



Town of Hilton Head Island  
**TOWN COUNCIL MEETING**  
Tuesday, October 5, 2021, 3:00 p.m.  
**AGENDA**

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The Town Council meeting will be conducted virtually and can be viewed on the [Town of Hilton Head Island Public Meetings Facebook Page](#), the [Town of Hilton Head Island](#) website, [Beaufort County Channel](#) and Spectrum Channel 1304.

- 1. Call to Order**
- 2. FOIA Compliance:** Public notification of this meeting has been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act and the requirements of the Town of Hilton Head Island.
- 3. Roll Call**
- 4. Pledge to the Flag**
- 5. Invocation – Brett Myers, Senior Pastor at First Baptist Church Hilton Head Island**
- 6. Approval of the Minutes**
  - a. Town Council Special Meeting – September 13, 2021
  - b. Town Council Special Meeting – September 20, 2021
  - c. Town Council Regular Meeting – September 21, 2021
- 7. Report of the Town Manager**
  - a. Items of Interest
- 8. Reports from the Members of Town Council**
  - a. General Reports from Town Council
  - b. Report of the Lowcountry Area Transportation Study – Councilman Stanford
  - c. Report of the Lowcountry Council of Governments – Councilwoman Becker
  - d. Report of the South Carolina Floodwater Commission – Councilman Brown
  - e. Report of the Southern Lowcountry Regional Board – Councilman Lennox
  - f. Report of the Beaufort County Airports Board – Councilman Ames
  - g. Report of the Community Services & Public Safety Committee – Councilman Harkins
  - h. Report of the Public Planning Committee – Councilman Ames
  - i. Report of the Finance & Administrative Committee – Councilman Lennox

**9. Appearance by Citizens**

*Citizens who wish to address the Mayor and Town Council during Appearance by Citizens or on specific agenda items must contact the Town Clerk at 843.341.4701 no later than 2:00 p.m. the day of the meeting. Citizens should be prepared to provide (i) full spelling of first and last name, (ii) phone number and email address, and (iii) topic or item you will be addressing.*

*Citizens may also submit written comments via the [Town's Open Town Hall Portal](#). The portal will also close at 2:00 p.m. the day of the meeting. Comments submitted through the portal will be shared with Town Council and made part of the official record.*

**10. Consent Agenda**

**a. Second Reading of Proposed Ordinance 2021-22 – Fiscal Year 2022 Budget Amendments**

Second Reading of Proposed Ordinance 2021-22 to amend the Budget for the Town of Hilton Head Island, South Carolina, for the Fiscal Year ending June 30, 2022; to provide for the budgeted appropriations of prior year Budget Roll Forwards and certain other appropriations and commitments and the expenditures of certain funds; to allocate the sources of revenue for the said funds; and providing for severability and an effective date.

**b. Second Reading of Proposed Ordinance 2021-17 – 2020 Lowcountry Hazard Mitigation Plan**

Second Reading of the Proposed Ordinance 2021-17 to adopt the “2020 Lowcountry Hazard Mitigation Plan” as an appendix of “Our Plan, the Town of Hilton Head Island 2020-2040 Comprehensive Plan”; and providing for severability and an effective date.

**11. Unfinished Business**

**a. Consideration of a Resolution – Local Option Sales Tax**

Consideration of a Resolution of the Town of Hilton Head Island supporting the conducting of a Local Option Sales Tax, providing for the distribution and usage of revenues generated thereunder, and authorizing the Town’s participation in a public education effort in partnership with other local governments in Beaufort County.

**12. Executive Session**

**a. Receipt of legal advice concerning pending, threatened, or potential claim related to Mitchelville Lane and Sandcastles by the Sea [pursuant to SC Freedom of Information Act § 30-4-70(a)(2)]**

**13. Possible actions by Town Council concerning matters discussed in Executive Session**

**14. Adjournment**



**Town of Hilton Head Island**  
**TOWN COUNCIL SPECIAL MEETING**  
**Monday, September 13, 2021, 3:00 p.m.**  
**MEETING MINUTES**

**Present from Town Council:** John J. McCann, *Mayor*; Bill Harkins, *Mayor Pro-Tempore*; David Ames, Tamara Becker, Alex Brown, Tom Lennox, Glenn Stanford, *Town Council Members*

**Present from Town Staff:** Marc Orlando, *Town Manager*; Josh Gruber, *Deputy Town Manager*; Shawn Colin, *Advisor to the Town Manager*; Krista Wiedmeyer, *Town Clerk*

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**1. Call to Order**

Mayor McCann called the meeting to order at 3:00 p.m.

**2. FOIA Compliance:** Public notification of this meeting has been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act and the requirements of the Town of Hilton Head Island.

**3. Roll Call**

Roll was taken by the Town Clerk, and attendance of all members of Town Council was confirmed.

**4. Approval of the Agenda**

Mr. Harkins moved to approve. Mr. Stanford seconded. The motion carried by a vote of 7-0.

**5. Pledge to the Flag**

**6. Review and Discussion of Preliminary Local Concepts and Key Project Enhancements for the William Hilton Parkway Gateway Corridor**

Mr. Orlando opened up the discussion by recapping the project progress, including the different meetings and workshops held leading up to this meeting. He noted that the meeting was a collection of input from the public and from the elected officials. Mr. Orlando said that collective goal was to establish a project roadway position that is best for Hilton Head Island. Upon the conclusion of his comments, Mr. Orlando introduced Mr. Colin who reviewed similar information, including the guiding principals adopted by Town Council. Mr. Colin said the project team evaluated the information released in the Environmental Assessment and participated in the SDCOT Public Hearing. He said that the project team also met on multiple occasions with landowners and stakeholders, including three open houses to gain input and feedback on the project.

He said the project team did a deep dive with the engineering evaluation, providing information and support for alternative concepts and treatments to validate feasibility and provide technical support in reaching implantable solutions. Upon conclusion of his opening statement, Mr. Colin introduced Mr. Kinzelman who reviewed the concepts and key project enhancements for the project.

Mr. Kinzelman started by stating that the objective behind the local study is to use local knowledge and to create a community based solution and enhance the preferred alternative. He said the goal has been to improve what they received with the preferred alternative and to make that as Island specific as they could. Mr. Kinzelman reviewed the draft set of recommendations. The recommendations reviewed included; creating a memorable gateway experience, creating a long-term vision for improving cyclist and pedestrian safety, eliminate raised curbs in medians where possible, consolidate drives and curb cuts to improve access management, reduce property impacts from expanding new pavement, design intuitive intersections with traditional turning movements, incorporate design features for traffic calming and lower design speeds, and implement the latest ITS smart intersections technology island-wide. With the conclusion of his presentation, Mr. Kinzelman took questions from the Town Council.

Some members of Town Council noting that they feel things are moving too quickly with the project and that things need to slow down before moving forward with the project. Other members of Town Council stating that they are prepare to take a position and move the project forward, and including the recommendations MKSK had shared. Some of the members told the Mayor that it was time to meet with the delegation and SCDOT in Columbia and make the Town's position known. Most all of the Town Council said they were pleased with the recommendations from MKSK, but others wondered if they went far enough. Council asked MKSK if they thought the SCDOT would be willing to implement the recommendations. It was noted that it would be more of a negotiation of what would they be willing to change and what the Town would be willing to accept. As a whole, Town Council did agree that the project had to continue to keep the citizens of the Island in mind and represent those who lived on the Island. Mayor McCann closed the discussion by stating that he would work to schedule a follow-up meeting so the Town Council could comeback with a final position.

#### **7. Appearance by Citizens**

**Peter Kristian, Risa Prince, Patsy Brison, Cyndi Polsen, Jon Heron, Steve Baer and Christopher Cliffe:** address the Mayor and Town Council on the William Hilton Parkway project.

#### **8. Adjournment**

By unanimous vote, the meeting adjourned at 5:16 p.m.

**Approved: October 5, 2021**

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Krista M. Wiedmeyer, Town Clerk

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John J. McCann, Mayor



Town of Hilton Head Island  
**TOWN COUNCIL SPECIAL MEETING**  
Monday, September 20, 2021 at 11:00 a.m.  
**MEETING MINUTES**

**Present from Town Council:** John J. McCann, *Mayor*; Bill Harkins, *Mayor Pro-Tempore*; David Ames, Tamara Becker, Alex Brown, Tom Lennox, Glenn Stanford, *Town Council Members*

**Present from Town Staff:** Marc Orlando, *Town Manager*; Josh Gruber, *Deputy Town Manager*; Shawn Colin, *Advisor to the Town Manager*; Angie Stone, *Assistant Town Manager*; John Troyer, *Finance Director*; Krista Wiedmeyer, *Town Clerk*

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**1. Call to Order**

Mayor McCann called the meeting to order at 11:00 a.m.

**2. FOIA Compliance:** Public notification of this meeting has been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act and the requirements of the Town of Hilton Head Island.

**3. Roll Call**

Roll was taken by the Town Clerk, and attendance of all members of Town Council was confirmed.

**4. Approval of the Agenda**

Mr. Harkins moved to approve. Mr. Stanford seconded. The motion carried by a vote of 7-0.

**5. Pledge to the Flag**

**6. Consideration of a Resolution – Local Option Sales Tax**

Consideration of a Resolution of the Town of Hilton Head Island supporting the passage of a Local Option Sales Tax, providing for the distribution and usage of revenues generated thereunder, and authorizing the Town's participation in a public education effort in partnership with other local governments in Beaufort County.

Mr. Orlando opened the discussion by providing some background on the Local Option Sales Tax, noting that the Beaufort County Council has approved to have this matter on the November ballot. He said that Bluffton, Port Royal and Beaufort have executed resolutions of support in favor of the Local Option Sales Tax. Upon concluding his opening statements, Mr. Orlando introduced Mr. Troyer to deliver a presentation to the Mayor and Town Council.

Mr. Troyer reviewed where the LOST numbers were obtained and what the State law allows. He reviewed and summarized the estimated tax relief for the Town. Mr. Troyer explained how the Town may choose to allocate some or all of the Municipal Revenue for additional Town tax relief. He reviewed and discussed the tax relieve compared to other jurisdictions. Mr. Troyer walked through some sample calculations using a property appraised at \$350,000, noting the tax credit is \$530. He closed his presentation by reviewing the recommendation to adopt a resolution supporting the Local Option Sales Tax and answering questions from the members of Town Council. The vote for this matter was subsequently tabled to a later meeting where the Mayor and Town Council will review this matter again. The Mayor asked that a new resolution be returned noting the Town's support for the referendum being on the ballot, but not for the passing of actual referendum itself.

## **7. Adjournment**

By unanimous vote, the meeting adjourned at 12:54 p.m.

**Approved: October 5, 2021**

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Krista M. Wiedmeyer, Town Clerk

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John J. McCann, Mayor



**Town of Hilton Head Island**  
**TOWN COUNCIL**  
**Tuesday, September 21, 2021, 3:00 p.m.**  
**MEETING MINUTES**

**Present from Town Council:** John J. McCann, *Mayor*; Bill Harkins, *Mayor Pro-Tempore*; David Ames, Tamara Becker, Alex Brown, Tom Lennox, Glenn Stanford, *Town Council Members*

**Present from Town Staff:** Marc Orlando, *Town Manager*; Josh Gruber, *Deputy Town Manager*; Shawn Colin, *Advisor to the Town Manager*; Angie Stone, *Assistant Town Manager*; John Troyer, *Finance Director*; Chris Yates, *Interim Director of Community Development*; Krista Wiedmeyer, *Town Clerk*

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**1. Call to Order**

Mayor McCann called the meeting to order at 3:00 p.m.

**2. FOIA Compliance:** Public notification of this meeting has been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act and the requirements of the Town of Hilton Head Island.

**3. Roll Call**

Roll was taken by the Town Clerk, and attendance was confirmed.

**4. Invocation – Reverend Dr. Robin Dease – St. Andrew By-the-Sea United Methodist Church**

Reverend Dease delivered the invocation.

**5. Pledge to the Flag**

**6. Approval of the Minutes**

- a. Town Council Workshop – August 16, 2021
- b. Town Council Regular Meeting – August 17, 2021
- c. Town Council Special Meeting – August 19, 2021
- d. Town Council Workshop – August 23, 2021

Mr. Harkins moved to approve the minutes. Mr. Stanford seconded. The motion carried by a vote of 7-0.

## **7. Report of the Town Manager**

### **a. Items of Interest**

- i. Update on the Procedure for the 2020 Town Redistricting – Josh Gruber, Deputy Town Manager**

Mr. Orlando opened the discussion by providing some background on the redistricting, noting that the Town is constitutionally obligated to undertake the redrawing of the wards as a response to the new census data.

Mr. Gruber reviewed the information related to the procedure for the redistricting in the Town, reporting that the South Carolina Revenue and Fiscal Affairs Office had been called to assist with the Town's redistricting efforts. He noted that in August, the Town had received the census data showing an increase of 562 new residents on the Island. Mr. Gruber provided an example for reference purposes of how this number, if evenly spread across all the wards may only require minor changes to the redistricting. He said that staff is preparing for the redistricting and working on scheduling an initial public meeting as requested by the Revenue and Fiscal Affairs. Mr. Gruber stated that further updates would be provided as the information becomes available.

- b. MASC Presentation of the 2021 Municipal Achievement Award for the Rehabilitation of Storm Water Pump Stations**

Mr. Orlando provided a brief background and history of the project before introducing Mr. Barrineau from MASC to show a short video and present the award to the Town.

- c. Board of Zoning Appeals Bi-Annual Update – Patsy Brison, Chair**

Chairman Brison delivered her report to the Mayor and Town Council, reviewing the memo enclosed in the agenda materials.

## **8. Reports from the Members of Town Council**

### **a. General Reports from Town Council**

Mr. Brown reported that he had attended a meeting at the Holy Catholic Church facilitated by the Deep Well Project and the Immigration Coalition. He said the topic of the meeting was the Rollers Trailer Park or the property on Marshland Road currently going through the rezoning process. Mr. Brown reported that the owner of the property does not desire to maintain the property as a trailer park even if the property does not sell. He at this time is no longer renewing leases. Mr. Brown said that when asked how many of these families wanted to continue to live on Hilton Head Island, everyone's hands went up. He said that he would like to receive an update on what is happening in this area with the residents and the rezoning. Mr. Orlando said he would have information available by the second meeting in October.

Mr. Ames echoed Mr. Brown's thoughts, expanding on the current housing market and the availability of affordable housing. He said housing on the island is unsustainable and out of balance. Noting that unless this is made a priority, there is no way to turn this back around without it getting worse.

**b. Report of the Lowcountry Area Transportation Study – Councilman Stanford**

Mr. Stanford reported that the Committee is beginning the process of a long range plan to study and plan for future transportation needs on Hilton Head Island. He said more importantly, this will be for the entire region. Mr. Stanford reported that a public hearing was recently held to obtain public feedback and put ideas on a map.

**c. Report of the Lowcountry Council of Governments – Councilwoman Becker**

Mrs. Becker said the Council had not met recently, but will be meeting on September 23<sup>rd</sup> and will report back thereafter.

**d. Report of the South Carolina Floodwater Commission – Councilman Brown**

Mr. Brown reviewed the background information about this Commission. He emphasized the importance of the information and studies from the Floodwater Commission and how the Town should take advantage of the resources provided by the Commission.

