

ORDINANCE NO. 21-05-27

AN ORDINANCE TO PROVIDE FOR THE COLLECTION, ALLOCATION, MANAGEMENT, AND DISTRIBUTION OF THE STATE ACCOMMODATIONS TAX REVENUES WITHIN BERKELEY COUNTY.

WHEREAS, Berkeley County wishes to promote the facilities that serve the tourists who visit Berkeley County, and

WHEREAS, Berkeley County wants to more strongly support the public services that are available to tourists to promote and further encourage tourism in the County, and

WHEREAS, Berkeley County wants to ensure the proper allocation of funds received from accommodation tax revenues.

WHEREAS, data reviewed by Berkeley County indicates that tourists account for the majority of the use of lodging facilities in Berkeley County, and further, that the tourist season in Berkeley County is year-round, and

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

Section I. Definitions.

As used in this chapter and defined under S.C. Code Ann. Section 6-4-5:

- (1) "County" means Berkeley County and municipalities within the geographical boundaries of Berkeley County.
- (2) "Cultural", as it applies to members of advisory committees in S.C. Code Ann. Section 6-4-25, means persons actively involved and familiar with the cultural community of the area including, but not limited to, the arts, historical preservation, museums, and festivals.
- (3) "Hospitality", as it applies to members of the committees in item (2), means persons directly involved in the service segment of the travel and tourism industry including, but not limited to, businesses that primarily serve visitors such as lodging facilities, restaurants, attractions, recreational amenities, transportation facilities and services, and travel information and promotion entities.
- (4) "Travel" and "tourism" mean the action and activities of people taking trips outside their home communities for any purpose, except daily commuting to and from work.

Section II. Allocation to General Fund; Special Fund for Tourism; Management and Use of Special Fund.

Pursuant to S.C. Code Ann. Section 6-4-10, the funds received by Berkeley County in County areas collecting more than fifty thousand dollars from the local accommodations tax provided in Section 12-36-2630(3) must be allocated in the following manner:

(1) The first twenty-five thousand dollars must be allocated to the general fund of the County and is exempt from all other requirements of this chapter.

(2) Five percent of the balance must be allocated to the general fund of the County and is exempt from all other requirements of this chapter.

(3) Thirty percent of the balance must be allocated to a special fund and used only for advertising and promotion of tourism to develop and increase tourist attendance through the generation of publicity. To manage and direct the expenditure of these tourism promotion funds, the County shall select one or more organizations, such as a chamber of commerce, visitor and convention bureau, or regional tourism commission, which has an existing, ongoing tourist promotion program. If no organization exists, the County shall create an organization with the same membership standard in S.C. Code Ann. Section 6-4-25. To be eligible for selection the organization must be organized as a nonprofit organization and shall demonstrate to the County that it has an existing, ongoing tourism promotion program or that it can develop an effective tourism promotion program. Immediately upon an allocation to the special fund, the County shall distribute the tourism promotion funds to the organizations selected or created to receive them. Before the beginning of each fiscal year, an organization receiving funds from the accommodations tax from the County shall submit for approval a budget of planned expenditures. At the end of each fiscal year, an organization receiving funds shall render an accounting of the expenditures to the County. Fees allocated pursuant to this subsection must not be used to pledge as security for bonds and to retire bonds. Also, fees allocated pursuant to this subsection must be allocated to a special fund and used only 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.

(4)(a) The remaining balance plus earned interest received by the County must be allocated to a special fund and used for tourism-related expenditures. This section does not prohibit the County from using accommodations tax general fund revenues for tourism-related expenditures.

(b) The funds received by the County which has a high concentration of tourism activity may be used to provide additional County services including, but not limited to, law enforcement, traffic control, public facilities, and highway and street maintenance, as well as the continual promotion of tourism. The funds must not be used as an additional source of revenue to provide services normally provided by the County but to promote tourism and enlarge its economic benefits through advertising, promotion, and providing those facilities and services which enhance the ability of the County to attract and provide for tourists.

"Tourism-related expenditures" include:

- (i) advertising and promotion of tourism so as to develop and increase tourist attendance through the generation of publicity;
- (ii) promotion of the arts and cultural events;
- (iii) construction, maintenance, and operation of facilities for civic and cultural activities including construction and maintenance of access and other nearby roads and utilities for the facilities;
- (iv) the criminal justice system, law enforcement, fire protection, solid waste collection, and health facilities when required to serve tourists and tourist facilities. This is based on the estimated percentage of costs directly attributed to tourists;
- (v) public facilities such as restrooms, dressing rooms, parks, and parking lots;
- (vi) tourist shuttle transportation;
- (vii) control and repair of waterfront erosion, including beach renourishment;
- (viii) operating visitor information centers.

(c)(i) Allocations to the special fund must be spent by the County within two years of receipt. However, the time limit may be extended upon the recommendation of the local governing body of the County and approval of the oversight committee established pursuant to Section 6-4-35. An extension must include provisions that funds be committed for a specific project or program.

