

- CODE OF ORDINANCES
Chapter 24 - TAXATION
ARTICLE II. ACCOMMODATIONS TAX

ARTICLE II. ACCOMMODATIONS TAX¹

DIVISION 1. GENERAL

Sec. 24-18. Definitions.

Except where the context otherwise requires, the definitions set forth in this section shall govern the construction of this article:

Accommodation shall mean a room or rooms, campground space, lodging, or other sleeping accommodations furnished to transients by any hotel, inn, tourist camp, tourist court, motel, campground, residence, bed-and-breakfast, vacation rental, or any other place in which rooms, lodgings, or sleeping accommodations are furnished to transients for consideration, whether with or without meals.

Accommodations tax means a tax imposed on the gross proceeds derived from the rental or charges for any accommodation furnished to transients and which is imposed on every person engaged or continuing within the Town the business of furnishing accommodations to transients for any consideration.

Additional guest charge shall mean a charge or fee imposed upon a transient for:

- (1) Room service;
- (2) Laundering or dry cleaning service;
- (3) In-room movies;
- (4) Telephone service; and/or
- (5) Rental of meeting rooms.

Charge shall mean any and all related markup, service fee, convenience fee, facilitation fee, cancellation fee, late departure fee, and other such charge, regardless of terminology, assessed in conjunction with the rental of an accommodation. The term "charge" shall not include additional guest charges.

Designated marketing organization (DMO) shall mean a qualified nonprofit organization with either an existing, ongoing tourist promotion program or that has demonstrated the capabilities of developing an effective tourist promotion program that has been designated by Town Council as a designated marketing organization in accordance with the provisions of this article and State law.

Gross proceeds shall mean the gross amount of consideration for the use or privilege of using an accommodation in the Town, valued in money, whether received in money or otherwise, including cash, credits, property and services, determined without any deduction for costs or expenses whatsoever, and shall include any and all charges that the transient pays incidental to obtaining the use or privilege of using an accommodation;

¹Editor's note(s)—Ord. No. 2019-09 , § 1(Att. 2), adopted June 11, 2019, amended Article II in its entirety to read as herein set out. New sections were added, subsequently renumbering §§ 24-20 and 24-21 as 24-21 and 24-22. Former § 24-22 was incorporated into § 24-23. For a more detailed description please see the code comparative table. The historical notation remains with the amended sections.

State law reference(s)—Local accommodations tax, S.C. Code of 1976 § 6-1-500 et seq.

provided, however, the term "gross proceeds" shall not include charges that are assessed to the taxpayer on account of the tax imposed by this chapter or on account of any other tax imposed on the charge or fee.

Tourist shall mean a person who does not reside within the corporate limits of the Town or within a Town zip code that takes a trip into the corporate limits of the Town for any purpose, except daily commuting to and from work.

Transient shall mean any person who exercises occupancy or is entitled to occupancy in an accommodation for a period of 90 consecutive calendar days or less, counting portions of calendar days as full days. The day an occupant checks out of an accommodation shall not be included in determining the 90-day period if the occupant is not charged a rental fee or charge for that day by the operator. Any such occupant of an accommodation shall be deemed to be a transient until the period of 90 days has expired, unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of the ordinance codified in this chapter may be considered.

(Ord. No. 2019-09 , § 1(Att. 2), 6-11-2019)

Sec. 24-19. Accommodations Tax Advisory Committee; establishment.

- (a) The Town hereby ratifies and confirms the establishment of the Accommodations Tax Advisory Committee to perform such duties and functions as are required or authorized by the Town Council and/or State law. In particular, the Accommodations Tax Advisory Committee shall make recommendations to Town Council concerning the expenditure of revenue generated from state accommodations tax in accordance with and subject to the provisions and allocations set forth in this article and any guidelines adopted by the Town and the Accommodations Tax Advisory Committee membership.
 - (1) The Accommodations Tax Advisory Committee shall be appointed by Town Council and whose composition and membership shall be composed in accordance with State law and this Code.
 - (2) *Term and meetings.*
 - a. The Accommodations Tax Advisory Committee, in conjunction with Town Council, shall adopt guidelines to fit the needs and time schedules of the Municipality, which guidelines shall include the requirements for applications for funds from the special accommodations tax fund that are to be used for tourism-related expenditures as defined by State law and this Code.
 - b. Meetings of the Accommodations Tax Advisory Committee shall be conducted in accordance with Chapter 3 of the Town Code and any such Rules of Procedure adopted by the Accommodations Tax Advisory Committee.
- (b) *Powers and duties.*
 - (1) The Accommodations Tax Advisory Committee shall review all applications for funds from the special fund(s) used for tourism-related expenditures created pursuant to this article and/or State law and shall submit written recommendations to Town Council at least once annually regarding the expenditure of such accommodation tax funds. The recommendations must be considered by Town Council in conjunction with the requirements of S.C. Code of 1976 § 6-4-5, et seq.
 - (2) The Accommodations Tax Advisory Committee shall also review and evaluate all tendered responses and contracts received by the Town pursuant to any request for proposals or other procurement initiatives regarding the Town Council's designation of one or more designated marketing organizations and shall advise Town Council regarding the designation of the same and the award of any contract to one or more designated marketing organizations up to a three-year term without an automatic renewal for additional terms.

