

SURFSIDE BEACH TOWN COUNCIL REGULAR MEETING

Civic Center, 89 Pine Drive, Surfside Beach, SC 29575

www.surfsidebeach.org - ? (843) 913-6111 ? (843) 238-5432

TOWN COUNCIL MEETING AGENDA

Wednesday, June 29, 2022, ? 6:30 PM.

Please join the meeting from your computer, tablet, or smartphone.

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Access Code: 303-687-805

1. Agenda

Documents:

[3-9-2021-AGENDA.PDF](#)

2. Meeting Materials

Documents:

[2.5.PDF](#)  
[2-23-2021-MINUTES.PDF](#)  
[CHAPTER4.PDF](#)  
[JUDGE.PDF](#)  
[MARKET-2.PDF](#)  
[MEMORAND.PDF](#)  
[POLICE.PDF](#)

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The public is invited to attend all meetings and events.



**SURFSIDE BEACH TOWN COUNCIL REGULAR MEETING**  
**Civic Center, 115 US Highway 17 North, Surfside Beach, SC 29575**  
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**TOWN COUNCIL MEETING AGENDA**  
**TUESDAY, MARCH 9, 2021, • 6:30 pm.**

Please join the meeting from your computer, tablet or smartphone.  
<https://global.gotomeeting.com/join/901805461>

You can also dial in using your phone.  
**United States (Toll-Free): [1 877 309 2073](tel:18773092073)**  
**United States: [+1 \(646\) 749-3129](tel:+16467493129)**

Access Code: **901-805-461**

- 1. CALL TO ORDER** Mayor Hellyer
- 2. INVOCATION AND PLEDGE OF ALLEGIANCE**
  - A. Invocation: Jeff Wood, Oasis of Hope Church
  - B. Pledge of Allegiance: Mayor Hellyer
- 3. PUBLIC HEARING** – None
- 4. MOTIONS RELATING TO AGENDA**
- 5. MINUTES APPROVAL** **February 23, 2021**
- 6. PUBLIC COMMENTS – Agenda Items Only** (5-minutes per speaker)
- 7. COMMUNICATIONS**
  - A. Horry - Georgetown Technical Colledge presentation – President Fore
  - B. Discussion - **Chapter 5**
  - C. Discussion - **Chapter 2.5**
- 8. BUSINESS**
  - A. Municipal Court - Judge Appointment
  - B. **Renewal of Memorandum of Understanding with City of Myrtle Beach Police Department**
  - C. Surf Dreams Foundation surf events – Phillip Jackson, Surf Dreams Foundation
  - D. Fire Protection and Emergency Medical Services – Mr. Shanahan
  - E. **First Reading Ordinance 21-0922** AN ORDINANCE OF THE TOWN OF SURFSIDE BEACH TO AMEND CHAPTER 4, ARTICLE I SECS 4.3 AND 4.4, THE CODE OF ORDINANCES FOR THE TOWN, CHANGING BUSINESS LICENSE ISSUE DATE AND DUE DATE.
  - F. **First Reading Ordinance 21-0923** AUTHORIZING USE OF MEMORIAL PARK FOR CRAFT MARKET SPECIAL EVENT AND APPROVAL OF MANAGING VENDOR AGREEMENT
  - G.
- 9. PUBLIC COMMENTS – Town Services or Business Conducted (5 minutes per speaker)**
- 10. TOWN COUNCIL DISCUSSION AND/OR COMMENTS**
- 11. ADJOURNMENT**

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In order to provide for the safety and welfare of the citizens of the town during emergency or disaster situations, the town council does adopt by reference the emergency operations plan, dated February 1989, as amended, which is on file in the town clerk's office.

(Ord. No. 89-0271, 3-20-89)

#### Chapter 2.5 - ALCOHOLIC BEVERAGES<sup>(1)</sup>

Footnotes:

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**Editor's note**— Ord. No. 07-0634, adopted Nov. 13, 2007, added a new Ch. 8, Art. IX, §§ 8-123—8-126, pertaining to the regulation of hours establishments may sell or distribute alcoholic beverages. For purposes of classification, the editor has redesignated these provisions as a new Ch. 2.5, Art. II, §§ 2.5-21—2.5-24.

#### ARTICLE I. - IN GENERAL

Secs. 2.5-1—2.5-20. - Reserved.

#### ARTICLE II. - SALE AND DISTRIBUTION

Sec. 2.5-21. - Restriction on time of sale and possession of beer, ale, porter and/or wine and the operation of entities relative thereto.

- (a) Between the hours of 2:00 a.m. and 6:00 a.m., Monday through Sunday, on the premises of any private or nonprofit club, any store, beer parlor, or other place or entity of business or establishment authorized by law to sell beer, ale, porter and/or wine for the on-premises consumption thereof, it shall be unlawful for:
- (1) An owner, employee, or person in charge thereof to sell for consumption on premises, offer for sale, give away, barter, exchange, or in any manner dispense or permit the consumption of any beer, ale, porter and/or wine (as defined in S.C. Code 1976, § 61-4-10, as amended from time to time, on premises; or
  - (2) Any person to drink or possess in an open container, any beer, ale, porter and/or wine on premises of the entity where purchased; or
  - (3) To be open or operate any such club, store, beer parlor, or other such place or entity of business or establishment authorized by law to sell beer, ale, porter and/or wine for on-premises consumption.
- (b) The above provisions shall not prohibit during the aforesaid hours the sale or possession in sealed containers of beer, ale, porter and/or wine for consumption off the premises.
- (c) The above provisions shall not prohibit the operation after 2:00 a.m. of an establishment bona fide engaged primarily and substantially in the preparation and serving of meals, so long as no sale, giveaway, barter, exchange, or other dispensation or consumption of beer, ale, porter and/or wine are conducted on the premises.

