REQUEST FOR CITY COUNCIL CONSIDERATION

Meeting Date: May 21, 2021

Agenda Item: 2C	Prepared by: Randy J Wright, Finance Director
Agenda Section: Business: Ordinance. Second Reading	Date: May 17, 2021
Subject: Reinstate 1% Hospitality Fee and 1½% Accommodations Fee	Division: Finance

Background:

This ordinance amends Chapter 7, Article VIII of the Code of Ordinances of the City of North Myrtle Beach to reinstate provisions thereof for a 1% Hospitality Fee and a 1½% Accommodations Fee, from Sections 7-120 to 7-155, and repeals other provisions of that Article and Chapter 7, Article XII, which pertain solely to the imposition of Hospitality and Accommodations taxes. These actions are required to comply with a court order approving the settlement, and authorizing related procedures, in pending litigation, case # 2019-CP-26-01732.

The proposed ordinance has been attached for Council's review, which was approved by Council on first reading on December 7, 2020. The effective date, in §7-155 of the Ordinance, was corrected to July 1, 2021 to comply with court-approved procedure established since the first reading.

Recommended Action:

Approve the proposed ordinance on second reading

Reviewed by Division Head	Reviewed by City Manager	Reviewed by City Attorney

Council Action:

Motion By_____ 2nd By_____ To_____

O R D I N A N C E

AN ORDINANCE OF THE CITY OF NORTH MYRTLE BEACH AMENDING CHAPTER 7, ARTICLE VIII TO REINSTATE HOSPITALITY AND LOCAL ACCOMMODATIONS FEES, TO REPLACE AND REPEAL THE HOSPITALITY TAX PROVISIONS THEREOF, AND TO REPEAL CHAPTER 7, ARTICLE XII – ACCOMMODATIONS TAX, AS AUTHORIZED BY COURT ORDER AND STATE LAW:

IT IS HEREBY ORDAINED THAT Chapter 7, Article VIII of the Code of Ordinance of the City of North Myrtle Beach is hereby amended and replaced with the following Sections 120-155 and that Chapter 7, Article XII, at Sections 206-217 is repealed.

ARTICLE VIII.
HOSPITALITY FEE AND LOCAL ACCOMMODATIONS FEE

Sec. 7-120. Authority.

This chapter is enacted pursuant to the authority of Title 5, Code of the State of South Carolina (1976), including, without limitation, S.C. Code Ann. Section 5-7-10 (Supp. 1992), and S.C. Code Ann. Section 5-7-30 (Supp. 1992), which provide, in relevant part, that municipalities may adopt all ordinances which appear necessary and proper for the security, general welfare and convenience of the municipality and for the preservation of the general health, peace and order in the municipality and further that municipalities may establish uniform service charges. This chapter is further enacted pursuant to specific authority, approval and order of the Court in Case Number 2019-CP-26-01732.

(Ord. No. 94-13, 5-2-94)

Sec. 7-121. Reserved.

Sec. 7-122. Declaration of purpose and intent.

This article is enacted to preserve the general health, safety and welfare of the general public within the City of North Myrtle Beach, South Carolina, by creating a uniform fee for the purpose of creating a fund to pay in whole or in part for the current and future preservation, maintenance, nourishment, renourishment, and improvement of the beaches of North Myrtle Beach, and those public facilities related to the use of the beach; public transportation improvements, including street construction, storm drainage, right-of-way acquisitions, median and right-of-way enhancements and landscaping, walkways and bikeways; public park facilities, public parking, and capital facilities and expenditures necessary for the provision of police, fire and other public safety activities.

(Ord. No. 94-13, 5-2-94)

Secs. 7-123, 7-124. Reserved.

Sec. 7-125. Hospitality fee.

A uniform fee equal to one (1) percent is hereby imposed on gross proceeds derived from:

(a) The sale of all food and beverages, served by a restaurant, hotel, motel, or other food service facility within the City of North Myrtle Beach. In addition, the fee shall be imposed for all food and beverages prepared or modified by convenience stores or grocery stores within the City of North Myrtle Beach, South Carolina- be modified to include language that imposes the fee upon any food or beverage that is sold for immediate consumption by any entity doing business within the city limits.

(b) Paid admissions to places of amusement within the City of North Myrtle Beach. Provided, however, that those places of admission which are specifically exempted from payment of the state license tax on admissions established in South Carolina Code Section 12-21-2420 shall also be exempt from this hospitality fee.

(Ord. No. 94-13, 5-2-94; Ord. No. 96-13, 3-18-96; Ord. No. 12-11, § 1, 6-18-12)

Sec. 7-126. Local accommodations fee.

A uniform fee equal to one and one-half ($1^1/_2$) percent is hereby imposed on gross proceeds derived from:

The rental or charges for any rooms (excluding meeting and conference rooms), campground spaces, lodgings, or sleeping accommodations furnished to transients by any hotel, inn, tourist court, tourist camp, motel, campground, residence, or any place in which rooms, lodgings, or sleeping accommodations are furnished to transients for a consideration. The gross proceeds derived from the lease or rental of sleeping accommodations supplied to the same person for a period of ninety (90) continuous days are not considered proceeds from transients. This fee imposed shall not apply to additional guest charges as that term is defined in South Carolina Code Section 12-36-920(B).

