

RICHLAND COUNTY COUNCIL



HOSPITALITY TAX REVIEW COMMITTEE

Damon Jeter
District 3

Greg Pearce
District 6

Torrey Rush
District 7

Jim Manning
District 8

Norman Jackson
District 11

Tuesday, October 28, 2013

12:00 PM

Admin Conference Room

- 1. Call to Order**

- 2. Adding New Ordinance Agencies: [PAGE 2]**
 - a. Township**

 - b. Renaissance Foundation**

- 3. Reviewing equity and allowances related to the Ordinance Agencies and establish a mechanism for annual or every other year review of Ordinance Agency funding [PAGES 3-11]**

- 4. Other Items**

- 5. Adjournment**

****Special Accommodations & Interpreter Services****

Citizens may be present during any of the County's meetings. If requested, the agenda and backup materials will be made available in alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), as amended and the federal rules and regulations adopted in implementation thereof.

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**CRITERIA FOR ADDING NEW AGENCIES TO THE
RICHLAND COUNTY HOSPITALITY TAX ORDINANCE**

From time to time, Richland County Council may amend the Hospitality Tax Ordinance in order to include new Agencies for annual appropriations. As a general policy, only Agencies that meet the following criteria, at a minimum, shall be considered for inclusion in Hospitality Tax Ordinance:

- a. The Agency shall have a record of generating significant levels of tourism in Richland County, with a special emphasis on promoting tourism in the unincorporated areas of the county;
- b. The Agency shall offer programs that will generate tourism throughout the year;
- c. The Agency shall add to, or otherwise reflect, the diversity of the citizens of Richland County;
- d. The Agency shall be recognized by the South Carolina Secretary of State and be in good standing as a non-profit organization;
- e. The Agency must be deemed eligible to receive funding from the county under all applicable state and federal laws;
- f. The Agency shall have a proven history of fundraising ability, and shall not be reliant on county funding to sustain its annual operations or capital costs;
- g. The Agency shall devote a minimum of 67% of its annual expenses toward programs and services;
- h. The Agency must not receive a significant portion of its annual budget from any other sources of county revenue, including, but not limited to: general fund sources, dedicated taxes, or fees. This requirement shall be waived if the purpose of including the Agency in the Hospitality Tax Ordinance is to replace the existing funding source with Hospitality Tax dollars; and
- i. The Agency must have the organizational capacity to meet all other requirements of the Hospitality Tax Ordinance, including detailed reporting requirements

CHAPTER 23: TAXATION

ARTICLE VI. LOCAL HOSPITALITY TAX (Ord. 025-03HR; 5-5-03)

Sec. 23-65. Definitions. (Ord. 025-03HR; 5-5-03)

Whenever used in this article, unless a contrary intention is clearly evidenced, the following terms shall be interpreted as herein defined: (Ord. 040-10HR; 7-6-10)

Local Hospitality Tax means 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, within the incorporated municipalities and the unincorporated areas of the county. (Ord. 025-03HR; 5-5-03) (Ord. 040-10HR; 7-6-10)

Person means any individual, firm, partnership, LLP, LLC, cooperative, nonprofit membership, corporation, joint venture, professional association, estate, trust, business trust, receiver, syndicate, holding company, or other group or combination acting as a unit, in the singular or plural, and the agent or employee having charge or control of a business in the absence of the principals. (Ord. 040-10HR; 7-6-10)

Prepared Meals and Beverages means the products sold ready for consumption either on or off premises in businesses classified as eating and drinking places under the Standard Industrial Code Classification Manual and including lunch counters and restaurant stands; restaurants, lunch counters, and drinking places operated as a subordinate facility by other establishments; and bars and restaurants owned by and operated for members of civic, social, and fraternal associations. (Ord. 025-03HR; 5-5-03)

Richland County means the county and all of the unincorporated areas within the geographical boundaries of the county and all of the incorporated municipalities of the county. (Ord. 025-03HR; 5-5-03) (Ord. 040-10HR; 7-6-10)

Sec. 23-66. Local Hospitality Tax.

