

March 27, 2018 - presented for 1st reading

2018-23 (1ST READING): AN ORDINANCE TO AMEND CHAPTER 2, ARTICLE VI, DIVISION 6, TO REIMPOSE THE LOCAL OPTION TOURISM DEVELOPMENT FEE WITH AN EFFECTIVE DATE OF AUGUST 1, 2019.

Applicant/Purpose: City of Myrtle Beach / to approve the TDF to August 1, 2029.

Brief:

- Municipalities w/in Counties who have collected at least \$14 million in state Accommodations Tax in a fiscal year may impose the 1% TDF.
- TDF was adopted in May, 2009 w/ an imposition date of August 1, 2009
- The TDF replaced tourism advertising cut from the state budget during the recession.
- In the 1st year all of the TDF was required to be used for out-of-market advertising.
- After the 1st year State law required:
 - At least 80% of the TDF must be used for out-of-market advertising.
 - At least 20% of the remainder must be spent for residential property tax relief.
 - Any amount remaining after the 1st & 2nd obligations are met may be used for tourism related infrastructure.

Issues:

- The original authorization expires August 1, 2019.
- The original statute allows for the TDF to be reauthorized by either of the same methods as the original authorization (super-majority vote of Council or a special referendum).
- The ordinance also designates the Chamber of Commerce to receive the revenues & conduct the promotional activities funded by the TDF. The Chamber has certified that:
 - Its promotional & advertising programs are based on research based outcomes.
 - It has a successful record of creating new & repeat visitation to the county.
 - It has sufficient resources to create, plan, implement, & measure the marketing program generated by the TDF revenues.
 - It will use the funds only for the purposes provided by state law [note: state law does not permit the TDF to be used to support Chamber or City staff salaries].
- As allowed by statute, City practice has been use the TDF to cover the majority of the operational millage (roughly 82% of the total) paid on owner-occupied primary residential property.

Public Notification: Normal meeting notification.

Alternatives:

- Do not renew the TDF.
- Renew by referendum.

Financial Impact:

- Should the TDF not be renewed, residential property taxes will increase by >450%.
- In FY 2017 the TDF was used for the following:
 - To the Chamber for out-of-market advertising: \$22,702,365 (80% of total).
 - To off-set operational millage for property taxes on residential property used as a primary residence: \$3,934,731 (13.9% of total).
 - For tourism related capital projects: \$1,750,933 (6.1% of total).

Manager's Recommendation: I recommend 1st reading.

Attachment(s): Proposed ordinance.

CITY OF MYRTLE BEACH
COUNTY OF HORRY
STATE OF SOUTH CAROLINA

AN ORDINANCE TO AMEND CHAPTER 2,
ARTICLE VI, DIVISION 6, TO REIMPOSE THE
LOCAL OPTION TOURISM DEVELOPMENT
FEE WITH AN EFFECTIVE DATE OF AUGUST
1, 2019

IT IS HEREBY ORDAINED THAT ON AUGUST 1, 2019, THAT Chapter 2, Article VI of the Code of Ordinances of the City of Myrtle Beach is hereby AMENDED to read in its entirety as follows:

DIVISION 6 Local Option Tourism Development Fee Act

Sec. 2-310. Authority; Definitions

Pursuant to Chapter 10, Title 4 of the 1976 Code of the State of South Carolina, this Division may be cited as the Local Option Tourism Development Fee'. For purposes of this ordinance:

(1) "County" means a county in which revenues of the state accommodations tax imposed pursuant to Section 12-36-920 have aggregated at least fourteen million dollars in a fiscal year.

(2) "Fee" means the local option tourism development fee allowed to be imposed as provided in this article.

(3) "Municipality" means a municipal corporation created pursuant to Chapter 1, Title 5 or a municipal government as the use of the term dictates, located in a county as defined by subsection (1).

(4) "Reimposition" means, pursuant to South Carolina Code SECTION 4-10-980, enacted 2016 Act No. 249 (H.5011), Section 1, eff June 1, 2016, that the fee authorized in this article may be renewed and imposed within a municipality in the same manner as authorized by this article for the initial imposition of the fee. Notwithstanding Subsections (D) and (E) of Section 4-10- 930, any reimposition of the fee is effective immediately upon the termination of the fee previously imposed. Revenues from the reimposition must be expended for the same purposes as set forth in this article, and the provisions of Section 4-10-970(A)(2) apply immediately upon reimposition.

