

**AN ORDINANCE TO ESTABLISH AND COLLECT A LOCAL HOSPITALITY TAX IN SPARTANBURG COUNTY, SOUTH CAROLINA.**

**WHEREAS**, Spartanburg County, South Carolina (the "County") wishes to further develop tourism and tourism related activities through the capital construction and enhancement of facilities that serve tourists who visit the county; and

**WHEREAS**, Article 7 of Chapter 1 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 (as defined herein) not to exceed two percent (2%) on the gross proceeds of sales of prepared meals and beverages; and

**WHEREAS**, the County finds that a Local Hospitality Tax upon the sales of prepared meals and beverages sold in establishments in the County will result in revenues that will be used for the dedicated purpose of improving services and facilities for tourists and the citizens of the County, which constitutes a public purpose of the County; and

**WHEREAS**, the County finds that projects and similarly related expenditures as denoted in Exhibit A of the attached constitute an appropriate use of proceeds derived from Hospitality Tax Revenue;

**BE IT THEREFORE ORDAINED BY SPARTANBURG COUNTY COUNCIL:**

**SECTION 1. Definitions.**

*County* means Spartanburg County, South Carolina and all of the unincorporated areas and the incorporated municipalities within the geographical boundaries of Spartanburg County, South Carolina.

*Local Hospitality Tax* means a tax on the sales of prepared meals and beverages sold in establishments within the County.

*Obligations* means bonds, certificates of participation, leases or other forms of obligations approved by the County Council of the County payable or secured by the proceeds of the Local Hospitality Tax issued to defray the cost of one or more projects authorized under this Ordinance and the Act.

*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 but not limited to lunch counters and restaurant stands; restaurants, lunch counters, and 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 Local Hospitality Tax is hereby imposed on the sales of prepared meals and beverages sold in establishments within 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. 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 any incorporated municipalities within the County which have not imposed a local hospitality tax prior to January 1, 2008. 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 January 1, 2008; further, provided, however that the cumulative rate of the County and municipal Local Hospitality Taxes imposed for any portion of the County may not exceed two percent (2%).

**SECTION 3. Payment of Local Hospitality Tax.**

(a) Payment of the Local Hospitality Tax established herein shall be the liability of the consumer of the prepared meals and beverages. The Local Hospitality Tax shall be paid at the time of purchase of prepared meals and beverages to which the Local Hospitality Tax applies, and shall be collected by the provider of prepared meals and beverages (also known as the "provider of the services" or "service providers"). 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.

(b) The Local Hospitality Tax provided for in this Ordinance must be remitted to the County on a monthly basis when the estimated amount of average Local Hospitality Tax is more than fifty dollars (\$50.00) a month, on a quarterly basis when the estimated amount of average Local Hospitality 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 Local Hospitality Tax is less than twenty-five dollars (\$25.00) a month. The closing date for monthly payments is the last day of the month; the closing dates for quarterly payments are the last days of the months of March, June, September and December, and the closing date for annual payments is the last day of December.

(c) The provider of the services shall remit the Local Hospitality Tax collected, when due, to the County by the 20<sup>th</sup> day of the month following the closing date of the period for which the Local Hospitality 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 20<sup>th</sup> day of the month falls on a Sunday or postal service holiday, then payments postmarked 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 "Spartanburg 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 of the County shall distribute amounts in the Fund in accordance with the breakdown and listing appearing in Exhibit A attached hereto; 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 Obligations issued by the County for public purposes. It shall be the responsibility of the

County Council and the County Administrator as their designee to ensure that any and all money expended from the Fund shall be spent for the purposes permitted under the Act.

It is the intent of County Council to pursue the capital projects and operational expenditures enumerated in Exhibit A. Additionally, amounts in the Fund may be expended pursuant to the Act in order to finance projects appearing in Exhibit A.

