

**STATE OF SOUTH CAROLINA ) AN ORDINANCE OF THE TOWN OF SURFSIDE BEACH**  
**) AMENDING CHAPTER 4, ARTICLES VI AND VII**  
**COUNTY OF HORRY ) BY REPEALING ORDINANCE NOS. 19-0889 AND 19-0890**  
**) AND REVIVING THOSE PROVISIONS OF CHAPTER 4**  
**TOWN OF SURFSIDE BEACH ) LOCAL HOSPITALITY FEE AND LOCAL ACCOMMODATIONS**  
**) TAX AS AMENDED BY SAID ORDINANCES**

**WHEREAS**, the Town of Surfside Beach is authorized to collect taxes on prepared meals and beverages pursuant to §6-1-700, S.C. Code et. seq. ("the Local Hospitality Tax Act"); and

**WHEREAS**, the Town of Surfside Beach is authorized to collect taxes on accommodations furnished to transient rentals in the town limits pursuant to §6-1-500, S.C. Code et. seq. ("the Local Accommodations Tax Act"); and

**WHEREAS**, the Town has collected both Hospitality Fees since 1996 and Local Accommodations Taxes since 2001; and

**WHEREAS**, the Town is a member of a proposed class of plaintiffs in "*City of Myrtle Beach, For Itself and a Class of Similarly Situated Plaintiffs, vs. Horry County,*" brought in the Court of Common Pleas for Horry County in Civil Action Number 2019-CP-26-01732 ("Class Action"); and

**WHEREAS**, the Town approved its participation in that certain Settlement Agreement dated February 12, 2021, resolving the Class Action, which has been approved by order of the Court of Common Pleas for Horry County April 20, 2021 ("Settlement Agreement"); and

**WHEREAS**, the approved Settlement Agreement approved by the court includes a requirement the Town repeal any new local hospitality and accommodations fees and taxes adopted after January 1, 2019, and go back to charging the same Accommodations Taxes, Hospitality Fees, and Uniform Service charges (fees) in place prior to January 1, 2019; and

**WHEREAS**, in March 2019, the Town amended certain sections of Chapter 4, Article VI (Hospitality Fee) and Chapter 4, Article VII (Accommodations Tax) by repealing and replacing certain provisions, including the collection of an additional percentage of both Hospitality and Accommodations Taxes, as authorized by state law; and

**WHEREAS**, pursuant to Section 1-11 of the Town of Surfside Beach Code of Ordinances, when an ordinance which repealed another shall itself be repealed, the previous ordinance may only be revived with express words to that effect; and

**WHEREAS**, the Town Council wishes to comply with the Order of the Court approving such terms as agreed-upon in the Class Action;

**NOW, THEREFORE**, by the power and authority granted to the Surfside Beach Town Council by the State of South Carolina, Ordinances 19-0889 and 19-0890, are hereby *repealed* and replaced as set forth hereinbelow, as to those provisions of Chapter 4, Article VI Hospitality Tax and Chapter 4, Accommodations Tax, and those terms amended **shall be revived as existed prior to March 12, 2019**,

as contemplated by the Town Code Section 1-11, and the April 20, 2021 Order of the Court in the Class Action, and as otherwise amended hereinbelow as follows:

## **Chapter 4 – Business Licenses, Permits and Regulations**

### **ARTICLE VI. - HOSPITALITY FEE**

Sec. 4-87. - Authority.

This article is enacted pursuant to the authority of Title 6, Article 7 (“the Local Hospitality Tax Act”) and Title 5, S.C. Code 1976, including, without limitation, S.C. Code 1976, §§ 5-7-10 and 5-7-30, 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.

Sec. 4-88. - Declaration of purpose and intent.

This article is enacted to preserve the general health, safety and welfare of the general public within the town by collecting a uniform fee for the purposes 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 the town, and those public facilities related to the use of the beach: public transportation improvements, including street construction, storm damage, right-of-way acquisitions, median and right-of-way enhancements and landscaping, walkways and bikeways, public park facilities, public parking, and capital facilities and equipment necessary for the provision of public safety activities.

Sec. 4-89. - Hospitality Fee.

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

(1) The rental or charges for any rooms, campground spaces, lodging, or sleeping accommodations furnished to transients by any hotel, inn, tourist court, tourist camp, motel, campground, residence, or any place 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 by this subsection (1) shall not apply to additional guest charges as that term is defined in S.C. Code 1976, §12-36-920(B)

(2) The sale of all food and beverages, served by a restaurant, hotel, motel, or other food service facility within the town. In addition, the fee shall be imposed for all food and beverages prepared or modified by convenience stores or grocery stores including, but not limited to, fishing pier establishments, or other general merchandise establishments where such food or beverage is provided for immediate consumption on or off of the premises.

