

CHEROKEE COUNTY

Local Hospitality

Tax Guide



Cherokee County Administration Building

110 Railroad Avenue

Gaffney, SC 29340

You Must Register Your Business

Local Hospitality Tax Guide

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Cherokee County Government Hospitality Tax Division

110 Railroad Avenue
Gaffney, SC 29340
Phone: (864)902-2412

RE: LOCAL HOSPITALITY TAX

Dear Business Owner:

Thank you for choosing Cherokee County as the location of your business. This guide provides helpful information regarding the local hospitality tax and includes all of the necessary forms. It also includes Frequently Asked Questions, General Information, a copy of the Adopted Hospitality Tax Ordinance and Contact Information.

The Following forms are included for your convenience:

- Local Hospitality Tax Registration Form
- Local Hospitality Tax Reporting and Computation Form
- Local Hospitality Tax Exemption Form
- Business Change Notification Form

If your establishment does not sell prepared foods and/or beverages as defined by the attached definitions, please complete and sign the Exemption Form and return it to this office.

Please feel free to contact this office with any questions regarding the Local Hospitality Tax. All of the required forms and information shown above are available on our website

<https://cherokeecountysc.gov/hospitality-tax/>

Sincerely,

Mozell Dewberry
Hospitality Tax Specialist

**CHEROKEE COUNTY LOCAL HOSPITALITY TAX GENERAL QUESTIONS
& INSTRUCTIONS**

What is a Local Hospitality Tax?

A 2% tax on the purchase of prepared or modified food and/or beverages intended for immediate consumption. Prepared meals and beverages means the products prepared or modified by an establishment which at the time of sale is ready for consumption by members of the public and *meets at least one* of the following conditions: 1) It is sold in a heated state or it is heated by the retailer, 2) It consists of two or more foods mixed or combined by the retailer for sale as a single item, and/or 3) It is sold with eating utensils provided by the retailer, such as plates, knives, forks, spoons, glasses, cups, napkins, and straws. Food service establishments are defined as businesses within the County that sell prepared meals and beverages (including alcohol beverages) for immediate consumption. These establishments include restaurants, bars and lounges, hotel and motels with restaurant and/or lounge facilities, caterers, ice cream shops, bakery shops, and other food service facilities including convenience and grocery stores. The Local Hospitality Tax does not apply to organizations that are exempt from collecting state sales tax.

Why was it necessary to implement a Local Hospitality Tax?

To provide an additional source of funding to be used for the dedicated purpose of improving services and facilities for tourism in the Cherokee County area.

When will the tax begin?

The implementation date of the Cherokee County Hospitality Tax is January 1, 2022.

Who is responsible for collecting and remitting the Local Hospitality Tax?

The business that is affected by this tax is liable for the collection of this tax from patrons and to remit collections to Cherokee County. You will be notified when your forms are mailed where to make payment.

When is the Local Hospitality Tax due and how is it reported?

Taxes are due on a monthly basis. Upon request, the taxpayer may remit taxes every 28 days or quarterly provided the taxpayer remits sales tax to the SC Dept. of Revenue on the same time schedule. Businesses are required to file a report for every reporting period even if no tax is due for the period. The reporting period is defined as the prior month, quarter, or 28 days. Remittance is due on the 20th day following the end of the reporting period. A completed Hospitality Tax Reporting Form must accompany each remittance. When the hospitality tax return is filed and the taxes due on it are paid in full on or before the final due date, the filer is allowed a discount of two (2) percent on the tax shown to be due by the return. The due date for each remittance is printed on each form; however, 28-day filers must write the period start and end dates on each form. Quarterly filers are required to use the report corresponding to the third month of each quarter. PLEASE DO NOT REMIT THIS TAX TO THE SC DEPARTMENT OF REVENUE.

When is my tax considered late?

If the stated due date falls on a weekend day or legal holiday, the following business day is the due date. Any reports mailed **MUST BE POSTMARKED BY THE US POSTAL SERVICE ON THE DUE DATE** to be considered filed on time.

What if my tax payment is late?

A 5% per month penalty in addition to the local hospitality tax due must accompany all delinquent remittances.

RESTAURANTS AND BARS

What sales are affected by the Hospitality Tax for restaurants, bars and other food service establishments? ALL food, beverage, and alcohol sales.

CONVENIENCE STORES & GROCERY STORES

What sales are affected by the Hospitality Tax for convenience stores and grocery stores?