(Ord. No. 07-0634, § 8-123, 11-13-07)

Sec. 2.5-22. - Liquor sales.

It shall be unlawful for any person to sell any alcoholic liquors other than beer, ale, porter and/or wine now allowed by the laws of the state, save and except in accordance with and in conformity to, the existing state and federal laws providing the method and procedure for the sale of alcoholic liquors.

(Ord. No. 07-0634, § 8-124, 11-13-07)

Sec. 2.5-23. - Violations.

Any person violating any provision of this article shall be deemed in violation of the state and federal laws governing the sale and consumption of alcoholic liquors, and shall be fined guilty of an offense and shall be subject to a fine of up to five hundred dollars (\$500.00) or imprisoned in accordance therewith ent for not more than thirty (30) days, or both, upon conviction. Each day of violation shall be considered a separate offense. Punishment for violation shall not relieve the offender of liability for delinquent taxes, penalties and costs provided for herein.

(Ord. No. 07-0634, § 8-125, 11-13-07)

Sec. 2.5-24. - Separability.

If any provision, clause, sentence or paragraph of this chapter or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of the chapter which can be given effect without the invalid provision or application, and to this end, the provisions of this chapter are declared to be severable.

(Ord. No. 07-0634, § 8-126, 11-13-07)



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**TOWN COUNCIL MEETING MINUTES**  
**TUESDAY, February 23, 2021, • 6:30 pm.**

1. **CALL TO ORDER** Mayor Hellyer called the meeting to order at 6:30 pm. Mayor Hellyer, Councilmembers Dietrich Drake, Holder, Keating, Pellegrino, and Mayor Pro Tempore Scoles were in attendance. Others present: Town Administrator Shanahan, Town Attorney Crosby, and Town Clerk Sheri Medina.
2. **INVOCATION AND PLEDGE OF ALLEGIANCE**
  - A. Invocation: David Pellegrino performed the invocation
  - B. Pledge of Allegiance: Mayor Hellyer led in the Pledge of Allegiance.
3. **PUBLIC HEARING** – Amending Chapter 17 – No public comments were provided, and no further discussion resulted.
4. **MOTIONS RELATING TO AGENDA - None**
5. **MINUTES APPROVAL** - Councilmember Keating made a motion to accept the meeting minutes for February 9, 2021. Councilmember Drake seconded. Councilmembers Scoles, Keating, Holder, Dietrich, Drake, Pellegrino, and Mayor Hellyer voted in favor. Councilmember Dietrich abstained. **Motion Carried.**
6. **PUBLIC COMMENTS – None**
7. **COMMUNICATIONS**

**A. Elected Officials Graduation** – Mr. Shanahan gave some background on the extensive training that Elected Officials must complete as offered by the Municipal Association of South Carolina (MASC) to continue as an Elected Official. Mr. Shanahan presented Mayor Hellyer with a certificate from MASC for graduating from the Elected Officials training. Mayor Hellyer presented Councilmembers Holder, Keating, Drake, and Scoles with their certificate from MASC.

**B. Finance Report** – the Finance monthly report was given by Director King.

**C. Events Report** – The Recreation and Events department quarterly report-out was given by Debbie Ellis. Ms. Ellis spoke about a large amount of wood from the pier that has been sold. She also stated that there is most likely enough for at least two more weeks to sell. The Youth Association requested that Council be present on opening day on March 29th at Huckabee Park and for the Mayor to throw the first pitch.

Ms. Ellis questioned Council concerning the Easter Egg hunt. She stated that due to COVID precautions we could not have the inflatables, face painters, or the balloon man because these would encourage people to be too close together. Mayor Hellyer said we ought to check with DHEC and find out what the regulations are, and maybe they have some recommendations on what we can do to make it a safer event.

**D. Discussion – Stormwater fees for 501(C)(3)** - Councilmember Pellegrino stated I was contacted by some finance directors from some of these non-profit organizations in Town. I talked to the Administrator, Ms. King, and Ms. Crosby to get some context on it. One 501(C)(3) in town never paid the stormwater fee bill for 2019 since it is part of the property tax bills. They don't pay property taxes, so had not seen a tax bill and they ignored the document in 2019. Then in 2020 it came in, and they finally noticed it was a bill. Since they did not notice this was a bill in 2019, they have accrued a \$420.00 late fee. Councilmember Pellegrino asked if Council would give a consensus that they have to pay the stormwater fee for 2019 and 2020, but we can eliminate the late fee for this 501(C)(3) organization.

Mayor Hellyer stated I think that would have to go to the county for waiver. It would be the Horry County decision on whether the late fee can be waived. Also, what about all the others that got a late fee and paid it?

Councilmember Keating stated I think we have to be very careful with waiving this fee. If we waive this fee now, then the next guy comes down the road and wants his fee waived, and he's going to claim the same thing, so you create a very

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slippery slope. If we're going to relinquish this right and waive the late fee; we must be clear that this is a one-off special circumstance and why it's unique. Here we are in 2021, and they still haven't paid their 2019 stormwater fee?

Councilmember Pellegrino reiterated and asked if we have a consensus for the Administrator to talk to the County to see if he can get the late fee eliminated.

Councilmember Keating stated I think it's just unfair to the other 501(C)(3) organizations in Town that paid the fee on time, or may have incurred a late fee as well, and other residents that may have had to pay the same situation.