(3) Paid admissions to places of amusement within the town; provided, however, that those places of admission which are specifically exempted from payment of the state license tax on admissions established in S.C. Code 1976, § 12-21-2420 shall also be exempt from this hospitality fee.

Sec. 4-90. - Payment of fee.

(a) Payment of the fee established herein shall be the liability of the consumer of the services or products described in section 4-89. The fee shall be paid at the time of delivery of the services or products to which the fee applies and shall be collected by the provider or seller of the service or products.

- (b) The fees collected by the seller or provider of the services or products as required under section 4-89 shall be remitted to the town along with such return or forms as may be established by the town for such purpose.
- (c) Fees and required reports shall be submitted to the town on the same basis as sales tax returns are required to be submitted to the state department of revenue. An establishment shall be entitled to a two (2) percent discount on taxes collected for returns that are filed on or before the due date. Any fee not timely remitted shall be subject to a penalty of five (5) percent per month. The failure to collect from patrons the fee imposed by this article shall not relieve any establishment subject to the 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 1-16 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.

Sec. 4-91. - Hospitality Fee account.

The revenue account, to be known as the Town of Surfside Beach Hospitality Fee Account, shall be established and all revenues received from the hospitality fee shall be deposited into this account. The principal and any accrued interest from this account shall be expended as permitted in section 4-92 below.

Sec. 4-92. - Permitted uses of funds.

The town council is hereby authorized to utilize the funds collected from the imposition of the hospitality fee for the following purposes in accordance with the provisions of South Carolina Code §6-1-730:

- (1) nourishment, renourishment, and maintenance of the beaches, dunes, restoration, including sand fencing, the planting of sea grass or other vegetation useful in preserving the dune system within the territorial limits of the town,
- (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 and restrooms,
- (4) transportation improvements including construction and resurfacing of streets, stormwater 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 public safety services and the acquisition of capital equipment for the provision of public safety services,
- (7) the payment of bonded indebtedness required to provide the above-referenced uses,
- (8) administrative costs associated with collection, accounting for an applying the hospitality fee.

Sec. 4-93. - Authorization for use.

Authorization to utilize revenues from the hospitality fee account shall be by the annual budget ordinance, duly adopted by the town.

Sec. 4-94 - Effective Date

This article shall become effective on July 1, 2021.

Secs. 4-95—4-100. - Reserved.

## **ARTICLE VII. LOCAL ACCOMMODATIONS**

### DIVISION 1. GENERALLY

Secs. 4-101 – 4-110. Reserved.

### DIVISION 2. LOCAL ACCOMMODATIONS TAX

Sec. 4-111. - Tax imposed.

A local accommodations tax of one-half (0.5) percent is created and is imposed on every person that is engaged in the business of furnishing accommodations to transients for within the municipal boundaries of the Town of Surfside Beach. (ref. §6-1-500, S.C. Code, et. seq.)

Sec. 4-112. - Tax further enumerated.

A uniform fee equal to one-half (0.5) percent is hereby imposed on all gross proceeds derived from the rental or changes for any rooms, campground spaces, lodging, or sleeping accommodations furnished to transients by any hotel, inn, tourist court, tourist camp, motel, campground, residence, or any place 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 tax imposed by this section shall not apply to additional guest charges as that term is defined in S.C. Code 1976, § 12-36-920(B).

Sec. 4-113. - Payment of tax.

Payment of the local accommodations tax shall be the liability of the transient(s) described in section 4-112. The local accommodations tax shall be paid at the time of delivery of the service to which the tax applies and shall be collected by the provider of the services, and shall be held in trust by the provider until remitted as provided herein.

Sec. 4-114. - Collection of tax; remitting tax to local governing body; frequency determined by estimated average amounts.

- (1) The local accommodations tax imposed by this section is due and payable in monthly installments on or before the twentieth day of each month when the estimated amount of average tax is more than fifty dollars (\$50.00) a month, on a quarterly basis when the estimated amount of the average tax is twenty-five dollars (\$25.00) to fifty dollars (\$50.00) a month, and on an annual basis when the estimated amount of average tax is less than twenty-five dollars (\$25.00) a month. Every person liable for the fee shall make a true and correct return to the town in such form as it may prescribe and remit the fee therewith. A return is considered timely filed if the return is mailed and has a postmark dated on or before the date the return is required to be filed.
- (2) An establishment shall be entitled to a two (2) percent discount on taxes collected for returns that are filed on or before the due date. Any fees not timely remitted shall be subject to a penalty of five (5) percent per month. The failure to collect from patrons the fees imposed by this article shall not relieve any establishment subject to the article from making the required remittance.