All food and/or beverage items that are prepared or modified and available for immediate consumption.

What are some examples of prepared and/or modified food and beverages affected by the Hospitality Tax? a. Heated foods (pizza, nachos, hot dogs, sandwiches, chicken, vegetables, etc.)

b. Prepared sandwiches and salads.

c. Fountain drinks, frozen drinks, coffee, & cappuccino.

What are some examples of prepared and/or modified food and beverages NOT affected by the Hospitality Tax? a. Packaged foods.

b. Bulk or packaged cold deli products.

c. Canned or bottled beverages.

ACCESSORY USE FOOD SERVICE FACILITIES

What sales are affected by the hospitality tax for food service which is an accessory to the primary business (arcades, amusements, theaters, etc.)?

Prepared or modified food and beverage items such as fountain drinks, popcorn, nachos, etc.

Items Subject to or Excluded from Tax

What items are taxed?

All food and/or beverage sales prepared or modified for immediate consumption. The following are examples of taxable items:

- Produce (Vegetables, Fruit) cut, sliced, cored, etc., or prepared/modified on site (Ex: Vegetable and Fruit Trays)
- Meats and cheeses cut, sliced, or prepared on site (Ex: Meat and Cheese Trays)
- Salads made on site
- Sandwiches/subs prepared on site
- Bakery items cooked/baked on site
- Coffee brewed on site
- Popcorn made on site
- Ice cream prepared or served on site
- Seafood steamed/cooked on site
- Grilled hamburgers and hot dogs, pizza, nachos, chicken, etc.
- Packaged dinners cooked on site (Thanksgiving Dinner, etc.)
- Fountain Drinks
- Any food prepared, modified, or cooked on site by an employee or contractor
- Any prepared foods or meals that are subject to South Carolina Sales Tax
- Any served beverage, including beer, wine, and liquor

*This list serves as an example only and is not an all-inclusive list of taxable items.

What items are exempt from the tax?

- Cold, canned or bottled drinks in a vending machine on site
- Consolidating fruit into a basket (Fruit Baskets)
- Prepackaged items (not prepared or modified on site) consolidated into a larger container to make a one package (Gift Basket)
- Packaged dinners that are not cooked or modified on site
- Ready-to-eat prepackaged food that a customer re-heats on site (Customer is making the food consumable)
- Prepackaged cans, boxes, or jars of food
- Bags of chips, pretzels, nuts, candy or other prepackaged food items

*This list serves as an example only and is not an all-inclusive list of exempt taxable items.

CHEROKEE COUNTY LOCAL HOSPITALITY TAX REGISTRATION FORM

Please complete this information in its entirety

Hospitality Tax Division
110 Railroad Avenue
Gaffney, SC 29340
(864)902-2412

Business Information

Business Name _____

Business Location _____

Mailing Address _____

Business Phone _____ Business Fax _____

Date Business Opened _____

Reporting Status: _____ Monthly _____ Quarterly _____ Annually

Federal Tax ID# _____ SC sales & use Tax # _____

Is food your primary business? _____ Yes _____ No

Is business seasonal? _____ No _____ Yes, months operational: _____

Please briefly categorize your business _____

(Examples: Bar and Grill/Café or Diner/ Fast Food/Family Restaurant/Ethnic/Convenience Store/Grocery/BBQ, etc.)

Owner Information

Owner or Corporate Name _____

Address _____

Email _____

Phone _____ Cell Phone _____

Hospitality Tax Contact Information

(Complete this section only if contact is not the owner. Ex: Accountant)

Name _____

Mailing Address _____

Phone _____

Email _____

Applicant Information

I certify that all information on this registration form, including any attachments, is true and accurate.

Signature of Applicant: _____

Printed Name of Applicant: _____

Title of Applicant: _____ Date: _____



CHEROKEE COUNTY

LOCAL HOSPITALITY TAX REPORTING AND COMPUTATION FORM

NOTICE: A COPY OF YOUR STATE SALES TAX RETURN SHOULD BE SENT WITH YOUR REMITTANCE.

Year: _____

Business Name: _____

Location Address: _____

Hospitality Tax Registration #: _____

Reporting Period:

The Local Hospitality Tax Act requires that taxes be remitted to Cherokee County on a Monthly basis when the estimated amount of average tax is more than fifty (\$50.00) dollars a month, on a Quarterly basis when the estimated amount is twenty-five (\$25) to fifty (\$50) dollars a month and Annually when the estimated amount of average tax is less than twenty-five (\$25) dollars a month.