## **8. BUSINESS**

- A. **Emergency Ordinance 21-0920**, EMERGENCY ORDINANCE OF THE TOWN OF SURFSIDE BEACH - REMOTE MEETING ATTENDANCE DURING COVID-19 STATEWIDE EMERGENCY. Councilmember Keating made a motion to reject the proposal for Emergency Ordinance 21-0920 for remote meeting attendance and voting. Councilmember Drake Second.

Mayor Hellyer stated we would entertain doing another special ordinance, which would be an emergency ordinance that would be in place for 60 days, allowing public comments to be read by the Town Clerk and our councilmembers to vote off-premises.

Councilmember Keating stated in the modification of Chapter 2 that we would get to, we did provide for the Clerk's ability to read emailed public comments into the public record in the event we are, for whatever reason, limiting face-to-face participation by the residents. That component of this proposed emergency order will be taken care of as soon as we pass Chapter 2. The only real open item is the remote participation and voting by the governing members, which I don't support.

Councilmember Drake asked if councilmembers joining via phone would be counted to constitute a quorum. If 4 people decided that they couldn't make it to the meeting location and chose to call in on the telephone, would that be a quorum?

Town Attorney Crosby, stated the current code says it shall be necessary that a minimum of 4 council members be present in person to constitute a quorum. This is not changing in the emergency order.

Councilmember Pellegrino stated I disagree with the 60-day emergency ordinance. However, anything can happen, sickness, broken leg, but the Councilmember still can make decisions, but that will be discussed in Chapter 2.

Councilmembers Keating, Drake, Pellegrino, and Mayor Hellyer voted in favor. Councilmembers Scoles, Holder, and Dietrich voted against it. **Motion passed.** (no emergency order will be issued.)

- B. **First Reading: Ordinance 21-0921** AN ORDINANCE OF THE TOWN OF SURFSIDE BEACH TO AMEND CERTAIN SECTIONS OF CHAPTER TWO (II), ADMINISTRATION, OF THE CODE OF ORDINANCES OF THE TOWN OF SURFSIDE BEACH, SOUTH CAROLINA. Councilmember Keating made a motion to accept the first reading of Ordinance 21-0921 modifying chapter 2 of the Surfside Beach Code of Ordinances with the modification, Section 2 - 209, increasing the threshold between formal and informal bids from \$10,000 to \$20,000. Councilmember Drake second.

Councilmember Pellegrino made an additional modifying motion to eliminate the line "the funding shall be 200,000 per year transferred from the Unassigned Fund General Fund, providing funds is available", and to replace it with "a funding goal of one point five million dollars (\$1,500,000) by the end of the 2025 budget cycle." Councilmember Holder second.

Councilmember Pellegrino continued to state that I've been talking with Diana multiple times over the last couple of weeks, and we want to maintain 4 months of the Town's expenses in our assigned fund. I think we're too ambitious with \$200,000 a year on that. If we do well, and spend well and look at Value Engineering, and we don't spend as much when we can put a chunk in after that. I would recommend that we maintain the transfer of \$75,000 from the annual A-Tax, and have the one point five million dollars' goal by the end of the 2025 cycle.

Councilmember Keating stated I would further modify that to say that there will be annual funding as available with that goal in mind. We need to have something that says we will keep feeding it every year; the amount can vary based on funds availability with the end goal in mind. I would still like that annual commitment.

All voted in favor, as modified. **Motion passed.**

Councilmember Pellegrino made another modifying motion to amend subsection seven relative to beach renourishment funding to delete the line that states funds transfer is deferred until 2021, and replace it with a provision to resume \$75,000 a year transfer from the A-Tax in the 2021-2022 budget cycle, \$75,000 from the hospitality tax in the 2021-2022 budget cycle, and \$50,000 from the pier fund beginning in the 2022-2023 budget cycle. Councilmember Drake second.

Councilmember Pellegrino stated that we have been doing this all along, and we're doing well, and we had the money for our last beach renourishment because of it, so it was positive. We don't want to lose sight of beach renourishment because, every 9 to 10 years, that's just something we have to do, and we never know how much the state's going to cover.

All voted in favor. **Motion carried**

Councilmember Pellegrino made a third modifying motion to amend section 2-38 (quorum) to maintain quorum and allow remote voting. Councilmember Scoles second.

Councilmember Pellegrino argued that it's critical to allow remote voting under circumstances of sickness or injury. Then, I want to add the option of remote voting for sickness, injury, or unforeseen circumstances, like the mold. I understand the arguments against that, but we never know. Things will come up, and if someone breaks their leg and is out for a meeting, they are certainly fully capable of making a rational decision.

Councilmember Keating stated that if there is another pandemic, another quarantine, whatever emergency cases, we would be passing emergency ordinances. If we, as the governing body, are meeting together to discuss items, and to vote on items, then everyone needs to be in attendance. Therefore, again, I don't agree that remote participation should be allowed if the meeting is conducted in person in front of our stakeholders. We can always find a space to conduct a meeting, whether in the fire hall, the Civic Center, or one of the local businesses with a banquet facility. If circumstances are such that the Council has decided that we cannot meet face-to-face, that's a different story, and that will be subject of an emergency ordinance. Bottom line - if we're meeting face-to-face, then everybody needs to participate face-to-face.

Councilmember Drake stated in other circumstances, they could call in for whatever reason they wanted. Anybody could call in because they don't feel good today and decide so I'm going to call in. We're not going to come before the people to do the people's business, I disagree with that. We were elected to be here. If you can't be here, OK, that's fine, but you don't vote. That's an incentive for you to show up to vote.