A local hospitality tax is hereby imposed on the sales of prepared meals and beverages sold in establishments within the incorporated municipalities and the unincorporated areas of the county. The local hospitality tax shall be in an amount equal to two percent (2%) of the gross proceeds of sales of prepared meals and beverages sold in establishments located within the unincorporated areas of the county and within the boundaries of the incorporated municipalities which have consented, by resolution adopted by their governing body, to the imposition of the local hospitality tax in the amount of two percent (2%). The local hospitality tax shall be in an amount equal to one percent (1%) of the gross proceeds of sales of prepared food and beverages sold in establishments located within the boundaries of the incorporated municipalities within the county which do not give their consent to the imposition of the local hospitality tax. Provided, however, the county shall not impose a local hospitality tax on those municipalities that have adopted a two percent (2%) local hospitality tax prior to July 1, 2003. Effective July 1, 2009 through June 30, 2011, the county shall temporarily reduce the local hospitality tax to one percent (1%) of the gross proceeds of sales of prepared meals and beverages sold in establishments located within the unincorporated areas of the county. This temporary suspension shall not affect the hospitality tax rates within the boundaries of any incorporated municipality. (Ord. 025-03HR; 5-5-03) (Ord. 016-09HR; 3-17-09)

Sec. 23-67. Payment of Local Hospitality Tax.

(a) 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 services to calculate the amount of Local Hospitality Tax collected and due. This form shall contain a sworn declaration as to the correctness thereof by the provider of the services. (Ord. 025-03HR; 5-5-03)

(b) The tax provided for in this Article must be remitted to the County on a monthly basis when the estimated amount of average tax is more than fifty dollars (\$50.00) a month, on a quarterly basis when the estimated amount of average tax is twenty-five dollars (\$25.00) to fifty dollars (\$50.00) a month, and on an annual basis when the estimated amount of average tax is less than twenty-five dollars (\$25.00) a month. (Ord. 025-03HR; 5-5-03)

(c) The provider of services shall remit the local hospitality tax voucher form, a copy of the State of South Carolina sales tax computation form and/or other approved revenue documentation, and the hospitality taxes when due, to the County on the 20th of the month, or on the next business day if the 20th is not a business day. (Ord. 025-03HR; 5-5-03) (Ord. 010-08HR; 3-4-08)

Sec. 23-68. Local Hospitality Tax Special Revenue Fund.

An interest-bearing, segregated and restricted account to be known as the “Richland County Local Hospitality Tax Revenue Fund” is hereby established. All revenues received from the Local Hospitality Tax shall be deposited into this Fund. The principal and any accrued interest in this Fund shall be expended only as permitted by this ordinance. (Ord. 025-03HR; 5-5-03)

Sec. 23-69. Distribution of Funds.

(a) (1) The County shall distribute the Local Hospitality Tax collected and placed in the “Richland County Local Hospitality Tax Revenue Fund” to each of the following agencies and purposes (“Agency”) in the following amounts during fiscal year 2003-2004: (Ord. 025-03HR; 5-5-03)

Columbia Museum of Art	\$650,000
Historic Columbia	250,000
EdVenture Museum	100,000
County Promotions	200,000

(2) The amounts distributed to the Columbia Museum of Art, Historic Columbia, and EdVenture Museum shall be paid quarterly beginning October 1, 2003. The amount distributed to organizations receiving County Promotions shall be paid to the organization as a one-time expenditure beginning in fiscal year 2008-2009. (Ord. 025-03HR; 5-5-03) (Ord. 001-08HR; 1-8-08) (Ord. 069-08HR; 12-2-08)