- (3) No applicant may receive funds from the special accommodations tax fund unless such applicant's application has been first reviewed by the Accommodations Tax Advisory Committee.

(Ord. No. 2019-09 , § 1(Att. 2), 6-11-2019)

Sec. 24-20. Designated marketing organization.

- (a) *Designation by Town Council.* In accordance with S.C. Code of 1976 § 6-4-10(3), the Town Council shall designate one or more qualified nonprofit organizations as a designated marketing organization for the purpose of managing and directing the expenditure of certain tourism promotion funds to be allocated to the designated marketing organization pursuant to State law or this article.
- (b) *Criteria for eligibility.* To be eligible for selection as a designated marketing organization, the organization must be local, organized and operated for exempt purposes as a nonprofit with 501(c) status, and whose membership predominantly consists of representatives from the lodging, restaurant, golf, tennis, and/or related hospitality industry. The organization must employ a full-time Executive Director and provide an annual audited financial report in accordance with Generally Accepted Accounting Principles (GAAP).
- (c) *Annual budget.* All designated marketing organizations are required to submit for approval an annual budget of planned expenditures. The proposed budgets shall be submitted to the Town prior to April 1 for review by the Town's Accommodations Tax Advisory Committee. At the end of each fiscal year, designated marketing organization receiving funds pursuant to this section shall render to the Town an accounting of all such expenditures by no later than November 1.
- (d) *Contracting with designated marketing organization.* To better ensure that any designated marketing organization is complying with the intent of this article, Town Council may enter into one or more non-exclusive contracts with such designated marketing organization prior to or contemporaneously with the allocation of any accommodation tax revenue to such designated marketing organization.

(Ord. No. 2019-09 , § 1(Att. 2), 6-11-2019)

DIVISION 2. LOCAL ACCOMMODATIONS TAX

Sec. 24-21. Declaration of purpose and intent; establishment of local accommodations tax.

This article is enacted to preserve the general health, safety, and welfare of the general public within the Town by enacting a three percent local accommodations tax to be collected for the purpose of creating an additional source of funding to pay, in whole or in part, for the current and future needs of the Town in compliance with S.C. Code of 1976 § 6-1-500, et seq.

(Ord. No. 2007-11, art. II, 8-21-2007; Ord. No. 2019-09 , § 1(Att. 2), 6-11-2019)

Sec. 24-22. Tax rate.

- (a) *Tax imposed.* A local accommodations tax equal to three percent is hereby imposed on the gross proceeds derived from the rental or charges for any accommodations within the Town.
- (b) *Exemptions.* A local accommodations tax shall not apply to the gross proceeds from the rental or charges for accommodations that are exempt from the State accommodations tax pursuant to the State Code.

(Ord. No. 2007-11, art. III, 8-21-2007; Ord. No. 2019-09 , § 1(Att. 2), 6-11-2019)

Sec. 24-23. Collection and payment of the local accommodations tax; remittance.