Councilmember Scoles, Holder, Dietrich, and Pellegrino voted in favor. Councilmembers Drake, Keating, and Mayor Hellyer voted against. **Motion carried.**

Motion to adopt Ordinance 21-0921, as modified: Councilmembers Holder, Pellegrino and Scoles voted in favor. Councilmembers Keating, Dietrich, Drake, and Mayor Hellyer voted against. **Motion failed.**

**C. Second Reading: Ordinance 20-0913**, AN ORDINANCE OF THE TOWN OF SURFSIDE BEACH TO AMEND THE TOWN'S CODE OF ORDINANCES SPECIFICALLY CHAPTER 17 [ZONING ORDINANCE], ARTICLE III: DISTRICT & USE REGULATIONS SECTIONS 17-394 THROUGH 17-399. Councilmember Keating made a motion to adopt Ordinance 20-0913 Article III: District & Use regulations section 17-394 through 17-399. Councilmember Drake second.

Ms. Carol Coleman, Planner from Waccamaw Council of Governments, stated what we are addressing what we inherited through the Planning Commission, and you've seen it all before I got here. It was amendments to Section 395, which was the use table. It was created to make it a little bit easier for people to look at and consistently implement to requirements. Each one has a heading that includes specific uses, the different zoning districts, applicable standards that may apply, design overlay, applicable article, and the parking code. All that's changed from what you've got now is we added a brewpub instead of a microbrewery, which was discussed at the public workshop on these zoning changes. I had a question on whether or not we should have a parking designation for the E-district, so I've added that. There's the only place it can be a conditional use, and the conditions are that they meet state law; we'll add that to the text. There is no parking code for the E-district if it's an existing structure. I think we added a parking code that says no parking is required within the E-district. If we have someone that comes in to redevelop, they may be subject to parking standards unless the intent was that no one has to worry about parking at all because that's the current language.

Ms. Coleman went on to explain that I had recommended that you add to under professional use, an outpatient alcohol and drug clinic as a special exception, which means that the Board of Zoning Appeals would have to approve it. I suggested adding it, which is under restricted use because we have had someone question it. In some of the other municipalities, to smaller towns in the area, I've had people question whether or not these were allowed. If they don't have the language you have here that says, if it's not here, we don't allow it. So by putting the onus on the board of zoning appeals to look at all of them as a special exception; you have control of it. It's not a by-right use, and I believe those are the only two things that had any fundamental changes since you last looked at it.

Councilmember Holder stated that he thought we agreed to remove the restriction of storage warehouses to only Sandy Lane. A clarification was provided that the corresponding vote to do so had failed, and therefore, was not incorporated into this ordinance change.

Councilmembers Keating, Drake, Pellegrino, and Mayor Hellyer voted in favor. Councilmember Scoles, Holder, and Dietrich voted against. **Motion carried.**

**D. Board of Zoning Appeals Appointments** – Councilmember Keating made a motion to reappoint Mr. Guy Lanham, Ms. Terri Lauer, Mr. Darrell Willm, and Mr. Steve Taylor to the Board of Zoning Appeals. Councilmember Drake second. All voted in favor. **Motion Carried.**

Mr. Shanahan spoke about the Community Garden. There will be 18 plats that are 4x8. The memorial bench will remain where it is. The area will be fenced in. At this time, we have two residents that want to participate on the community garden committee. Councilmember Drake asked that only flowers planted will be for herbicide purposes.

**9. PUBLIC COMMENTS – None**

**10. TOWN COUNCIL DISCUSSION AND/OR COMMENTS**

**A. Councilmember Scoles** – Councilmember Scoles stated I'd like to thank everyone that called in this evening, and please continue to stay safe, and we will see you in a couple of weeks. Thank you.

**B. Councilmember Holder** – Councilmember Holder stated, I'd like to thank everyone online for being a part of this. The COVID numbers are starting to come down, and it's nice to see that nationwide. Hopefully, we can see that here in our area. Thanks to Mr. Shanahan for the work with the community garden. It's a good thing. Thank you.

**C. Councilmember Keating** – Councilmember Keating stated, thank you, everybody, for watching and calling in to listen. We apologize that circumstances are what they are and that we could not allow more participation for safety reasons. We are looking at other venues. Hopefully, this is the only occasion to restrict participation and not have the residents be face-to-face. Future meetings may not be in chambers, but they will be available for public participation. I also want to say thank you, Ms Coleman, for finally getting our chapter 17 use table through the process. It only took us 13 months! Thank you very much. I'm glad to see that finally off the table. Also, I hope we have finally put to bed this remote voting and participation discussion. This is about the fourth time we've voted on this, and I'm not sure the vote we had again tonight to edit chapter 2 was even appropriate because I recall we just voted it down at the end of January. I would have to go back and check some documentation, but I recall already doing that maybe once or twice before. Hopefully, that we won't have to address that again. We will start going through more and more of our ordinances. So, be prepared that there will be future discussions, probably a little confusion, and a lot more discussions to try to make sure we're all aligned with the same understanding. Hopefully, we all will bring the same goal of moving the Town forward to the table. Again, I thank everyone for their feedback and their kind words, and their messages and emails I receive. Thank you very much. I appreciate them. We will see everyone back face-to-face in a new venue in a couple of weeks. Thank you.

**D. Councilmember Dietrich** - Councilmember Dietrich stated, good evening, everyone. Thanks for popping it in tonight listening to us. I think Mrs. Keating said it best, which is hopefully the last time we're going to have to do this. We're going to try a workshop now where we can have meetings regardless of whether they're here or not. We could still have meetings with the public's invited. So, let's, let's do the best we can. Everybody have a great night. Enjoy the weather tomorrow and take care.