The amounts in the Fund, including investment earnings accumulated therein, shall be allocated, subject to annual appropriation by the County Council, in the following manner:

- (1) Should Local Hospitality Tax funds be used to defray the cost of Obligations, the amount necessary for debt service shall take precedence over all allocations;
- (2) If any balance remains, then to provide for expenditures related to operational and maintenance costs and for the provisions of additional County services including but not limited to law enforcement, traffic control, emergency management and emergency medical services which enhance the ability of the County to attract and provide for tourists. The funds must not be used as an additional source of revenue to provide services normally provided by the County, and provided that the amount of accommodations taxes collected annually in the County pursuant to Section 12-36-920 of the Code of Laws of South Carolina 1976, as amended, is less than nine hundred thousand dollars, then the amount of Local Hospitality Tax Funds used for operation and maintenance as described in this subsection (2) cannot exceed twenty percent (20%) of the Local Hospitality Tax revenue collected in the preceding fiscal year; and
- (3) The remaining balance, plus interest earned shall be allocated to provide for expenditures related to operating and maintenance costs associated with tourism related programs and to defray the cost of capital projects that qualify for such funds under the Act and this Ordinance.

#### **SECTION 6. Oversight and Accountability.**

Any organization or agency receiving Local Hospitality Tax funds must submit a report of expenditures and the impact on tourism for the preceding calendar year and a plan for the upcoming year to the County Administrator on or before March 1 of each year. Such report shall be on a form provided by the County.

#### **SECTION 7. Inspections, Audits and Administration.**

For the purpose of enforcing the provisions of this Ordinance, the County Administrator or other authorized agent of the County is empowered to require annual registration of businesses operating in the County for purposes of determining the applicability of this Ordinance, enter upon the premises of any person subject to this Ordinance and 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' notice. In the event that an audit reveals that the provider of the services has filed false information, the costs of the audit shall be added to the correct amount of Local Hospitality 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 County Administrator or other authorized agent of the County may make systematic inspections of all service providers that are governed by this Ordinance to ensure compliance with this Ordinance. Records of inspections shall not be deemed public records.

**SECTION 8. Violations and Penalties.**

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

1. fail to collect the Local Hospitality Tax as provided in this Ordinance,
2. fail to remit to the County the Local Hospitality Tax collected, pursuant to this Ordinance, or
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) Any unpaid assessment of Hospitality Tax shall be subject to a five percent (5%) per month penalty, charged on the original amount of the Local Hospitality Tax due.

(c) Any person violating any provision of this ordinance shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed Two Hundred and No/100 (\$200.00) Dollars or imprisoned for a term of not to exceed thirty (30) days.

**Section 9. Obligations**

So long as any Obligation is outstanding that the County has designated as being secured by or payable from the Local Hospitality Tax, the Local Hospitality Tax shall continue to be collected by the County.

**Section 10. Severability.**

If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

**Section 11. Effective Date.**

This Ordinance shall become effective upon third reading. The Local Hospitality Tax shall commence being collected by the providers of the services on January 1, 2008, and remittance of the Local Hospitality Tax shall commence in the manner referenced in Section 3 herein.

DONE IN MEETING DULY ASSEMBLED THIS 15<sup>TH</sup> DAY OF OCTOBER, 2007.

SPARTANBURG COUNTY COUNCIL

By: Jeffrey A. Holt  
Chairman

ATTESTED:  
D. Glenn Breed  
D. Glenn Breed  
County Administrator

First Reading: August 20, 2007  
Second Reading: September 17, 2007  
Public Hearing: September 17, 2007  
Third Reading: October 15, 2007

**EXHIBIT A**

**LOCAL HOSPITALITY TAX REVENUES**

**PROJECT AND EXPENDITURE LIST**

**CAPITAL PROJECTS DESCRIPTION**

Regional Park Development including but not limited to Va-Du-Mar Park (est. value \$6.9 million), West Spartanburg Park (est. value \$18.9 million), Holston Creek Park (est. value \$12 million), Pacolet River Park (est. value \$4.3 million), projects associated with acquisition of waterway access and recreational trail development (est. value \$3.3 million), and those capital improvements permissible according to provisions of Article 7 of Chapter 1 of Title 6 of the Code of Laws of South Carolina, 1976, as amended and authorized within the Spartanburg County Capital Improvement Plan.

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**ELIGIBLE OPERATING COSTS**

Those costs and expenditures permitted by and subject to provisions of Article 7 of Chapter 1 of Title 6 of the Code of Laws of South Carolina, 1976, as amended which may include appropriated allocations to the Spartanburg County Parks and Recreation Commission, public safety operations, hospitality tax administration and operational costs related to capital projects.