**e. Report of the Southern Lowcountry Regional Board – Councilman Lennox**

Mr. Lennox reported that the Board met on August 24<sup>th</sup>, where the topic was the Regional Housing Trust Fund. He said that Eric Greenway, the Beaufort County Administrator has been the Quarterback for this effort and is planning to make a presentation to each of the municipalities.

**f. Report of the Beaufort County Airports Board – Councilman Ames**

Mr. Ames reported that passenger counts at the airport are maintaining their pace. He reported that United Airlines announced that it was going to be flying to Washington DC every day throughout the year and not just during high season.

**g. Report of the Community Services & Public Safety Committee – Councilman Harkins**

Mr. Harkins reported that the Committee would be meeting the following week where they would be discussing the Main Street acquisition. He said he encouraged all of his colleagues to tune in.

**h. Report of the Public Planning Committee – Councilman Ames**

Mr. Ames reported that the August meeting was cancelled, but that the next meeting would be taking place on September 28<sup>th</sup> at 9:00 a.m., where the discussion would be on short-term rentals and the proposed ordinance.

**i. Report of the Finance & Administrative Committee – Councilman Lennox**

Mr. Lennox reported that the Committee met earlier in the day, where they discussed the recent financial update and the proposed meeting dates for 2022.

**9. Commendation – Arts Center of Coastal Carolina 25<sup>th</sup> Anniversary**

Mayor McCann congratulated the Arts Center of Coastal Carolina on their 25<sup>th</sup> Anniversary. Thanking Mr. Reeves and his team for being a long time partner to the Town.

## **10. Appearance by Citizens**

**Skip Hoagland:** addressed the Mayor and Town Council on financial matters related to the Town and Chamber.

**Jane Joseph and Michael Marks:** addressed the Mayor and Town Council on the Office of Cultural Affairs Strategic Plan they would review later in the meeting.

**Jessie White:** addressed the Mayor and Town Council on the William Hilton Parkway project.

## **11. Unfinished Business**

### **a. Second Reading of Proposed Ordinance 2021-20 – Business License Model Ordinance**

Second Reading of Proposed Ordinance 2021-20 to repeal and replace certain portions of the Municipal Code of the Town of Hilton Head Island, South Carolina, to include Sections 10-1-10 through Section 10-1-210 and replace with revised Code Sections 10-1-10 through 10-1-250; and providing for severability and an effective date.

Mr. Harkins moved to approve. Mr. Stanford seconded. With no discussion, the motion carried by a vote of 7-0.

## **12. New Business**

### **a. First Reading of Proposed Ordinance 2021-22 – Fiscal Year 2022 Budget Amendments**

First Reading of Proposed Ordinance 2021-22 to amend the Budget for the Town of Hilton Head Island, South Carolina, for the Fiscal Year ending June 30, 2022; to provide for the budgeted appropriations of prior year Budget Roll Forwards and certain other appropriations and commitments and the expenditures of certain funds; to allocate the sources of revenue for the said funds; and providing for severability and an effective date.

Mr. Harkins moved to approve. Mr. Stanford seconded. With limited discussion, the motion carried by a vote of 7-0.

### **b. Consideration of a Resolution – 2020 Consolidated Annual Performance Evaluation Report**

Consideration of a Resolution of the Town Council of the Town of Hilton Head Island, South Carolina to approve the Community Development Block Grant (CDBG) 2020 Consolidated Annual Performance Evaluation Report (CAPER)

Mr. Harkins moved to approve. Mr. Stanford seconded. With no discussion, the motion carried by a vote of 7-0.

**c. Consideration of a Resolution – Drainage Easement Agreement with the 3901 Main Street Property Owners Association**

Consideration of a Resolution of the Town Council of the Town of Hilton Head Island, South Carolina, authorizing the execution and delivery of a Drainage Easement Agreement with the 3901 Main Street Property Owners Association.

Mr. Harkins moved to approve. Mr. Stanford seconded. With no discussion, the motion carried by a vote of 7-0.

**d. Consideration of Resolutions – Standard Drainage Agreements and Access, Drainage and Maintenance Easements**

Consideration of resolutions authorizing the Town to execute standard drainage agreements and access, drainage and maintenance easements with the Spanish Wells/Spanish Wells Club POA, Seagrass Landing POA, Yacht Cove POA, Wells East POA, Jarvis Creek Club POA, and Bermuda Pointe POA.

Mr. Harkins moved to approve. Mr. Stanford seconded. Some discussion was had, specifically confirmation that the agreements with the large PUDs are currently underway and in the process of being considered. With no further discussion, the motion carried by a vote of 7-0.

**e. Consideration of a Resolution – Office of Cultural Affairs & Arts Council Strategic Plan**

Consideration of a Resolution of the Town Council of the Town of Hilton Head Island, South Carolina for the adoption of a Strategic Plan to address priorities for the Office of Cultural Affairs and Arts Council

Mr. Harkins moved to approve. Mr. Ames seconded. Mrs. Becker if this strategic plan would become or coincide with the overall Town strategic plan or would it be implemented on its own? Mr. Orlando confirmed that this is included in the overall strategic plan and that the Town would be very intentional on the implementation and refinement of the plan along the way. Mrs. Becker continued, asking about the curriculum related to the educational component of the strategic plan. It was her understanding that the curriculum would be provided as part of the plan. Mr. Orlando explained that the curriculum had not been built yet, but that when the time came to build it, the Committee and Council would be working closely in that process. With no further discussion, the motion carried by a vote of 6-0-1, Mrs. Becker abstaining.

At 4:18 p.m., Mr. Harkins moved to enter into Executive Session to discuss the items noted on the agenda. Mr. Stanford seconded. The motion carried

At 4:59 p.m., Town Council returned from Executive Session.

**f. 5:00 p.m. Public Hearing and First Reading of Proposed Ordinance 2021-17 – 2020 Lowcountry Hazard Mitigation Plan**

First Reading of the Proposed Ordinance 2021-17 to adopt the “2020 Lowcountry Hazard Mitigation Plan” as an appendix of “Our Plan, the Town of Hilton Head Island 2020-2040 Comprehensive Plan”; and providing for severability and an effective date.

At 5:00 p.m., Mayor McCann called the Public Hearing to order. No citizens addressed the Mayor and Town Council. The Public Hearing closed at 5:01 p.m.

Mr. Harkins moved to approve. Mr. Stanford seconded. With no discussion, the motion carried by a vote of 7-0.

At 5:02 p.m., Mr. Harkins moved to return to Executive Session. Mr. Stanford seconded.

**13. Executive Session**

- a. Discussion of negotiations incident to proposed sale or purchase of property in the: (i) Beach City Road area, (ii) William Hilton Parkway and Stoney area, (iii) William Hilton Parkway and Squire Pope area, (iv) William Hilton Parkway and Old Wild Horse area, and (v) William Hilton Parkway in the Mid-Island area. [pursuant to SC Freedom of Information Act § 30-4-70(a)(2)]
- b. Receipt of legal advice concerning pending, threatened, or potential claim related to user fees on tax bills [pursuant to SC Freedom of Information Act § 30-4-70(a)(2)]

**14. Possible actions by Town Council concerning matters discussed in Executive Session**

At 5:41 p.m., Town Council returned from Executive Session. Mayor McCann moved to approve a resolution of the Town of Hilton Head Island, South Carolina, suspending the collection of the Town’s Road Usage Fee as codified in the Town of Hilton Head Island Code of Ordinances, Sections 4-11-10 through 4-11-90. Mr. Stanford seconded. The motion carried by a vote of 7-0.

**15. Adjournment**

By unanimous vote, the meeting adjourned at 5:47 p.m.

**Approved: October 5, 2021**

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Krista M. Wiedmeyer, Town Clerk

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John J. McCann, Mayor



## **MEMORANDUM**

**TO:** Town Council

**FROM:** John Troyer, CPA, Director of Finance

**VIA:** Marc Orlando, ICMA-CM, Town Manager

**DATE:** September 22, 2021

**RE:** **Second Reading of Proposed Ordinance No. 2021-22**

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**Recommendation:**

Staff recommends Town Council approve the second reading of Proposed Ordinance No. 2021-22 which amends Fiscal Year 2022 budgets for amounts rolled forward from Fiscal Year 2021 for the General and Capital Project Funds, as well as allocates American Rescue Plan Funds.

**There have been no changes since the first reading on September 21, 2021.**

**AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND**

**ORDINANCE NO.**

**PROPOSED ORDINANCE NO. 2021-22**

**AN ORDINANCE TO AMEND THE BUDGET FOR THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, FOR THE FISCAL YEAR ENDING JUNE 30, 2022; TO PROVIDE FOR THE BUDGETED APPROPRIATIONS OF PRIOR YEAR BUDGET ROLL-FORWARDS AND CERTAIN OTHER APPROPRIATIONS AND COMMITMENTS AND THE EXPENDITURES OF CERTAIN FUNDS; TO ALLOCATE THE SOURCES OF REVENUE FOR THE SAID FUNDS; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, Section 5-7-260 of the Code of Laws of South Carolina requires that a municipal council act by ordinance to adopt a budget and levy taxes, pursuant to public notice; and

**WHEREAS**, the Town Council did adopt the budget on June 1, 2021, and

**WHEREAS**, pursuant to the budget amendment policy as stated in the Town's annual budget document, the Town Council is desirous of amending the budget so as to provide for the budgeted appropriations of prior year budget roll-forwards and certain other appropriations and commitments from the Fund Balance and other revenue sources.

**NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA; AND IT IS ORDAINED BY THE AUTHORITY OF THE SAID TOWN COUNCIL:**

Section 1 Amendment. The adopted 2022 fiscal year budget is amended to make the following changes as additions to the funds from prior years and to the projected revenue and expenditure accounts as detailed in Attachment A.

Section 2 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.

Section 3 Effective Date. This Ordinance shall be effective upon its enactment by the Town Council of the Town of Hilton Head Island.

**ORDINANCE NO.**

**PROPOSED ORDINANCE NO. 2021-22**

**PASSED, APPROVED, AND ADOPTED BY THE COUNCIL FOR THE TOWN OF  
HILTON HEAD ISLAND ON THIS \_\_\_ DAY OF \_\_\_\_\_, 2021.**

\_\_\_\_\_  
John McCann, Mayor

ATTEST:

\_\_\_\_\_  
Krista Wiedmeyer  
Town Clerk

First Reading: \_\_\_\_\_  
Second Reading: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Curtis Coltrane, Town Attorney

Introduced by Council Member:

\_\_\_\_\_

ATTACHMENT A

Budget Adjustment: American Rescue Plan Funds

<u>Account Description</u>	<u>Amount</u>
<b>Revenues:</b>	
American Rescue Plan Funds	2,600,000
<b>Total American Rescue Plan Revenue Budget Adjustment</b>	<b><u>2,600,000</u></b>
<b>American Rescue Plan Expenditures:</b>	
<u>Address negative economic impacts caused by the public health emergency</u>	
Community Foundation of the Lowcountry-Pandemic Impact Grants	500,000
 <u>Replace lost public sector revenue</u>	
Home Repair-Structural Safety/Removal of Unsafe and Uninhabited Structures	200,000
Town Hall Security and Technology Improvements	1,000,000
Patterson Tract Development/Infrastructure	500,000
	<u>1,700,000</u>
 <u>Invest in water, sewer, and broadband infrastructure</u>	
Lateral Sanitary Sewer Connection Grants	100,000
Public Infrastructure	300,000
	<u>400,000</u>
 <b>Total American Rescue Plan Expenditure Budget Adjustment</b>	 <b><u>2,600,000</u></b>

Budget Adjustment: General Fund

<u>Account Description</u>	<u>Amount</u>
<b>General Fund Revenues:</b>	
Funds from Prior Years	219,956
<b>Total General Fund Revenue Budget Adjustment</b>	<b><u>219,956</u></b>
<b>General Fund Expenditures:</b>	
<b>Infrastructure Services - Facilities Management Operating</b>	
Town Hall Roof Replacement	96,470
Fire Station 3 Garage Door Replacements	55,800
Fire Station 3 and 7 Flooring Repair	40,700
Microwave Tower Generator Replacement	26,986
	<u>219,956</u>
 <b>Total General Fund Expenditure Budget Adjustment</b>	 <b><u>219,956</u></b>

ATTACHMENT A, CONTINUED

Budget Adjustment: Capital Project Fund

<u>Account Description</u>	<u>Amount</u>
<b>Capital Project Fund Revenues:</b>	
Prior Year HTAX Bonds	647,389
Prior Year Property Taxes	312,758
Prior Year GO Bond Proceeds	82,845
Prior Year TIF Taxes	1,585,447
Prior Year Real Estate Transfer Fees	155,180
Prior Year Sunday Liquor Permit Fees	182,440
<b>Total Capital Project Fund Revenue Budget Adjustment</b>	<b><u><u>2,966,059</u></u></b>
<b>Capital Project Fund Expenditures:</b>	
<u>Shelter Cove Pathway and Parking Enhancements</u>	
Prior Year Property Taxes	162,758
Prior Year GO Bond Proceeds	82,845
Prior Year HTAX Bonds	506,409
Prior Year TIF Taxes	1,585,447
	<u>2,337,459</u>
<u>Demolition of Kingfisher Restaurant</u>	
Prior Year Real Estate Transfer Fees	155,180
<u>General Park Upgrades</u>	
Prior Year Sunday Liquor Permit Fees	182,440
Prior Year HTAX Bonds	72,560
	<u>255,000</u>
<u>Stoney Land Planning</u>	
Prior Year HTAX Bonds	68,420
<u>BCSO Renovations</u>	
Prior Year Property Taxes	150,000
<b>Total Capital Project Fund Expenditure Budget Adjustment</b>	<b><u><u>2,966,059</u></u></b>

**ORDINANCE NO.**

**PROPOSED ORDINANCE NO. 2021-22**

**ATTACHMENT A, CONTINUED**

The effects of this budget amendment for fiscal year 2022 are presented below.

	General Fund		Cap Proj Fund		Debt Service		Total Governmental Funds	
	Expenditures	Revenues & Transfers In	Expenditures, Transfers Out & Other Uses	Revenues & Transfers In & Other Sources	Expenditures, Transfers Out & Other Uses	Revenues & Transfers In	Expenditures, Transfers Out & Other Uses	Revenues & Transfers In & Other Sources
Original Balance	\$ 43,984,657	\$(43,984,657)	\$ 28,009,099	\$(28,009,099)	\$ 19,344,566	\$(19,344,566)	\$ 91,338,322	\$(91,338,322)
Amendment	219,956	(219,956)	2,966,059	(2,966,059)	-	-	3,186,015	(3,186,015)
Revised Budget	\$ 44,204,613	\$(44,204,613)	\$ 30,975,158	\$(30,975,158)	\$ 19,344,566	\$(19,344,566)	\$ 94,524,337	\$(94,524,337)

Enterprise Fund  
Stormwater Fund

	Expenditures & Transfers Out	Revenues & Transfers In
Original Balance	\$ 5,500,000	\$(5,500,000)
Amendment	-	-
Revised Balance	\$ 5,500,000	\$(5,500,000)



# **TOWN OF HILTON HEAD ISLAND**

## *Community Development Department*

**TO:** Marc Orlando, ICMA~CM, *Town Manager*  
**VIA:** Chris Yates, CBO, CFM, CGP, *Interim Director of Community Development*  
**VIA:** Teri Lewis, AICP, *Deputy Director of Community Development*  
**FROM:** Shari Mendrick, P.G., CFM, *Floodplain Administrator*  
**DATE:** September 23, 2021  
**SUBJECT:** 2020 Lowcountry Natural Hazard Mitigation Plan

---

Town Council reviewed Proposed Ordinance 2021-17 regarding the 2020 Lowcountry Natural Hazard Mitigation Plan at their meeting on September 21, 2021. At that meeting, Town Council made no changes to the proposed ordinance.