**E. Councilmember Pellegrino** – Councilmember Pellegrino stated, thank you for listening online. It's nice to see the involvement. Thank you, Ms. Colman, for Chapter 17 also. Especially for adding the outpatient drug treatment. I didn't agree with some other stuff, but I didn't vote yes because of that. I know that can cause issues and other communities and its good protection for the Town. So thank you for thinking of that. Thank you, and have a great night.

**F. Councilmember Drake** – Councilmember Drake stated that I'd like to thank everybody for tuning in tonight. I want to thank Ms. Coleman for her work on Chapter 17 and the drug rehab section. Mr. Shanahan, thank you very much for your work on the Community Garden. I think it'd be a very good thing for a lot of our senior citizens and the young people too, to come together and both generations learn from each other. I think that's something the community needs. Also, stop at the South Side Grill for their home-made desserts. Thanks to all our other businesses. Keep supporting our local businesses. It's really good to help our economy and help everybody locally out. Thank you very much.

**G. Mayor Hellyer** – Mayor Hellyer stated that I want to thank everybody for all the work that they've done. Ms. Coleman, thank you very much. I'm glad we got Chapter 17 put to bed. Mr. Shanahan, I want to thank you for the work that you're doing. I think you're doing a great job and want to Thank you. The COVID numbers seem to be going down. We need to make sure that everybody is using social distance is everybody practices, good practice. We do, as we said before, have a mold issue here in Town Hall, in the Council chambers, and planning and zoning. So we're going to be doing some re-organizations. I think our next Council meeting will be in this Civic Center, but we're still working that out. We haven't decided that as of yet. We will keep everybody informed. We have the barbecue festival coming in March. This is some time that the



residents can get out. The same thing with the community garden. We're looking forward to people getting out and getting together and, enjoying ourselves. So, I thank you very much for coming, and I'll talk to you later. Thank you very much.

- 11. ADJOURNMENT** Councilmember Drake made a motion to adjourn at 7:40 pm. Councilmember Keating second. All voted in favor. **Motion Carried.**

**Surfside Beach Town Council**

\_\_\_\_\_  
Robert Hellyer, Mayor

\_\_\_\_\_  
David L. Pellegrino

\_\_\_\_\_  
Bruce H. Dietrich, Town Council

\_\_\_\_\_  
Cindy Keating, Town Council

\_\_\_\_\_  
Michael Drake, Town Council

\_\_\_\_\_  
Debbie Scoles, Mayor Pro Tempore

\_\_\_\_\_  
Paul Holder, Town Council

Attest: \_\_\_\_\_  
Sheri L Medina  
Town Clerk

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Clerk's Note: This document constitutes summary minutes of the meeting that was digitally recorded, and is not intended to be a complete transcript. Appointments to hear recordings may be made with the town clerk; a free copy of the audio will be given to you, provided you bring a new, unopened flash drive. In accordance with FOIA §30-4-80(A) and (E), meeting notice and the agenda were distributed to local media and interested parties via the Town's email subscription list. The agenda was posted on the entry door at Town Council Chambers. Meeting notice was also posted on the town website at [www.surfsidebeach.org](http://www.surfsidebeach.org) and the Town's LED marquee.



**Surfside Beach Town Council**

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

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Debbie Scoles, Pro Tempore

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Bruce H. Dietrich, Town Council

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Michael Drake, Town Council

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Paul Holder, Town Council

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Cindy Keating, Town Council

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David Pellegrino, Town Council

Attest:

\_\_\_\_\_  
Sheri Medina, Town Clerk

## Chapter 4 Business License, Permits and Regulations

### ARTICLE I. - IN GENERAL

#### Sec. 4-1. - License required.

Every person engaged or intending to engage in any calling, business, occupation, or profession listed in the rate classification index portion of this article, in whole or in part, within the limits of the Town of Surfside Beach, South Carolina, is required to pay an annual license tax and obtain a business license as herein provided. Any business collecting monies or providing services that is conducted from a house or other structure within the town limits requires a business license. The insuring of any risk located within the town through any procedures constitutes doing business; therefore, a business license is required.

#### Sec. 4-2. - Definitions.

The following words, terms, and phrases, when used in this article, shall have the meaning ascribed herein:

*Business* means a calling, occupation, profession, or activity engaged in with the object of gain, benefit, or advantage, either directly or indirectly, for which a separate classification (as defined below) exists.

*Charitable purpose* means benevolent, philanthropic, patriotic, or eleemosynary purpose, which does not result in personal gain to a sponsor, organizer, officer, director, trustee, or person with ultimate control of the organization. A charitable organization shall be deemed a business subject to a license tax unless the entire net proceeds of its operation, after necessary expenses, are devoted to charitable purposes. Compensation in any form to a sponsor, organizer, officer, director, trustee, or person with ultimate control of the organization shall not be deemed a necessary expense of operation.

*Classification* means that division of businesses by major groups subject to the same license rate as determined by a calculated index of ability to pay based on national averages, benefits, equalization of tax burden, relationships of services, or other basis deemed appropriate by town council.

*Gross income* means the total revenue of a business, received or accrued, for one (1) calendar year collected or to be collected from business done within the town, excepting there from income from business done wholly outside of the town on which a license tax is paid to some other municipality or a county and fully reported to the town. Gross income for brokers or agents means gross commissions received or retained, unless otherwise specified. Gross income for insurance companies means gross premiums collected. Gross income for business license tax purposes shall not include taxes collected for a governmental entity, escrow funds, or funds that are the property of a third party. The value of bartered goods or trade-in merchandise shall be included in gross income. The gross income for business license purposes may be verified by inspection of returns and reports filed with the Internal Revenue Service, the South Carolina Department of Revenue, the South Carolina Insurance Commission, or other governmental agency.

