

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF MARLBORO )  
 )  
CITY OF BENNETTSVILLE )

ORDINANCE 03-07-01

***AN ORDINANCE TO AMEND CHAPTER 110 OF THE CODE OF ORDINANCES FOR THE CITY OF BENNETTSVILLE, S.C. AS IT RELATES TO LICENSES AND MISCELLANEOUS BUSINESS REGULATIONS FOR THE PURPOSE OF ESTABLISHING A TWO PERCENT (2%) LOCAL HOSPITALITY TAX ON PREPARED FOOD AND BEVERAGES FOR IMMEDIATE CONSUMPTION OR TAKE OUT WITHIN THE CORPORATE LIMITS OF THE CITY OF BENNETTSVILLE***

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BENNETTSVILLE:**

**Section 1. Findings**

It is hereby found and declared by the City Council of the City of Bennettsville (City Council"), the governing body of the City of Bennettsville, South Carolina (the "City"):

1. Tourism is becoming a major industry in the City. The City supports this major industry and has implemented improvements in the downtown area of the City in order to revitalize and redevelop the City and to further attract tourists to the community.
2. Moreover, as the tourism industry grows and expands, the City must make provision to increase certain municipal services in order to accommodate the needs of tourists who visit from time to time in addition to the residents of Bennettsville.
3. The cost of providing the special services required by the tourism industry should be apportioned equitably between the City's residents and those who visit the City and enjoy the special benefits City provides to them. It is necessary for the promotion of the common interest of the residents of the City as well as those visitors to the City to provide a method to alleviate the added financial burden on City resources in providing the services and improvements needed to support tourism and the resulting transient population.
4. In order to raise the necessary sums to defray a portion of those added costs, it is appropriate to impose a charge, the receipts of which will pay costs related to (1) the provision of municipal services which serve such visitors or tourists and (2) capital projects which not only enrich the City's residents but also contribute to the tourism industry.
5. Cognizant of the need for municipalities to be given direct statutory authorization to raise money earmarked to defray such costs related to tourism, recreation, cultural and historic facilities, the South Carolina General Assembly adopted Act No. 138 during its 1997 Session, now codified, in part, as Sections 6-1-700 to 6-1-770 (the "Enabling Act") of the South Carolina Code of Laws of 1976, as amended (the "S.C. Code").
6. City Council finds its actions in (1) imposing a two percent (2%) hospitality tax upon prepared food and beverages sold for immediate consumption or take out from establishments within the corporate limits of the City and (2) segregating the collections received from such fees in order that such sums be utilized according to the Enabling Act.

**Section 2. Authority**

This chapter is enacted pursuant to the authority of Title 5 of the S.C. Code, including, without limitation S.C. Code Ann. Section 5-7-30 (Supp. 1999), which provide, in relevant part, that municipalities may adopt all ordinances which appear necessary and proper for the security, general welfare, and convenience of the municipality and for the preservation of the general health, peace, and order in the municipality and further that municipalities may establish uniform service charges.

**Section 3. Declaration of purpose and Intent**

This article is enacted to preserve the general health, safety, and welfare of the general public within the City of Bennettsville, South Carolina, by creating a uniform tax for the purpose of creating a fund for uses that are enumerated in Section 6-1-730 of the Code of Laws of South Carolina, as amended. This fund will be used to pay in whole or in part for current and future public park facilities; for capital expenditures to promote quality of life, tourism, recreation, cultural and historic structures, and to provide infrastructure and promotion for these projects.

**Section 4. Imposition**

A tax equal to two percent (2%) is hereby imposed on the gross proceeds derived from the sale of prepared food and beverages (for immediate consumption or take out) by a restaurant, hotel, motel, caterer or other food service facility within the city. In addition, the tax shall be imposed on all food and beverages prepared or modified in the city limits by convenience stores or grocery stores that have specified areas where food and beverages are prepared for immediate consumption or carry out. This tax applies to meals and beverages sold in establishments licensed for on-premise consumption of alcoholic beverages, beer, or wine. This tax does not apply to organizations that are exempt from collecting sales tax according to Section 12-36-2120 of the Code of Laws of South Carolina, as amended.

**Section 5. Public Hearing**

Pursuant to the provisions of Section 6-1-330 of the Code of Laws of South Carolina, 1976, as amended, a public hearing shall be held prior to the adoption of this Ordinance. All actions taken by the City Administrator in providing the required notice of said hearing are hereby approved and ratified.