Monthly (Please check one)

Quarterly (Please check one)

Annually

- ___ January
- ___ February
- ___ March
- ___ April
- ___ May
- ___ June
- ___ July
- ___ August
- ___ September
- ___ October
- ___ November
- ___ December

- ___ 1st Quarter (Jan., Feb. and March)
- ___ 2nd Quarter (April, May, and June)
- ___ 3rd Quarter (July, Aug. and Sept.)
- ___ 4th Quarter (Oct., Nov. and Dec.)

Computation of Local Hospitality Taxes Due to Cherokee County:

| | |
|---|----|
| 1. Gross Sales of Food and/or Beverages ² | 1. |
| 2. Computation of 2% Local Hospitality Tax (Line 1 x .02) | 2. |
| 3. Taxpayer's discount: (For timely filled and paid returns only) Multiply line 3 x 2% (.02) | 3. |
| 4. Penalty if remitting after the 20 th of the month (Line 2 x .05) | 4. |
| 5. Total Penalties: (#Months Past Due) x (Line 4) | 5. |
| TOTAL LOCAL HOSPITALITY TAXES DUE (Line 2 + Line 5) – Line 3 | \$ |

I certify that all information on this form, including any attachments, is a true and accurate report.

Signature: _____ Date: _____

Title: _____ Telephone Number: _____

PLEASE MAKE CHECKS PAYABLE TO: CHEROKEE COUNTY
MAILING ADDRESS: CHEROKEE COUNTY HOSPITALITY TAX · 110 RAILROAD AVENUE · GAFFNEY, SC 29340
PHONE: (864) 902-2412



CHEROKEE COUNTY LOCAL HOSPITALITY TAX EXEMPTION FORM

If your establishment does not sell prepared meals and/or beverages intended for immediate consumption, please complete this form and sign below. Return this form to Cherokee County Government.

Business Name: _____

Physical Address: _____

Telephone Number: _____

I certify that the above referenced establishment within Cherokee County does not have for sale prepared meals and/or beverages intended for immediate consumption.

Signature: _____

Name/Title of Person Completing Form: _____

Date: _____

Telephone Number: _____

Mail: Cherokee County Administration Building • 110 Railroad Avenue • Gaffney, SC 29340

Cherokee County Hospitality Tax Division

BUSINESS CHANGE NOTIFICATION FORM

Please complete (print) the applicable information and sign below.

Current Business (DBA): _____

Name: _____

Hospitality Tax Registration #: _____

BUSINESS SOLD/NEW OWNER(S)

Business Sold: _____

New Owners: _____

Address: _____

Phone Number: _____

BUSINESS PERMANANTLY CLOSED

Date of Sale: _____

Date of Closure: _____

CHANGE OF BUSINESS LOCATION ONLY

Date of Change: _____

New Location Address: _____

OTHER BUSINESS CHANGES

Date of Change: _____

New Corporation – Name: _____

Phone # or E-mail Address: _____

New Contact Person: _____

Change in Mailing Address: _____

Change in Business Name Only – New Name: _____

The information below is required. Please sign and return

Signature: _____

Printed Name: _____ Title: _____

Address: _____

Date: _____ Phone: _____

Mail: Cherokee County Administration Building ` 110 Railroad Avenue ` Gaffney, SC 29340

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.

2021 FEB 23 PM 5:14

CLERK W. MCBEE

No. 2021-25

AN ORDINANCE

ESTABLISHING A LOCAL HOSPITALITY FEE ON THE SALES OF PREPARED MEALS AND BEVERAGES SOLD IN THE UNINCORPORATED AREA OF CHEROKEE COUNTY, SOUTH CAROLINA; AND OTHER MATTERS RELATING THERETO.