- (a) *Payment of local accommodations tax.* The ultimate incidence of and liability for payment of the local accommodation tax shall be borne by the occupant of any such accommodation. The accommodation tax herein levied shall be in addition to any and all other taxes. It shall be the duty of every owner, manager or operator of an accommodation to secure said accommodation tax from the occupant of said accommodation and pay over to the Town said accommodation tax under rules and regulations prescribed by the Town and as otherwise provided by this article. The local accommodations tax shall be paid at the time of delivery of the services to which the local accommodations tax applies, and shall be collected by the provider of the services.
- (b) *Collection of local accommodations tax.* The local accommodation tax herein levied shall be secured by the owner, manager or operator of the accommodation from the transient when collecting the price, charge or rent to which it applies. The accommodation tax shall be paid to the person required to collect it as trustee for and on behalf of the Town.
- (c) *Remittance.* The local accommodations tax collected by the provider of the services as required in this section shall be remitted to the Town on a monthly basis when the estimated amount of average tax is more than \$50.00 a month, on a quarterly basis when the estimated amount of average tax is \$25.00 to \$50.00 a month, and on an annual basis when the estimated amount of average tax is less than \$25.00 a month. Payments are due on or before the 20th day following the end of the filing period.
- (d) *Remittance forms.* The Town shall promulgate a form of remittance which shall be utilized by the remitter of the local accommodation tax to calculate the amount of local accommodation tax collected and due for each period. Said form shall contain a sworn declaration as to the correctness thereof by the remitter, and shall be accompanied by the payment due to the Town. Failure to receive notice shall not constitute a defense to prosecution for failure to pay the tax due or grounds for waiver of penalties.

(Ord. No. 2007-11, arts. IV, V, 8-21-2007; Ord. No. 2019-09 , § 1(Att. 2), 6-11-2019)

Sec. 24-24. Local accommodations tax account.

- (a) An interest-bearing, restricted account to be known as the Town "local accommodations tax account" is hereby established and all revenues received from the local accommodations tax shall be deposited into this account. The account shall be controlled by the Town Manager or his designee. The principal and any accrued interest thereon shall be spent only as provided in this article.
- (b) Deposits into the local accommodations tax account may also include appropriations from the general fund by the Town Council and voluntary contributions of money and other liquid assets from any source. Once any such funds are deposited into the local accommodations tax account, the funds become dedicated funds and may only be spent as provided in this article.

(Ord. No. 2007-11, art. VI, 8-21-2007; Ord. No. 2019-09 , § 1(Att. 2), 6-11-2019)

Sec. 24-25. Permitted uses of local accommodations tax funds.

The Town Council is hereby authorized to utilize the funds collected from the imposition and collection of the local accommodations tax and any other funds deposited into the local accommodations tax account exclusively for the following purposes:

- (1) Tourism-related buildings, including, but not limited to, civic centers, coliseums, and aquariums;

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- (2) Tourism-related cultural, recreational, or historic facilities;
 - (3) Beach access, renourishment, or other tourism-related lands and water access;
 - (4) Highways, roads, streets, bridges, and boat ramps providing access to tourist destinations;
 - (5) Advertisements and promotions related to tourism development;
 - (6) Water and sewer infrastructure to serve tourism-related demand;
 - (7) The operation and maintenance of those items provided in this section, including police, fire protection, emergency medical services, and emergency preparedness operations directly attendant to those facilities; and
 - (8) Any such other purpose permitted by State law.

(Ord. No. 2007-11, art. VII, 8-21-2007; Ord. No. 2019-09 , § 1(Att. 2), 6-11-2019)

Sec. 24-26. Management and use of local accommodations tax.

- (a) *General allocations.* Authorization to utilize any funds from the local accommodations tax account shall be by the annual budget ordinance duly adopted by Town Council, as the same may be amended from time to time.
- (b) *Designated marketing organization.* The Town may set aside an amount not to exceed eight percent of this local accommodations tax revenue for allocation to a special fund for the designated marketing organization(s) to be used only for advertising and promotion of tourism to develop and increase tourist attendance through the generation of publicity in accordance with this article. Any funds from this special fund to one or more designated marketing organization shall be distributed on a quarterly basis no later than 30 days after the end of the quarter. Funds awarded hereunder must only be used for advertising and promotion of tourism to develop and increase tourist attendance through the generation of publicity, and not used to pledge as security for bonds and to retire bonds.
- (c) *Reserve fund.* The Town may set aside, up to one percent of the local accommodations tax revenue deposited into the local accommodations tax account as a reserve fund for disaster management communications-oriented programs as a result of hurricanes, floods, or other natural or manmade disasters. Fund expenditures shall be used to provide for post-disaster advertising, a communications link to emergency agencies, and media programs to provide public notice. Funds may be distributed upon authorization by the Town Manager.

(Ord. No. 2007-11, art. VIII, 8-21-2007; Ord. No. 2019-09 , § 1(Att. 2), 6-11-2019)

Sec. 24-27. Inspections and audits.

