

STATE OF SOUTH CAROLINA)

COUNTY OF YORK)

ORDINANCE No. 266

CITY OF TEGA CAY)



TITLE

**AN ORDINANCE PROVIDING FOR A LOCAL HOSPITALITY TAX
ON THE SALES OF PREPARED MEALS AND BEVERAGES**



BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEGA CAY:

Section 1 Findings

After due study and deliberation, the City Council of the City of Tega Cay ("City Council"), the governing body of the City of Tega Cay (the "City"), hereby finds and declares:

1. The promotion and development of tourism is important to the continued economic growth of the City; to the continued development of retail shopping districts in the City; to the continued growth and prosperity of restaurants, hotels and other hospitality providers in the City; and to the ability of the City to attract cultural and entertainment events and activities, all of which improve the quality of life for City residents.

2. In order to promote tourism in the City, the City will from time to time be required to undertake the construction of tourism-related facilities and improvements which will enhance the beauty and attractiveness of the City, and provide venues for entertainment, cultural, historic, recreational and other tourist-related activities, which facilities and improvements will also enrich the lives of City's residents.

3. The cost of promoting the tourism industry and of constructing tourism-related facilities and improvements should be apportioned equitably between the City's residents and those who visit the City as tourists and enjoy the special benefits the City provides them.

4. To allow municipalities to promote and support tourism more effectively, in 1997 the South Carolina General Assembly adopted Act No. 138 of that year, now codified as Sections 6-1-700 to 6-1-770 of the Code of Laws of South Carolina (the "Enabling Act"). The Enabling Act grants municipalities direct statutory authorization to raise funds for the promotion of tourism through fees imposed on the sales of prepared meals and beverages sold in establishments within the municipal boundaries.

5. In order to raise funds to defray a portion of the added costs of promoting tourism in the City, City Council finds that it is appropriate to impose a charge as permitted by the Enabling Act, which will be used to pay costs related to (1) the provision of municipal services which serve visitors

or tourists in the City, and (2) capital projects which contribute to the tourism industry in the City while also enriching the lives of the City's residents.

6. Article X of the South Carolina Constitution governs the imposition and use of taxes on real and personal property and licenses. While the General Assembly used the words "hospitality tax" in the Enabling Act as a means by which to designate the charges imposed pursuant to its terms, the City Council finds that the charges in question are not taxes as that term is used in Article X of the Constitution, but instead are "fees." It is the express intent and understanding of City Council that the charges imposed pursuant to the provisions of this ordinance are "hospitality fees" not subject to the limitations imposed by Article X of the Constitution on the imposition or use of taxes or licenses. As such, the proceeds of the fees imposed hereunder may be pledged as a special source, as that term is used by Article X, Section 14(2)(a) of the Constitution, for the payment of indebtedness incurred to finance tourism-related facilities and improvements within the City.

Section 2 Authority

This ordinance is enacted pursuant to the authority of Title 5, Code of Laws of South Carolina (1976), including, without limitation, S.C. Code Ann. Section 5-7-10 (Supp. 1992), and S.C. Code Ann. Section 5-7-30 (Supp. 1992), which provide, in relevant part, that municipalities may adopt all ordinances which appear necessary and proper for the security, general welfare and convenience of the municipality and for the preservation of the general health, peace and order in the municipality and further that municipalities may establish uniform service charges.

Section 3 Declaration of Purpose and Intent

This ordinance is enacted to preserve the general health, safety and welfare of the general public and to promote the tourism industry within the City of Tega Cay, South Carolina, by imposing a fee for the purpose of creating a fund which will be utilized for purposes enumerated in Section 6-1-730 of the Code of Laws of South Carolina, 1976, and as the same may be amended.

Section 4 Imposition

A fee equal to two percent (2%) is hereby imposed on the gross proceeds derived from:

The sale of prepared meals and beverages sold and is imposed on every person engaged in the business of furnishing food and beverage services, whether dine in or take out, within the City of Tega Cay. In addition, the local hospitality tax shall be imposed on all food and beverages prepared or modified by convenience stores, fast food service outlets, or grocery stores within the City of Tega Cay.

Section 5 Public Hearing

Pursuant to the provisions of Section 6-1-330 of the Code of Laws of South Carolina, 1976, as amended, a public hearing shall be held prior to the adoption of this ordinance. Notice of the hearing, substantially as set forth in the form attached hereto as Exhibit A, shall be published in a newspaper of general circulation prior to the hearing. All actions taken by the City Manager in providing the required notice of said hearing are hereby approved and ratified.

