

**STATE OF SOUTH CAROLINA
COUNTY OF OCONEE
ORDINANCE 2019-25**

AN ORDINANCE AMENDING CHAPTER 30, ARTICLE III, OF THE OCONEE COUNTY CODE OF ORDINANCES, IN RELATION TO THE LOCAL ACCOMMODATIONS TAX, IN ORDER TO CLARIFY THE APPLICABILITY OF CERTAIN EXEMPTIONS AND COLLECTION STANDARDS, AS WELL AS RECORD INSPECTIONS, PENALTIES, AND OTHER MATTERS RELATED THERETO.

WHEREAS, consistent with the powers granted county governments by S.C. Code § 4-9-25 and S.C. Code § 4-9-30, Oconee County (“County”), a body politic and corporate and a political subdivision of the State of South Carolina, acting by and through its governing body, the Oconee County Council (the “Council”), has the authority to enact regulations, resolutions, and ordinances, not inconsistent with the Constitution and the general laws of the State of South Carolina, including the exercise of such powers in relation to health and order within its boundaries and respecting any subject as appears to it necessary and proper for the security, general welfare, and convenience of the County or for preserving health, peace, order, and good government therein; and

WHEREAS, the County has adopted multiple ordinances for the effective, efficient governance of the County, which are codified in the Oconee County Code of Ordinances (the “Code of Ordinances”); and

WHEREAS, the County has adopted and amended an ordinance implementing a “Local Accommodations Tax,” as authorized by South Carolina Code of Laws Section 6-1-500, *et seq.*, which has been codified in Chapter 30, Article III, of the Code of Ordinances; and

WHEREAS, Council recognizes that there is a need to amend Chapter 30, Article III, of the Code of Ordinances, in relation to the Local Accommodations Tax, in order to clarify the applicability of certain exemptions and collection standards, as well as record inspections, penalties, and other matters related thereto; and

WHEREAS, Council has therefore determined to modify certain provisions of Chapter 30 of the Code of Ordinances, in the form attached hereto as Exhibit A, and to affirm and preserve all other provisions of the Code of Ordinances not specifically, or by implication, amended hereby.

NOW, THEREFORE, it is hereby ordained by the Oconee County Council, in meeting duly assembled, that:

1. Chapter 30 of the Code of Ordinances is hereby revised, rewritten, and amended to read as set forth in Exhibit A, which is attached hereto and incorporated herein by reference. Attached hereto as Exhibit B is a version of Chapter 30 showing the changes made to the existing ordinance; it is for illustrative purposes only, and shall not be codified.

2. Should any part or provision of this Ordinance be deemed unconstitutional or unenforceable by any court of competent jurisdiction, such determination shall not affect the rest and remainder of this Ordinance, all of which is hereby deemed separable.


3. All ordinances, orders, resolutions, and actions of Council inconsistent herewith are, to the extent of such inconsistency only, hereby repealed, revoked, and rescinded.

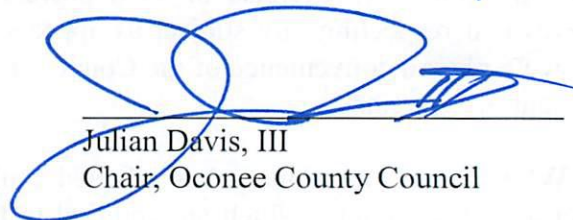
4. All other terms, provisions, and parts of the Code of Ordinances, not amended hereby, directly or by implication, shall remain in full force and effect.

5. This Ordinance shall take effect and be in full force from and after third reading and enactment by Council.

ORDAINED in meeting, duly assembled, this 4th day of February, 2020.

ATTEST:


Katie D. Smith
Clerk to Oconee County Council


Julian Davis, III
Chair, Oconee County Council

First Reading: December 17, 2019
Second Reading: January 21, 2020
Third Reading: February 4, 2020
Public Hearing: February 4, 2020

Exhibit A

(Attached)

Exhibit B
(Attached)

2019-25 Exhibit A

ARTICLE III. - ACCOMMODATIONS TAX

DIVISION 1. - GENERALLY

Sec. 30-81. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accommodations is defined as any rooms (excluding meeting and conference rooms), campground spaces, lodgings, or sleeping accommodations furnished to transients by a hotel, inn, tourist court, tourist comp, motel, campground, residence, or any other place in which rooms, lodgings, or sleeping accommodations are furnished to transients for consideration within the county.

County of Oconee and Oconee County means the county and all of the properties within the geographical boundaries of the county.

Local accommodations tax means a tax on the gross proceeds derived from the rental or charges for accommodations furnished to transients and which is imposed on every person engaged or continuing, within the jurisdiction of the imposing local governmental body, in the business of furnishing accommodations to transients for consideration.