*License official* means any person designated to administer this article.

*Person* means any individual, firm, partnership, LLP, LLC, cooperative nonprofit membership, corporation, joint venture, association, estate, trust, business trust, receiver, syndicate, holding company, or other group or combination acting as a unit, in the singular or plural, and the agent or employee having charge or control of a business in the absence of the principals.

*Place of business* means a location identified by a unique and separate tax map number by the county assessor for Horry County, South Carolina.

*Town* means the Town of Surfside Beach, South Carolina.

*Town council* means the town council of the Town of Surfside Beach, South Carolina.

Sec. 4-3. - Purpose and duration.

The business license levied by this ordinance article is for the purpose of providing such regulation as may be required by the businesses subject thereto and for the purpose of raising revenue for the general fund through a privilege tax. Each license shall be issued for ~~one (1) year and shall expire on May 31.~~ **twelve-month period of May 1 to April 30.** The provisions of this ordinance article and the rates herein shall remain in effect from year to year as amended by town council.

Sec. 4-4. - License tax.

- (a) The required license tax shall be paid for each business subject hereto according to the applicable rate classification on or before the **due date of the 30<sup>th</sup> day of April** ~~first day of June~~ in each year, except for those businesses in Rate Class 8 for which a different due date is specified.
- (b) A separate license shall be required for each place of business and for each classification or business conducted at or from that place of business. Where more than one (1) calling, business, occupation or profession is conducted at or from a place of business, a separate business license is required for each such calling, business, occupation or profession. If gross income cannot be separated for classifications at one (1) location, the license tax shall be computed on the combined gross income for the classification requiring the highest rate. A license tax based on gross income shall be computed on the gross income for the preceding calendar or fiscal year, and on a twelve-month projected income based on the monthly average for a business in operation for less than one (1) year. The tax for a new business shall be computed on the estimated probable gross income stated in the license application for the balance of the license year. The initial tax for an annexed business shall be prorated for the number of months remaining in the license year. No refund shall be made for a business that discontinues operation or changes ownership prior to expiration of a license year.

# Decision Paper

Meeting Date: \_\_\_\_\_

**Written By:** Chief Kenneth Hofmann

**1. SUBJECT: Renewal of Memorandum of Understanding with City of Myrtle Beach Police Department**

**2. PURPOSE: To allow inter-operability between the Surfside Beach Police Department and Myrtle Beach Police Department in emergency situations, crime scene assistance, special events, and/or any other law enforcement function.**

**3. FACTS:**

(a) The Town of Surfside Beach and City of Myrtle Beach entered into a Memorandum of Understanding to provide mutual aid to one another on March 26, 2019. The agreement was effective for 2 years.

(b) South Carolina Code of Laws sections 23-20-10 through 23-20-60 authorize law enforcement agencies to enter into contractual agreements with other law enforcement providers as may be necessary for the proper and prudent exercise of public safety functions.

(c) During the previous term of this contractual agreement, Myrtle Beach has requested assistance from the Surfside Beach Police Department to provide manpower during the Myrtle Beach Marathon special event. SBPD provided one officer to assist in those events.

(d) During this same term, SBPD has made numerous manpower requests in the form of crime scene assistance, negotiations team assistance, and traffic collision investigations assistance.

(e) The MOU with the Myrtle Beach Police Department provides tremendous benefit to the public safety of the Town of Surfside Beach and is an integral component of the Emergency Operations Plans of both agencies.

**4. ACTION: Request that Council authorize the Town Administrator to sign the renewal of the Memorandum of Understanding between the Surfside Beach Police Department and the Myrtle Beach Police Department.**



CITY OF MYRTLE BEACH  
COUNTY OF HORRY  
STATE OF SOUTH CAROLINA

MEMORANDUM OF UNDERSTANDING

This agreement is made and entered by and between Surfside Beach Police Department (Police Agency) and the City of Myrtle Beach Police Department (the Parties) and shall be effective on the date that the agreement has been signed by both parties and approved by their governing body, as shown below.

WHEREAS, sections 23-20-10 through 23-20-60 of the Code of Laws of South Carolina (1976) as amended, authorize law enforcement agencies to enter into contractual agreements with other law enforcement providers as may be necessary for the proper and prudent exercise of public safety functions. These sections specify contractual provisions and approvals that are required for such an agreement. The officers of a law enforcement provider under such an agreement have the same legal rights, powers and the duties to enforce the laws of South Carolina as the law enforcement agency contracting for the services; and

WHEREAS, S.C. Code Ann. Section 23-1-210 provides for the temporary transfer of law enforcement officers pursuant to written agreement; and

WHEREAS, S.C. Code Ann Section 23-1-215 authorizes agreements between multiple law enforcement jurisdictions for purposes of criminal investigations; and

WHEREAS, the parties hereto desire to enter into such an agreement to promote public safety for the purpose of securing to each other the benefits of mutual aid; and

WHEREAS, it is the desire and intent of the parties to evidence their joint undertaking for the provision of mutual assistance in law enforcement matters by the temporary assignment of law enforcement officers between jurisdiction to the fullest extent as is allowed by law; and

WHEREAS, it is the intent of the parties to share jurisdiction under this written agreement to the fullest extent permitted under South Carolina law; and

WHEREAS, the purpose of this Agreement is to define the scope of such mutual aid and the responsibilities of the parties cooperating in law enforcement actions (statement of the specific services to be provided), thereto:

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the parties agree as follows:



Assistance. The assistance to be rendered pursuant to this Agreement shall solely involve the temporary transfer or assignment of law enforcement officers and/or equipment from each party's jurisdiction to the support and aid of the aforementioned MOU, in cooperation with the parties named herein. When so transferred or assigned, such law enforcement officers shall have all rights, powers, authority, and duties to enforce the laws of South Carolina as a law enforcement officer employed by the respective jurisdiction to this agreement, and to which assignment is made.

