

ORDINANCE 2020/29

ESTABLISHING A BEAUFORT COUNTY LAW ENFORCEMENT SERVICE CHARGE AND UNIFORM USER FEE

WHEREAS, Beaufort County Council and Beaufort County (the "County") is a body politic and political subdivision of the State of South Carolina; and

WHEREAS, under SC Code Ann. Section 4-9-10 et seq. and other applicable law, specifically including Section 4-9-25 and 4-9-30(5)(a), Beaufort County Council is empowered to act in the interests of public safety, and in matters involving the health and welfare of its citizens; and

WHEREAS, law enforcement services are critical to the health and welfare of the citizens of the County; and

WHEREAS, the expenses of the County involving law enforcement are significant aspects of the County's financing and operations; and

WHEREAS, Beaufort County Council has, after extensive study and consideration, determined that it is in the best interest of the citizens and taxpayers of Beaufort County, South Carolina, that an Ordinance Establishing a Law Enforcement Service Charge and Uniform User Fee for portions of Beaufort County South Carolina should be enacted;

NOW, THEREFORE, IT IS RESOLVED AND ORDAINED AS FOLLOWS:

Section 1. FINDINGS OF FACT:

- a. Since its incorporation in 1983, the Town of Hilton Head Island (The "Town") has contracted with and otherwise received certain law enforcement services from the Beaufort County Sheriff (the "Sheriff") and the County, in exchange for annual payments.
- b. Counties are specifically authorized by Section 4-9-30(5) of the Code of Laws of South Carolina "...to assess property and levy...uniform service charges, ... and make appropriations for functions and operations of the county, including, but not limited to... public safety, including police and fire protection... ."
- c. The health, order, general welfare, and convenience of the County and the County's citizens within the town limits of Hilton Head Island will be served by the enactment of this ordinance.
- d. The Town has chosen not to create and maintain its own police force, instead relying on the contract and the services provided by the County and the Sheriff's Office.
- e. In the most recent year of analysis, there have been 97,335 calls for service for the Sheriff's Office within the Town.
- f. The Sheriff's Office provides law enforcement services to the Town, above and beyond what the Sheriff's Office provides to other incorporated municipalities in the County.
- g. The estimated most recent annual cost to provide services within the Town of Hilton Head Island is \$4,383,257.
- h. The Law Enforcement Service Charge and Uniform User Fee is to be charged to properties in the Town to cover the cost of law enforcement services provided within the Town by the Sheriff's Office over and beyond the level of services provided in the incorporated municipalities which provide their own law enforcement services.

- i. It is fair and reasonable to assess the Law Enforcement Service Charge and Uniform User Fee to the areas within the Town.
- j. The fiscal, economic, and planning consulting firm TischlerBise has prepared over 900 impact fees and over 800 fiscal impact analyses for clients across the United States and Canada.
- k. TischlerBise is well qualified to have studied the relevant issues surrounding the provision of law enforcement services by the Sheriff's Office in the Town.
- l. The detailed approach, methodology, narrative and findings of that certain study report and findings of TischlerBise entitled "Law Enforcement User Fee Study Approach and Findings" dated July 13, 2020 are appropriate, thorough, and complete.
- m. The findings and recommendations of the TischlerBise report are hereby incorporated by reference and included as a basis for the implementation of the Law Enforcement Service Charge and Uniform User Fee imposed herein.

Section 2. ESTABLISHMENT OF LAW ENFORCEMENT SERVICE CHARGE AND UNIFORM USER FEE

A law enforcement service charge and uniform user fee in the amounts set forth in Section 4 hereof shall be levied annually upon all parcels of real property located within the municipal boundaries of the Town of Hilton Head Island (all such parcels being collectively referred to herein as the "Service Area"). The law enforcement service charge and uniform user fee authorized hereby shall be included on real property tax notices for all such parcels. For such parcels that are exempt from ad valorem taxes, the law enforcement service charge and uniform user fee authorized hereby shall be billed by the County as a separate invoice to be mailed to applicable property owners on or about the time that real property tax notices are mailed, and will be due on January 15 of each succeeding year.

Section 3. RECORDING AND USE OF PROCEEDS

All proceeds derived from the law enforcement service charge and uniform user fee authorized hereby shall be recorded in a separate fund within the County's accounts. Such proceeds shall be used for law enforcement and related administrative services to be provided by the Beaufort County Sheriff's Office in the Service Area, in lieu of the applicable municipality providing its own law enforcement force at a level above the base level of law enforcement services provided by the Sheriff's Office in the unincorporated County.