(3) As a condition of receiving its allocation, the Columbia Museum of Art, Historic Columbia, and EdVenture Museum must annually submit to the County an affirmative

marketing plan outlining how the agency will use its hospitality tax allocation for tourism promotion in the upcoming fiscal year. The plan shall include a detailed project budget which outlines the agency's proposed use of hospitality tax funds. The marketing plan shall also outline how the agency will promote access to programs and services for all citizens of Richland County, including documentation of "free" or discounted services that will be offered to Richland County residents. In addition, each Agency shall demonstrate a good faith effort to expand programs and events into the unincorporated areas of Richland County. The annual marketing plan shall be due to the County Administrator no later than March 1 of each year. If an Agency fails to comply with these requirements, its portion of the Local Hospitality Tax shall be retained in the Richland County Local Hospitality Tax Revenue Fund and distributed as provided in subsection (f) below. (Ord. 025-03HR; 5-5-03) (Ord. 069-08HR; 12-2-08) (Ord. 059-10HR; 9-21-10)

(4) For the amounts distributed under the County Promotions program, funds will be distributed with a goal of seventy-five percent (75%) dedicated to organizations and projects that generate tourism in the unincorporated areas of Richland County and in municipal areas where Hospitality Tax revenues are collected by the county. These shall include: (Ord. 069-08HR; 12-2-08) (Ord. 077-09HR; 12-15-09)

- a. Organizations that are physically located in the areas where the county collects Hospitality tax Revenues, provided the organization also sponsors projects or events within those areas;
- b. Organizations that are not physically located in the areas where the county collects Hospitality Tax Revenues; however, the organization sponsors projects or events within those areas; and
- c. Regional marketing organizations whose primary mission is to bring tourists to the region, including the areas where the county collects Hospitality Tax revenues.

(5) In the event Local Hospitality Tax revenues are not adequate to fund the Agencies listed above in the prescribed amounts, each Agency will receive a proportionate share of the actual revenues received, with each Agency's share to be determined by the percentage of the total revenue it would have received had the revenues allowed for full funding as provided in subsection (a)(1) above. (Ord. 025-03HR; 5-5-03) (Ord. 069-08HR; 12-2-08)

(b) In each of fiscal years 2004-2005 and 2005-2006, the Local Hospitality Tax shall be distributed to each Agency named above in the same amounts and on the same terms and conditions, together with a three percent (3%) increase in each of fiscal year 2004-2005 and 2005-2006. (Ord. 025-03HR; 5-5-03)

(c) In fiscal year 2006-2007, the amount of Local Hospitality Tax to be distributed annually to each Agency named above shall be established in the County's FY 2006-2007 Budget Ordinance. (Ord. 025-03HR; 5-5-03) (Ord. 081-06HR; 9-12-06)

(d) In fiscal years 2007-2008 and 2008-09, the amount of Local Hospitality Tax to be distributed annually to each Agency named above shall be increased based on the revenue growth rate as determined by trend analysis of the past three years, but in any event not more than 3%. (Ord. 069-08HR; 12-2-08)

(e) Beginning in fiscal year 2009-2010 and continuing thereafter, the amount of Local Hospitality Tax to be distributed annually to each Agency named above shall be increased based on the projected revenue growth rate from the previous year, but in any event not more than 3%. If projected revenues shall decrease from the previous year, the amount distributed to each Agency named above shall be decreased proportionately. In each of fiscal years 2009-2010 and 2010-2011, during which time the local hospitality tax shall be temporarily reduced in the unincorporated areas of the county, the projected growth rates referenced in this subsection shall be based on the projected revenues as if the temporary reduction was not in effect. (Ord. 081-06HR; 9-12-06) (Ord. 069-08HR; 12-2-08) (Ord. 016-09HR; 3-17-09)

(f) All Local Hospitality Tax revenue not distributed pursuant to subsections (a) through (e) above shall be retained in the Richland County Local Hospitality Tax Revenue Fund and distributed as directed by County Council for projects related to tourism development, including, but not limited to, the planning, development, construction, promotion, marketing, operations, and financing (including debt service) of the State Farmer's Market (in lower Richland County), Township Auditorium, a new recreation complex (in northern Richland County), recreation capital improvements, Riverbanks Zoo, and other expenditures as provided in Article 7, Chapter 1, Title 6, Code of Laws of South Carolina 1976 as amended. (Ord. 025-03HR; 5-5-03) (Ord. 081-06HR; 9-12-06) (Ord. 069-08HR; 12-2-08)

Sec. 23-70. Re-distribution of the County's General Fund.

