold in establishments within the County.

The local hospitality tax imposed herein shall not be in excess of one percent (1%) of the gross proceeds of Prepared Meals and Beverages sold in establishments located within the boundaries of a municipality in Fairfield County without the consent, expressed by Resolution, of the governing body of each such municipality. The cumulative rate of the local hospitality tax imposed herein and any municipal local hospitality tax existing on the date of the passage of this Ordinance may not exceed two percent (2%).

## **Section 3 - Payment of Local Hospitality Tax**

Payment of the Local Hospitality Tax established herein shall be the liability of the consumer of the services. The tax shall be paid at the time of delivery of the services to which the tax applies, and shall be collected by the provider of the services. The County shall promulgate a form of return that shall be utilized by the provider of the services to calculate the amount of the Local Hospitality Tax collected and due to the County. This form shall contain a sworn declaration as to the correctness thereof by the provider of the services.

The tax provided for in this Ordinance must be remitted to the County Finance Office as follows:

On a monthly basis when the estimated amount of average tax is more than fifty (\$50) dollars a month;

On a quarterly basis when the estimated amount of average tax is twenty-five (\$25) dollars to fifty (\$50) dollars a month;

On an annual basis when the estimated amount of average tax is less than twenty-five (\$25) dollars a month.

1. The closing date for monthly payments is the last day of the month;
2. The closing dates for quarterly payments are the last days of the months of March, June, September and December;
3. The closing date for annual payments is the last day of December.

The provider of the services shall remit the Local Hospitality Tax collected, when due, to the County by the 20th day of the month following the closing date of the period for which the tax payment is to be remitted. A payment is considered to be timely remitted to the County if the return has a U.S. Mail postmark date on or before the date the report form is due. If the twentieth day of the month falls on a Sunday or postal service holiday, then payments mailed on the next business day will be accepted as timely filed.

## **Section 4 - Local Hospitality Tax Special Revenue Fund**



An interest bearing, segregated and restricted account to be known as the "Fairfield County Local Hospitality Tax Special Revenue Fund" (the "Fund") is hereby established. All revenues received from the Local Hospitality Tax shall be deposited into the Fund. The principal and any accrued interest in the Fund shall be expended only as permitted by this Ordinance and the Act.

### **Section 5 - Distribution of Funds**

The County Council shall distribute the Local Hospitality Tax collected and placed in the Fund in accordance with decisions made by a majority of Council through the passage of a subsequent, related Ordinance(s); provided, however, that such purposes are permitted under the Act. These purposes include but are not limited to tourism related capital projects, the support of tourism and tourist services in a manner that will best serve the tourists from whom it was collected including being used as a funding source to pay indebtedness issued by the County for public purposes. It shall be the responsibility of the County Council to ensure that any and all money expended from the Fund shall be spent for the purposes permitted under the Act.

### **Section 6 - Inspections and Audits**

For the purpose of enforcing the provisions of this Ordinance, the Fairfield County Administrator and/or his/her designee(s), is empowered to enter upon the premises of any person subject to this Ordinance to make inspections and to examine and audit books and records. 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 an audit reveals that the remitter has filed false information, the cost of the audit shall be added to the correct amount of tax determined to be due. All operational and administrative costs associated with the billing and collection of the Local Hospitality Tax will be charged to the Fund. The Fairfield County Administrator and/or his/her designee(s) may make systematic inspection of all service providers that are governed by this Ordinance within the County to ensure compliance with this Ordinance. Records of inspections shall not be deemed public records.

### **Section 7- Violation and Penalties**

It shall be a violation of this Ordinance to:

- a. fail to collect the Local Hospitality Tax as provided for in this Ordinance;
- b. fail to remit to the County the Local Hospitality Tax collected, pursuant to this;
- c. knowingly provide false information on the form return submitted to the County, or
- d. fail to provide books and records to the County Finance Office for the purpose of an audit upon twenty-four (24) hours written notice.

The penalty for violation of this Ordinance shall be five percent (5%) per month, charged on the original amount of the Local Hospitality Tax due.

**Section 8 – Indebtedness**

So long as any form of indebtedness outstanding that the County has designated as being payable from Local Hospitality Taxes, the Local Hospitality Tax shall continue to be collected by the County. Indebtedness shall mean any obligation of the County used to finance projects authorized by the Act.

**Section 9 – Administration**

The Fairfield County Administrator and/or his/her designee(s) shall be responsible for the administration of the Local Hospitality Tax on behalf of the County.

**Section 10 – Sunset**

Unless subsequently extended by a later Council, the two percent (2%) tax imposed in Section 2 hereof shall expire on the date that is the later of (i) twenty (20) years from the effective date of this Ordinance or (ii) the date the final payment is made on all outstanding indebtedness payable from Local Hospitality Taxes.

**Section 11 – Severability**

If any part of this Ordinance is held by a court of competent jurisdiction to be unconstitutional, illegal, or invalid for any reason, it shall be construed to have been the legislative intent of the County Council of Fairfield County, South Carolina, to pass this Ordinance 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 Ordinance 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.

**Section 12 - Effective Date**

This Ordinance shall become effective upon Third Reading. The tax referenced herein shall commence being collected by the providers of the on which tax applies, on July 1, 2019, and remittance of amounts due to the County of the tax by the providers of the services which the tax applies shall commence in the manner referenced herein.

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ADOPTED THIS 29<sup>th</sup> DAY OF June, 2019, BY ORDER OF THE FAIRFIELD COUNTY COUNCIL.

Cornelius Robinson  
Cornelius Robinson, Chairman

Bertha Goins  
Bertha Goins, Vice-Chair

Moses W Bell  
Moses Bell, Member

Jimmy Ray Douglas  
Jimmy Ray Douglas, Member

Mikel Trapp  
Mikel Trapp, Member

Douglas Pauley  
Douglas Pauley, Member

Clarence Gilbert  
Clarence Gilbert, Member

ATTEST:  
Patti L. Davis  
Patti L. Davis, Clerk to Council