(Ord. No. 12-11, § 1, 6-18-12)

Secs. 7-127-7-129. Reserved.

Sec. 7-130. Payment of fee.

(a) Payment of the fees established herein shall be the liability of the consumer of the services for items described in Section 7-125. The fees shall be paid at the time of delivery of the services or items to which the fees apply and shall be collected by the provider or seller of the service, services or items.

(b) The fees collected by the seller or provider of the services or items as required under Section 7-125 shall be remitted to the City of North Myrtle Beach on a monthly basis along with such return or form as may be established by the City of North Myrtle Beach for such purpose. In the event that the monthly fee should calculate to less than ten dollars ($10.00) per month, that seller will be permitted to remit the amount due on a semi-annual basis. For any month in which the fees due exceed ten dollars ($10.00), that month's fee and all previous month's fees will be due and payable to the City of North Myrtle Beach under the terms set out in Section 7-130(c) below.

(c) Fees and required reports shall be submitted to the City of North Myrtle Beach by the twentieth day of the month and shall cover sales of the previous month. When a hospitality fee return is filed and the fees due on it are paid in full on or before the final due date, the filer is allowed a discount on the fees shown to be due by the return of two percent (2%). Any fees not timely

remitted shall be subject to a penalty of five percent (5%) of the unpaid fee for each month or portion thereof after the due date until paid. The failure to collect from patrons the fees imposed by this article shall not relieve any establishment subject to this article from making the required remittance.

(d) Any person violating any provision of this article shall be deemed guilty of an offense and shall be subject to punishment under Section 1-6 upon conviction. Each day of violation shall be considered a separate offense. Punishment for violation shall not relieve the offender of liability for delinquent fees, penalties, and costs provided for herein.

(Ord. No. 94-13, 5-2-94; Ord. No. 94-19, §§ 1, 2, 6-20-94; Ord. No. 96-03, § 2, 2-5-96; Ord. No. 96-13, 3-18-96)

Secs. 7-131-7-134. Reserved.

Sec. 7-135. Hospitality Fee and Local Accommodations Fee accounts.

The revenue accounts, to be known as the City of North Myrtle Beach Hospitality Fee and Local Accommodations Fee, shall be established and all revenues received from the hospitality fee and local accommodations fee shall be deposited into these accounts. The principal and any accrued interest from these accounts shall be expended only as permitted in Section 7-140 below.

(Ord. No. 94-13, 5-2-94)

Secs. 7-136-7-139. Reserved.

Sec. 7-140. Permitted uses of funds.

The City Council of the City of North Myrtle Beach, South Carolina is hereby authorized to utilize the funds collected from the imposition of the hospitality fee and local accommodations fee for the following purposes:

(1) Nourishment, renourishment, and maintenance of the beaches; dune restoration, including sand fencing, the planting of sea grass or other vegetation useful in preserving the dune system within the territorial limits of the City of North Myrtle Beach, South Carolina.

(2) Acquisition and maintenance of public beach access.

(3) Capital improvements to the beaches and beach-related facilities which include but are not limited to public beach parks, public parking, public access, dune walkovers, public bathhouses, showers, and restrooms.

(4) Transportation improvements including construction and resurfacing of streets, storm water drainage, sidewalks, bikeways, landscaping, and all associated costs including right-of-way acquisition and engineering design.

(5) The acquisition of land and the construction of passive and active parks and facilities associated with parks including playground equipment, sports facilities, and community recreation buildings.

(6) Acquisition of property and the construction of facilities required for the provision of police and fire service; the acquisition of capital equipment for the provision of public, fire and other public safety services as well as any operational expenditures for police, fire and other public safety services.

(7) For any other purpose authorized by statutory law, including S.C. Code Ann. 6-1-530 and 6-1-730, by Court Order, or other governing law.

(8) The payment of bonded indebtedness required to provide the above referenced uses.

(Ord. No. 94-13, 5-2-94)

Secs. 7-141-7-144. Reserved.

Sec. 7-145. Authorization for use.

Authorization to utilize revenues from the Hospitality Fee and Local Accommodations Fee accounts shall be by the annual budget ordinance duly adopted by the City Council of the City of North Myrtle Beach, South Carolina.

(Ord. No. 94-13, 5-2-94)

Secs. 7-146-7-149. Reserved.

Sec. 7-150. Severability.

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

(Ord. No. 94-13, 5-2-94)

Secs. 7-151-7-154. Reserved.

Sec. 7-155. Effective date.

This article originally became effective on July 1, 1994, and was amended and replaced on July 1, 2019, and is now being amended and reinstated to become effective on July 1, 2021 at 12:00 a.m., which is the date Horry County resumes its collection of hospitality fees inside the municipal limits.

(Ord. No. 94-13, 5-2-94)

Secs. 7-156-7-164. Reserved.

DONE, RATIFIED AND PASSED, THIS _____ DAY OF_____, 2020.

_____
Mayor Marilyn Hatley

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

FIRST READING: 12-7-2020
SECOND READING: 5-21-2021

REVIEWED:

_____
City Manager

ORDINANCE: 20-36