Section 4. TABLE OF CHARGES; EXCEPTIONS

The law enforcement service charge and uniform user fee shall be charged to each applicable parcel based on use and size as set forth in the following table. The types of "land use" in the following table are defined as provided for in the Beaufort County Community Development Code.

Except as provided for in this section, no public or private property shall be exempt from the law enforcement service charge and uniform user fee. No exemption, offset, or reduction shall be granted based on the age, tax, economic status, race, or religion of the property owner.

Land Use	Demand Unit	Service Charge per Demand Unit
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Residential

Single Family	Housing Unit	\$101
Multifamily	Housing Unit	\$88

Nonresidential

Retail	1,000 sq. ft.	\$242
Office/Service	1,000 sq. ft.	\$82
Industrial	1,000 sq. ft.	\$33
Institutional	1,000 sq. ft.	\$90
Lodging	Room	\$69

Section 5. PAYMENT AND COLLECTION

The law enforcement service charge and uniform user fee shall be due, payable and to be collected in the same manner as real property taxes and shall be subject to the same penalties and interest as overdue real property taxes.

Section 6. APPEAL AND ADJUSTMENT

A fee payer may appeal the assessment of the User Fee on a parcel of property at any time. The appeal must be submitted in writing to the law enforcement service charge and uniform user fee appeal officer(s), as may be appointed from time to time by the County Administrator. An appeal submitted before the January 15th due date shall be considered for the current year owed. An appeal submitted on or after January 15th shall only apply to the succeeding year.

An appeal must be submitted in writing to the appeal officer c/o county administrator, and shall contain the reason for appeal and required supporting documents. Required documents may include, but are not limited to, a survey prepared by a registered land surveyor or professional engineer containing information on the size and type of the property, business license or other license documentation, utility bills, company registration from the SC Secretary of State's Office, or other verifiable documentation which may tend to establish the use(s) to which the property is put, and/or the size or other relevant information. Using the information provided by the appellant, the appeal officer shall conduct a review of the property and fee assessment. The appeal officer may also request reasonable additional documentation pertinent to the appeal. The appeal officer shall respond to an appeal in writing within thirty (30) days. In response to an appeal, the appeal officer may adjust the fee applicable to the property in conformance with Section 4.

A decision of the appeal officer which is adverse to the appellant may be further appealed to the Beaufort County Administrator or his/her designee within thirty (30) days of the adverse decision. The appellant, stating the grounds for further appeal, shall deliver notice of the appeal to the County Administrator or his/her designee. The County Administrator or his/her designee shall issue a written decision on the appeal within thirty (30) days. All decisions by the County Administrator or his/her designee shall be served on the appellant personally or by registered or certified mail to the billing address of the property owner. All decisions of the County Administrator or his/her designee shall be final.

Section 7. LIABILITY; NO HINDRANCE OF SHERIFF'S DISCRETION

This chapter does not imply that a benefitted property will be free from criminal activity, and does not create additional duties on the part of the County or Sheriff's Office. This chapter does not waive the County's or Sheriff's Office's immunity or limited liability under any law. Nothing herein shall serve to hinder the exercise of law enforcement and other discretion held by the Sheriff's Office under the South Carolina Constitution and applicable law.

Section 8. LEGISLATIVE INTENT; SEVERABILITY

It is, inter alia, the legislative intent of the County that a law enforcement service charge and uniform user fee be levied under the terms described herein. The County asserts that this legislative intent must prevail if it can be reasonably discovered in the language used, and such language must be construed in light of the ordinance's intended purpose. To the extent any portion of this ordinance should be found illegal or unenforceable by a court of competent jurisdiction, the offending portion shall be void and of no effect, and is deemed severable from the remainder. The rest of the ordinance shall remain in force and of effect and shall be interpreted according to the findings and express and implied legislative intent to be operative and enforceable to the fullest extent.

Section 9. REPEALER, EFFECTIVE DATE

All ordinances or parts of ordinances in conflict with this ordinance or inconsistent with its provisions are hereby repealed or superseded to the extent necessary to give this ordinance full force and effect. This ordinance shall take effect upon final approval.

ADOPTED IN MEETING DULY ASSEMBLED this 24th day of August 2020.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: 
Joseph Passiment, Chairman

ATTEST:



Sarah W. Brock, Clerk to Council

Third and Final Reading: August 24, 2020 / Vote: 9-2

Public Hearing: August 24, 2020

Second Reading: August 10, 2020/ Vote: 6-3

First Reading by Title Only: July 13, 2020/ Vote: 7-3