**Section 6. Payment of Tax**

(a) Payment of the tax established herein shall be the liability of the consumer of the services for items described in Section 4. The tax shall be paid at the time of delivery of the services or items to which the fee applies and shall be collected by the provider or seller of the items.

(b) The tax collected by the seller or provider of the items as required under Section 4 shall be remitted to the City of Bennettsville as follows:

(1) On a monthly basis when the estimated amount of average collections is more than Fifty (\$50.00) Dollars a month (annual gross revenue in excess of \$20,000).

(2) On a quarterly basis when the estimated amount of average collections is between Twenty-Five (\$25.00) Dollars to Fifty (\$50.00) Dollars a month (annual gross receipts between \$10,000 to \$20,000).

(3) On an annual basis when the amount of average collections is less than Twenty-five (\$25.00) Dollars a month (annual gross receipts less than \$10,000).

(c) Total collections and required reports shall be submitted to the City of Bennettville by the twentieth day of the month and shall cover sales for the previous month. A copy of the completed *South Carolina State Sales and Use Tax Return Form* (Form ST-3) shall be attached along with the required reports. When a hospitality tax is filed and the taxes due on it are paid in full on or before the final due date, the filer is allowed a discount of two (2) percent on the fees shown to be due by the return. Payments covered under the provisions of Section 6(b)(2) shall be submitted quarterly by the twentieth day of January, April, July and October for the previous quarterly sales or annually by January 20<sup>th</sup> for the calendar year sales as provided in Section 6(b)(3). Any collections not remitted by the above stated deadlines shall be subject to a penalty of five percent (5%) of the unpaid amount for each calendar month or portion thereof after the due date until paid. The failure to collect from patrons the amount imposed by this article shall not relieve any establishment subject to this article from making the required remittance.

(d) Any person violating this article shall be deemed guilty of an offense and shall be subject to punishment pursuant to the City's Code of Ordinances upon conviction. Each day of violation shall be considered a separate offense. Punishment for violation shall not relieve the offender of liability for delinquent amount, penalties, and costs provided for herein.

#### **Section 7 Hospitality Tax Account**

A fund or an account, to be known as the City of Bennettville Local Hospitality Tax Fund shall be established, and all revenues received from the hospitality tax shall be deposited into this account. The principal and any accrued interest from this account shall be deposited into this account. The principal and any accrued interest from this account shall be expended only as permitted in Section 8 below.

#### **Section 8 Permitted Uses of Funds**

The City of Bennettville, South Carolina is hereby authorized to utilize the funds collected from the imposition of the hospitality fee for the purposes enumerated in Section 6-1-730 of the State Code of Laws of South Carolina and as may be amended.

#### **Section 9 Inspections and Audits**

For the purpose of enforcing the provisions of this section the City's Finance Director or other authorized agent of the City is empowered to enter upon the premises of any person subject to this section to make inspection, examine, and/or audit the books and records, and it shall be unlawful for any person to fail or refuse to make available the necessary books and records. In the event that the audit or inspection reveals that the establishment has filed false information, the cost of the audit shall be added to the corrected amount due and late penalties in addition to other penalties provided herein. Each day of failure to pay the proper fee shall constitute a separate offense. The City Finance Director, or other authorized agent of the City, shall have authority to enter the business within the City to insure compliance with this section. Records of inspections and audits shall not be deemed public records and shall not be released by the City.

#### **Section 10 Authorization**

Authorization to utilize revenues from the Hospitality Tax Fund shall be by the annual budget ordinance duly adopted by the City Council.

#### **Section 11 Severability**

If any section, phrase, sentence or portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such section, phrase, sentence or portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining sections, phrases, sentences, or portions thereof.

**Section 12      Effective Date**

This Ordinance shall become effective on August 1, 2003.

## **ARTICLE 7. LOCAL HOSPITALITY TAX**

**SECTION 6-1-700.** Short title. [SC ST SEC 6-1-700]

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

**SECTION 6-1-710.** Definitions. [SC ST SEC 6-1-710]

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.

**SECTION 6-1-720.** Imposition of local hospitality tax. [SC ST SEC 6-1-720]

**SECTION 6-1-730.** Use of revenue from local hospitality tax. [SC ST SEC 6-1-730]

(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; or
- (6) water and sewer infrastructure to serve tourism-related demand.

