

## **ORDINANCE NO. 4079**

### **AN ORDINANCE FOR THE PURPOSE OF ESTABLISHING A LOCAL HOSPITALITY TAX TO APPLY TO ALL ESTABLISHMENTS WHICH SELL PREPARED MEALS AND BEVERAGES LOCATED IN THE UNINCORPORATED AREAS OF GREENVILLE COUNTY.**

**WHEREAS**, Greenville 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 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 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 unincorporated areas of the County, 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

**WHEREAS**, the County has considered, and is prepared to adopt, a listing of projects and activities for the expenditure of revenues generated by the Local Hospitality Tax, which is attached hereto as *Exhibit A*.

**NOW THEREFORE, BE IT ORDAINED** by the County Council of Greenville County, South Carolina, duly assembled, and by authority of the same as follows:

#### **Section 1 – Definitions**

- a. “County” means Greenville County, South Carolina and all of the properties within the unincorporated geographical boundaries of Greenville 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 County.

## **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.

## **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 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, and on an annual basis when the estimated amount of average tax is less than twenty-five (\$25) dollars 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.

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 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 “Greenville 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 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 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.

It is the intent of County Council to pursue the capital projects and operational expenditures enumerated in *Exhibit A*. Additionally, revenues may be expended pursuant to the Act in order to finance projects appearing on *Exhibit A*. After adoption of this Ordinance, any future amendment to the list of capital projects appearing in *Exhibit A* will require a three-fourths vote of the membership of County Council.

The funds received by the County are to be allocated, subject to annual appropriation of the County Council in the following manner:

- (1) Should Local Hospitality Tax funds be used to defray the cost of indebtedness, the amount necessary for debt service shall take precedence over all allocations.
- (2) Of any balance remaining: 1) twelve percent (12%) of the funds received by the County are to be applied to the operational and maintenance costs related to the capital projects appearing in Exhibit A; and 2) fifteen percent (15%) of the total funds received by the County are to be used to provide additional County services including, but not limited to, law enforcement, traffic control, 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.
- (3) The remaining balance, plus earned interest, received the County will be allocated to a cover operating and maintenance costs associated with tourism-related programs and expenditures.

## **Section 6 – Inspections and Audits**

For the purpose of enforcing the provisions of this Ordinance, the County Finance Office or other authorized agent of the County, 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 County Finance Office or other authorized agent may make systematic inspections 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 – Violations 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 Ordinance,
- c. knowingly provide false information on the form of 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 is 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, including certificates of participation, used to finance projects authorized by the Act.

## **Section 9 – Administration**

The County Finance Office shall be responsible for the administration of the Local Hospitality Tax on behalf of the County.

## **Section 10 – Amendments**

A two-thirds vote of the County Council shall be required to amend this Ordinance. Provided, however, that this requirement does not affect the three-fourths vote mandate appearing in Section 5 concerning amendments to Exhibit A.

## **Section 11 – Sunset**

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 12 – Severability**

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

**Section 13 – Effective Date**

This Ordinance shall become effective upon third reading. The tax referenced herein shall commence being collected by the providers of the services on which the tax applies, on April 1, 2007, and remittance of amounts due to the County of the tax collected by the providers of the services on which the tax applies shall commence in the manner referenced herein.

**Done in regular meeting, duly assembled, this 12<sup>th</sup> day of December 2006**

GREENVILLE COUNTY, SOUTH CAROLINA

\_\_\_\_\_  
Herman G. Kirven, Jr., Chairman  
Greenville County Council

\_\_\_\_\_  
Joseph M. Kernell  
County Administrator

ATTEST:

\_\_\_\_\_  
Theresa B. Kizer  
Clerk to County Council

First reading: November 7, 2006  
Second reading: November 21, 2006  
Third reading: December 12, 2006  
Public hearing: December 12, 2006

**STATE OF SOUTH CAROLINA**

**COUNTY OF GREENVILLE**

I, the undersigned, Clerk to the Greenville County Council, DO HEREBY CERTIFY:

That the foregoing constitutes a true, correct and verbatim copy of an Ordinance which was given three readings on three separate days, with an interval of not less than seven days between the second and third readings. The original of this Ordinance is duly entered in the permanent records of minutes of meetings of the County Council, in my custody as such Clerk.

That each of said meetings was duly called, and all members of the County Council were notified of the same; that all/a majority of the membership were notified of each meeting and remained throughout the proceedings incident to the adoption of this Ordinance.

**IN WITNESS WHEREOF**, I have hereunto set my Hand this \_\_\_\_ day of December, 2006.

\_\_\_\_\_  
Clerk to Greenville County Council

First reading: \_\_\_\_\_  
Second reading: \_\_\_\_\_  
Third reading: \_\_\_\_\_  
Public hearing: \_\_\_\_\_

**EXHIBIT A**

**LOCAL HOSPITALITY TAX REVENUES**

**PROJECT AND EXPENDITURE LIST**

<b>CAPITAL PROJECTS DESCRIPTION</b>	<b>Estimated Capital Costs*</b>
Berea / Travelers Rest Sports Complex	\$4,500,000
Camp Spearhead at Pleasant Ridge Retreat Center	\$4,000,000
David Jackson Park	\$1,000,000
Enoree Landfill	\$2,000,000
Convention and Visitors Bureau -"The Go Experience"	\$5,000,000
Kroc Center	\$3,000,000
Lake Conestee	\$2,000,000
Municipal Stadium	\$4,000,000
MESA Soccer Complex	\$3,000,000
Waterparks -Southside expansion & new Northern park	\$6,000,000
Lakeside Park upgrades	\$1,000,000
Pavilion Complex upgrades	\$1,000,000
Piedmont Athletic Complex	\$3,000,000
Children's Museum and Heritage Green	\$2,500,000
Sterling Center -Historical and Cultural Center	\$1,000,000
"Swamp Rabbit" Tram-Trail Line	\$2,000,000
Taylors Area Baseball Complex	\$1,000,000
Pleasant Ridge -Outdoor Adventure Center	\$5,000,000
<b>TOTAL CAPITAL PROJECTS FUNDS :</b>	<hr/> <b>\$51,000,000</b>

\* Estimated costs as of December 12, 2006

**OPERATING COSTS**

Public Safety  
Operational costs related to a portion of the above capital projects  
Upcountry History Museum  
Greenville County Recreation District