

CHAPTER 35 HOSPITALITY TAX

PROVIDING FOR A LOCAL HOSPITALITY TAX ON THE SALES OR PREPARED MEALS AND BEVERAGES IN ESTABLISHMENTS LICENSED FOR ON-PREMISES CONSUMPTION OF ALCOHOLIC BEVERAGES, BEER OR WINE

WHEREAS, the General Assembly of the State of South Carolina amended Title 6, Chapter 1, of the 1976 Code to provide for a Local Hospitality Tax, effective July 1, 1997:

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Town of Hemingway in Council duly assembled, pursuant to Section 6-1-700, et. seq. of the Code, as follows:

Section 35-1. There is hereby imposed a Local Hospitality Fee of two percent on the gross proceeds of the sale of prepared meals and beverages in establishments within the Town of Hemingway licensed for on-premises consumption of alcoholic beverages, beer or wine (hereinafter "vendor"). Payment of the hospitality tax established hereby shall be the liability of the customer.

Section 35-2. The tax imposed by this ordinance shall be collected from the customer when payment for meals or beverages is tendered and shall be held in trust for the benefit of the Town until remitted as provided in Section 3 below.

Section 35-3. (Amended 9-13-2012) Payment of the hospitality tax established herein shall be remitted by the vendor to the Town of Hemingway on a monthly basis, along with such return or form as may be established by the Town for such purposes, not later than the 25th day of the month and shall cover the tax due for the previous month. Any tax not timely remitted shall be subject to a penalty of five (5%) percent of the sum owed for each month or portion thereof until paid. The failure to collect from the customer the tax imposed by this ordinance shall not relieve the vendor for making the required remittance.

Section 35-4. The failure of any vendor subject to this ordinance to remit to the Town the tax imposed by the provisions of this ordinance shall constitute a misdemeanor punishable by a fine of not more than \$500.00 or imprisonment for up to thirty (30) days, or both.

Section 35-5. There is hereby established a special account to be known as the Local Hospitality Tax Account into which the taxes remitted shall be deposited by the Town and used solely for the purposes provided by law.

Section 35-6. This ordinance is subject to the constitution and the laws of the State of South Carolina. If any section, phrase, sentence or portion of this ordinance is for any reason held invalid or unconstitutional by any court or 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 35-7. This ordinance shall become effective on February 9, 2012.

**DONE AND RATIFIED IN COUNCIL DULY ASSEMBLED, BY POSITIVE MAJORITY,
THIS 9TH DAY OF FEBRUARY 2012.**

1st Reading: December 8, 2011

2nd Reading: February 9, 2012

Hospitality Fee Listing Of Included & Exempt Items

INCLUDED ITEMS	EXEMPT ITEMS
<ul style="list-style-type: none"> • Produce cut, sliced, cored, or modified in store • Salads made in store • Sandwiches/Subs prepared on site • Bakery items cooked/baked on site • Coffee brewed in store • Seafood steamed/cooked on site • Grilled hamburger and hot dogs • Packaged dinners cooked on site • Fountain drinks • Any food prepared or modified on site by employee or contractor • Any food cooked on site • Any prepared foods or meals that are subject to South Carolina sales tax • Any served beverage, inclusive of beer, wine and liquor • Ice Cream Parlors 	<ul style="list-style-type: none"> • Canned or bottled drinks sold on site from vending machines • Canned or bottled drinks which are not sold for immediate on-site consumption • Fruit consolidated into a basket • Items repackaged in store for bulk sale but not prepared or modified for immediate consumption • Pre-packaged dinners that are not cooked or modified on site • Pre-packaged cans, boxes, or jars of food • Bags of chips, pretzels, nuts, candy or other pre-packaged food items

CHAPTER 36

ACCOMMODATION TAX ORDINANCE

- **Sec. 36-1. - Tax imposed.**

A local accommodations tax of two (2.0) percent is created and is imposed on every person that is engaged in the business of furnishing accommodations to transients for consideration within the municipal boundaries of the Town of Hemingway.