Section 6 Payment of Fee

- (a) Payment of the fee established herein shall be the liability of the consumer of the services for items described in Section 4. The fee shall be paid at the time of delivery of the services or items to which the fee applies and shall be collected by the provider or seller of the service, services or items and shall be held in trust for the benefit of the City until remitted as provided below.
- (b) The fee collected by the seller or provider of services or items as required under Section 4 shall be remitted to the City of Tega Cay as follows:
 - (1) On a monthly basis when the estimated amount of average collections is more than Fifty (\$50.00) Dollars a month;
 - (2) On a quarterly basis when the estimated amount of average collections is between Twenty-five (\$25.00) Dollars to Fifty (\$50.00); and
 - (3) On an annual basis when the amount of average collections is less than Twenty-five (\$25.00) dollars a month.
- (c) Total collections and required reports shall be submitted to the City of Tega Cay by the twentieth day of the month and shall cover sales for the previous month. Payments covered under the provisions of Section 6(b)(2) shall be submitted quarterly by the twentieth day of January, April, July and October for the previous quarterly sales or annually by January 20th for the calendar year sales as provided in Section 6(b)(3). Any collections not remitted by the above stated deadlines shall be subject to a civil penalty of five percent (5%) of the unpaid amount for each calendar month or portion thereof after the due date until paid. The failure to collect from patrons the amount imposed by this article shall not relieve any establishment subject to this article from making the required remittance.
- (d) The failure of any vendor subject to this ordinance to remit to the City 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. Each day of violation shall be considered a separate offense. Punishment for violation shall not relieve the offender of liability for delinquent amount, penalties, and costs provided for herein.

Section 7 Hospitality Fee Fund

A fund or an account, to be known as the City of Tega Cay Hospitality Fee Fund shall be established, and all revenues received from the hospitality fee shall be deposited into this account. The principal and any accrued interest from this account shall be expended only as permitted in Section 8 below.

Section 8 Permitted Uses of Funds

The City of Tega Cay, South Carolina is hereby authorized to utilize the funds collected from the imposition of the hospitality fee for the purposes enumerated in Section 6-1-730 of the State Code of Laws of South Carolina and as the same may be amended.

Section 9 Inspection and Audits

For the purpose of enforcing the provisions of this section the City's City Manager or other authorized agent of the City is empowered to enter upon the premises of any person subject to this section to make inspection, examine and/or audit the books and records, and it shall be unlawful for any person to fail or refuse to make available the necessary books and records. In the event that the audit or inspection reveals that false information has been filed by the establishment, the cost of the audit shall be added to the corrected amount due and late penalties in addition to other penalties provided herein. Each day of failure to pay the proper fee shall constitute a separate offense. The city finance director, or other authorized agent of the City, shall make systematic inspections of the businesses within the City to insure compliance with the section. Records of inspections and audits shall not be deemed public records and shall not be released by the City.

Section 10 Authorization for Use

Authorization to utilize revenues from the City of Tega Cay Hospitality Fee Fund shall be by the annual budget ordinance duly adopted by the City Council.

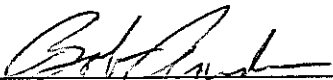
Section 11 Severability

If any section, phrase, sentence or portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such section, phrase, sentence or portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining sections, phrases, sentences, or portions thereof.


Section 12 Effective Date

This Ordinance shall become effective on January 2, 2008.

DONE AND RATIFIED this 4th day of May 2006, at Tega Cay, South Carolina.



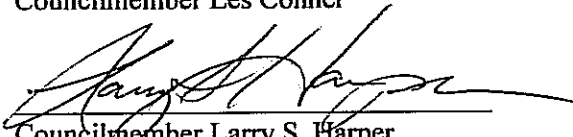
Mayor Bob Runde




Mayor Pro Tempore Ron Kirby



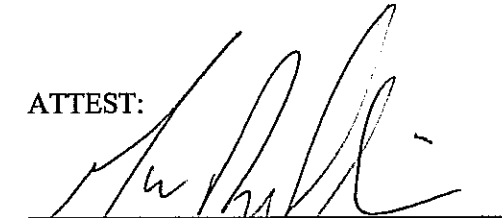
Councilmember Les Conner



Councilmember Larry S. Harper


Councilmember Stephen T. Perkins

ATTEST:


Grant W. Duffield
City Manager, City of Tega Cay

First Reading: April 6, 2006

Second Reading: May 4, 2006

EXHIBIT A

CITY COUNCIL OF THE CITY OF TEGA CAY, SOUTH CAROLINA

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the City Council of the City of Tega Cay ("City Council"), the governing body of the City of Tega Cay, South Carolina (the "City"), at its meeting on May 4, 2006, in its Council Chambers in the Tega Cay City Hall, Tega Cay, South Carolina, at 6:00 P.M., will conduct a public hearing on the proposed adoption of an Ordinance entitled "An Ordinance Providing for a Local Hospitality Tax on the Sales of Prepared Meals and Beverages" ("Ordinance No. 266").

At the time and place fixed for said public hearing all taxpayers, residents, and other interested persons who appear will be given an opportunity to express their views for or against the adoption of Ordinance No. 266. Interested persons should contact Grant W. Duffield, City Manager, at (803) 548-3512.