Attachments:

- A) Proposed Ordinance 2021-17
- B) 2020 Lowcountry Natural Hazard Mitigation Plan

**AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND TO ADOPT THE “2020 LOWCOUNTRY NATURAL HAZARD MITIGATION PLAN” AS AN APPENDIX TO “OUR PLAN”; AND TO PROVIDE FOR SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, the Beaufort County Hazard Mitigation Plan was adopted in 2011 as an Appendix to the Town of Hilton Head Island Comprehensive Plan; and

**WHEREAS**, the Beaufort County Hazard Mitigation Plan 2015 Update was adopted in 2016 as an Appendix to the Town of Hilton Head Island Comprehensive Plan; and

**WHEREAS**, on October 20, 2020, the Town Council of the Town of Hilton Head Island, South Carolina adopted Our Plan, the 2020-2040 Town of Hilton Head Island Comprehensive Plan; and

**WHEREAS**, the Beaufort County Hazard Mitigation Plan is required to be re-evaluated by the Disaster Mitigation Act of 2000 every five years to assess the communities’ vulnerabilities to natural hazards, prepare a long-term strategy to address these hazards, prevent future damage and loss of life; and

**WHEREAS**, the Town of Hilton Head Island has been an “official participant” in the planning process of the natural hazard mitigation plan, hereby known as the 2020 Lowcountry Natural Hazard Mitigation Plan prepared by the Lowcountry Council of Governments in accordance with the Disaster Mitigation Act of 2000; and

**WHEREAS**, the 2020 Lowcountry Natural Hazard Mitigation Plan identifies mitigation goals and actions to reduce or eliminate long-term risk to people and property in the Town of Hilton Head Island from the impacts of future hazards and disasters; and

**WHEREAS**, the adoption of the 2020 Lowcountry Natural Hazard Mitigation Plan will fulfill the requirements for continued participation in the Community Rating System as well as qualify the Town of Hilton Head Island for FEMA pre-disaster grants and post-disaster reconstruction assistance.

**WHEREAS**, the Planning Commission reviewed the 2020 Lowcountry Natural Hazard Mitigation Plan at their May 19, 2021 meeting and recommended the Plan be sent to the Public Planning Committee of the Town Council for their consideration; and

**WHEREAS**, on June 2, 2021 the Public Planning Committee recommended Town Council adopt the 2020 Lowcountry Natural Hazard Mitigation Plan; and

**WHEREAS**, Town Council now desires to adopt the 2020 Lowcountry Natural Hazard Mitigation Plan an appendix to Our Plan as recommended by the Public Planning Committee.

**NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, AND IT IS ORDAINED BY THE AUTHORITY OF THE SAID COUNCIL:**

**Section 1. Adoption.** That the 2020 Lowcountry Natural Hazard Mitigation Plan is hereby adopted as an appendix to Our Plan.

**Section 2. 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.

**Section 3. Effective Date.** This Ordinance shall be effective upon its adoption by the Town Council of the Town of Hilton Head Island, South Carolina.

**PASSED, APPROVED, AND ADOPTED BY THE COUNCIL FOR THE TOWN OF HILTON HEAD ISLAND ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2021.**

THE TOWN OF HILTON HEAD  
ISLAND, SOUTH CAROLINA

\_\_\_\_\_  
John J. McCann, Mayor

ATTEST:

\_\_\_\_\_  
Krista Wiedmeyer, Town Clerk

First Reading: September 21, 2021

Second Reading: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Curtis L. Coltrane, Town Attorney

Introduced by Council Member: \_\_\_\_\_



## TOWN OF HILTON HEAD ISLAND

*Executive Department*

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**TO:** Town Council  
**FROM:** Marc Orlando, ICMA-CM – Town Manager  
**DATE:** 09/07/2021  
**SUBJECT:** Local Option Sales Tax Referendum  
**CC:** Joshua Gruber, Deputy Town Manager

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### **Background:**

In April of 2021, Beaufort County Council adopted an Ordinance calling for a county-wide referendum on the question of whether there should be a one-cent sales and use tax imposed as a Local Option Sales Tax.

South Carolina Code of Laws (1976) Section 4-10-30 allows for the following question to be placed upon the ballot:

*Must a one percent sales and use tax be levied in Beaufort County for the purpose of allowing a credit against a taxpayer's county and municipal ad valorem tax liability and for the purpose of funding county and municipal operations in the Beaufort County area?*

If adopted by the voters, the revenues collected under this program would be required to be applied as a direct credit against a portion of a property owner's ad valorem property tax bill in Beaufort County. This would apply to both County's millage rates and to the Town's millage rates. Additionally, a certain percentage of the revenues generated may be used to pay for public projects such as capital improvements or programming and operational expenses for public services.

### **Staff Updated Recommendation:**

Some municipalities within Beaufort County have been actively advocating for the passage of a Local Option Sales Tax for many years. The City of Beaufort, the Town of Bluffton, and the Town of Port Royal have all recently adopted formal Resolutions declaring their support for the passage of a Local Option Sales Tax.

In looking at the potential financial impacts from the adoption of a Local Option Sales Tax, staff believes that the financial benefits to property tax payers would be significant and would certainly be sufficient to warrant consideration by the voters through the Referendum. Additionally, passage of the Local Option Sales Tax would allow the Town to continue to diversify its revenue sources thereby lessening its reliance on property tax collections to meet its capital and operational needs.

As estimated by the Town's Finance staff, the average Hilton Head Island taxpayer would see an approximately \$98 reduction in the Town property tax bill and \$435 reduction in their County tax bill for a total of \$533 reduction in their real property bills and a proportionally similar reduction in personal property tax bills.

In order to allow Hilton Head Island residents to consider adopting this referendum question, staff is requesting that Town Council support asking the voters to consider the proposal and provide their input through their vote. If this proposal is approved by the voters, Town Council, through its annual budget adoption process, will identify how best to utilize the revenues that it receives under this program. However, at no point in time shall the amount of revenue used as a credit against property taxes be less than 71% as required under the Local Option Sales Tax enabling legislation.

Another fact is currently 32 of the 46 counties in the State of South Carolina have adopted a Local Option Sales Tax.

Additionally, in order to provide factual information to the residents of Hilton Head Island regarding the workings and attributes of the Local Option Sales Tax, the Town has been asked to partner with the other municipalities within the County to undertake educational efforts that would provide relevant information to residents and voters surrounding the referendum question. The staff believes that this is an appropriate action that is necessary to ensure a full and complete understanding of this somewhat complicated topic prior to the voting polls being opened on this matter.

**Conclusion:**

Staff is recommending that Town Council adopt the Resolution in support of conducting a Local Option Sales Tax referendum. Town Council, through its annual budget adoption process will determine what percentage of revenues should be allocated to this purpose. However, at no time will less than seventy-one percent (71%) of the revenues collected be used to provide property tax credit relief.

Additionally, staff recommends that Town Council adopt the Resolution authorizing the Town Manager to take such actions as may be necessary to jointly participate with the other municipalities in Beaufort County to undertake a public education campaign concerning the factual attributes and processes associated with the imposition of a Local Option Sales Tax.

**Attachments:**

1. Revised LOST resolution
2. Proposed Intergovernmental Agreement
3. SC Dept. of Revenue Regulations
4. Ethics Opinions
5. FAQs
6. Beaufort County LOST materials
7. Updated LOST presentation

**A RESOLUTION OF THE TOWN OF HILTON HEAD ISLAND**

**RESOLUTION NO. 2021-\_\_\_\_\_**

**ARESOLUTION OF THE TOWN OF HILTON HEAD ISLAND SUPPORTING THE CONDUCTING OF A LOCAL OPTION SALES TAX REFERENDUM, PROVIDING FOR THE DISTRIBUTION AND USAGE OF REVENUES GENERATED THEREUNDER, AND AUTHORIZING THE TOWN'S PARTICIPATION IN A PUBLIC EDUCATION EFFORT IN PARTNERSHIP WITH OTHER LOCAL GOVERNMENTS IN BEAUFORT COUNTY**

**WHEREAS**, the Hilton Head Island Town Council is elected by the people to provide those services which are necessary and required to provide for the general well-being of its citizens, and must provide for revenues necessary to fund those services; and,

**WHEREAS**, the Hilton Head Island Town Council agrees that a disproportionate share of the local revenues that are used to pay for the costs of government services are derived from property taxes, creating an inequitable tax burden on both resident and non-resident property owners; and,

**WHEREAS**, the Town of Hilton Head Island is committed to minimizing the impact of property tax rates that are necessary to provide governmental services and also to seek alternative revenue sources which can be used to supplement and/or replace property taxes; and,

**WHEREAS**, pursuant to Sections 4-10-10 through 4-10-100 of the South Carolina Code of Laws (1976) the voters of Beaufort County may adopt via a county-wide referendum a one percent sales and use tax, which if adopted, would require that revenues generated thereunder be utilized to provide ad valorem property tax credits and county/municipal revenues; and

**WHEREAS**, the Hilton Head Island Town Council is of the opinion and belief that all property owners within the Town should consider benefits from the implementation of a Local Option Sales Tax as an alternative revenue source in their decision-making process, and as such publicly supports the input from voters from this referendum; and

**WHEREAS**, in order to provide voters with accurate information regarding the Local Option Sales Tax initiative prior to the referendum being conducted, the Town Council hereby desires to participate with other local governments within Beaufort County to educate the public on all aspects of factual information pertaining to the ballot referendum question.

**NOW, THEREFORE BE IT RESOLVED**, by the Mayor and Town Council for the Town of Hilton Head Island, South Carolina, in Council duly assembled, that the Town of Hilton Head Island hereby declares its support for the conducting of a referendum on the question of whether to implement a one-cent Local Option Sales Tax. Further, if the referendum should be adopted, the Town of Hilton Head Island shall allocate no less than seventy-one percent (71%) of the revenues received as a credit against property taxes. Any revenues received by the Town of Hilton Head Island under the twenty-nine percent (29%) allocated to county/municipal revenue funds will be determined annually as a part of the Town's annual fiscal budget adoption process. Additionally, the Town Manager is hereby authorized to take such actions as may be necessary for the Town to participate jointly with other local governments within Beaufort County in an effort to educate residents on all factual aspects of the Local option Sales Tax provided that such participation shall not exceed \$15,000.00 in total expenses.

**PASSED, APPROVED, AND ADOPTED BY THE COUNCIL FOR THE TOWN OF HILTON HEAD ISLAND ON THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2021.**

THE TOWN OF HILTON HEAD ISLAND  
SOUTH CAROLINA

\_\_\_\_\_  
John McCann, Mayor

ATTEST:

\_\_\_\_\_  
Krista Wiedmeyer, Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Curtis L. Coltrane, Town Attorney

Introduced by Council Member: \_\_\_\_\_

## Intergovernmental Agreement

THIS AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2021, by and between the Town of Bluffton, South Carolina; the Town of Hilton Head, South Carolina; the Town of Port Royal, South Carolina; the City of Yemassee, South Carolina; the City of Hardeeville, South Carolina; and the City of Beaufort, South Carolina; for cost sharing purposes related to an informational and educational campaign leading up to the local option sales tax referendum.

WHEREAS, a referendum for renewal of the Local Option Sales Tax in Beaufort County is scheduled to be on the ballot for the General Election in November, 2021; and,

WHEREAS, Section 8-13-1346 ( C) of the South Carolina Code of Laws allows a governmental entity to prepare and disseminate information material, conduct public meetings, or to respond to news media or citizens' inquiries concerning a ballot measure affecting a governmental entity, so long as such disclosure is full and impartial, and does not favor one side of a controversy over another; and,

WHEREAS, the municipalities within Beaufort County, and the City of Hardeeville (the Parties), wish to conduct an informational and educational campaign related to the Local Option Sales Tax; and,

WHEREAS, the Parties shall each designate a representative who has the authority to act on behalf of the governmental entity in all matters relating to this informational and educational campaign; and

WHEREAS, the Parties have agreed to select and hire a qualified consulting firm to advise and conduct this informational and educational campaign; and,

WHEREAS the Parties have agreed that the City of Beaufort will take the lead in the development and preparation of a draft Request for Proposal (RFP), containing the scope of work for this campaign, and the terms and conditions of the engagement of the professional consultant; and,

WHEREAS, prior to the publication of the RFP, the draft shall be reviewed and approved in writing by each of the Parties; and,

WHEREAS, the Parties shall each have the opportunity to fully review all responses and proposals to the RFP; and,

WHEREAS, the selection of the professional consultant shall be made by the written consent of at least the majority of the Parties; and,

WHEREAS, the cost of the consultant shall be shared by the Parties based on a prorate basis of estimated collections (both the Property Tax Cred Fund and the Revenue Fund) for each jurisdiction (as estimated by SCDOR and contained in the letter from SCDOR to each of the Parties dated June 28, 2021), to the total estimated collections, less Robin Hood;

NOW THEREFORE, the Parties below hereby agree as follows:

1. All terms of the preamble above are incorporated herein by reference as fully as if restated verbatim.
2. The City of Beaufort shall serve as the lead entity for the Parties and will receive all billing from the Consultant. Upon receipt of an invoice, the City of Beaufort shall disseminate the same to the Parties. Within 10 days of receipt of an invoice, the Parties each agree to remit to the City of Beaufort their proportionate share of the invoice based upon the following:

City of Beaufort –	\$10,000
Town of Bluffton -	\$10,000
Town of Hilton Head -	\$10,000
Town of Port Royal -	\$10,000
City of Yemassee -	\$ 5,000
City of Hardeeville -	\$ 5,000

3. The Parties agree that there will be no attempt to influence the outcome of the upcoming referendum, and that all information disseminated as part of this informational and educational campaign shall be full and impartial.

**The City of Beaufort**

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By: William Prokop  
City Manager

**Town of Bluffton**

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By: Stephen Steese  
Town Manager

**Town of Hilton Head**

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By: Mark Orlando  
Town Manager

**City of Yemassee**

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By: Mathew Garnes  
City Manager

**Town of Port Royal**

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By: Van Willis  
Town Manager

**City of Hardeeville**

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By: Michael Czymbor  
City Manager

## Chapter 12

# Local Sales and Use Taxes

### A. General Information

The South Carolina Code of Laws allows the imposition of various types of local sales and use taxes. Citizens of a county, depending upon the needs within the county, may impose one or several local sales and use taxes. Municipal councils, or the citizens of a municipality, may impose a sales and use tax<sup>1</sup> for tourism development if the municipality is located in a county where revenue from state accommodations tax is at least \$14 million in a fiscal year.

The Department publishes a chart with the various types of local sales and use taxes collected by the Department and the exemptions allowed under each tax. As of the date of this document, South Carolina Information Letter #19-9 contains the most recently published information; updated information will be published in new information letters on the Department's website ([dor.sc.gov](http://dor.sc.gov)) as warranted.

Most local taxes administered and collected by the Department on behalf of local jurisdictions are administered and collected on a county-wide basis. However, the Catawba Tribal Sales and Use Tax is only imposed on the Catawba Indian Reservation and the Tourism Development Fee is only imposed on a municipal-wide basis. The criteria discussed in this publication, unless otherwise indicated in legislation enacted by the General Assembly, will also apply to any future sales and use taxes administered and collected by the Department on behalf of a jurisdiction on a county-wide, municipal-wide or other basis as established by the General Assembly.

