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1 **2020-050 (2<sup>nd</sup> READING): AN ORDINANCE REPEALING ORDINANCE NO. 2019-22, 2019-**  
2 **23 & 2019-24, ADOPTED MARCH 7, 2019, TO RESTORE CITY HOSPITALITY FEES &**  
3 **LOCAL ACCOMMODATIONS TAXES TO THE STATUS & THE RATES THEY HELD PRIOR TO**  
4 **THE ADOPTION OF THE FORGOING ORDINANCES.**

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5 **Applicant/Purpose:** CFO/ to repeal changes to the City's hospitality fee & local accommodations tax  
6 ordinances, & the local hospitality tax ordinance; & to resume collections at the rates effective prior to  
7 January 2019 under the Hospitality Fee Settlement Agreement.  
8

9 **Brief:**

- 10 • In 3/2019, Council adopted 3 ordinances to change the City's collection of hospitality & local  
11 accommodations taxes. The changes were based on findings that:
  - 12 ○ The County 1.5% hospitality fee, adopted in 1997 w/ the consent of Horry County  
13 municipalities for the purpose of funding the RIDE program, had reached its sunset.
  - 14 ○ Cities could now collect hospitality taxes & accommodations taxes inside their corporate  
15 limits w/out exceeding the statutory caps on these taxes.
- 16 • The City subsequently filed suit to enjoin the County from continuing to collect its hospitality  
17 fee inside municipalities for the exclusive benefit of unincorporated areas.
- 18 • The parties reached a Settlement Agreement in Principle (SIP) that was approved by the Circuit  
19 Court in October 2020.
- 20 • On 12/2/2020, the SC Supreme Court reversed the Circuit Court's approval of the SIP, saying  
21 that the parties' leaving the decision as to distribution of the Common Fund to the Circuit  
22 Court meant there was not a meeting of the minds and therefore, there could be no settlement  
23 agreement.
- 24 • On 2/12/2021, the parties signed the Class Action Settlement Agreement which was given  
25 preliminary approval by the Circuit Court on 2/16/2021 (the "Settlement Agreement") pending  
26 a fairness hearing scheduled for 4/16/2021.
- 27 • On 4/20/2021, the Court issued its final order approving the Settlement Agreement.
- 28 • Under the Settlement Agreement, the municipalities agree to roll back their local hospitality &  
29 accommodations fees & taxes to the rates they charged prior to 1/2019.

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31 **Issues:**

- 32 • The Settlement Agreement provides that, going forward:
  - 33 ○ The County will resume collections of the 1.5% hospitality fee & its rental car fee based  
34 on the municipalities' retroactive consent (7/01/2021).
  - 35 ○ After w/holding 1.0% of the collections as an administrative fee, the County will then  
36 return those collections to each municipality for its use in a manner consistent with the  
37 State's Local Accommodations and Hospitality Tax statutes.
  - 38 ○ The municipalities will continue collecting taxes at current rates through 6/30/2021.

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40 **Public Notification:** Standard advertisement for 2<sup>nd</sup> reading.

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42 **Alternatives:** Any alternative would violate the court approved Settlement Agreement & is not  
43 recommended.

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45 **Financial Impact:**

- 46 • The resulting inflow of hospitality fees from the 1.5% is projected to increase City revenues by  
47 \$18.5 million next fiscal year.

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49 **Manager's Recommendation:**

- 50 • I recommend 1<sup>st</sup> reading (12/1/2020).
- 51 • I recommend 2<sup>nd</sup> reading (5/25/21).

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53 **Attachment(s):** Proposed ordinance.

CITY OF MYRTLE BEACH  
COUNTY OF HORRY  
STATE OF SOUTH CAROLINA

**AN ORDINANCE REPEALING ORDINANCES NO. 2019-22, 2019-23 AND 2019-24 , ADOPTED MARCH 7, 2019, TO RESTORE CITY HOSPITALITY FEES AND LOCAL ACCOMMODATIONS TAXES TO THE STATUS AND THE RATES THEY HELD PRIOR TO THE ADOPTION OF THE FOREGOING ORDINANCES**

WHEREAS, the City of Myrtle Beach (the "City"), acting under constitutional and statutory authority of local governments to implement uniform service charges, adopted its Hospitality Fee by Ordinance No. 96-16 on February 13, 1996, establishing Article VI, Div. 3 (the "Hospitality Fee Ordinance") of the Code of Ordinances of the City of Myrtle Beach (the "City Code") and levying a charge of one percent (1.0%) on all sales receipts deriving from transient accommodations, prepared foods and beverages, and admissions; and,