A portion of the general fund revenue that was historically appropriated for the agencies and purposes identified in Section 23-69, subsections (a) and (d), shall in fiscal year 2004 be appropriated in an amount equivalent to one-quarter mill to each of the following entities, subject to approval of the general fund budget: 1) the Richland County Conservation Commission, and 2) the Neighborhood Redevelopment Commission. Thereafter, beginning in fiscal year 2005, an amount equivalent to one-half mill shall be appropriated to each of these two agencies, subject to approval of the general fund budget. Each such entity shall be established and accounted for as a Special Revenue Fund. There shall be no additions to the Statutory and Contractual Agencies funded through the County's General Fund Budget, except as required by state or federal law. (Ord. 025-03HR; 5-5-03)

Sec. 23-71. Oversight and Accountability.

The following organizations: the Columbia Museum of Art, Historic Columbia, and EdVenture Museum must submit a mid-year report by January 31 and a final report by July 31 of each year to the Richland County Administrator, which includes a detailed accounting of all hospitality tax fund expenditures and the impact on tourism for the preceding fiscal year, including copies of invoices and proof of payment. The county shall not release hospitality tax funds to any agency unless that agency has submitted an acceptable final report for the previous fiscal year. If an Agency fails to comply with these requirements by the July 31 deadline, its portion of the Local Hospitality Tax shall be retained in the Richland County Local Hospitality Tax Revenue Fund and may be distributed as provided in Section 23-69 (f). (Ord. 001-08HR; 1-8-08) (Ord. 069-08HR; 12-2-08) (Ord. 016-09HR; 3-17-09) (Ord. 059-10; 9-21-10)

Any organization receiving County Promotions funding must comply with all requirements of this article, as well as any application guidelines and annual reporting requirements as established by council, to include a detailed reporting of all grant expenditures. (Ord. 025-03HR; 5-5-03) (Ord. 001-08HR; 1-8-08) (Ord. 069-08HR; 12-2-08) (Ord. 059-10HR; 9-21-10)

Sec. 23-72. Inspections, Audits and Administration. (Ord. 025-03HR; 5-5-03)

(a) For the purpose of enforcing the provisions of this article, the County Administrator or other authorized agent of the county is empowered to enter upon the premises of any person subject to this article and to make inspections, examine, and audit books and records. (Ord. 040-10HR; 7-6-10)

(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 an audit reveals that the remitter has filed false information, the costs of the audit shall be added to the correct amount of tax determined to be due. (Ord. 040-10HR; 7-6-10)

(c) The county administrator or other authorized agent of the county may make systematic inspections of all service providers that are governed by this article. Records of inspections shall not be deemed public records. (Ord. 040-10HR; 7-6-10)

Sec. 23-73. Assessments of hospitality tax. (Ord. 010-08HR; 3-4-08)

(a) When a person fails to pay or accurately pay their hospitality taxes or to furnish the information required by this Article or by the Business Service Center, a license official of the Business Service Center shall proceed to examine such records of the business or any other available records as may be appropriate and to conduct such investigations and statistical surveys as the license official may deem appropriate to assess a hospitality tax and penalties, as provided herein. (Ord. 040-10HR; 7-6-10)

(b) Assessments of hospitality taxes and/or penalties, which are based upon records provided by businesses, shall be conveyed in writing to businesses. If a business fails to provide records as required by this Article or by the Business Service Center, the tax assessment shall be served by certified mail. Within five (5) business days after a tax assessment is mailed or otherwise conveyed in writing, any person who desires to have the assessment adjusted must make application to the Business Service Center for reassessment. The license official shall establish a procedure for hearing an application for a reassessment, and for issuing a notice of final assessment. (Ord. 040-10HR; 7-6-10)