This tax does not apply where a facility consists of less than six sleeping rooms, contained on the same premises, which is used as the place of abode of the individual or entity that is furnishing the accommodation. For this exception to apply, the facility must serve as the owner's or operator's place of abode during the same times at which the remaining sleeping rooms are rented to transients, and the rooms must not be rented to transients by a person or entity other than the owner or operator using the facility as his or her place of abode.

The gross proceeds derived from the lease or rental of sleeping accommodations supplied to the same person or persons for a period of ninety (90) continuous days or more are not considered proceeds from transients for purposes of this article.

Positive majority means a vote for adoption by the majority of the members of the entire governing body, whether present or not. However, if there is a vacancy in the membership of the governing body, a positive majority vote of the entire governing body as constituted on the day of the final vote on the imposition is required.

Sec. 30-82. - Imposed rates.

A uniform tax equal to three (3%) percent is hereby imposed on the gross proceeds derived from the rental of any accommodation within the county. Within the boundaries of a

municipality, the local accommodations tax shall be one and one-half (1.5%) percent unless the municipality, by resolution, consents to a three percent county accommodations tax.

Sec. 30-83. - Payment of tax.

- (a) Payment of the local accommodations 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 which shall be utilized by the provider of services to calculate the amount of local accommodation taxes collected and due. This form shall contain a sworn declaration as to the correctness thereof by the provider of services.
- (b) The taxes provided for in this article must be remitted to the county on a monthly basis when the estimated amount of average tax is more than \$50.00 dollars a month; on quarterly basis when the estimated amount of average tax is \$25.00 dollars to \$50.00 dollars a month; and on an annual basis when the estimated amount of average tax is less than \$25.00 dollars a month.
- (c) The provider of services shall remit the local accommodations tax, when due, to the county by the 20th day of the month, or on the next business day if the 20th is not a business day.

Sec. 30-84. - Special revenue fund.

An interest-bearing, segregated and restricted account to be known as the "County of Oconee Local Accommodations Tax Special Revenue Fund" is hereby established. All revenues received from the local accommodations tax shall be deposited into this fund. The principal and any accrued interest in this fund shall be expended only as permitted by this article.

Sec. 30-85. - Distribution of funds.

The county council shall distribute the local accommodations tax collected and placed in the "County of Oconee Local Accommodations Tax Special Revenue Fund" for tourism-related capital projects and the support of tourism and tourist services in a manner that will best serve the tourists from whom it was collected, including being pledged as security for indebtedness issued by the county for public purposes. Recommendations may be made through the parks, recreation, and tourism commission for the expenditure of these funds. It shall be the responsibility of the county council to ensure that any and all money expended from the "County of Oconee Local Accommodations Tax Special Revenue Fund" be distributed in accordance with South Carolina Code of Laws section 6-1-530 for the following purposes:

- (1) Tourism-related buildings, including, but not limited to, civic centers, coliseums, and aquariums.
- (2) Tourism-related cultural, recreational, or historical facilities.
- (3) Beach access, renourishment, or other tourism-related lands and water access.
- (4) Highways, roads, streets, and bridges providing access to tourism destinations.
- (5) Advertisements and promotion related to tourism development.

- (6) Water and sewer infrastructure to serve tourism-related demand.
- (7) Operation and maintenance costs related to the foregoing, to the extent permitted by law.

All expenditures must be approved by the county council.

Sec. 30-86. - Inspections; audits and administration.

For the purpose of enforcing the provisions of this article, a code enforcement officer or other authorized agent of the county, as designated by the County Administrator, is empowered to enter upon the premises of any person subject to this article and to make inspections, and 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 24 hours written notice. In the event that an audit reveals that false information has been filed by the remitter, the costs of the audit shall be added to the correct amount of tax determined to be due. The code enforcement officer or other agent may make systematic inspections of all service providers which are governed by this article within the county to ensure compliance with this article. Records of inspections shall not be deemed public records.

Sec. 30-87. - Violations and penalties.

It shall be a violation of this article to:

- (1) Fail to collect the local accommodations tax in connection with the rental of any accommodations to transients;
- (2) Fail to remit to the county the local accommodations tax collected, pursuant to this article;
- (3) Knowingly provide false information on the form of return submitted to the county; or
- (4) Fail to provide books and records to the code enforcement officer for the purpose of an audit upon 24 hours written notice.

The penalty for violation of this article shall be five percent per month, charged on the original amount of the local accommodations tax due.

Additionally, a violation of this article subjects the offender to the general penalty provisions of Section 1-7 of the Oconee County Code of Ordinances, which may include fines for civil infractions and fines and/or imprisonment for criminal offenses.

2019-25 Exhibit B

ARTICLE III. - ACCOMMODATIONS TAX

DIVISION 1. - GENERALLY

Sec. 30-81. - Definitions.

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This tax does not apply where a facility consists of less than six sleeping rooms, contained on the same premises, which is used as the place of abode of the individual or entity that is furnishing the accommodation. For this exception to apply, the facility must serve as the owner's or operator's place of abode during the same times at which the remaining sleeping rooms are rented to transients, and the rooms must not be rented to transients by a person or entity other than the owner or operator using the facility as his or her place of abode.