- (a) For the purpose of enforcing the provisions of this article, the Town Manager or his designee is empowered to enter upon the premises of any person or entity subject to the provisions of this article and to make inspections, examine, and audit the books and records of such person or entity.
- (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 24 hours' written notice. In the event that an audit reveals that false information has been provided by the remitter, the cost of the audit shall be added to the correct amount of local accommodations taxes determined to be due. This shall be in addition to any other fines or penalties provided by this article and/or the Code. The Town Manager or his designee may make systematic inspections of all establishments within the Town to ensure compliance with this article.

- (c) Records of any such inspection shall not be deemed public records in accordance with S.C. Code of 1976 § 6-1-120, as amended.

(Ord. No. 2007-11, art. IX, 8-21-2007; Ord. No. 2019-09 , § 1(Att. 2), 6-11-2019)

Sec. 24-28. Violations and penalty.

- (a) It shall be a violation of this article to:
- (1) Fail to collect the local accommodations tax as set forth in this article;
 - (2) Fail to remit to the Town any local accommodations taxes collected pursuant to this article by the due date thereof, as set forth in this article;
 - (3) Knowingly provide false information on any return submitted to the Town as set forth in this article; or
 - (4) Fail or refuse to provide books and records to the Town Manager or his designee upon 24 hours' written notice, as provided for in this article.
- (b) Upon conviction for a violation hereof, the violator shall be guilty of a misdemeanor punishable as provided in Section 1-7 of this Code.
- (c) In the event local accommodations taxes are not timely remitted to the Town as set forth in this article, the person or establishment failing to remit shall also pay a penalty of five percent of the unpaid amount for each month or portion thereof until said local accommodations taxes are paid in full.
- (d) Upon identification of a delinquent account, the Town Manager or his/her designee has the authority to establish payment plans, revenue procedures, and reduce or waive penalties based on the revenue procedures as adopted with this amendment.

(Ord. No. 2007-11, art. X, 8-21-2007; Ord. No. 2019-09 , § 1(Att. 2), 6-11-2019)

DIVISION 3. STATE ACCOMMODATIONS TAX

Sec. 24-29. State accommodations tax account.

- (a) The Town Council shall provide for the use and administration of all monies received from the State through the accommodations tax program pursuant to S.C. Code of 1976 § 12-36-920, et seq., and S.C. Code of 1976 § 6-4-5, et seq.
- (b) An interest-bearing, restricted account to be known as the Town "state accommodations tax account" is hereby established and, except as otherwise provided herein, all revenues received from the State accommodations tax shall be deposited into this account. The account shall be controlled by the Town Manager or his designee. The principal and any accrued interest thereon shall be spent only as provided in this article.

(Ord. No. 2019-09 , § 1(Att. 2), 6-11-2019)

Sec. 24-30. Management and use of State accommodations tax revenue.

- (a) *General fund.* In accordance with S.C. Code of 1976 §§ 6-4-10(1) and (2), the first \$25,000.00 of accommodations tax revenue and five percent of the balance of the accommodations tax revenue received

by the Town from the State Department of Revenue shall be allocated to the general fund of the Town and is exempt from all other requirements of this article.

- (b) *Designated marketing organization.* In accordance with S.C. Code of 1976 § 6-4-10(3), following the allocation of certain accommodations tax revenue to the Town's general fund as provided for in the foregoing subsection (a), the Town shall allocate 30 percent of the remaining balance of the accommodations tax revenue received by the Town from the State Department of Revenue to a special fund for one or more designated marketing organizations to be used only for advertising and the promotion of tourism to develop and increase tourist attendance through the generation of publicity in accordance with this article. Immediately upon an allocation of the accommodation tax revenue to the aforementioned special fund, the Town shall distribute the tourism promotion funds to the applicable designated marketing organization(s).
- (1) In accordance with South Carolina State Law, the designated marketing organization(s) shall submit for approval an annual budget of planned expenditures. The proposed budget(s) shall be submitted to the Town prior to April 1.
 - (2) At the end of each fiscal year, designated marketing organization receiving funds pursuant to this section shall render to the Town an accounting of all such expenditures by no later than November 1.
 - (3) Funds allocated hereunder must only be used for advertising and promotion of tourism to develop and increase tourist attendance through the generation of publicity, and not used to pledge as security for bonds and to retire bonds.
- (c) The remaining balance, plus earned interest, received by the Town from the State Department of Revenue shall be allocated to the State accommodations tax account and shall be used for tourism-related expenditures and such other expenditures as permitted by S.C. Code of 1976 § 6-4-10(4).

(Ord. No. 2019-09 , § 1(Att. 2), 6-11-2019)

Secs. 24-31—24-59. Reserved.