WHEREAS, Cherokee County, South Carolina (the "*County*"), like other areas in the upstate of South Carolina, is a growing, and seeing increased tourism opportunities within the County;

WHEREAS, as the tourist industry grows and expands, the County must make provision to increase certain governmental services in order to accommodate the needs of tourists who visit from time to time;

WHEREAS, the cost of providing the special services required by the tourism industry should be apportioned equitably between the County's residents and those who visit the County and enjoy the special benefits the County provides them. It is necessary for the promotion of the common interests of the residents of the County as well as those who are visitors to the County to provide a method to alleviate the added financial burden on County resources in providing the services and improvements needed to support tourism and the resulting transient population;

WHEREAS, in order to raise the necessary sums to defray a portion of those added costs, it is appropriate to impose a charge, the receipts of which will pay costs related to (1) the provision of governmental services that serve such visitors or tourists and (2) capital projects that not only enrich the County's residents but also contribute to the tourism industry;

WHEREAS, Cognizant of the need for counties to be given direct statutory authorization to raise moneys earmarked to defray such costs related to the tourism industry, the South Carolina General Assembly adopted Act No. 138 of 1997, now codified, in part, as Sections 6-1-700 to 6-1-770 of the Code of Laws of South Carolina, 1976, as amended (the "*Enabling Act*").

WHEREAS, pursuant to the provisions of the Enabling Act and specifically, Sections 6-1-720 and 730 of the Enabling Act, the County Council of Cherokee County (the "*County Council*"), the governing body of the County, is empowered to, impose, by ordinance, a local hospitality fee not to exceed two percent of the charges for prepared food and beverages; and

WHEREAS, the County Council finds that the revenue generated by a local hospitality fee as described in the Enabling Act will improve and support the services and facilities available to tourists of and visitors to the County, and thereby promote the economy of the County and benefit the general welfare of the residents and taxpayers of the County.

NOW THEREFORE, BE IT ORDAINED, by the County Council in a meeting duly assembled:

Section 1. Findings. All findings of fact herein above are ratified and confirmed. This Ordinance is enacted to preserve the general health, safety and welfare of the general public and to promote the tourism industry within the County, 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 Enabling Act.

Section 2. Definitions. As used in this Ordinance, the following terms shall have the following meanings:

- (a) "County" means Cherokee County, South Carolina.
- (b) "Enabling Act" means Sections 6-1-700 to 6-1-770 of the Code of Laws of South Carolina, 1976, as amended.
- (c) "Food Service Establishment" means a business located in the County that sells Prepared Meals and Beverages.
- (d) "Local Hospitality Fee" means a charge on the sales of Prepared Meals and Beverages within certain areas of the County.
- (e) "Obligations" means bonds, certificates of participation, leases or other forms of indebtedness approved by the County payable or secured by the proceeds of the local hospitality fee to defray the costs of one or more projects authorized under this Ordinance and the Enabling Act.
- (f) "Prepared Meals and Beverages" means products sold ready for consumption either on-or off-premises in businesses classified as eating and drinking places under the "Standard Industrial Code Classification Manual" and including, but not limited to, lunch counters and restaurant stands, restaurants, lunch counters, and drinking places operated as a subordinate facility by other establishments, convenience stores, grocery delicatessens, and bars and restaurants owned by and operated for members of civic, social, and fraternal associations.
- (g) "State" means the State of South Carolina.

Section 3. Imposition of Local Hospitality Fee. A Local Hospitality Fee is hereby imposed on the sales of Prepared Meals and Beverages in Food Service Establishments. The Local Hospitality Fee shall be in an amount equal to two percent of the gross proceeds of sales of Prepared Meals and Beverages sold in Food Service Establishments within the unincorporated areas of the County. The Local Hospitality Fee shall be in an amount equal to one percent of the gross proceeds of sales of Prepared Food and Meals sold in establishments located within the boundaries of any incorporated municipalities within the County that has not imposed a local hospitality fee under the Enabling Act prior to the date of this Ordinance. Provided, however, the County shall not impose the Local Hospitality Fee within the area of any municipality in the County that has enacted a local hospitality fee under the Enabling Act prior to the date of this

Ordinance. In no event shall the cumulative rate of the Local Hospitality Fee, and any municipal local hospitality fee exceed two percent (in the aggregate) within any portion of the County.

Section 4. Payment of Local Hospitality Fee.

(a) Payment of the Local Hospitality Fee shall be the liability of the consumer of Prepared Meals and Beverages; however, collection of the Local Hospitality Fee shall be the responsibility of the Food Service Establishment.

(b) The Local Hospitality Fee shall be paid at the time of purchase of Prepared Meals and Beverages to which the charge applies and shall be collected by the Food Service Establishment when payment for meals or beverages is tendered.

(c) The Local Hospitality Fee shall be held in trust by the Food Service Establishment for the benefit of the County until remitted as provided in this Ordinance.