Sec. 2-311. Reimposition Imposition of 1% fee; Purposes

- a. Subject to the requirements of state law, the City of Myrtle Beach reimposes ~~imposes~~ within in its jurisdiction a fee not to exceed one percent for not more than ten years for the purposes provided hereafter. The fee allowed by this article is an amount not to exceed one percent of the gross proceeds of sales or sales price of all amounts subject to the sales and use tax imposed pursuant to Chapter 36, Title 12. The fee authorized by this article is in addition to all other local sales and use taxes and applies to the gross proceeds of sales in the applicable area that is subject to the tax imposed by Chapter 36, Title 12 and the enforcement provisions of Chapter 54, Title 12. The gross proceeds of the

1 sale of items subject to a maximum tax in Chapter 36, Title 12 and the gross
2 proceeds of sales of unprepared food that lawfully may be purchased with
3 United States Department of Agriculture food coupons are exempt from the fee
4 imposed by this article. The fee imposed by this article also applies to tangible
5 personal property subject to the use tax in Article 13, Chapter 36, Title 12.
6 The provisions of subsections (C), (D), (E), (F), and (G) of South Carolina Code
7 4-10-350 apply for fee payors and the fee allowed to be imposed pursuant to
8 this article, including further identification of point of sale jurisdictions,
9 mutatis mutandis.

- 10 b. (1) Except as provided in item (2) of this subsection, all revenues and interest
11 of the fee must be used exclusively for tourism advertisement and promotion
12 directed at non-South Carolina residents.

13 ~~(2) Revenues received in the third and subsequent years of imposition must~~
14 ~~be used as provided in item (1) except that up to twenty percent may be used~~
15 ~~for property tax credit on owner occupied real property or tourism related~~
16 ~~capital projects, or a combination of these purposes, but no less than twenty~~
17 ~~percent of these funds must be used for property tax credits on owner-~~
18 ~~occupied real property. After the application of the required twenty percent,~~
19 ~~revenues in the third and subsequent years shall be applied first to property~~
20 ~~tax credits on owner-occupied property up to the entire amount assessed for~~
21 ~~operations. The remainder of revenue allocated under this section shall be~~
22 ~~used for the construction or renovation of tourism related capital projects. No~~
23 ~~capital project is eligible to be funded directly or indirectly with fee revenues~~
24 ~~unless the project consists of construction of new or renovation of existing~~
25 ~~tourism-related facilities intended to grow or maintain the overnight tourism~~
26 ~~market in the city.~~

27 (2) South Carolina law provides in Section 4-10-910, enacted 2016 Act No. 249
28 (H.5011), Section 1, eff June 1, 2016 that the fee authorized herein may be
29 renewed and imposed within a municipality in the same manner as authorized
30 by this article for the initial imposition of the fee Notwithstanding Section
31 4-10-930(D) and (E), and that any reimposition of the fee is effective
32 immediately upon the termination of the fee previously imposed. Revenues
33 from the reimposition must be expended for the same purposes as set forth in
34 Title 4, Article 9, and the provisions of Section 4-10-970(A)(2) apply
35 immediately upon reimposition. This ordinance reimposes the fee first
36 established by City Council on May 26, 2009 in Ordinance 2009-26.

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38 **Sec. 2-312. Promotional Designation**

39 The City of Myrtle Beach designates the Myrtle Beach Chamber of Commerce to
40 receive the revenues and interest and conduct the promotional activities
41 provided herein. The Chamber has certified to the City that:

- 42 (1) its promotional and advertising programs are based on research
43 based outcomes;
44 (2) the organization has a proven record of success in creating new
45 and repeat visitation to the county;
46 (3) it has sufficient resources to create, plan, implement, and
47 measure the marketing program generated by the fee revenues;
48 (4) it will use the funds only for the purposes provided pursuant to
49 state law.

50 **Sec. 2-313. Date of fee ~~imposition~~ reimposition.**

1 ~~The imposition date of the fee allowed pursuant to this article is the first day~~
2 ~~of the first month beginning more than sixty days after the municipality files a~~
3 ~~certified copy of the imposition ordinance with the South Carolina Department~~
4 ~~of Revenue.~~

5 This reimposition of the fee is effective immediately upon the termination time
6 and date of Midnight, July 31, 2019 of the fee previously imposed by Ordinance
7 2009-26, with that effective date of reimposition being August 1, 2019.

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9 THIS ORDINANCE IS TO BE EFFECTIVE ON AUGUST 1, 2019.

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BRENDA BETHUNE, MAYOR

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17 ATTEST:

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21 _____
Joan Grove, City Clerk

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23 1st Reading_____

24 2nd Reading_____