The gross proceeds derived from the lease or rental of sleeping accommodations supplied to the same person or persons for a period of ninety (90) continuous days or more are not considered proceeds from transients for purposes of this article.

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Sec. 30-82. - Imposed rates.

A uniform tax equal to three (3%) percent is hereby imposed on the gross proceeds derived from the rental of any accommodation within the county. Within the boundaries of a municipality, the local accommodations tax shall be ~~one and one-half (1.5%)~~ percent unless the municipality, by resolution, consents to ~~the~~ three percent county accommodations tax.

Sec. 30-83. - Payment of tax.

- (a) Payment of the local accommodations 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 which shall be utilized by the provider of services to calculate the amount of local accommodation taxes collected and due. This form shall contain a sworn declaration as to the correctness thereof by the provider of services.
- (b) The taxes provided for in this article must be remitted to the county on a monthly basis when the estimated amount of average tax is more than \$50.00 dollars a month; on quarterly basis when the estimated amount of average tax is \$25.00 dollars to \$50.00 dollars a month; ~~and~~ on an annual basis when the estimated amount of average tax is less than \$25.00 dollars a month.
- (c) The provider of services shall remit the local accommodations tax, when due, to the county ~~on~~ by the 20th day of the month, or on the next business day if the 20th is not a business day.

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An interest-bearing, segregated and restricted account to be known as the "County of Oconee Local Accommodations Tax Special Revenue Fund" is hereby established. All revenues received from the local accommodations tax shall be deposited into this fund. The principal and any accrued interest in this fund shall be expended only as permitted by this article.

Sec. 30-85. - Distribution of funds.

The county council shall distribute the local accommodations tax collected and placed in the "County of Oconee Local Accommodations Tax Special Revenue Fund" for tourism-related capital projects; and the support of tourism and tourist services in a manner that will best serve the tourists from whom it was collected, including being pledged as security for indebtedness issued by the county for public purposes. Recommendations may be made through the parks, recreation, and tourism commission; ~~as well as the arts and historical commission~~ for the expenditure of these funds. It shall be the responsibility of the county council to ensure that any and all money expended from the "County of Oconee Local Accommodations Tax Special Revenue Fund" be distributed in accordance with South Carolina Code of Laws section 6-1-530 for the following purposes:

- (1) Tourism-related buildings, including, but not limited to, civic centers, coliseums, and aquariums.
- (2) Tourism-related cultural, recreational, or historical facilities.

- (3) Beach access, renourishment, or other tourism-related lands and water access.
- (4) Highways, roads, streets, and bridges providing access to tourism destinations.
- (5) Advertisements and promotion ~~of Oconee County and~~ related to tourism development.
- (6) Water and sewer infrastructure to serve tourism-related demand.
- (7) Operation and maintenance costs related to the foregoing, to the extent permitted by law.

~~The existing balance of the 25 percent local accommodations tax fund shall be distributed to the arts and historical commission and this balance, along with all future 25 percent local accommodations tax funds shall be distributed annually in grants to the arts and historical community. This will increase the ability of the grant recipient to provide for tourism, described in the above guidelines. All expenditures must be approved by county council.~~

~~The existing balance of 75 percent local accommodations tax fund, with exception of \$200,000.00 dollars to be set aside as "tourism project funds", shall be distributed to the parks, recreation, and tourism commission, and this balance, along with future 75 percent local accommodations tax funds shall be used for the promotion of the county and the parks recreation, and tourism department, as described in the above guidelines.~~

~~Each commission shall make recommendations as to the expenditure of their distributed funds to the county council.~~

All expenditures must be approved by the county council.

Sec. 30-86. - Inspections; audits and administration.

For the purpose of enforcing the provisions of this article, a code enforcement officer or other authorized agent of the county, as designated by the County Administrator, is empowered to enter upon the premises of any person subject to this article and to make inspections, and 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 24 hours written notice. In the event that an audit reveals that false information has been filed by the remitter, the costs of the audit shall be added to the correct amount of tax determined to be due. The code enforcement officer or other agent may make systematic inspections of all service providers which are governed by this article within the county to ensure compliance with this article. Records of inspections shall not be deemed public records.

Sec. 30-87. - Violations and penalties.

It shall be a violation of this article to:

- (1) Fail to collect the local accommodations tax in connection with the rental of any accommodations to transients;
- (2) Fail to remit to the county the local accommodations tax collected, pursuant to this article;
- (3) Knowingly provide false information on the form of return submitted to the county; or

- (4) Fail to provide books and records to the code enforcement officer for the purpose of an audit upon 24 hours written notice.

The penalty for violation of this article shall be five percent per month, charged on the original amount of the local accommodations tax due.

Additionally, a violation of this article subjects the offender to the general penalty provisions of Section 1-7 of the Oconee County Code of Ordinances, which may include fines for civil infractions and fines and/or imprisonment for criminal offenses.