

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF DARLINGTON )

ORDINANCE File **2015-02**

*Ord 14-30*

AN ORDINANCE TO AMEND THE DARLINGTON COUNTY CODE OF ORDINANCES, CHAPTER 10 (BUSINESSES), TO ADD ARTICLE II, ESTABLISHING A LOCAL HOSPITALITY TAX ON THE SALES OF PREPARED MEALS AND BEVERAGES SOLD IN THE UNINCORPORATED AREA OF DARLINGTON COUNTY.

WHEREAS, the Darlington County Council is empowered by Section 6-1-720 of the Code of Laws of South Carolina to impose a local hospitality tax of two percent (2%) of the charges for food and beverages in the unincorporated area of Darlington County, and;

WHEREAS, the Darlington County Council finds that the revenue generated by a local hospitality tax as described in the aforesaid Section 6-1-720 will improve and support the services and facilities available to tourists of and visitors to Darlington County, and thereby promote the economy of Darlington County and benefit the general welfare of the residents and taxpayers of Darlington County;

NOW, THEREFORE, BE IT ORDAINED BY THE DARLINGTON COUNTY COUNCIL, DULY ASSEMBLED, AS FOLLOWS:

**Section 1. Definitions**

As used in this Ordinance, the following terms shall have the following meanings:

(a) "Unincorporated area of Darlington County" means "the geographical area within the boundaries of Darlington County not to include the geographical area within the boundaries of any municipality."

(b) "Food service establishment" means "a business located in Darlington County which sells prepared meals and beverages, defined hereinbelow and to include alcoholic beverages, for immediate consumption, or is licensed for on-premises consumption of alcoholic beverages, beer or wine, including but not limited to restaurants, bars, lounges, hotels and motels with food service facilities, caterers, ice cream shops, bakeries, convenience stores, grocery stores, and all other food service facilities."

(c) "Prepared meals and beverages" means "products prepared or modified by a food service establishment which at the time of sale is ready for consumption by members of the public and meets at least one of the following:

- (1) the product is sold in a heated state or it is heated by the food service establishment;
- (2) the product consists of two or more foods mixed or combined by the food service establishment for sale as a single item, or;

(3) the product is sold with eating or drinking utensils provided by the food service establishment, including but not limited to plates, knives, forks, spoons, glasses, cups, napkins and straws.”

**Section 2. Imposition of Local Hospitality Tax**

(a) A local hospitality tax is hereby imposed on the sales of prepared meals and beverages in food service establishments in the unincorporated area of Darlington County.

(b) The aforesaid local hospitality tax, hereinafter “the Local Hospitality Tax,” shall be an amount equal to two percent (2%) of the charges for prepared meals and beverages.

(c) The Local Hospitality Tax shall not be imposed upon organizations and entities which are otherwise exempt from the state sales tax.

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

(a) Payment of the Local Hospitality Tax shall be the liability of the consumer of the food service.

(b) The Local Hospitality Tax shall be paid at the time of the delivery of the food service to which the tax applies and shall be collected by the food service establishment when payment for meals or beverages is tendered.

(c) The Local Hospitality Tax shall be held in trust by the food service establishment for the benefit of Darlington County until remitted as provided in this Ordinance.

(d) The Local Hospitality Tax must be remitted to Darlington County by the food service establishment on a monthly basis.

(1) Upon request, the food service establishment may remit the Local Hospitality Tax each Month of the Darlington County fiscal year, provided the food service establishment remits the state sales tax to the South Carolina Department of Revenue on the same time schedule.

(2) The food service establishment shall remit the Local Hospitality Tax to Darlington County on the twentieth (20<sup>th</sup>) day of each month in which the Local Hospitality Tax is due, or, if the twentieth day of the month is not a business day, the next business day after the twentieth day of the month.

(3) A food service establishment failing to remit Local Hospitality Tax to Darlington County on or before the date upon which remittance is due shall be subject to a penalty of five percent (5%) of the Local Hospitality Tax owed by the said food service establishment for each month or part thereof until paid in full.

(4) A food service establishment remitting Local Hospitality Tax to Darlington County on or before the date upon which remittance is due shall be entitled to discount the amount of the Local Hospitality Tax remitted by two percent (2%) of the amount due.

(5) Local Hospitality Tax remitted by mail must be postmarked by the United States Postal Service on or before the date upon which remittance is due to be considered remitted timely.

(6) Failure by the food service establishment to collect the Local Hospitality Tax from the consumer of the food service shall not relieve the food service establishment from making the remittance to Darlington County required by this Ordinance.

(e) The food service establishment shall complete and file with Darlington County a Local Hospitality Tax Reporting Form for each month in which remittance of the Local Hospitality Tax is due, even if no Local Hospitality Tax has been collected by the food service establishment.

#### **Section 4. Local Hospitality Tax Special Revenue Fund**

(a) All proceeds from the Local Hospitality Tax shall be kept in an account segregated from the Darlington County General Fund.

(b) The aforesaid account shall be known as the Darlington County Local Hospitality Tax Revenue Fund and is hereby established.

(c) All interest generated by the Darlington County Local Hospitality Tax Revenue Fund shall be credited to the same.

(d) The Darlington County Local Hospitality Tax Revenue Fund shall be used solely for the purposes provided by the law of the State of South Carolina.

#### **Section 5. Organizations Receiving Local Hospitality Tax Revenue**

(a) Any department of Darlington County or other organization or agency receiving an appropriation from the Darlington County Local Hospitality Tax Revenue Fund shall submit a report of its expenditure of the said appropriation and the resulting impact on tourism within Darlington County to the County Administrator.

(b) The County Administrator shall prepare and provide a form for the aforesaid report.

**Section 6. Oversight and Accountability**

(a) The County Administrator or his designee is hereby empowered and authorized to enter upon the premises of any food service establishment subject to this Ordinance and inspect, examine or audit the books and reports of the food service establishment.

(b) The County Administrator or his designee shall make the aforesaid inspection during normal business hours of the food service establishment.

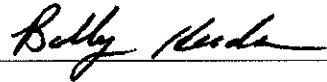
(c) The County Administrator or his designee shall provide twenty-four (24) hours' notice to the food service establishment before making the aforesaid inspection.

(d) Any costs incurred by the County in making the aforesaid inspection shall be added to the amount of Local Hospitality Tax due for remittance and added to the Darlington County Local Hospitality Tax Revenue Fund.

**Section 7.** This Ordinance shall become effective on July 1, 2015.

Passed and approved this

**DARLINGTON COUNTY,  
SOUTH CAROLINA**



Bobby Hudson, Chairman  
Darlington County Council

ATTEST:



J. Janet Bishop  
Clerk to Council

**FIRST READING: December 1, 2014**

**SECOND READING: January 6, 2015**

**THIRD READING: February 2, 2015**

**PUBLIC HEARING: January 6, 2015**