- (3) Any person violating any provision of this article shall be deemed guilty of an offense and shall be subject to punishment under section 1-16 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.
- (4) In case of a failure to make a true and correct return or a failure to file the return, the town shall make a return upon such information as it may be able to obtain, assess the fee due thereon, and add a penalty of ten (10) percent, whereupon the town shall mail notice to the person liable for the fee and, in the case of failure to pay the tax within ten (10) days after the mailing of any such notice, the town shall add an additional penalty of ten (10) percent.

Sec. 4-115. - Inspections and audit.

For the purpose of enforcing the provisions of this section, the license inspector, or another authorized agent for the town, is empowered to enter upon the premises of any person subject to this section and to make inspections, examinations, and audits of books and records, and it shall be unlawful for any person to fail or refuse to make available the necessary books and records during normal business hours upon twenty-four (24) hours written notice. In the event that an audit reveals that the remitter has filed false information, the costs of the audit shall be added to the correct amount of fees determined to be due, in addition to the penalties provided herein. The license inspector, or another authorized agent of the town, may make systematic inspections of all businesses within the town to ensure compliance with this section. Records of inspections shall not be deemed public records.

Sec. 4-116. - Penalties.

It is a violation of this article to:

- (1) Fail to collect the local accommodations tax;
- (2) Fail to remit to the town any local accommodations tax collected;
- (3) Fail to file a local accommodations tax return;
- (4) Knowingly provide false information on a local accommodations tax return;
- (5) Fail to provide books and records to the license inspector, or other authorized agent of the town, for inspection, examination, or audit after seventy-two (72) hours written notice.

Sec. 4-117. - Real estate agents required to report when rental property listing dropped.

Real estate agents, brokers, corporations, or listing services required to remit taxes under this section must notify the appropriate local governmental entity or entities if rental property, previously listed by them, is dropped from their listings.

Sec. 4-118. - Administrative fee.

The costs of collecting the monies may be reimbursed by the fund monies, up to a maximum of one (1) percent.

Sec. 4-119. - Local accommodations tax account.

The revenue account to be known as "Town of Surfside Beach Local Accommodations Tax Account," shall be established and all revenues received from the local accommodations tax shall be deposited into this account. The principal and any accrued interest from this account shall be expended only as permitted herein.

Sec. 4-120. - Permitted uses of funds.

The town council is hereby authorized to utilize the funds collected from the imposition of the local accommodations for the following purposes;

- (1) Use of revenue from local accommodations tax.
  - a. Tourism-related buildings including, but not limited to, civic centers, coliseums, and aquariums;
  - b. Tourism-related cultural, recreational, or historical facilities;
  - c. Beach access and renourishment;
  - d. Highways, roads, streets, and bridges providing access to tourist destinations;
  - e. Advertisements and promotions related to tourism development; or
  - f. Water and sewer infrastructure to serve tourism-related demand.
- (2) In a county in which at least nine hundred thousand dollars (\$900,000.00) in accommodations taxes is collected annually pursuant to S.C. Code § 12-36-920, the revenues of the local accommodations tax authorized in this article may also be used for the operation and maintenance of those items provided in subsection (1)a.—f., including police, fire protection, emergency medical services, and emergency-preparedness operations directly attendant to those facilities.

Sec. 4-121 Authorization for Use

Authorization to utilize revenues from the Local Accommodations Tax account shall be by the annual budget ordinance duly adopted by the town.

Sec. 4-122 Effective Date

This article shall become effective on July 1, 2021.

Secs. 4-123—4-140. - Reserved.

**SEVERABILITY.** If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this article, which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable. Being later in time, this Ordinance is specifically intended to repeal the terms of Resolution 19-197.

**EFFECTIVE DATE.** This ordinance shall take effect July 1, 2021 at 12:01am.

**BE IT ORDERED AND ORDAINED** by the Mayor and Town Council of the Town of Surfside Beach, South Carolina, in assembly and by the authority thereof, this \_\_\_\_\_ day of May, 2021.

\_\_\_\_\_  
Bob Hellyer, Mayor

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Debbie Scoles, Pro Tempore

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Bruce H. Dietrich, Town Council

Ordinance No. 21-0928  
First Reading 05/11/21  
Second Reading 05/25/21

Michael Drake, Town Council

Paul Holder, Town Council

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Cindy Keating, Town Council

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David Pellegrino, Town Council

Attest:

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Sheri Medina, Town Clerk

**Ordinance No. 20-0XXX**  
**First Reading: \_\_\_\_\_**  
**Second Reading: \_\_\_\_\_**