Please note that this chapter only addresses the general local sales and use taxes collected by the Department on behalf of local jurisdictions (e.g., counties, municipalities, school districts) and the tribal sales tax collected by the Department on behalf of the Catawba Indian tribal government.<sup>2</sup> It does not address the local taxes, or beach preservation fees, on sales of accommodations or the local taxes on sales of prepared meals that are collected directly by the counties or municipalities.

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<sup>1</sup> This municipal sales and use tax is actually a fee (Local Option Tourism Development Fee) imposed under Article 9 of Chapter 10 of Title 4. For purposes of simplicity, this fee will be referred to as a sales and use tax in this publication.

<sup>2</sup> The tribal use tax is collected directly by the Catawba Indian tribal government.

## **B. Types of Local Sales and Use Taxes**

The following is a list of local sales and use taxes<sup>3</sup> that the General Assembly has authorized the Department to administer and collect on behalf of local jurisdictions that may enact one or more of these local sales and use taxes.

**Local Option:** The local option sales and use tax is authorized under South Carolina Code §4-10-10 et seq. This tax is a general sales and use tax on all sales at retail (with a few exceptions) taxable under the state sales and use tax. This tax is imposed to reduce the property tax burden on persons in the counties that impose this type of local tax and is collected by the Department on behalf of these counties.

**Capital Projects:** The local capital projects sales and use tax is authorized under South Carolina Code §4-10-300 et seq. This tax is a general sales and use tax on all sales at retail (with a few exceptions) taxable under the state sales and use tax. This tax is imposed specifically to defray the debt service on bonds issued for various capital projects in the counties that impose this type of local tax and is collected by the Department on behalf of these counties.

**Transportation:** The local transportation projects sales and use tax is authorized under South Carolina Code §4-37-30 et seq. This tax is a general sales and use tax on all sales at retail (with a few exceptions) taxable under the state sales and use tax. This tax is imposed specifically to defray the debt service on bonds issued for various transportation projects in the counties that impose this type of local tax and are collected by the Department on behalf of these counties.

**Personal Property Tax Relief:** The personal property tax relief sales and use tax is authorized under South Carolina Code §4-10-510 et seq. This tax is a general sales and use tax on all sales at retail (with a few exceptions) taxable under the state sales and use tax. This tax is imposed in lieu of the personal property tax imposed on private passenger motor vehicles, motorcycles, general aviation aircraft, boats, and boat motors. The tax may not exceed the lesser of 2% or the amount necessary to replace the property tax on vehicles, motorcycles, general aviation aircraft, boats, and boat motors in the most recently completed fiscal year. **As of the date of this publication, this tax is not being imposed.**

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<sup>3</sup> The General Assembly may authorize other local sales and use taxes in the future. Unless such legislation states otherwise, any such new local sales and use tax will be administered and collected in the same manner as the taxes listed in this publication. In addition, the Catawba Indian Tribal Sales Tax is not a local tax; however, it is administered and collected by the Department in a similar manner and is therefore included on this list.

**Local Property Tax Credits:** The local option sales and use tax for local property tax credits is authorized under South Carolina Code §4-10-720 et seq. This tax is a general sales and use tax on all sales at retail (with a few exceptions) taxable under the state sales and use tax. This tax is imposed to provide a credit against property tax imposed by a political subdivision for all classes of property subject to the property tax and is collected by the Department on behalf of these counties. **As of the date of this publication, this tax is not being imposed.**

**Education Capital Improvement Sales and Use Tax:** The school district or school districts within a county may impose a 1% sales and use tax within the county for specific education capital improvements for the school district. The tax is authorized under South Carolina Code §4-10-410 et seq. and must be approved by a referendum open to all qualified electors residing in the county. Pursuant to a memorandum of agreement, a portion of the revenue may be shared with the area commission (governing body of a technical college) or higher education board of trustees (governing body of a public institution of higher learning) or both, for specific education capital improvements on the campus of the recipient located in the county listed in the referendum.

The General Assembly has established several criteria that make a county or school district eligible to impose this tax. The county or school district must meet only one of these criteria, established in South Carolina Code §4-10-470, in order for the tax to be imposed within the county. Depending on the criteria met, this tax may be imposed for up to 15 years.

**School District Taxes:** The General Assembly has authorized certain school districts to impose a sales and use tax within the county. These taxes are generally imposed to pay debt service on general obligation bonds and/or the cost of capital improvements. These taxes are imposed county-wide, whether imposed by the county or one or more school districts.

As of the date of this publication, these school district taxes are being imposed at a rate of 1%:<sup>4</sup>

<u>County</u>	<u>Act Authorizing Tax</u>
Chesterfield	Act No. 441 of 2000
Clarendon	Act No. 355 of 2004 and Act No. 195 of 2005
Dillon	Act No. 137 of 2007
Jasper	Act No. 146 of 2001
Lexington	Act No. 378 of 2004, Act No. 88 of 2011, and Act No. 278 of 2018
Marlboro	Act No. 204 of 2005

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<sup>4</sup> See South Carolina Information Letter #19-9 for the date each school district tax was first imposed.

**Catawba Indian Tribal Tax:** The Catawba Indian Reservation is located in Lancaster and York counties. The application of either the state sales and use tax or the Catawba Tribal sales and use tax for sales (deliveries) made on the Catawba Indian Reservation are determined by the Catawba Indian Claims Settlement Act. The specific sales and use tax provisions can be found in South Carolina Code §27-16-130(H). The Catawba Tribal sales and use tax expires on November 28, 2092.

The following chart provides a summary of these provisions:

<u>Delivery on the Reservation From:</u>	<u>Type Tax Applicable</u>	<u>Administered and Collected By:</u>
Location On the Reservation	Tribal Sales Tax (Equal to Combined State and Local Rate*)	DOR
Location Off the Reservation But in SC – Sales \$100 or less	State Sales Tax (Local taxes would not be applicable in these circumstances.)	DOR
Location Off the Reservation But in SC – Sales Over \$100	Tribal Sales Tax (Equal to Combined State and Local Rate*)	DOR
Location Off the Reservation and Outside the State – Seller Registered with DOR	State Use Tax (Local taxes would not be applicable in these circumstances.)	DOR
Location Off the Reservation and Outside the State – Seller Not Registered with DOR	Tribal Use Tax (Equal to Combined State and Local Rate*)	Catawba Indian Tribe

\* Lancaster County imposes a 1% Local Option Tax and a 1% Capital Projects Tax. York County imposes a 1% Capital Projects Tax. These local taxes are in addition to the State sales and use tax. Therefore, effective May 1, 2016, the tribal sales tax and the tribal use tax are imposed at the following rates:

For sales (deliveries) made on the Reservation within Lancaster County:

- 8% for general sales of tangible personal property
- 9% for sales of accommodations
- 1% for sales of unprepared foods\*\*

For sales (deliveries) made on the Reservation within York county:

- 7% for general sales of tangible personal property
- 8% for sales of accommodations
- 0% for sales of unprepared foods\*\*\*

Please note that the rate for the tribal sales tax and the tribal use tax may increase or decrease dependent upon whether the total state and local sales and use tax rates change in Lancaster County or York County in the future.

\*\* Note: Lancaster County “re-imposed” the 1% Capital Projects Tax effective May 1, 2016. The new Capital Projects Tax in Lancaster County exempts sales of unprepared food effective May 1, 2016; however, the 1% Local Option Tax does not exempt sales of unprepared food.

\*\*\*Note: York County’s 1% Capital Projects Tax, which expired on April 30, 2018, was “re-imposed” effective the next day, May 1, 2018. The Capital Projects Tax in York County continues to exempt sales of unprepared food.

**Tourism Development Tax:** The local tourism development sales and use tax is authorized under South Carolina Code §4-10-910 et seq. This tax is a general sales and use tax on all sales at retail (with a few exceptions) taxable under the state sales and use tax and may only be imposed by a municipality located in a county where revenue from the state accommodations tax is at least \$14 million in a fiscal year. This tax may be imposed by an ordinance adopted by a two-thirds majority of the municipal council or by approval by a majority of qualified electors voting in a referendum authorized by a majority of the municipal council. The tax is imposed specifically for tourism advertisement and promotion directed at non-South Carolina residents; however, in the third and subsequent years of this tax, a portion of the tax may be used for certain property tax rollbacks. The tax is collected by the Department on behalf of these municipalities.

### **C. Local Sales and Use Tax Due Dependent on County or Municipality of Delivery**

The determination as to which local sales and use tax is due depends on where delivery of the tangible personal property took place.<sup>5</sup>

For purposes of local sales and use taxes, delivery of tangible personal property is defined to occur when and where title or possession of tangible personal property transfers from the retailer to his customer. Following are guidelines to be used in determining when and where delivery occurs:

**FOB Destination or Similar Terms:** Delivery is considered to take place at the purchaser’s location or wherever delivered to the purchaser (at the purchaser’s direction).

**FOB Shipping Point or Similar Terms:** Delivery is considered to take place at the retailer’s location. Retailers with multiple retail locations are to maintain their records so as to clearly show which sales are attributable to each location.

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<sup>5</sup> Attorney General Opinion #91-47 (7/30/1991).

Shipping Terms Are Unspecified: Delivery is considered to take place at the purchaser's location or wherever delivered to the purchaser (at the purchaser's direction).

Retailer Uses Own Vehicle: If a retailer uses his own vehicle(s) for making deliveries, delivery is considered to take place at the purchaser's location or wherever delivered at the direction of the purchaser. This applies whether the vehicles are owned or leased by the retailer.

Situations Where Title Transfers, but Not Possession: Delivery is considered to take place at the retailer's location.

For example, a printer may produce business cards for a customer. The cards include all needed information except for the employee name. The printer keeps possession of, but not title to, the cards. At the direction of the customer, the printer will imprint the customer's cards with an employee's name and send the imprinted cards to the customer.

Retailers with multiple retail locations are to maintain their records so as to clearly show which sales are attributable to each location.

## **D. Retailer's Responsibility to Remit Local Sales and Use Taxes<sup>6</sup>**

Retailers who have nexus with South Carolina have nexus for sales and use tax purposes with all local jurisdictions in South Carolina and must collect and remit to the Department local sales and use taxes administered and collected by the Department for each jurisdiction where their products are delivered. For more information on establishing nexus with South Carolina and its local jurisdictions, see SC Revenue Ruling #18-15 and Chapter 13 of this manual.

The following are examples of when a retailer with nexus is required to collect and remit a local jurisdiction's sales and use tax:

Out-of-State Retailer: A retailer located in North Carolina establishes economic nexus with South Carolina.<sup>7</sup> The retailer sells a chair to a South Carolina resident, and the chair is delivered to the customer in Lexington County. Since the retailer has nexus with South Carolina, the retailer is responsible for collecting and remitting Lexington County's local sales and use tax.<sup>8</sup>

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<sup>6</sup> South Carolina Revenue Ruling #18-15.

<sup>7</sup> For information on economic nexus standards in South Carolina for out-of-state retailers, see SC Revenue Ruling #18-14 and Chapter 13 of this manual.

<sup>8</sup> If, in this example, the retailer did not establish nexus with South Carolina, but had voluntarily registered with the Department for a retail license, the retailer would still be responsible for collecting and remitting

In-State Retailer: A retailer located in Greenville County sells plantation shutters to a customer located in Charleston County. The retailer delivers the shutters to the customer in Charleston using its own truck. Since the retailer has physical nexus with South Carolina, the retailer is responsible for collecting and remitting Charleston County's local sales and use tax.<sup>9</sup>

The retailer will be liable for the tax if the retailer fails to remit the tax when it has nexus with South Carolina. If, upon being audited, it is found a retailer has nexus with the state so as to require remittance of a local jurisdiction's sales and use tax, but the retailer has failed to do so, the Department will assess the retailer for that jurisdiction's tax.

## **E. Purchasers - Reporting Requirements**

Purchases of tangible personal property (not for resale) first stored, used or consumed in a local tax jurisdiction are subject to the local use tax. Such purchases are to be reported by county and/or municipality where the property is first stored, used, or consumed using the applicable form (*e.g.*, ST-389, UT-3) or through one of the Department's electronic filing and payment systems. Information as to which type of local sales and use tax must be reported by county and municipality and which type of local sales and use tax must be reported only by county or only by municipality can be found on Form ST-389 and the Department's electronic filing and payment systems.

NOTE: The purchaser is not liable for a jurisdiction's local use tax if he takes delivery in another jurisdiction and pays the other jurisdiction's local sales tax, provided the local sales tax he paid is equal to or greater than the local use tax that would otherwise be due. If the local sales tax he paid is less than the local use tax, then the purchaser owes the difference. Also, the purchaser is relieved of the liability for the local use tax if he has a receipt from a retailer showing the retailer has collected the full local use tax due.

## **F. Transactions Exempt from Local Sales and Use Taxes**

While most local sales and use taxes provide the same exemptions for certain sales and purchases, there are some differences. Exhibit A of this chapter provides guidance concerning the various types of local sales and use taxes collected by the Department and the types of exemptions allowed under each tax.

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Lexington County's local sales and use tax.

<sup>9</sup> If, in this example, the retailer did not establish nexus with South Carolina, but had voluntarily registered with the Department for a retail license, the retailer would still be responsible for collecting and remitting Charleston County's local sales and use tax.

## **Exhibit A**

### **Local Tax Charts and Transactions Exempt from Local Sales and Use Taxes as of May 1, 2019**

The most current version of this information, as of the date of this publication, is South Carolina Information Letter #19-9. This information letter was issued to reflect certain changes taking effect on April 30, 2019 and May 1, 2019.

Georgetown County's Capital Projects Tax expires on April 30, 2019, and the following counties will begin imposing a local sales and use tax effective May 1, 2019: Beaufort (Transportation), Calhoun (Capital Projects), and Saluda (Capital Projects). In addition, Aiken County's Capital Projects Tax, which expires on April 30, 2019, will be re-imposed beginning May 1, 2019.

As of the date of this publication, the following county and municipal local sales and use taxes will be re-imposed over the next few years:

- Myrtle Beach's Tourism Development Tax, which expires on July 31, 2019, will be re-imposed beginning August 1, 2019.
- Orangeburg County's Capital Projects Tax, which expires on April 30, 2020, will be re-imposed beginning May 1, 2020.
- The Capital Projects Taxes in Bamberg County, Lee County, and Marion County, which are set to expire on April 30, 2021, will be re-imposed beginning May 1, 2021.

Additional information letters will be issued to reflect these changes. These information letters can be found on the Department's website ([dor.sc.gov](http://dor.sc.gov)).



STATE OF SOUTH CAROLINA  
DEPARTMENT OF REVENUE

300A Outlet Pointe Blvd., Columbia, South Carolina 29210  
P.O. Box 125, Columbia, South Carolina 29214-0575

SC INFORMATION LETTER #19-9

**SUBJECT:** Local Sales and Use Tax Charts, Catawba Tribal Sales and Use Tax Chart and Exemption Information (Sales and Use Tax)

**EFFECTIVE DATE:** May 1, 2019

**SUPERSEDES:** SC Information Letter #19-5

**AUTHORITY:** S. C. Code Ann. Section 12-4-320 (2014)  
S. C. Code Ann. Section 1-23-10(4) (2005)  
SC Revenue Procedure #09-3

**SCOPE:** An Information Letter is a written statement issued to the public to announce general information useful in complying with the laws administered by the Department. An Information Letter has no precedential value.