(ii) Notwithstanding the provisions of subsubitem (i), upon a two-thirds affirmative vote of the membership of Berkeley County Council, the County may carry forward unexpended allocations to the special fund beyond two years provided that the County commits use of the funds exclusively to the control and repair of waterfront erosion, including beach renourishment. The County annually shall notify the oversight committee, established pursuant to Section 6-4-35, of the basic activity of the committed funds, including beginning balance, deposits, expenditures, and ending balance.

(d) In the expenditure of these funds, the County is required to promote tourism and make tourism-related expenditures primarily in the geographical areas of the County in which the proceeds of the tax are collected where it is practical.

Section III. Use of Revenues to Finance Bonds.

Berkeley County may issue bonds, enter into other financial obligations, or create reserves to secure obligations to finance all or a portion of the cost of constructing facilities for civic activities, the arts, and cultural events which fulfill the purpose of this chapter. The annual debt service of indebtedness incurred to finance the facilities or lease payments for the use of the facilities may be provided from the funds received by the County from the accommodations tax in an amount

not to exceed the amount received by the County after deduction of the accommodations tax funds dedicated to the general fund and the advertising and promotion fund. However, none of the revenue received by the County from the accommodations tax may be used to retire outstanding bonded indebtedness unless accommodations tax revenue was obligated for that purpose when the debt was incurred as required under S.C. Code Ann. Section 6-4-15.

Section IV. Advisory Committee; Guidelines for Expenditures; Annual Reports; Reports to Accommodations Tax Oversight Committee.

(A) The County shall appoint an advisory committee to make recommendations on the expenditure of revenue generated from the accommodations tax. The advisory committee consists of seven members with a majority being selected from the hospitality industry of the County. At least two of the hospitality industry members must be from the lodging industry where applicable. One member shall represent the cultural organizations of the County. For County advisory committees, members shall represent the geographic area where the majority of the revenue is derived. However, if the County which receives more in distributions of accommodations taxes than it collects in accommodations taxes, the membership of its advisory committee must be representative of all areas of the County with a majority of the membership coming from no one area.

(B) The County and its advisory committee shall adopt guidelines to fit the needs and time schedules of the area. The guidelines must include the requirements for applications for funds from the special fund used for tourism-related expenditures. A recipient's application must be reviewed by an advisory committee before it receives funds from the County.

(C) Advisory committees shall submit written recommendations to the County at least once annually. The recommendations must be considered by the County in conjunction with the requirements of this chapter.

(D) The County annually shall submit to the South Carolina Accommodations Tax Oversight Committee:

- (1) end-of-the-year report detailing advisory committee accommodations tax recommendations;
- (2) County's action following the recommendations;
- (3) list of how funds from the accommodations tax are spent, except for the first twenty-five thousand dollars and five percent of the balance in S.C. Code Ann. Section 6-4-10(2) allocated to the general fund. The list is due before October first and must include funds received and dispersed during the previous fiscal year;
- (4) list of advisory committee members noting the chairman, business address if applicable, and representation of the hospitality industry including the lodging industry and cultural interests.

(E) The regional tourism agencies in S.C. Code Ann. Section 6-4-20 annually shall submit reports on their budgets and annual expenditure of accommodations tax funds pursuant to this chapter to the Accommodations Tax Oversight Committee.

Section V. 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.

ADOPTED this 24th day of May, 2021.

BERKELEY COUNTY, SOUTH CAROLINA

[SEAL]



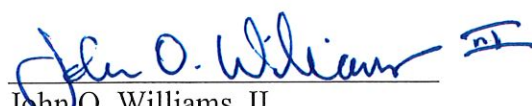
John P. Cribb, County Supervisor
Berkeley County Council Chairman

Attest:



Shelley R. Forest
Interim Clerk to County Council

Approved as to form:




John O. Williams, II
County Attorney

First Reading: March 22, 2021
Second Reading: April 26, 2021
Public Hearing: May 24, 2021
Third Reading: May 24, 2021

21-05-27

MEMBERS OF COUNTY COUNCIL



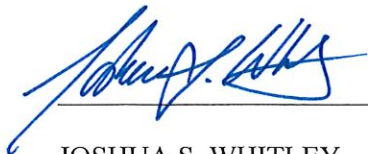
THOMAS D. OWENS

Voting Aye




BRANDON COX

Voting Aye



JOSHUA S. WHITLEY

Voting Aye



JACK H. SCHURLKNIGHT

Voting Aye



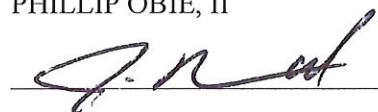
PHILLIP OBIE, II

Voting Aye



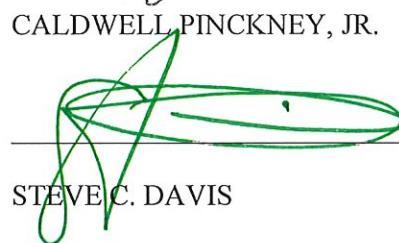
CALDWELL PINCKNEY, JR.

Voting Nay



JOE T. NEWELL

Voting Aye



STEVE C. DAVIS

Voting Aye