- **Sec. 36-2. - Tax further enumerated.**

A uniform fee equal to two (2) percent is hereby imposed on all gross proceeds derived from the rental or changes for any rooms, campground spaces, lodging, or sleeping accommodations furnished to transients by any hotel, inn, tourist court, tourist camp, motel, campground, residence, or any place which rooms, lodgings, or sleeping accommodations are furnished to transients for a consideration. The gross proceeds derived from the lease or rental of sleeping accommodations supplied to the same person for a period of ninety (90) continuous days are not considered proceeds from transients. This fee imposed by this section shall not apply to additional guest charges as that term is defined in S.C Code 1976, § 12-36-920(B).

- **Sec. 36-3. - Payment of tax.**

Payment of the local accommodations tax shall be the liability of the transient(s) described in [section 36-2](#). The local accommodations tax shall be paid at the time of delivery of the service to which the tax applies and shall be collected by the provider of the services, and shall be held in trust by the provider until remitted as provided herein.

- **Sec. 36-4. - Collection of tax; remitting tax to local governing body; frequency determined by estimated average amounts.**

(1) The local accommodations tax imposed by this section is due and payable in monthly installments on or before the twenty-fifth day of each month. Every person liable for the fee shall make a true and correct return to the town in such form as it may prescribe and remit the fee therewith. A return is considered timely filed if the return is mailed and has a postmark dated on or before the date the return is required to be filed.

(2) Any person violating any provision of this article shall be deemed guilty of an offense and shall be subject to punishment upon conviction. Each day of violation shall be considered a separate offense. Punishment for violation shall not relieve the offender of liability for delinquent fees, penalties, and costs provided for herein.

(3) In case of a failure to make a true and correct return or a failure to file the return, the town shall make a return upon such information as it may be able to obtain, assess the fee due thereon, and add a penalty of ten (10) percent, whereupon the town shall mail notice to the person liable for the fee and, in the case of failure to pay the fee within ten (10) days after the mailing of any such notice, the town shall add an additional penalty of ten (10) percent.

- **Sec. 36-5. - Inspections and audit.**

For the purpose of enforcing the provisions of this section, the license inspector, or another authorized agent for the town, is empowered to enter upon the premises of any person subject to this section and to make inspections, examinations, and audits of books and records, and 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 costs of the audit shall be added to the correct amount of fees determined to be due, in addition to the penalties provided herein. The Town Clerk, or another authorized agent of the town, may make systematic inspections of all businesses within the town to ensure compliance with this section. Records of inspections shall not be deemed public records.

- **Sec. 36-6. - Penalties.**

It is a violation of this article to:

- (1) Fail to collect the local accommodations tax;
- (2) Fail to remit to the town any local accommodations tax collected;
- (3) Fail to file a local accommodations tax return;
- (4) Knowingly provide false information on a local accommodations tax return;
- (5) Fail to provide books and records to the Town Clerk, or other authorized agent of the town, for inspection, examination, or audit after seventy-two (72) hours written notice.

- **Sec. 36-8. - Administrative fee.**

The costs of collecting the monies may be reimbursed by the fund monies, up to a maximum of one (1) percent.

- **Sec. 36-9. - Local accommodations tax account.**

The revenue account to be known as "Town of Hemingway Local Accommodations Tax Account," shall be established and all revenues received from the local accommodations tax shall be deposited into this account. The principal and any accrued interest from this account shall be expended only as permitted herein.

- **Sec. 36-10. - Permitted uses of funds.**

The town council is hereby authorized to utilize the funds collected from the imposition of the local accommodations for the following purposes:

- (1) Use of revenue from local accommodations tax.
 - a. Tourism-related buildings including, but not limited to, civic centers, coliseums, and aquariums;

- b. Tourism-related cultural, recreational, or historical facilities;
- c. Highways, roads, streets, and bridges providing access to tourist destinations;
- d. Advertisements and promotions related to tourism development; or
- e. Water and sewer infrastructure to serve tourism-related demand.
- f. Any other use that will be accepted by state law.

- **Sec. 36-11. - Authorization for use.**

Authorization to utilize revenues from the local accommodations tax account shall be approved by the Hemingway Town Council, duly adopted by the town.

Be it ordained by the Mayor and Town Council members of the Town of Hemingway.

1st Reading : September 10, 2015

2nd Reading : October 1, 2015