(d) As provided by the Enabling Act, the Local Hospitality Fee must be remitted to the County on a monthly basis when the estimated amount of average Local Hospitality Fee is more than \$50.00 a month, on a quarterly basis when the estimated amount of average Local Hospitality Fee is \$25.00 to \$50.00 a month, and on an annual basis when the estimated amount of average Local Hospitality Fee is less than \$25.00 a month. The closing date for monthly payments is the last day of the month; the closing dates for quarterly payments are the last days of the months of March, June, September and December, and the closing date for annual payments is the last day of December.

(e) The Food Service Establishment shall remit the Local Hospitality Fees, when due, to the County by the 20th day of the month following the closing date of the payment period for which the Local Hospitality Fee payment is to be remitted under subsection (d) above. A payment is considered to be timely remitted to the County if the return has a U.S. mail postmark date on or before the date the report form is due. If the 20th day of the month falls on a Sunday or postal service holiday, then payments postmarked on the next business day will be accepted as timely filed.

(f) Any collections not remitted by the above stated deadlines shall be subject to a 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 Ordinance shall not relieve any Food Service Establishment subject to this Ordinance from making the required remittance.

Section 5. Local Hospitality Fee Special Revenue Fund.

(a) An interest-bearing, segregated and restricted account to be known as the "Cherokee County Local Hospitality Fee Special Revenue Fund" (the "Fund") is hereby established. All revenues received from the Local Hospitality Fee shall be deposited into the Fund. Any interest accruing to the Fund shall be expended only as permitted by this Ordinance and the Enabling Act.

(b) The Fund shall be booked as a special revenue fund for accounting purposes and shall be kept in separate from the County's General Fund.

(c) Should the Local Hospitality Fee be pledged as security for any Obligations, the amount necessary for debt service shall take precedence over all other commitments related to the monies in the Fund. Additionally, in the event that any Obligations are outstanding, and subject to the continued authorization under the terms of the Enabling Act, the Local Hospitality Fees hereunder shall continue to be levied and collected by the County.

Section 6. Organization Receiving Local Hospitality Fee Revenue. Any department of the County or other organization or agency receiving an appropriation from the Fund shall submit a report of its expenditure of the said appropriation and the resulting impact on tourism within the County to the County Administrator on a form to be provided by the County.

Section 7. 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 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 Fee due for remittance and added to the Fund.

Section 8. Violations and Penalties.

(a) In addition to the late fees accruing under Section 4(f) of this Ordinance, it shall be a violation of this Ordinance for any owner or operator of a Food Service Establishment that:

- (1) Fails to collect the Local Hospitality Fee as provided in this Ordinance;
- (2) Fail to remit to the county the Local Hospitality Fee collected, pursuant to this Ordinance;
- (3) Knowingly provide false information on the form of return submitted to the County; or
- (4) Fail to provide books and records to the County Administrator or other authorized agent of the County for the purpose of an audit upon 24-hours' written notice.

(b) Any person violating the provisions of subsection (a) above shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed \$200.00, or imprisoned for a term of not to exceed 30 days. Each day of a violation shall be considered a separate offense.

Section 8. 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 enactment of this ordinance. All actions taken by the County Administrator in providing the required notice of said hearing are hereby approved and ratified. The form of the proposed notice of public hearing is attached hereto as Exhibit A.

Section 9. Further Action. The County Administrator, the Chairman of County Council, and other officers of the County Council, or their designee, are herewith authorized and empowered to take such further action as may be necessary to fully implement the action taken by this Ordinance.

Section 10. 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 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 11. Effective Date. Upon enactment by a positive majority (as defined in the Enabling Act) of Council, this Ordinance shall become effective after third and final reading.

[Remainder of Page Intentionally Left Blank]

DONE AND ORDAINED AT GAFFNEY, SOUTH CAROLINA, this 20th day of Sept., 2021.

CHEROKEE COUNTY, SOUTH CAROLINA



Tim Spencer, Chairman
Cherokee County Council

Attest:



Doris F. Pearson
Master Clerk to County Council

First Reading: 08/23/21
Second Reading: 09/07/21
Public Hearing: 09/20/21
Third Reading: 09/20/21

Contact Information

Cherokee County Government Offices

110 Railroad Avenue

Gaffney, SC 29340

Mailing Address:

Cherokee County Hospitality Tax Division

110 Railroad Avenue

Gaffney, SC 29340

Mozell Dewberry

Hospitality Tax Specialist

864/902-2412

Mozell.Dewberry@cherokeecountysc.com



Please visit our website at: www.cherokeecountysc.gov