(c) A final assessment may be appealed to the County Council, provided that an application for reassessment was submitted within the allotted time period of five business days. However, if no application for reassessment is submitted within the allotted time period, the assessment shall become final. (Ord. 040-10HR; 7-6-10)

(d) Requests for waivers of penalties, as described in Sec. 23-74 (b), shall be submitted to the Business Service Center Director simultaneously with corroborating documentation relating to the validity of the appeal within five (5) business days of receipt of a tax assessment. The Director shall determine if the provided documentation confirms the circumstances permitting a waiver of penalties as described in the aforementioned section. A decision shall be provided in writing within five (5)

business days of the receipt of the request. Businesses wishing to appeal the decision of the Business Service Center Director may appeal to the Richland County Council within five (5) business days of receipt of the Director's decision. (Ord. 040-10HR; 7-6-10)

Sec. 23-74. Violations and Penalties. (Ord. 025-03HR; 5-5-03) (Ord. 010-08HR; 3-4-08)

(a) It shall be a violation of this Article to:

- (1) fail to collect the Local Hospitality Tax as provided in this Article,
- (2) fail to remit to the County the Local Hospitality Tax collected, pursuant to this Article,
- (3) knowingly provide false information on the form of return submitted to the County, or
- (4) fail to provide books and records to the County Administrator or other authorized agent of the County for the purpose of an audit upon twenty-four (24) hours' notice.

(b) The penalty for violation of this Article shall be five percent (5%) per month, charged on the original amount of the Local Hospitality Tax due. Penalties shall not be waived, except if the following circumstances of reasonable cause are proven by the person. No more than six months of penalties shall be waived. (Ord. 025-03HR; 5-5-03) (Ord. 010-08HR; 3-4-08) (Ord. 040-10HR; 7-6-10)

- (1) An unexpected and unavoidable absence of the person from South Carolina, such as being called to active military duty. In the case of a corporation or other business entity, the absence must have been an individual having primary authority to pay the hospitality tax. (Ord. 040-10HR; 7-6-10)
- (2) A delay caused by death or serious, incapacitating illness of the person, the person's immediate family, or the person's accountant or other third party professional charged with determining the hospitality tax owed. In the case of a corporation or other business entity, the death or serious, incapacitating illness must have been an individual having primary authority to pay the hospitality tax. (Ord. 040-10HR; 7-6-10)
- (3) The hospitality tax was documented as paid on time, but inadvertently paid to another taxing entity. (Ord. 040-10HR; 7-6-10)
- (4) The delinquency was caused by the unavailability of necessary records directly relating to calculation of hospitality taxes, over which the person had no control, which made timely payment impossible. For example, the required records may have been destroyed by fire, flood, federally-declared natural disaster, or actions of war or terrorism. Unavailability of records caused by time or business pressures, employee turnover, or negligence are not reasonable cause for waiver of hospitality tax penalties. (Ord. 040-10HR; 7-6-10)
- (5) The delinquency was the result of clear error on the part of the Business Service Center or Treasurer's Office staff in processing or posting receipt of the person's payment(s). (Ord. 040-10HR; 7-6-10)

- (6) Delay or failure caused by good faith reliance on erroneous guidance provided by the Business Service Center or Treasurer's Office staff, so long as complete and accurate information was given to either of these offices, no change in the law occurred, and the person produces written documentation. (Ord. 040-10HR; 7-6-10)

(c) Any person violating the provision of this article shall be deemed guilty of a misdemeanor and upon conviction shall be subject to punishment under the general penalty provision of Section 1-8 of this Code of Ordinances: that is, shall be subject to a fine of up to \$500.00 or imprisonment for not more than thirty (30) days or both. Each day of violation shall be considered a separate offense. Punishment for violation shall not relieve the offender of liability for delinquent fees, penalties, and costs provided herein. (Ord. 010-08HR; 3-4-08)