(B) 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.

**SECTION 6-1-740. Cumulative rate of local hospitality tax. [SC ST SEC 6-1-740]**

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.

**SECTION 6-1-750. Local hospitality tax revenue upon annexation. [SC ST SEC 6-1-750]**

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.

**SECTION 6-1-760. Ordinances prior to March 15, 1997; calculation; revenue. [SC ST SEC 6-1-760]**

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 and the enacting county or municipality is authorized to issue bonds, pursuant to Article X, Section 14(10) of the Constitution of this State, utilizing the procedures of Section 4-29-68, for the purposes enumerated in Section 6-1-530, and to retire such debt using the proceeds of such an accommodations fee ordinance and the pledge of such other nontax revenues as may be available for those purposes.

**SECTION 6-1-770. Remitting tax to local governing body; frequency determined by estimated average amounts. [SC ST SEC 6-1-770]**

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.

# The City of Bennettsville Local Hospitality Tax on Prepared or Modified Foods and Beverages

## General Information

### Definition:

- **What is the local hospitality tax?**  
A 2% tax imposed by the City of Bennettsville on the purchase of prepared or modified foods and/or beverages prepared for immediate consumption.

### Applicability:

- **Who would collect the 2% hospitality tax on the sale of prepared or modified foods and/or beverages?**  
Restaurants, hotels, bars and lounges, caterers, ice cream shops, bakery shops, other food service facilities, including convenience and grocery stores (that have specified areas where foods and beverages are prepared.)
- **What foods and beverages are subject to the Hospitality Tax?**
  - \* All food and/or beverage sales prepared or modified for immediate consumption
  - \* Doughnuts, pastries and other bakery items which are prepared or modified at the business site
  - \* Prepared sandwiches and salads
  - \* Food and beverages prepared for catering

### Clarification for Grocery and Convenience Stores (that have specified areas where foods and beverages are prepared):

- \* Food made, prepared, or cooked at your store
- \* Food made, prepared, or cooked within the City of Bennettsville and sold in your store
- \* Food made, prepared, or cooked outside the City of Bennettsville, but packaged or served by your store

### Examples of food/beverages sales EXEMPT from the Hospitality Tax:

- \* Pre-packaged foods
- \* Bulk or pre-packaged cold deli products
- \* Canned and bottled drinks, which are not sold for immediate consumption
- \* Cans, boxes, or jars of food, which are pre-packaged
- \* Bags of chips, pretzels, nuts, candy, or other pre-packaged food items

## Fee Collection Information

- **Who is responsible for the collection and remittance of the Hospitality Tax?**

- \* The food service establishment is liable for the collection of the tax from patrons and the monthly remittance of these collections to the City of Bennettsville

- **How will the fee be remitted?**

- \* The fee will be remitted to the City of Bennettsville (Attn: Hospitality Tax) by the 20<sup>th</sup> of each month for the prior month's total collections. Each remittance must include a completed Hospitality Tax Monthly Reporting Form furnished by the City of Bennettsville. A copy of the S.C. State Sales and Use Tax Return Form (Form ST-3) must also accompany the Hospitality Tax Monthly Reporting Form.

- **What if my tax payment is timely?**

- \* A discount of 2% may be deducted from the total collections (Calculations will be accounted for on the Hospitality Tax Monthly Reporting Form)

- **What if my tax payment is delinquent?**

- \* A penalty of 5% per month must accompany all delinquent remittances. (Calculations will be accounted for on the Hospitality Tax Monthly Reporting Form)

- **When will the Hospitality Tax go into effect and when will my first remittance be due the City?**

- \* Bennettsville City Council passed first reading of the Local Hospitality Tax on June 17, 2003. Assuming passage of second reading on July 15, 2003 it will become effective on August 1, 2003. The deadline For Remittance of the first month's collection will be 5:00pm on August 20, 2003. In those months that the 20<sup>th</sup> falls on a weekend or holiday, the deadline will be on the next day the City's offices are open.

- **Where should my collections be remitted?**

- \* The payment and report should be delivered or mailed to the City of Bennettsville, Attn: Hospitality Tax, P.O. Box 1036, Bennettsville, S.C. 29512

- **Who should I contact with questions about the Hospitality Tax?**

- \* Please direct your questions regarding the Local Hospitality Tax to the following Person:

\*\* Wesley D. Park, CPA      479-9001 Ext.334