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**2018-66 (2<sup>ND</sup> READING): AN ORDINANCE TO REPEAL & REPLACE ORDINANCE 2006-89, RELATING TO THE RECOVERY OF COLLECTION COSTS AS A PART OF DELINQUENT DEBTS COLLECTED PURSUANT TO THE SETOFF DEBT COLLECTION ACT.**

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**Applicant/Purpose:** Staff / to repeal & replace the ordinance authorizing the Municipal Association of South Carolina (“MASC”) to act as claimant agency on behalf of the City for the collection of debt through the set-off debt program.

**Brief:**

- The City first authorized MASC to act as a claimant agency under the Set-off Debt Collection Act (the “Act”) by adoption of Ordinance 2006-89.
- The Act allows SCDOR to assist in the collection of debts owed to political subdivisions.
- MASC acts as a claimant agency for political subdivisions under the Act.
- This ordinance provides language that MASC has requested to clarify that:
  - The administrative fee charged by MASC is a cost of collection incurred by the City arising through the contract & is properly collectible.
  - The City may also incur certain administrative costs that are properly collectible in an amount not exceeding \$25 under the Act & the Ordinance, should the City elect to recover the internal costs.
- The amendments are proposed for the purpose of clarity & consistency w/ the statute.
- No changes since 1<sup>st</sup> reading.

**Issues:**

- The City currently collects \$60,000 to \$70,000/year thru this program.
- Resolution R2018-041 authorizes the Manager or his designee to sign the Set-off Debt Collection Agreement on behalf of the City.
- Heretofore, the City has not elected to charge for internal costs as they are generally negligible & the cost of accounting & billing for these charges may exceed the internal costs recovered in many instances.

**Public Notification:** Normal meeting notification.

**Alternatives:** MASC will not continue its arrangement w/ cities w/out the proposed amended language.

**Financial Impact:**

- No financial impact if City continues the agreement w/ MASC.
- Electing not to participate would mean foregoing revenue of \$60,000-\$70,000/year of revenue or paying significant staffing costs to collect it w/ the City’s own resources.

**Manager’s Recommendation:**

- I recommend 1<sup>st</sup> reading (11/13/18).
- I recommend 2<sup>nd</sup> reading & adoption (12/11/18).

**Attachment(s):** Ordinance.

CITY OF MYRTLE BEACH  
COUNTY OF HORRY  
STATE OF SOUTH CAROLINA

**AN ORDINANCE TO REPEAL AND REPLACE  
ORDINANCE NO. 2006-89, RELATING TO THE  
RECOVERY OF COLLECTION COSTS AS A PART OF  
DELINQUENT DEBTS COLLECTED PURSUANT TO  
THE SETOFF DEBT COLLECTION ACT.**

WHEREAS, the City of Myrtle Beach is a claimant agency as defined in the Setoff Debt Collection Act, S.C. Code Ann. § 12-56-10, et seq. (the "Act") and is therefore entitled to utilize the procedures set out in the Act to collect delinquent debts owed to the City of Myrtle Beach (the "City"); and

WHEREAS, "delinquent debt" is defined in the Act to include "collection costs, court costs, fines, penalties, and interest which have accrued through contract, subrogation, tort, operation of law, or any other legal theory regardless of whether there is an outstanding judgment for that sum which is legally collectible and for which a collection effort has been or is being made;" and

WHEREAS, the City adopted its Ordinance No. 2006-89 on September 26, 2006, authorizing its participation in the Setoff Debt program authorized by the Act; and

WHEREAS, the City has contracted with the Municipal Association of South Carolina to submit claims on its behalf to the SC Department of Revenue pursuant to the Act; and

WHEREAS, the Municipal Association of South Carolina charges an administrative fee for the services it provides pursuant to the Act; and

WHEREAS, the administrative fee charged by the Municipal Association of South Carolina is a cost of collection incurred by the City that arises through contract, and is therefore properly considered as a part of the delinquent debt owed to the City of Myrtle Beach as that term is defined in the Act; and

WHEREAS, the City also incurs internal costs in preparing and transmitting information to the Municipal Association, which costs are also collection costs that are a part of the delinquent debt owed to the City of Myrtle Beach;

WHEREAS, the City may elect to recover its internal costs of collection by adding such costs to the delinquent debt;

NOW THEREFORE, BE IT ORDAINED by the Myrtle Beach City Council, in meeting duly assembled, that Ordinance No. 2006-89 is hereby repealed and restated as hereinafter provided:

1. The City of Myrtle Beach may, upon its election, impose a collection cost of up to \$25.00 to defray its internal costs of collection for any delinquent debts that are sought to be collected pursuant to the provisions of the Setoff Debt Collection Act, S.C. Code Ann. § 12-5610 et. seq. This cost is hereby declared to be a collection cost that arises by

operation of law and shall be added to the delinquent debt and recovered from the debtor.

2. The City of Myrtle Beach hereby declares that the administrative fee charged by the Municipal Association of South Carolina is also a collection cost to the City which, upon the City's election, may also be added to the delinquent debt and recovered from the debtor.
3. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed with respect to the conflicting sections.
4. This Ordinance shall be effective on the date of final reading, provided however, that this ordinance is declared to be consistent with prior law and practice and shall not be construed to mean that any fees previously charged to debtors as costs of collection under the Act were not properly authorized or properly charged to the debtor.

This ordinance shall become effective upon its adoption.

BRENDA BETHUNE, MAYOR

ATTEST:

JENNIFER STANFORD, CITY CLERK

1<sup>ST</sup> READING: November 13, 2018

2<sup>ND</sup> READING: \_\_\_\_\_