When requesting an officer, specialized teams (such as K9, SWAT, Traffic, etc.), the officers/teams will only perform those duties which they have been trained or certified to conduct or perform and in accordance with the MBPD Policies and Procedures.

Request for Assistance. The parties to the MOU may request law enforcement assistance from the parties to this Agreement, and such request may be made for assistance with public safety functions, which include traditional public safety activities which are performed over a specific period of time for investigations and intelligence sharing.

Primary Responsibility. It is agreed and understood that the primary responsibility of the parties hereto is to provide law enforcement services within the geographical boundaries of their respective jurisdictions. Therefore, it is agreed that the law enforcement agency whose assistance is requested shall be the sole judge as to whether or not it can respond and to what extent it can comply with the request for assistance.

Request. A request for assistance shall only be made by the Sheriff or Chief of Police, if available, and otherwise by the senior duty officer of the law enforcement agency whose assistance is requested. If the request is granted, the requesting law enforcement agency shall be immediately informed of the number of law enforcement officers to be furnished.

Reply. A reply to any request for assistance shall only be made by the Sheriff or Chief of Police, if available, and otherwise by the senior duty officer of the law enforcement agency whose assistance is requested. If the request is granted, the requesting law enforcement agency shall be immediately informed of the number of law enforcement officers to be furnished.

Officer-in-Charge. The personnel temporarily transferred or assigned by the assisting law enforcement agency shall report to their respective Chains of Command, and Officer-in-Charge and shall be subject to orders and commands of that official. The assisting law enforcement officers shall exert their best efforts to cooperate with and aid the requesting law enforcement agency.

Release. The law enforcement officer temporarily transferred or assigned shall be released by the Officer-in-Charge when their services are no longer required or when they are needed to respond to a situation within the geographical boundaries of their own jurisdiction; provided, however, the assisting law enforcement officers shall use their best efforts to complete the requested service prior to being released.

Vesting of Authority and Jurisdiction. To the fullest extent permitted by the Constitution and statutes of this State, officers assigned under this agreement shall be vested with all authority,

jurisdiction, rights, immunities and privileges within the requesting jurisdiction for the purposes of investigation, arrest, or any other activity related to the purpose for which they were requested. Local ordinances adopted by a sending agency shall not be deemed extended into areas which are outside the territorial limits of the sending jurisdiction.

Radio Communications. Radio communications between the requesting law enforcement agency and the assisting law enforcement officers shall be maintained by use of the State regional radio channel system, unless a radio channel that is mutually shared by the parties hereto is otherwise available.

Compensation and Reimbursement. The temporary transfer or assignment of law enforcement officers made pursuant to this Agreement shall in no manner affect or reduce the compensation, pension or retirement rights of such transferred or assigned officers, and such officers shall continue to be paid by the agency where they are permanently employed.

The parties agree that compensation and/or reimbursement for services provided hereunder shall be limited to the reciprocal provision of services of like kind, to include the ancillary benefits of increased investigation and prevention of narcotics and related offenses in their respective jurisdictions. Any other agreement for reimbursement between the parties must be written and executed in the same manner as this agreement.

Equipment and Facilities. Each party shall supply the equipment for its law enforcement officers and shall bear the risk of its damage or loss; provided, however, that if the equipment is damaged by the acts or omissions of employees of the other party, then the other party shall reimburse the damaged party for its loss. The host agency will provide the facilities for law enforcement operations and will designate its location at the time assistance is requested.

Records. The requesting law enforcement agency shall be primarily responsible to maintain records relating to the incident for which assistance has been requested. However, each law enforcement agency shall maintain records of activities of its personnel that would generate records in its own jurisdiction including, but not limited to, incident reports, records of application or execution of an arrest or search warrant, incident reports for arrests made by personnel, uniform traffic tickets issued, and use of force forms. Each party shall make these records available to the other party upon request and without cost.

Freedom of Information Act ("FOIA") Requests. The requesting law enforcement agency shall be primarily responsible for responding to FOIA requests relating to the incident for which assistance has been requested. However, each law enforcement agency shall maintain records as set forth above and assist the requesting law enforcement agency in responding to FOIA requests.

Insurance and Bond. It is agreed and understood that the parties hereto shall be solely responsible to maintain such insurance protection and workers compensation coverage on its employees as may be required by law or deemed advisable by the party. The bond, if any, for

any officers operating under this agreement shall include coverage for their activity in the other jurisdiction covered by this agreement in the same manner and to the same extent provided by the bonds of regularly employed officers of that county or municipality.

Employment Status. Nothing herein contained shall be construed or interpreted to imply that the law enforcement officers temporarily transferred or assigned in accordance with this agreement are employees of the law enforcement agency requesting such assistance.

Legal Contingencies. Neither party shall be responsible for defending any legal action brought against the other party or its employees arising out of circumstances in which assistance was requested or provided, nor shall it be responsible to pay any fees, costs, damages or verdicts incurred by the other party in such legal action.

No Indemnification or Third-Party Rights. The parties shall be solely responsible for the acts and omissions of their respective employees, officers and officials. No right of Indemnification is created by the agreement and the parties expressly disclaim such a right. The provisions of this agreement shall not be deemed to give rise to or vest any rights or obligations in favor of any person or entity not a party to this agreement.