Hospitality Tax Budget

	FY10 Approved	FY11 Approved	FY12 Approved	FY13 Approved	FY14 Approved
Annual Appropriations					
<i>Expenditure Detail</i>					
Columbia Museum of Art	695,002	648,437	667,890	687,926	702,372
Historic Columbia Foundation	267,309	249,399	256,881	264,587	270,143
EdVenture	106,923	99,759	102,752	105,834	108,057
County Promotions (Grant Program)	328,203	296,558	330,454	340,368	347,516
<i>Sub-total Annual Agency Commitment</i>	<u>1,397,437</u>	<u>1,294,153</u>	<u>1,357,977</u>	<u>1,398,715</u>	<u>1,428,088</u>
Township Maintenance	50,078	50,078	68,728	68,728	70,171
Cost Allocation		433,989	433,989	433,989	770,000

Other Discretionary Council Promotions:

Note: Some amounts were in addition to Promotions award amount

Appearance Commission - Ft. Jackson Entry	40,000				
Auntie Karen Foundation				13,030	
Benedict College			6,877		
Black Expo			16,000		
Black Pages				35,044	45,600
Blythewood BBQ Event					25,000
Broad River Fest/3 Rivers				5,000	95,725
Carolina Sunsplash					65,000
Caughman Pond Property			900,000		1,400,000
Columbia Chamber of Commerce - Friends of Our Forces					27,479
Columbia Classical Ballet				4,978	
Columbia International Festival			13,224	23,000	42,500
Columbia Metropolitan Convention & Visitor	200,000				50,000
Diamond Day					15,000
EdVenture			250,000	130,000	
Famously Hot New Year				15,000	
Fight Night					30,000
Glow in the Dark Golf Tournament					50,000
Historic Columbia Renovations			750,000	250,000	
Kingville Historic Foundation				16,018	81,000
Lake Murray Tourism	56,162			50,000	49,000
Lower Richland Sweet Potato Festival			50,000	50,044	50,000
Main St. Latin Fest					41,000
Nickelodeon			250,000		125,000
North Columbia Business Association Cornbread Fest					11,000
Office of Public Information	100,000				
Palmetto City Classic				20,000	
Parenting Solo				45,000	
Recreational Complex (From designated fund balance)			250,000		
Renaissance Foundation	200,000	100,000	100,000	100,000	100,000
SCALE, Inc.					56,000
SC HIV/AIDS Council					7,000
SC State Museum Capital Campaign	250,000	250,000	250,000	250,000	

SERCO	237,500		185,000	178,883	253,800
SERCO Subrecipients		237,500			
SIAC Tournament				25,000	
Sparkleberry Country Fair				2,883	8,800
St. Andrews BBQ Event					25,000
Township	281,448		200,000	250,000	229,829
Unallocated					
Woodcreek Classic				650	
<i>Sub-total Other Discretionary</i>	<u>1,365,110</u>	<u>587,500</u>	<u>3,221,101</u>	<u>1,464,530</u>	<u>2,883,733</u>
Sub-total	2,812,625	2,365,720	5,081,795	3,365,962	5,151,992
<u>Debt Service Capital Projects:</u>	<u>1,966,920</u>	<u>1,962,392</u>	<u>1,966,352</u>	<u>1,968,368</u>	<u>1,500,000</u>
(Township Renovations (\$12m), Farmers Market - Land (\$3.5m), Farmers Market - Land refunded w/vendor payments (\$1m), Recreation Complex Land)					
Debt Service for New Project			1,072,954	1,072,954	
Professional Services - Caughman Pond				50,000	
Reserved for Future Use				250,000	
Total Expenditure	4,779,545	4,328,112	8,121,101	6,707,284	6,651,992