The South Carolina Code of Laws allows the imposition of various types of local sales and use taxes. Citizens of a county, depending upon the needs within the county, may impose one or several local sales and use taxes. Municipal councils, or the citizens of a municipality, may impose a sales and use tax<sup>1</sup> for tourism development if the municipality is located in a county from which revenues from the state accommodations tax are at least \$14 million in a fiscal year.

While most of these local sales and use taxes provide the same exemptions for certain sales and purchases, there are some differences. Attached are three charts that provide guidance concerning the various types of local sales and use taxes collected by the Department and the types of exemptions allowed under each tax. These charts only address the general local sales and use taxes collected by the Department on behalf of the counties, municipalities, school districts, and the Catawba Indian tribal government. They do not address the local taxes imposed on sales of accommodations<sup>2</sup> or on sales of prepared meals<sup>3</sup> that are collected directly by the counties or municipalities.

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<sup>1</sup> This municipal sales and use tax is actually a fee (Local Option Tourism Development Fee) imposed under Article 9 of Chapter 10, Title 4. For purposes of simplicity, this fee is referred to as a sales and use tax in this information letter.

<sup>2</sup> Code Sections 6-1-500 through 6-1-570 provide for local accommodations taxes, and Code Sections 6-1-610 through 6-1-660 provide for beach preservation fees.

<sup>3</sup> Code Sections 6-1-700 through 6-1-770 provide for a local hospitality tax.

**Note: This information letter is effective May 1, 2019. It is being issued to reflect certain changes taking effect on April 30, 2019 and May 1, 2019. Georgetown County’s Capital Projects Tax expires on April 30, 2019, and the following counties will begin imposing a local sales and use tax effective May 1, 2019: Beaufort (Transportation), Calhoun (Capital Projects), and Saluda (Capital Projects). In addition, Aiken County’s Capital Projects Tax, which expires on April 30, 2019, will be re-imposed beginning May 1, 2019.**

**As of the date of this information letter, certain other county and municipal local sales and use taxes will be re-imposed over the next few years.<sup>4</sup> Additional information letters will be issued to reflect these changes.**

**CHART 1: COUNTY SALES AND USE TAXES**

(See “Types of Exemptions” section below for a brief description of each exemption listed.)

COUNTY	TYPE OF LOCAL SALES AND USE TAX AND EFFECTIVE DATE	SALES AND PURCHASES EXEMPT FROM LOCAL SALES AND USE TAXES					
		12-36-2120 12-36-2130 STATE EXEMPTIONS	12-36-2110 EXEMPTION FOR MAXIMUM TAX ITEMS	12-36-1710 EXEMPTION FOR CASUAL EXCISE ITEMS	EXEMPTION FOR FOOD STAMP PURCHASES	EXEMPTION FOR CERTAIN FOOD SALES	“GRANDFATHER CLAUSE” EXEMPTION FOR CERTAIN PURCHASES BY CONTRACTORS
<i>Abbeville</i>	Local Option 5/1/92	Yes	Yes	Yes	Yes	No	Yes
<i>Aiken</i>	Capital Projects 5/1/19	Yes	Yes	No	Yes	Yes	Yes
	Ed. Capital Imp. 3/1/15	Yes	Yes	No	Yes	Yes	Yes
<i>Allendale</i>	Local Option 5/1/92	Yes	Yes	Yes	Yes	No	Yes
	Capital Projects 5/1/17	Yes	Yes	No	Yes	Yes	Yes
<i>Anderson</i>	Ed. Capital Imp. 3/1/15	Yes	Yes	No	Yes	Yes	Yes
<i>Bamberg</i>	Local Option 5/1/92	Yes	Yes	Yes	Yes	No	Yes
	Capital Projects 5/1/13	Yes	Yes	No	Yes	Yes	Yes
<i>Barnwell</i>	Local Option 5/1/99	Yes	Yes	Yes	Yes	No	Yes
	Capital Projects 5/1/17	Yes	Yes	No	Yes	Yes	Yes
<i>Beaufort</i>	Transportation 5/1/19	Yes	Yes	No	Yes	No	Yes

<sup>4</sup> Myrtle Beach’s Tourism Development Tax, which expires on July 31, 2019, will be re-imposed beginning August 1, 2019; and Orangeburg County’s Capital Projects Tax, which expires on April 30, 2020, will be re-imposed beginning May 1, 2020. In addition, the Capital Projects Taxes in Bamberg County, Lee County, and Marion County, which are set to expire on April 30, 2021, will be re-imposed beginning May 1, 2021.

SALES AND PURCHASES EXEMPT FROM LOCAL SALES AND USE TAXES							
COUNTY	TYPE OF LOCAL SALES AND USE TAX AND EFFECTIVE DATE	12-36-2120 12-36-2130 STATE EXEMPTIONS	12-36-2110 EXEMPTION FOR MAXIMUM TAX ITEMS	12-36-1710 EXEMPTION FOR CASUAL EXCISE ITEMS	EXEMPTION FOR FOOD STAMP PURCHASES	EXEMPTION FOR CERTAIN FOOD SALES	"GRANDFATHER CLAUSE" EXEMPTION FOR CERTAIN PURCHASES BY CONTRACTORS
<i>Berkeley</i>	Local Option 5/1/97	Yes	Yes	Yes	Yes	No	Yes
	Transportation 5/1/16	Yes	Yes	No	Yes	No	Yes
<i>Calhoun</i>	Local Option 5/1/05	Yes	Yes	Yes	Yes	No	Yes
	Capital Projects 5/1/19	Yes	Yes	No	Yes	Yes	Yes
<i>Charleston</i>	Local Option 7/1/91	Yes	Yes	Yes	Yes	No	Yes
	Transportation 5/1/05	Yes	Yes	No	Yes	No	Yes
	Ed. Capital Imp. 1/1/17	Yes	Yes	No	Yes	Yes	Yes
	Transportation 5/1/17	Yes	Yes	No	Yes	No	Yes
<i>Cherokee</i>	Local Option 5/1/09	Yes	Yes	Yes	Yes	No	Yes
	Ed. Capital Imp. 3/1/15	Yes	Yes	No	Yes	Yes	Yes
<i>Chester</i>	Local Option 5/1/94	Yes	Yes	Yes	Yes	No	Yes
	Capital Projects 10/1/15	Yes	Yes	No	Yes	Yes	Yes
<i>Chesterfield</i>	Local Option 5/1/97	Yes	Yes	Yes	Yes	No	Yes
	School District 9/1/00	Yes	Yes	No	Yes	Yes	Yes
<i>Clarendon</i>	Local Option 5/1/97	Yes	Yes	Yes	Yes	No	Yes
	School District 6/1/04	Yes	Yes	No	Yes	No - effective 7/1/05	Yes
<i>Colleton</i>	Local Option 7/1/91	Yes	Yes	Yes	Yes	No	Yes
	Capital Projects 5/1/15	Yes	Yes	No	Yes	Yes	Yes
<i>Darlington</i>	Local Option 5/1/97	Yes	Yes	Yes	Yes	No	Yes
	Ed. Capital Imp. 3/1/17	Yes	Yes	No	Yes	Yes	Yes

SALES AND PURCHASES EXEMPT FROM LOCAL SALES AND USE TAXES							
COUNTY	TYPE OF LOCAL SALES AND USE TAX AND EFFECTIVE DATE	12-36-2120 12-36-2130 STATE EXEMPTIONS	12-36-2110 EXEMPTION FOR MAXIMUM TAX ITEMS	12-36-1710 EXEMPTION FOR CASUAL EXCISE ITEMS	EXEMPTION FOR FOOD STAMP PURCHASES	EXEMPTION FOR CERTAIN FOOD SALES	"GRANDFATHER CLAUSE" EXEMPTION FOR CERTAIN PURCHASES BY CONTRACTORS
<i>Dillon</i>	Local Option 5/1/96	Yes	Yes	Yes	Yes	No	Yes
	School District 10/1/08	Yes	Yes	No	Yes	Yes	Yes
<i>Dorchester</i>	Transportation 5/1/05	Yes	Yes	No	Yes	No	Yes
<i>Edgefield</i>	Local Option 5/1/92	Yes	Yes	Yes	Yes	No	Yes
<i>Fairfield</i>	Local Option 5/1/06	Yes	Yes	Yes	Yes	No	Yes
<i>Florence</i>	Local Option 5/1/94	Yes	Yes	Yes	Yes	No	Yes
	Capital Projects 5/1/14	Yes	Yes	No	Yes	Yes	Yes
<i>Georgetown</i>	No Local Sales and Use Tax is Imposed in this County						
<i>Greenville</i>	No Local Sales and Use Tax is Imposed in this County						
<i>Greenwood</i>	Capital Projects 5/1/17	Yes	Yes	No	Yes	Yes	Yes
<i>Hampton</i>	Local Option 7/1/91	Yes	Yes	Yes	Yes	No	Yes
	Capital Projects 5/1/13	Yes	Yes	No	Yes	Yes	Yes
<i>Horry</i>	Ed. Capital Imp. 3/1/09	Yes	Yes	No	Yes	Yes	Yes
	Capital Projects 5/1/17	Yes	Yes	No	Yes	Yes	Yes
<i>Jasper</i>	Local Option 7/1/91	Yes	Yes	Yes	Yes	No	Yes
	School District 12/1/02	Yes	Yes	No	Yes	Yes	Yes
	Transportation 5/1/17	Yes	Yes	No	Yes	No	Yes
<i>Kershaw</i>	Local Option 5/1/97	Yes	Yes	Yes	Yes	No	Yes
	Ed. Capital Imp. 3/1/17	Yes	Yes	No	Yes	Yes	Yes
<i>Lancaster</i>	Local Option 5/1/92	Yes	Yes	Yes	Yes	No	Yes
	Capital Projects 5/1/16	Yes	Yes	No	Yes	Yes	Yes

SALES AND PURCHASES EXEMPT FROM LOCAL SALES AND USE TAXES							
COUNTY	TYPE OF LOCAL SALES AND USE TAX AND EFFECTIVE DATE	12-36-2120 12-36-2130 STATE EXEMPTIONS	12-36-2110 EXEMPTION FOR MAXIMUM TAX ITEMS	12-36-1710 EXEMPTION FOR CASUAL EXCISE ITEMS	EXEMPTION FOR FOOD STAMP PURCHASES	EXEMPTION FOR CERTAIN FOOD SALES	"GRANDFATHER CLAUSE" EXEMPTION FOR CERTAIN PURCHASES BY CONTRACTORS
<i>Laurens</i>	Local Option 5/1/99	Yes	Yes	Yes	Yes	No	Yes
<i>Lee</i>	Local Option 5/1/96	Yes	Yes	Yes	Yes	No	Yes
	Capital Projects 5/1/13	Yes	Yes	No	Yes	Yes	Yes
<i>Lexington</i>	School District 3/1/19	Yes	Yes	No	Yes	Yes	Yes
<i>Marion</i>	Local Option 7/1/91	Yes	Yes	Yes	Yes	No	Yes
	Capital Projects 5/1/13	Yes	Yes	No	Yes	Yes	Yes
<i>Marlboro</i>	Local Option 5/1/92	Yes	Yes	Yes	Yes	No	Yes
	School District 2/1/13	Yes	Yes	No	Yes	Yes	Yes
<i>McCormick</i>	Local Option 7/1/91	Yes	Yes	Yes	Yes	No	Yes
	Capital Projects 5/1/17	Yes	Yes	No	Yes	Yes	Yes
<i>Newberry</i>	Capital Projects 5/1/17	Yes	Yes	No	Yes	Yes	Yes
<i>Oconee</i>	No Local Sales and Use Tax is Imposed in this County						
<i>Orangeburg</i>	Capital Projects 4/1/13	Yes	Yes	No	Yes	Yes	Yes
<i>Pickens</i>	Local Option 5/1/95	Yes	Yes	Yes	Yes	No	Yes
<i>Richland</i>	Local Option 5/1/05	Yes	Yes	Yes	Yes	No	Yes
	Transportation 5/1/13	Yes	Yes	No	Yes	No	Yes
<i>Sahuda</i>	Local Option 5/1/92	Yes	Yes	Yes	Yes	No	Yes
	Capital Projects 5/1/19	Yes	Yes	No	Yes	Yes	Yes
<i>Spartanburg</i>	Capital Projects 5/1/18	Yes	Yes	No	Yes	Yes	Yes

SALES AND PURCHASES EXEMPT FROM LOCAL SALES AND USE TAXES							
COUNTY	TYPE OF LOCAL SALES AND USE TAX AND EFFECTIVE DATE	12-36-2120 12-36-2130 STATE EXEMPTIONS	12-36-2110 EXEMPTION FOR MAXIMUM TAX ITEMS	12-36-1710 EXEMPTION FOR CASUAL EXCISE ITEMS	EXEMPTION FOR FOOD STAMP PURCHASES	EXEMPTION FOR CERTAIN FOOD SALES	“GRANDFATHER CLAUSE” EXEMPTION FOR CERTAIN PURCHASES BY CONTRACTORS
<i>Sumter</i>	Local Option 5/1/96	Yes	Yes	Yes	Yes	No	Yes
	Capital Projects 5/1/16	Yes	Yes	No	Yes	Yes	Yes
<i>Union</i>	Local Option 5/1/17	Yes	Yes	Yes	Yes	No	Yes
<i>Williamsburg</i>	Local Option 5/1/97	Yes	Yes	Yes	Yes	No	Yes
	Capital Projects 5/1/17	Yes	Yes	No	Yes	Yes	Yes
<i>York</i>	Capital Projects 5/1/18	Yes	Yes	No	Yes	Yes	Yes

**CHART 2: CATAWBA INDIAN RESERVATION TRIBAL TAX**

(See “Types of Exemptions” section below for a brief description of each exemption listed.)

SALES AND PURCHASES EXEMPT FROM LOCAL SALES AND USE TAXES							
COUNTY	TYPE OF LOCAL SALES AND USE TAX AND EFFECTIVE DATE	12-36-2120 12-36-2130 STATE EXEMPTIONS	12-36-2110 EXEMPTION FOR MAXIMUM TAX ITEMS	12-36-1710 EXEMPTION FOR CASUAL EXCISE ITEMS	EXEMPTION FOR FOOD STAMP PURCHASES	EXEMPTION FOR CERTAIN FOOD SALES	“GRANDFATHER CLAUSE” EXEMPTION FOR CERTAIN PURCHASES BY CONTRACTORS
<i>Catawba Indian Reservation</i>	Tribal Tax (See Notes #1 and #2)	Yes	See Note #2	See Note #2	Yes	See Note #2	See Note #2

**CHART 3: MUNICIPAL SALES AND USE TAXES – LOCAL TOURISM DEVELOPMENT SALES AND USE TAX**

(See “Types of Exemptions” section below for a brief description of each exemption listed.)