WHEREAS, the City, acting under the authority of SC Code Title VI, Article 5, adopted its Local Accommodations Tax by Ordinance 2001-58 on January 8, 2002, establishing Chapter 2, Article VI, Div. 4 of the City Code (the "Local Accommodations Tax Ordinance") and levying a charge of one-half percent (0.5%) on all sales receipts deriving from transient accommodations; and,

WHEREAS, on March 7, 2019, the City adopted Ordinance 2019-22 amending the Local Accommodations Tax Ordinance, §2-273, to increase the rate of the Local Accommodations Tax from 0.5% to 3.0%; and,

WHEREAS, on March 7, 2019, the City, acting under the authority of SC Code Title VI, Article 7, further adopted Ordinance No. 2019-23 establishing Chapter 2, Article VI, Div. 7 of the City Code (the Local Hospitality Tax Ordinance") and levying a tax of two percent (2.0%) on sales of prepared foods and beverages; and,

WHEREAS, on March 7, 2019, the City further adopted Ordinance No. 2019-24 amending Article VI, Div. 3 of the City Code, §2-260, providing for a credit for the benefit of any taxpayer who, by the operation of the aforementioned Hospitality Fee Ordinance, Local Accommodations Tax Ordinance and Hospitality Tax Ordinance, would be subject to paying a Hospitality Fee and either or both of the Local Accommodations Tax and Local Hospitality Tax; and,

WHEREAS, the City subsequently took legal action to enjoin the County from continuing to collect inside the corporate limits of the municipalities its 1.5% hospitality fee, a uniform service charge adopted in 1996 with the consent of the municipalities in Horry County for the expressed purpose of financing the Road Improvement and Development Effort ("RIDE") programs, and

WHEREAS, as a result of the legal proceedings, the County, the City and all of the affected municipalities in Horry County reached a Class Action Settlement Agreement dated February 12, 2021, which has since been given preliminary approval by the Circuit Court on February 16, 2021, under which the County will continue to collect its 1.5% hospitality

1 fee County-wide, but will remit to the municipalities all funds collected inside their  
2 respective corporate limits, less a 1% fee for administration; and,  
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4 WHEREAS, on April 16, 2021, the Circuit Court held a Fairness Hearing with respect to  
5 the Settlement Agreement and issued its final order approving the Settlement Agreement  
6 on April 20, 2021; and  
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8 WHEREAS, the municipalities have agreed to give consent to the County's continued  
9 collection of its hospitality fee under these and other conditions, and to repeal the  
10 additional fees and taxes they adopted under authority of SC Code Title 6, Chapters 5 and  
11 7, in 2019, so that they will continue to collect only those fees and taxes they had in effect  
12 prior to January 1, 2019;  
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14 NOW, THEREFORE, be it ordained by the governing body of the City of Myrtle Beach, in  
15 Council duly assembled, that  
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17 Sec. 1. Article VI, Division 4, of the City Code is hereby amended with respect to §2-273  
18 by reducing the rate of taxation from three percent (3.0%) to one-half percent (0.5%).  
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20 Sec. 2. Article VI, Division 7 of the City Code is hereby repealed in its entirety.  
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22 Sec. 3. Article VI, Division 3, of the City Code is hereby amended with respect to Sec. 2-  
23 260, by striking the language added by Ordinance 2019-24, to wit, "[u]nder a program  
24 established by the Manager, a taxpayer who concurrently pays to the City both the  
25 Hospitality Fee provided herein and either (a) a Local Accommodations Tax under  
26 authority of South Carolina Code, Title 6, Chapter 1, Article 5, the Local  
27 Accommodations Tax Act, or (b) a Local Hospitality Tax under authority of South  
28 Carolina Code, Title 6, Chapter 1, Article 7, the Local Hospitality Tax Act, or (c) both  
29 taxes, is entitled to a credit, to be in the amount of the Hospitality Fees paid hereunder,  
30 against the Local Hospitality Tax or the Local Accommodations Tax levied within the  
31 same time period."  
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33 Sec. 4. Should conflicts arise between this ordinance and other ordinances, this ordinance  
34 shall prevail with respect to the conflicting sections.  
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36 Sec. 5. Should any provision of this ordinance be determined to be invalid, such  
37 determination shall not invalidate the remaining provisions thereof.  
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39 Sec. 6. This ordinance shall take effect at 12:00 midnight on June 30, 2021.  
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BRENDA BETHUNE, MAYOR

44 ATTEST:  
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JENNIFER ADKINS, CITY CLERK  
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49 1<sup>st</sup> Reading: 12-1-2020  
50 2<sup>nd</sup> Reading: 5-25-2021