SALES AND PURCHASES EXEMPT FROM LOCAL SALES AND USE TAXES							
MUNICIPALITY	TYPE OF LOCAL SALES AND USE TAX AND EFFECTIVE DATE	12-36-2120 12-36-2130 STATE EXEMPTIONS	12-36-2110 EXEMPTION FOR MAXIMUM TAX ITEMS	12-36-1710 EXEMPTION FOR CASUAL EXCISE ITEMS	EXEMPTION FOR FOOD STAMP PURCHASES	EXEMPTION FOR CERTAIN FOOD SALES	“GRANDFATHER CLAUSE” EXEMPTION FOR CERTAIN PURCHASES BY CONTRACTORS
<i>Myrtle Beach</i>	Tourism Development 8/1/09	Yes	Yes	No	Yes	Yes	Yes

## **TYPES OF LOCAL SALES AND USE TAXES:**

**Local Option:** The local option sales and use tax is authorized under Code Section 4-10-10 et seq. This tax is a general sales and use tax on all sales at retail (with a few exceptions) taxable under the state sales and use tax. This tax is imposed to reduce the property tax burden on persons in the counties that impose this type of local tax and is collected by the Department of Revenue on behalf of these counties.

**Capital Projects:** The local capital projects sales and use tax is authorized under Code Section 4-10-300 et seq. This tax is a general sales and use tax on all sales at retail (with a few exceptions) taxable under the state sales and use tax. This tax is imposed specifically to defray the debt service on bonds issued for various capital projects in the counties that impose this type of local tax and is collected by the Department of Revenue on behalf of these counties.

**Transportation:** The local transportation projects sales and use tax is authorized under Code Section 4-37-30 et seq. This tax is a general sales and use tax on all sales at retail (with a few exceptions) taxable under the state sales and use tax. This tax is imposed specifically to defray the debt service on bonds issued for various transportation projects in the counties that impose this type of local tax and is collected by the Department of Revenue on behalf of these counties.

**Personal Property Tax Relief:** The personal property tax relief sales and use tax is authorized under Code Section 4-10-510 et seq. This tax is a general sales and use tax on all sales at retail (with a few exceptions) taxable under the state sales and use tax. This tax is imposed in lieu of the personal property tax imposed on private passenger motor vehicles, motorcycles, general aviation aircraft, boats, and boat motors. The tax may not exceed the lesser of 2% or the amount necessary to replace the property tax on vehicles, motorcycles, general aviation aircraft, boats, and boat motors in the most recently completed fiscal year. **As of the date of this information letter, this tax is not being imposed.**

**Local Property Tax Credits:** The local option sales and use tax for local property tax credits is authorized under Code Section 4-10-720 et seq. This tax is a general sales and use tax on all sales at retail (with a few exceptions) taxable under the state sales and use tax. This tax is imposed to provide a credit against property tax imposed by a political subdivision for all classes of property subject to the property tax and is collected by the Department of Revenue on behalf of these counties. **As of the date of this information letter, this tax is not being imposed.**

**Education Capital Improvement Sales and Use Tax:** The school district or school districts within a county may impose a 1% sales and use tax within the county for specific education capital improvements for the school district. The tax is authorized under Code Section 4-10-410 et seq. and must be approved by a referendum open to all qualified electors residing in the county. Pursuant to a memorandum of agreement, a portion of the revenue may be shared with the area commission (governing body of a technical college) or higher education board of trustees (governing body of a public institution of higher learning) or both, for specific education capital improvements on the campus of the recipient located in the county listed in the referendum.

The General Assembly has established several criteria that make a county or school district eligible to impose this tax. The county or school district must meet only one of these criteria, established in Code Section 4-10-470, in order for the tax to be imposed within the county. Depending on the criteria met, this tax may be imposed for up to 15 years.

**School District Taxes:** The General Assembly has authorized certain school districts to impose a sales and use tax within the county. These taxes are generally imposed to pay debt service on general obligation bonds and/or the cost of capital improvements. These taxes are imposed countywide, whether imposed by the county or one or more school districts.

As of the date of this information letter, these school district taxes are being imposed at a rate of 1%:

<u>County</u>	<u>Act Authorizing Tax</u>
Chesterfield	Act No. 441 of 2000
Clarendon	Act No. 355 of 2004 and Act No. 195 of 2005
Dillon	Act No. 137 of 2007
Jasper	Act No. 146 of 2001
Lexington	Act No. 378 of 2004, Act No. 88 of 2011, and Act No. 278 of 2018
Marlboro	Act No. 204 of 2005

**Catawba Indian Tribal Tax:** The Catawba Indian Reservation is located in Lancaster County, where the general, combined sales and use tax rate on sales of tangible personal property is 8%, and York County, where the general, combined sales and use tax rate is 7%. Code Section 27-16-130(H) contains the specific sales and use tax provisions.

The tribal sales tax is administered and collected by the Department. The tribal use tax is administered and collected by the Catawba Indian Tribe. For additional information on the Catawba Indian Tribal Tax, including information on the specific tax rates for sales of accommodations and unprepared food, see SC Revenue Ruling #98-18 and Notes #1 and #2 at the end of this information letter.

**Tourism Development Tax:** The local tourism development sales and use tax is authorized under Code Section 4-10-910 et seq. This tax is a general sales and use tax on all sales at retail (with a few exceptions) taxable under the state sales and use tax and may only be imposed by a municipality located in a county where revenue from the state accommodations tax is at least \$14 million in a fiscal year. This tax may be imposed by an ordinance adopted by a two-thirds majority of the municipal council or by approval by a majority of qualified electors voting in a referendum authorized by a majority of the municipal council. The tax is imposed specifically for tourism advertisement and promotion directed at nonresidents of South Carolina; however, in the third and subsequent years of this tax, a portion of the tax may be used for certain property tax rollbacks. The tax is collected by the Department of Revenue on behalf of these municipalities.

#### **REMITTANCE OF LOCAL SALES AND USE TAXES BY RETAILERS:**

For information on when a retailer is required to remit a local sales and use tax, see SC Revenue Ruling #18-15.

## **TYPES OF EXEMPTIONS:**

**State Exemptions - 12-36-2120 and 12-36-2130:** Except for sales of unprepared food exempt from the 6% state sales and use tax under Code Section 12-36-2120(75), sales of tangible personal property exempt from the State sales and use tax are exempt from the local sales and use tax if marked “Yes” in this column of the above charts.

Note: Sales of unprepared food are only exempt from a local sales and use tax if the local sales and use tax law specifically exempts such sales. For information on the exemption for sales of unprepared food from local sales and use taxes, see the discussion below entitled “Exemption for Certain Food Sales.”

**Exemption for Maximum Tax Items - Code Section 12-36-2110:** Sales of items subject to a maximum tax under the State sales and use tax law [i.e., aircraft, motor vehicles, motorcycles, boats, trailers and semitrailers pulled by truck tractors,<sup>5</sup> horse trailers, recreational vehicles (including tent campers, travel trailers, park models, park trailers, motor homes, and fifth wheels), self-propelled light construction equipment, unassembled aircraft, manufactured homes, musical instruments and office equipment purchased by certain religious organizations and fire safety education trailers] are exempt from the local sales and use tax if marked “Yes” in this column of the above charts.

Note: Code Section 12-36-2120(83) exempts from state and local sales and use tax the sale or purchase of each vehicle or other item that is subject to an infrastructure maintenance fee under Code Section 56-3-627. The infrastructure maintenance fee is due when the vehicle or other item is first registered with the South Carolina Department of Motor Vehicles pursuant to Chapter 3 of Title 56. See SC Information Letter #17-10 and SC Revenue Ruling #18-1.

**Exemption for Casual Excise Tax Items - Code Section 12-36-1710:** Sales of items subject to the casual excise tax under Code Section 12-36-1710 through Code Section 12-36-1740 (i.e., boats, motors,<sup>6</sup> and airplanes required to be registered, titled, or licensed) are exempt from the local sales and use tax if marked “Yes” in this column of the above charts.

**Exemption for Food Stamp Purchases:** Sales of food purchased with food stamps are exempt from the State sales and use tax; therefore, such sales are exempt from the local sales and use tax if marked “Yes” in this column of the above charts.

**Exemption for Certain Food Sales:** Sales of certain foods are exempt from the local sales and use tax if marked “Yes” in this column of the above charts. Sales of foods which are eligible to be purchased with United States Department of Agriculture food stamps come under this exemption. This exemption applies to everyone, not just persons using food stamps.

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<sup>5</sup> Pole trailers and trailers that can be pulled by vehicles other than truck tractors are not maximum tax items under Code Section 12-36-2110 and are subject to the local sales and use tax.

<sup>6</sup> As of the date of this information letter, all casual excise tax items listed under Code Section 12-36-1710, except for boat motors not attached to a boat at the time of sale, are also maximum tax items under Code Section 12-36-2110. Therefore, boat motors not attached to a boat at the time of sale are exempt from local sales and use taxes only if there is a “Yes” in the “Casual Excise Items” column of the above charts.

Foods which may be purchased with food stamps and are exempt from these local sales and use taxes include:

- \* Any food intended to be eaten at home by people, including snacks, beverages and seasonings
- \* Seeds and plants intended to grow food (not birdseed or seeds to grow flowers)
- \* Cold items, which may include salads or sandwiches, intended to be eaten at home by people

Items which cannot be purchased with food stamps and are, therefore, subject to these local sales and use taxes are:

- \* Alcoholic beverages, such as beer, wine, or liquor
- \* Hot beverages ready to drink, such as coffee
- \* Tobacco
- \* Hot foods ready to eat
- \* Foods designed to be heated in the store
- \* Hot and cold food to be eaten at a lunch counter, in a dining area or anywhere else in the store or in a nearby area such as a mall food court
- \* Vitamins and medicines (Note: Sales of certain medicines are exempt from the State sales and use tax, and therefore, are also exempt from all local sales and use taxes.)
- \* Pet food
- \* Any non-food items such as tissue, soap or other household goods

For more detailed information on this food exemption, see SC Regulation 117-337.

**“Grandfather Clause” Exemption for Certain Purchases by Construction Contractors:**

All the local sales and use taxes discussed in this information letter exempt purchases of building materials for use under a construction contract if both of the following conditions are met:

- A. 1. the construction contract is executed before the imposition date; or
  2. a written bid is submitted before the imposition date culminating in a construction contract entered into before or after the imposition date; and
- B. a verified copy of the contract is mailed within 6 months of the imposition date to:

SC Department of Revenue  
P.O. Box 125  
Columbia, SC 29214-0400

A "verified copy" is a copy accompanied by a statement, signed under penalties of perjury, that it is true and correct. If the contractor is a corporation, the statement is to be signed by an officer of the corporation or an employee authorized to sign. If the contractor is a partnership, the statement is to be signed by a general partner. If the contractor is a sole proprietorship, the owner is to sign.

**Special Exemption Certificate.** In order for a contractor to purchase building materials for a particular contract free of the local tax, the contractor must complete Form ST-10-C ("Application for Exemption from Local Tax for Construction Contractors") and submit it to the Department of Revenue. If the Department determines the contract in question meets the above requirements, the contractor will be issued a special exemption certificate (Form ST-585). The certificate may only be used to purchase building materials for the contract for which it is issued and may not be used to purchase anything other than building material. If the contractor uses this certificate to make purchases free of the local tax, upon which the tax should have been paid, then the contractor will be held liable for the tax. **Also, the certificate does not allow the contractor to make purchases of building materials free of the State tax.**

An exemption certificate (Form ST-585) issued by the Department of Revenue to a prime contractor under this exemption may not be used by a subcontractor nor may a prime contractor use a subcontractor's exemption certificate. Each contractor must obtain his own certificate for each construction contract.

**CATAWBA INDIAN TRIBAL TAX – NOTES #1 and #2:**

**Note #1:** Whether the State sales and use tax or the Catawba Tribal sales and use tax for sales (deliveries) made on the Catawba Indian Reservation applies is determined by the Catawba Indian Claims Settlement Act (Chapter 16, Title 27, South Carolina Code of Laws). The provisions specific to sales and use tax are in Code Section 27-16-130(H).

The Catawba Tribal sales and use tax expires on November 28, 2092.

The following chart provides a summary of these provisions:

<b><u>Delivery on the Reservation From:</u></b>	<b>Type Tax Applicable</b>	<b><u>Administered and Collected By:</u></b>
Location On the Reservation	Tribal Sales Tax (Equal to Combined State and Local Rate*)	DOR
Location Off the Reservation But in SC – Sales \$100 or less	State Sales Tax (Local Taxes Do Not Apply.)	DOR
Location Off the Reservation But in SC – Sales Over \$100	Tribal Sales Tax (Equal to Combined State and Local Rate*)	DOR
Location Off the Reservation and Outside the State – Seller Registered with DOR	State Use Tax (Local Taxes Do Not Apply.)	DOR
Location Off the Reservation and Outside the State – Seller Not Registered with DOR	Tribal Use Tax (Equal to Combined State and Local Rate*)	Catawba Indian Tribe

\* Lancaster County imposes a 1% Local Option Tax and a 1% Capital Projects Tax. York County imposes a 1% Capital Projects Tax. These local taxes are in addition to the State sales and use tax.

As of the date of this information letter, the tribal sales tax and the tribal use tax are imposed at the following rates:

For sales (deliveries) made on the Reservation within Lancaster County:

- 8% for general sales of tangible personal property
- 9% for sales of accommodations
- 1% for sales of unprepared foods<sup>7</sup>

For sales (deliveries) made on the Reservation within York County:

- 7% for general sales of tangible personal property
- 8% for sales of accommodations
- 0% for sales of unprepared foods

Please note that the rate for the tribal sales tax and the tribal use tax may increase or decrease dependent upon whether the total state and local sales and use tax rates change in Lancaster County or York County in the future.

For additional information, see SC Revenue Ruling #98-18.

**Note #2: Maximum Tax Items:** For sales (deliveries) made on the Reservation of tangible personal property subject to the maximum tax provisions, the tribal sales and use tax rate is 5% in each county (since the state sales and use tax on maximum tax items is 5% and maximum tax items are exempt from all local sales and use taxes), but the tax may not exceed the maximum tax set forth in Code Section 12-36-2110.

**Casual Excise Tax Items:** Counties imposing a local sales and use tax that does not exempt casual excise tax items will impose the local tax on sales and purchases of boat motors not attached to a boat at the time of sale.

Therefore, for sales (deliveries) of boat motors made on the Reservation within Lancaster and York Counties, the tribal sales and use tax rate is 7% (since only the local option tax in Lancaster County exempts casual excise tax items).

**“Grandfather Clause” Exemption for Certain Purchases by Construction Contractors:** As a result of any increase in the tribal sales and use tax rate due to the imposition of a new local sales and use tax in either Lancaster County or York County, there is an exemption from the portion of the tribal sales and use tax represented by the new local sales and use tax for certain purchases by construction contractors. For more information about this partial exemption, see the discussion earlier in this information letter concerning *“Grandfather Clause” Exemption for Certain Purchases by Construction Contractors* and the *Special Exemption Certificate*.

**These charts only address the general local option taxes collected by the Department of Revenue on behalf of the counties, municipalities, school districts, and the Catawba Indian tribal government. They do not address the local taxes on sales of accommodations or on sales of prepared meals that are collected directly by the counties or municipalities.**

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<sup>7</sup> The Capital Projects Tax in Lancaster County exempts sales of unprepared food; however, the 1% Local Option Tax does not exempt sales of unprepared food.

# *State of South Carolina*

## *State Ethics Commission*

**BRIAN M. BARNWELL, CHAIR  
VICTOR K. LI, VICE CHAIR  
DONALD GIST  
DON JACKSON**



**BRANDOLYN THOMAS PINKSTON  
CHILDS CANTEY THRASHER  
ASHLEIGH R. WILSON  
SAMUEL L. ERWIN**

**201 EXECUTIVE CENTER DRIVE, SUITE 150  
COLUMBIA, S.C. 29210**

**MEGHAN L. WALKER  
EXECUTIVE DIRECTOR**

**SEC AO2018-004**

**July 19, 2018**

**SUBJECT:** USE OF PUBLIC RESOURCES TO INFLUENCE THE OUTCOME OF AN ELECTION OR BALLOT MEASURE; INFORMATIONAL MATERIALS CONCERNING A BALLOT MEASURE

**QUESTIONS:** According to the Beaufort County (County) Council\_(Council), two referenda will appear on the ballot for voter approval in an upcoming election. Council Members want to express their personal opinions on these referenda during Council meetings and ask to what extent such expressions are permissible under § 8-13-1346, which prohibits the use of “public funds, property, or time” in an attempt to influence the outcome of a ballot measure.

Council also asks if § 8-13-1346(C), which permits Council to expend public resources to prepare “informational materials” on these referenda, requires the materials to be viewpoint neutral or whether the Council may provide information that portrays the referenda in a positive or negative light.

**SUMMARY:** A Council Member’s expression of a personal opinion on a ballot measure during a Council meeting constitutes use of public resources. Whether such an expression constitutes an attempt to influence the outcome of a ballot measure in violation of § 8-13-1346 is a factual question and must be determined by looking to the totality of the circumstances.

Informational materials provided pursuant to § 8-13-1346(C) must be informational only and must not favor one side of a controversy over another. Whether such materials are “informational” will be determined by looking to factors such as the style, tenor, and timing of the publication.

**APPLICABLE LAW:**

Section 8-13-1346 provides:

- (A) A person may not use or authorize the use of public funds, property, or time to influence the outcome of an election.
- (B) This section does not prohibit the incidental use of time and materials for preparation of a newsletter reporting activities of the body of which a public official is a member.
- (C) This section does not prohibit the expenditure of public resources by a governmental entity to prepare informational materials, conduct public meetings, or to respond to news media or citizens' inquiries concerning a ballot measure affecting that governmental entity; however, a governmental entity may not use public funds, property, or time in an attempt to influence the outcome of a ballot measure.

**DISCUSSION:**

Section 8-13-1346 prohibits the use of "public funds, property, or time" in an attempt to influence the outcome of a ballot measure. Therefore, the Commission must analyze the following: (1) whether a Council Member's expression of a personal opinion on a ballot measure during a Council meeting constitutes use of public funds, property, or time; and, if so, (2) whether such an expression is an attempt to influence the outcome of a ballot measure.

**Question 1(A): Does a Council Member's expression of a personal opinion during a Council meeting constitute a use of public funds, property, or time?**

Yes. The Commission finds that a publicly called Council meeting constitutes a use of public resources and, therefore, any action taken during such a meeting also constitutes a use of public resources.

In its request, Council focuses on the use of "public time," urging this Commission to treat Council Members differently by requiring more than the use of public time to find a violation of § 8-13-1346. In support of this argument, Council contends that, unlike public employees, Council Members "are in a sense always on public time . . ." Therefore, according to Council, a Council Member must utilize more than just his or her time in an attempt to influence a ballot measure in order to be subject to potential violations of § 8-13-1346.

Indeed, there is some precedent for this distinction in prior Commission and Attorney General opinions. See SEC AO2018-003 (finding the prohibitions against use of public resources to influence the outcome of an election or ballot measure do not generally apply when elected or appointed officials are acting in their private capacities)<sup>1</sup>; SEC AO2000-008 (prohibiting campaign

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<sup>1</sup> Specifically, SEC AO2018-003 allowed County Council Members to take the following actions in their private capacities when not using public resources: (1) writing letters to the editor of a

activity during normal working hours and advising that “[t]he use of staff time while on the state’s payroll is prohibited by the Act”); S.C. Atty. Gen. Op., Dec. 23, 2013 (2013 WL 6924890) (“ . . . the Governor does not stop being the Governor at 5:00 P.M. He is Governor twenty-four hours a day, and must respond to the duties of his office whenever they arise.”).

However, in this instance, this argument creates a distinction without a difference, as it is difficult to imagine how Council could call or hold a Council meeting without using additional public property, facilities, materials, equipment, or personnel. Therefore, a Council Member’s expression of a personal opinion on a ballot measure during a Council meeting constitutes a use of public resources for purposes of § 8-13-1346. The relevant question then follows—when does such an expression constitute an attempt to influence the outcome of a ballot measure?

**Question 1(B): When is a Council Member’s expression of a personal opinion during a Council meeting used “to influence the outcome of a ballot measure?”**

The Commission advises that whether a Council Member’s expression of a personal opinion on a ballot measure during a Council meeting should be construed as an attempt to influence the outcome of a ballot measure is a factual question that must be determined by looking to the totality of circumstances in any given case. Undoubtedly, if such an expression unambiguously urges voters to support or oppose a particular side of a controversy, this would violate the Ethics Reform Act. However, when a statement does not unambiguously urge voters to support or oppose one side over another, the Commission may also consider whether the statement contains: (1) any indications of advocacy; (2) any misleading tendencies, including amplification, omission, or fallacy; and (3) any partisan coloring.<sup>2</sup>

By enacting § 8-13-1346, the General Assembly has clearly indicated its intent to prohibit the use of public resources in an attempt to influence the outcome of a ballot measure. The Commission acknowledges that individual elected officials may freely advocate for or against matters that may be on the ballot, but finds it would be inappropriate to use public resources to support their efforts.

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local newspaper advocating for or against a referendum; (2) making public speeches before private groups (such as Rotary Clubs) advocating for or against a referendum; (3) organizing a public meeting on his or her own time and own expense to discuss the pros and cons of a referendum without any restrictions on what can be discussed at this meeting; or (4) meeting to discuss or promote the referendum in a public building such as a public library, so long as the official’s position is not used to access the public building, and the building is available on equal terms and at the same cost to all members of the general public.

<sup>2</sup> This factor-based test, which the Commission finds appropriate, derives from a 2015 Arizona Attorney General’s opinion provided by Council’s attorney. See Ariz. Atty. Gen. Op. No. I15-002 (2015 WL 4719005).

**Question 2: Must the “informational materials” provided pursuant to § 8-13-1346(C) be viewpoint neutral?**

Yes. The Commission finds § 8-13-1346(C) allows Council to provide only informational, rather than promotional, materials to voters on a ballot measure. The rules of statutory construction require the Commission to consider § 8-13-1346(C) “in conjunction with the purpose of the whole statute and the policy of the law.” Georgia-Carolina Bail Bonds, Inc. v. Aiken, 354 S.C. 18, 579 S.E.2d 334 (Ct. App. 2003). Although the term “informational” is not defined within the Act, allowing Council to favor one side of a controversy over another would be inconsistent with other provisions in the Act requiring impartiality and neutrality related to the use of public resources. See § 8-13-765(B) (allowing a governmental entity to provide public facilities for political meetings or campaign purposes only so long as they are available on similar terms to all candidates and committees); § 8-13-765(C) (allowing government personnel to participate in election campaigns only when on their own time and on nongovernment premises); § 8-13-1336 (prohibiting acceptance or solicitations of campaign contributions on State Capitol grounds and surrounding areas); § 8-13-1338 (prohibiting solicitation of contributions by law enforcement officers in uniform, judicial candidates, solicitors/investigators, and the Attorney General); § 8-13-1346(B) (allowing a governmental entity incidental use of time and materials to provide a newsletter reporting the activities of the body).

To be clear, the prohibitions in § 8-13-1346(C) do not “bar knowledgeable public agencies from disclosing relevant information to the public, so long as such disclosure is full and impartial.” Stanson v. Mott, 551 P.2d 1 (Cal. 1976). However, the information provided must not be an attempt to convince voters to take a particular action. Rather, it must be a balanced presentation of the facts which takes into account all the consequences of a particular proposal. See Dollar v. Cary, 569 S.E.2d 731 (N.C. Ct. App. 2002) (finding local government advertising designed to promote a particular side of an issue to influence the outcome of an election is impermissible). The Commission further finds that even when a publication or communication imparts useful information and does not expressly advocate for or against a particular vote, the determination of whether such materials are informational is a factual question, and it will consider factors such as the publication’s style, tenor, and timing. The Commission finds this to be a reasonable prohibition, given that public resources entrusted to the government belong equally to the proponents and opponents of any given proposal.

# BEAUFORT COUNTY LOCAL OPTION SALES TAX

## FREQUENTLY ASKED QUESTIONS

### 1) How will the local option sales tax question appear on the ballot this November?

- “Must a one percent sales and use tax be levied in Beaufort County for the purpose of allowing a credit against a taxpayer’s county and municipal ad valorem tax liability and for the purpose of funding county and municipal operations in the Beaufort County area?”  
[ ] YES  
[ ] NO

### 2) How does raising the sales tax reduce my property tax?

- By state law, 71% of the money collected each year must go directly towards reducing the real & personal property tax burden for all Beaufort County property owners. If you own property within the limits of the City of Beaufort, Town of Port Royal, Town of Yemassee, Town of Hardeeville, Town of Hilton Head Island, or Town of Bluffton, you will see a reduction in your tax bill. This would be shown as a credit on your annual tax notice. *Reference: SC Code of Laws, Section 4-10-90 (Item B, #5)*

### 3) What qualifies for reduced property tax?

- real property (houses, land, etc)
- personal property (boats, cars, mopeds, etc)
- commercial and industrial buildings
- personal business property

### 4) Does this only apply to my primary residence?

- No. This applies to ALL property that you own and pay taxes on in Beaufort County.

### 5) I don't own a home, how is this going to help me?

- Any individual that owns personal property (vehicles, watercraft, etc) will see a reduction. In addition, renters' landlords will see a reduction that could theoretically be passed on to renters.

### 6) What purchases would the sales tax be applied to?

- Any purchases made of retail goods and certain services in the County of Beaufort. We estimate that a significant portion of this tax will be paid by visitors.

### 7) When would my taxes be reduced?

- The tax will begin to be collected in May following the referendum adoption in November.
- Real property tax reductions will appear on your annual notice the following year after the referendum is adopted. For example, if the referendum is adopted in November of 2021, your 2021 property tax bill will contain the credit.
- Personal property tax reductions will begin after the tax begins being collected in May.

### 8) Does the 1% sales tax apply to groceries?

- Yes. The legislation does not allow certain groceries items to be exempted from the Local Option Sales Tax. However, any items that are purchased through the food stamp program are exempt.

**9) Does this tax have a sunset?**

- The tax does not have a specific sunset date. However, it can be rescinded via petition and vote by Beaufort County voters on a future ballot.

**10) What happens if the sales tax doesn't generate enough money?**

- The amount of the tax credit will be estimated for the first year and then will be adjusted every year after that to reflect the actual amounts that were collected during the previous year. At a minimum, 71% of all the funds collected each year will go directly towards reducing property taxes. The other 29% will be split between Beaufort County and each municipality (city or town).

**11) Can I vote for this tax with a "straight party" ticket?**

- The local option sales tax will appear as a separate, non-partisan question on the ballot and voters will have to select "yes" or "no" to the referendum question.

**12) Where else am I paying this tax?**

- 32 out of 46 counties in the South Carolina have passed a Local Option Sales Tax.
- Some surrounding counties: Anytime you purchase goods or services in the Counties of Colleton, Jasper, Hampton, Charleston or the City of Savannah, you are paying their Local Option Sales Tax. That means most purchases you make in any of these counties decreases the property taxes owed by the property owners in that county.

**13) Will the local option sales tax affect the Homestead Exemption?**

- No. The Homestead Tax Exemption exempts the first \$50k in assessed value of your primary residence.

**14) Will this be in addition to the Transportation Tax that is currently being collected?**

- It is possible to have more than one sales tax in effect at the same time. However, based on the current annual Transportation Tax revenues that have been collected, the Transportation Tax may be concluded prior to its current expiration date of 2022.

**15) What is our current sales tax rate?**

- Beaufort County's current tax structure
  - 6% State sales tax
  - 1% Transportation Tax
  - Total – 7% sales & optional taxes
- Approval of the local option sales tax would keep Beaufort County at 7% (below the state county average of 7.6%, as the Transportation Tax collections are scheduled to meet their cap by end of FY 2021).
- Hospitality and Accommodation Taxes are collected separately from sales taxes and only apply to specific goods and services.

**16) When would the collection of the 1% begin?**

- Collection of the 1% local option sales tax begins in May of 2022 following a successful referendum.

**17) Would the local option sales tax change the school district taxes?**

- No, this will not have an impact on taxes imposed by the school districts in Beaufort County.

## 1% Local Option Sales Tax Referendum

This tax is imposed to reduce the property tax burden on citizens living in the County. The local option sales and use tax is authorized under Code Section 4-10-10. The tax is on all purchases made by visitors or residents at retail locations (with a few exceptions) taxable under the state sales and use tax.

32 of 46 South Carolina counties have implemented this sales tax to date.

Local Option Sales Tax approval requires voters to approve on Tuesday, November 2, 2021.

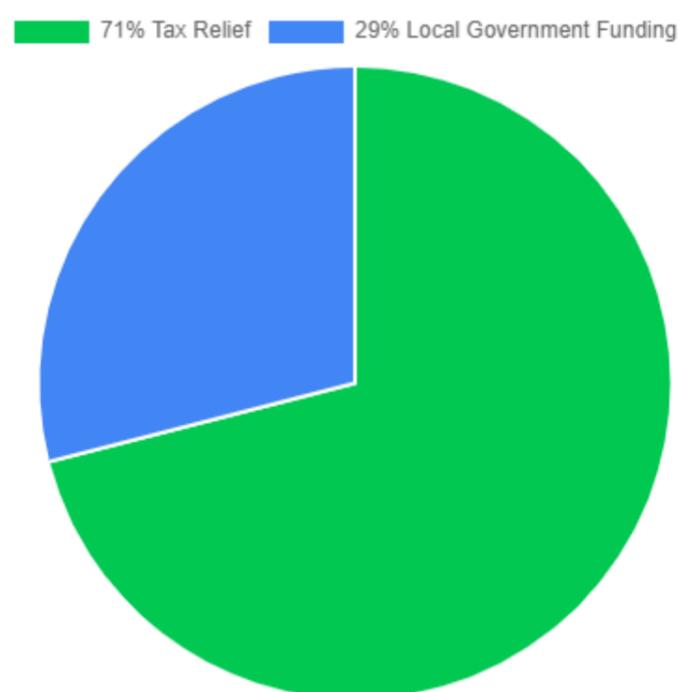
The 1% tax will begin to be collected on May 1, 2022, if passed by voters.

According to estimates prepared by the South Carolina Revenue and Fiscal Affairs Office, a 1% local options sales tax would generate approximately \$49 million in revenue in Beaufort County in FY 2022-23.

\$32 million would be allocated back to resident taxpayers in the form of property tax credits.

Local Option Sales Tax can be repealed no earlier than two years after implementation with a petition of 15% qualified voters to the County Council and a referendum the next election day.

### LOST Proceeds



#### ✓ Tax Relief

- 71% of the money collected is placed into the Property Tax Credit Fund.
- The tax property owners pay will be reduced and be shown as a credit on your property tax bill

#### ✓ Funding for local governments

- 29% from the revenue fund would be used by local municipalities to supplement county and municipal operations in order to provide better Emergency Medical Services, Road and building maintenance, and community services.



### **How much Property Tax relief will a taxpayer receive?**

- The amount of property tax relief will depend on where you live. Unincorporated areas and the City of Beaufort along with the Towns of Bluffton, Port Royal and Hilton Head each have different property tax rates.
- South Carolina DOR is currently working estimates for each area of Beaufort County.



### **Repeal**

- If the voters feel the tax has not provided enough tax relief or that it is not needed any longer, the tax can be repealed. It must be no earlier than two years after implementation, and a petition of 15% of qualified voters must be presented to the County Council. A referendum will be placed on the ballot the next election day.



# Local Option Sales Tax

October 5, 2021

# Introduction:

Town Council met on September 20, 2021 to consider the upcoming Local Option Sales Tax (LOST) referendum:

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*Staff presented initial information about:*

- 1. How the LOST law works*
- 2. Initial estimates for possible financial impacts*

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Town Council met on September 20, 2021 to consider the upcoming Local Option Sales Tax (LOST) referendum:

Staff presented initial information about:

1. How the LOST law works
2. Initial estimates for possible financial impacts

*We have since heard more input from Town Council.*

*Based on Town Council's input, the staff recommendation has evolved.*

# A Quick Recap of the Background . . .

# Who?

**The State of South Carolina** gives local jurisdictions the option to enact Local Option Sales Tax (LOST).

- State law prescribes the process how to hold a referendum for the **public** to choose to enact this tax (SC Code 4-10-10) through the ballot.
- 32 of 46 South Carolina counties have implemented this sales tax to date.

# What?

## A 1 % Local Option Sales Tax (LOST).

- A tax on visitors and residents at retail locations (with a few exceptions) for transactions taxable under the state sales and use tax regulations.
- Primarily to provide tax relief for all citizens living in Beaufort County.
- The tax also provides funding for local governments by a state-mandated formula.

# When?

Local voters will have the opportunity to vote on the ballot to approve or not on Tuesday November 2, 2021.

# When(continued)?

Local voters will have the opportunity to vote on the ballot to approve or not on Tuesday November 2, 2021.

**The local option sales tax question will appear on the ballot:**

“Must a one percent sales and use tax be levied in Beaufort County for the purpose of allowing a credit against a taxpayer’s county and municipal ad valorem tax liability and for the purpose of funding county and municipal operations in the Beaufort County area?”

YES  NO

# When (continued)?

## **If Voters Approve:**

- The 1% sales tax will begin on May 1, 2022.
- The property tax credits will be effective for the tax bills scheduled to go out in October 2022.

# Why?

The primary reason voters could choose this option – *is to provide property tax relief* – funded by both residents and visitors to the County.

- Another consideration about this proposal is that some of the proceeds will be available for all jurisdictions of Beaufort County – Beaufort, Bluffton, Hardeeville, Hilton Head Island, Port Royal and unincorporated Beaufort County.

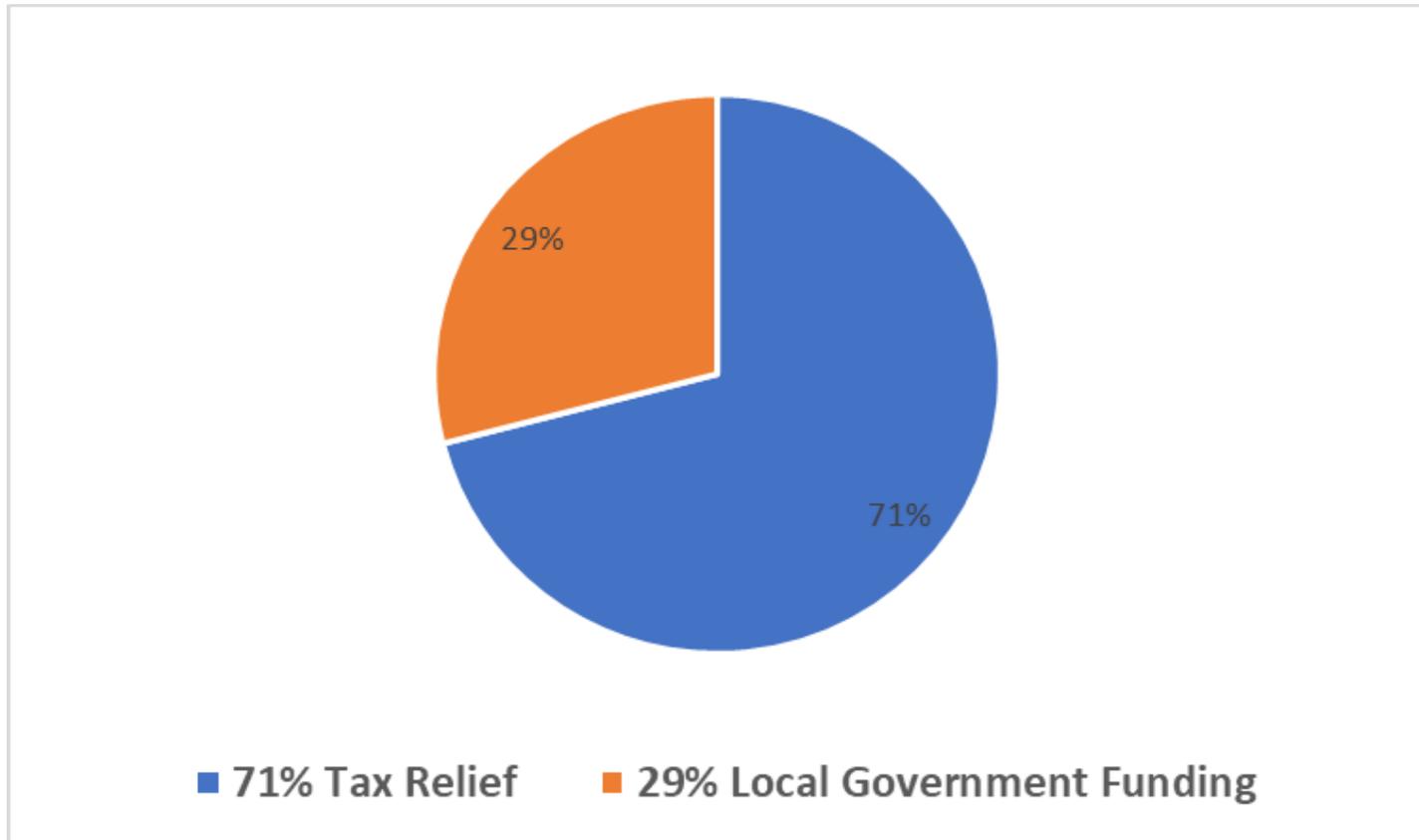
# How Much Revenue Are We Talking About?

- The State of South Carolina Revenue and Fiscal Affairs Office estimates Beaufort County will receive \$49 million in collections from Beaufort County in FY 2022–23.
- At least \$32 million would be allocated back to resident taxpayers in the form of property tax credits.

# How Is The Revenue Split?

- State law prescribes certain requirements on how the proceeds of the tax should be allocated.
- Although the majority of the proceeds would be for property tax relief, each jurisdiction has some discretion in the allocation of the proceeds.

# How is the Revenue Split?



# How Does Tax Relief Work?

- 71% of the money collected is placed into the Property Tax Credit Fund.
- The tax property owners pay will be reduced and be shown as a credit on their property tax bill.

# How Does “Funding for Local Governments” Work?

- 29% from the Revenue Fund would be available for local jurisdictions.
- These funds could be used to supplement county and municipal operations --in order to provide better Emergency Medical Services, Road and building maintenance, and community services or other items.
- Each local jurisdiction’s legislative body would decide how to allocate the funds annually through the budget process.
- The funds could also be used (some or all) for additional property tax relief.

# How Much Property Tax Relief Will a Taxpayer Receive?

- Property Tax Credits will be dependent on actual collections of the 1% sales tax.
- The amount of property tax relief will depend on where you live. Unincorporated areas and the City of Beaufort along with the Towns of Bluffton, Port Royal and Hilton Head Island each have different property tax rates.
- SC Department of Revenue is working on updating estimates for each area of Beaufort County (we have shared some early estimates last month).

# Is Repealing the LOST an Option?

- Yes. If the LOST is voted in, there is a legal mechanism to repeal the tax.
- If the voters feel the tax is no longer needed, it can be repealed.
- It must be no earlier than two years after implementation.
- A petition of 15% of qualified voters must be presented to the County Council.
- A referendum will be placed on the ballot the next election day.

# Who Decides What is Taxable and Tax Exempt?

- The State of South Carolina
- These details are available from the SC Department of Revenue Information Letter #19-9.
- The department publishes a chart with various types of local sales and use taxes collected by the department and the exemptions allowed under each tax.
- This information is available on the Department's website ([dor.sc.gov](http://dor.sc.gov)).
-

# Has Anyone Else Published Information About LOST?

- Beaufort County has published LOST information
- This information is available on the Beaufort County website.
- This can be found at:
- <https://www.beaufortcountysc.gov/topics/local-option-sales-tax/index.html>

# A Few FAQs:

## **What qualifies for reduced property tax?**

- real property (houses, land, etc)
- personal property (boats, cars, mopeds, etc)
- commercial and industrial buildings
- personal business property

## **Does this only apply to my primary residence?**

- No. This applies to ALL property that you own and pay taxes on in Beaufort County.

## **I don't own a home, how is this going to help me?**

- Any individual that owns personal property (vehicles, watercraft, etc) will see a reduction. In addition, renters' landlords will see a reduction that could theoretically be passed on to renters.

## A Few FAQs (continued):

### **What purchases would the sales tax be applied to?**

- Any purchases made of retail goods and certain services in the County of Beaufort. We estimate that a significant portion of this tax will be paid by visitors.

### **Does the 1% sales tax apply to groceries?**

- Yes. The legislation does not allow certain groceries items to be exempted from the Local Option Sales Tax. However, any items that are purchased through the food stamp program are exempt.

## What Happens if the Sales Tax Does Not Generate Enough Money?

- The amount of the tax credit will be estimated for the first year and then will be adjusted every year after that to reflect the actual amounts collected during the previous year.
- ***At a minimum, 71% of all the funds collected each year will go directly towards reducing property taxes.***
- The other 29% will be split between Beaufort County and each municipality (city or town).

# What Has Already Happened?

- Beaufort County Council has voted to place the Local Option Sales Tax on the ballot on November 2, 2021.
- The Towns of Beaufort, Bluffton, Hardeeville, Port Royal and Yemassee have already chosen a consultant to help craft a communication consistent with State law to help the voters have the information they need to make an informed decision.
- They have asked the Town to join in their efforts to help share educational information prior to the election.
- This ask includes a not to exceed \$15k – approximately \$10k funding for crafting the message and \$5k for marketing materials.

# What are Town Council's choices?

- Our neighbors (Beaufort, Bluffton, Hardeeville, Port Royal and Yemassee) have asked us to join their efforts to share factual information to the public.
- If the voters approve, Town Council will have the opportunity to choose how to allocate the 29% specific to the Town of Hilton Head Island.
- Staff has made a previous recommendation on the possible allocation of the 29% funds.
- Town Council does NOT have to choose anything at this time.
- Town Council could make allocation of these funds part of the normal, deliberative annual budget process.

# What Are Our Town's Possible Uses of the 29% funds?

- **Additional property tax relief** (for some or all of the 29% funds).
- **Capital Improvements to the Island:** There have been identified needs such as parks enhancements, road enhancements, pathway enhancements, Town facility improvements, Land Acquisition – including workforce housing and economic development to include repurposing commercial buildings if Town Council would choose.
- **Enhance Town operations.** State law limits Town millage revenue increases by Act 388. Some of the funding could be used to supplement enhanced Town services that would not be possible otherwise.
- **Or any combination of these items.**

# What Were Those Amounts We Saw Before?

	<b>State</b>	<b>County Tax Relief</b>	<b>Municipal Tax Relief</b>	<b>Split by Jurisdiction</b>	<b>Total by Jurisdiction</b>
State	2,429,368	-	-	-	2,429,368
Beaufort County	-	21,957,359	-	6,504,071	28,461,430
Beaufort	-	-	1,827,505	1,533,622	3,361,127
Bluffton	-	-	1,906,158	1,329,604	3,235,762
Hilton Head	-	-	5,484,880	3,600,271	9,085,151
Port Royal	-	-	1,578,683	414,733	1,993,416
Yemassee	-	-	17,593	3,516	21,110
Hardeeville	-	-	-	-	-
<b>Total</b>	<b>2,429,368</b>	<b>21,957,359</b>	<b>10,814,818</b>	<b>13,385,819</b>	<b>48,587,364</b>

# What Were Our Allocations We Saw Before?

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Hardeeville	-	-	-	-	-
<b>Total</b>	<b>2,429,368</b>	<b>21,957,359</b>	<b>10,814,818</b>	<b>13,385,819</b>	<b>48,587,364</b>

# Estimated Town tax relief – a couple of examples:

	-----Primary home 4%-----	
Estimate	Property	Property
Projected Sales Tax Revenue	5,484,880	5,484,880
Appraised Values	19,623,981,388	19,623,981,388
LOST Credit Factor	0.0279498838%	0.0279498838%
Appraised Value	<b>350,000</b>	<b>471,000</b>
Lost Credit	97.82	131.64
4% Assessment	14,000	18,840
Municipal Millage Rate	28.1	28.1
County Millage Rate	64.2	64.2
Property Taxes - Municipal	393.40	529.40
Property Taxes - County	898.80	1,209.53
Total Current Taxes	1,292.20	1,738.93
Municipal LOST Credit	(97.82)	(131.64)
County LOST Credit	(435.45)	(585.99)
New Property Tax	758.93	1,021.30
Estimated Total Tax Credit	<b>(533.27)</b>	<b>(717.63)</b>

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Lost Credit	97.82	131.64
4% Assessment	14,000	18,840
Municipal Millage Rate	28.1	28.1
County Millage Rate	64.2	64.2
Property Taxes - Municipal	393.40	529.40
Property Taxes - County	898.80	1,209.53
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New Property Tax	758.93	1,021.30
Estimated Total Tax Credit	<b>(533.27)</b>	<b>(717.63)</b>



# The Estimated Town Tax Relief – A Couple of Examples:

For the homeowner with a \$350,000 valued property, as long as the annual taxable purchases were less than \$53,327, there would be a net benefit to the homeowner in the shift from property taxes to sales taxes.

For the homeowner with the \$471,000 valued property, as long as the annual taxable purchases were less than \$71,763, there would be a net benefit to the homeowner in the shift from property taxes to sales taxes.

These outcomes are possible because visitors are helping to pay the sales taxes.

The area median income (AMI) for 2018 is:  
\$35,132 for individual  
\$73,972 for household

# The Staff Has Updated its Recommendations:

There is a revised resolution to consider – based on input from Town Council.

1. Support conducting a referendum to ask the voters to decide.
2. Provide for the distribution of revenues – 71% for property tax relief (as required by state law) and 29% to be decided annually through the budget process by Town Council.
3. Authorize Town Manager to enter into an Intergovernmental Agreement to provide objective, educational information.

# Comments or Questions?

# Other Information . . .

- Updated staff memo
- Revised LOST Resolution
- Proposed Intergovernmental Agreement
- SC Dept. of Revenue Regulations on Sales and Use Taxes
- SC State Ethics Opinions
- Frequently Asked Questions (FAQs)
- Beaufort County LOST materials
- Updated LOST Presentation