Other Agreements and Investigations. This agreement shall not repeal or supersede any existing agreements between the parties hereto nor does it restrict in any way the normal cooperation between law enforcement agencies concerning ongoing criminal investigations.

Modification. This Agreement shall not be modified, amended or changed in any manner except upon the express written consent of the parties hereto.

Duration. This Agreement will continue in effect for two (2) years from the date of effectiveness of last signing below. Renewal shall be accomplished only by legislative act of equal dignity.

Termination. This Agreement may be terminated by either party by providing written notice to the other party. Such notice becomes effective upon receipt of the notice by the other party.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on the dates shown below.

Approved by Town of Surfside Beach

\_\_\_\_\_  
Town Administrator

Date approved for execution by Town Council: \_\_\_\_\_

Approved by City of Myrtle Beach

\_\_\_\_\_  
City Manager

Date approved for execution by City Council: \_\_\_\_\_



**STATE OF SOUTH CAROLINA ) AN ORDINANCE OF THE TOWN OF SURFSIDE BEACH**  
**)**  
**COUNTY OF HORRY ) AUTHORIZING USE OF MEMORIAL PARK**  
**) FOR CRAFT MARKET SPECIAL EVENT AND**  
**TOWN OF SURFSIDE BEACH ) APPROVAL OF MANAGING VENDOR AGREEMENT**

**WHEREAS,** The Town of Surfside Beach owns property in the municipal boundaries of the town known as Memorial Park, public greenspace dedicated to public use; and

**WHEREAS,** The Town Council of the Town of Surfside Beach wishes to establish a seasonal weekly outdoor craft market at Memorial Park to showcase artistic talent and support local artisans, as well as providing an opportunity for the town’s residents and visitors to enjoy the park and support local vendors; and

**WHEREAS,** The Town wishes to engage a managing vendor to manage artisans and businesses wishing to participate in the weekly Craft Market, and wishes to permit the Managing Vendor to utilize the Town’s public property for the mutual benefit of the Vendor and the Town; and

**WHEREAS,** The Town Council has been presented with a proposed Managing Vendor Agreement (“Agreement”) (**Ex. A**); and

**WHEREAS,** Under Division 2 of Article VI of the Town of Surfside Beach Code of Ordinances, the Town Council determines it is to the advantage of the Town to enter into the Agreement with the Managing Vendor, the sole source identified by the Administrator as responsible for providing the expertise and experience to perform the required services, in the best interests of the town; and

**WHEREAS,** The Town Council desires to enter into this Agreement to serve a public purpose, finding: (1) The ultimate benefit of the Craft Market is the promotion of “the Family Beach” civic ideal of holding a market at Memorial Park to promote local artisans and businesspeople, making crafts available to residents and visitors, and to the financial benefit of the town; (2) While private parties will benefit incidentally, the primary benefit is to the town; (3) the benefit is not necessarily speculative, as Memorial Park has been successfully used for public markets; and (4) Town Council expects the Agreement with the Managing Vendor to serve the public interest; and

**WHEREAS,** Sections 2-56(a)(4) of the Code of Ordinances of the Town of Surfside Beach requires Town Council act by ordinance to grant rights in public property after public hearing; and

**WHEREAS,** The Town Council held a public hearing on approval of the Managing Vendor Agreement for public property on \_\_\_\_\_, 2021; and

**NOW, THEREFORE BE IT ORDAINED** by the Mayor and Council of the Town of Surfside Beach, South Carolina, that the Town Administrator be authorized to execute the Managing Vendor Agreement with My Olive Shack Art & Artisan Guild (**Ex. A**, attached and incorporated), upon such terms and conditions contained therein, which Town Council expressly finds to be fair and reasonable, in the Town's best interests.

**REPEAL AND EFFECTIVE DATE.** All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed. This ordinance shall take effect immediately upon second reading by the Mayor and Town Council of the Town of Surfside Beach.

**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. All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

**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 \_\_\_\_, 2021.

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

\_\_\_\_\_  
Debbie Scoles, Mayor Pro Tempore

\_\_\_\_\_  
Bruce Dietrich, Town Council

\_\_\_\_\_  
David Pellegrino, Town Council

\_\_\_\_\_  
Paul Holder, Town Council

\_\_\_\_\_  
Cindy Keating, Town Council

\_\_\_\_\_  
Michael Drake, Town Council

Attest: \_\_\_\_\_  
Sheri Medina, Town Clerk

STATE OF SOUTH CAROLINA )  
TOWN OF SURFSIDE BEACH )      **AGREEMENT FOR MANAGING VENDOR**  
)      **MEMORIAL PARK CRAFT MARKET**  
) \_\_\_\_\_)

This Agreement, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2021, is effective April 1, 2021, by and between the **Town of Surfside Beach**, State of South Carolina, a municipal corporation, (“the Town,”) and **My Olive Shack, LLC**, (“Vendor”), understanding and agreeing as follows:

**WHEREAS**, The Town Council of the Town of Surfside Beach wishes to establish a seasonal weekly outdoor craft market at Memorial Park to showcase artistic talent and support local artisans, as well as providing an opportunity for the town’s residents and visitors to enjoy the park and support local vendors; and

**WHEREAS**, The Town wishes to permit the use of Memorial Park for this purpose and engage managing vendor to manage artisans and businesses wishing to participate in the weekly Craft Market; and

**WHEREAS**, The Town understands allowing a Managing Vendor to use the public park for this purpose would likely benefit the private vendor financially, but would also benefit the Town;

**WHEREAS**, My Olive Shack desires to provide these services to the Town;

**NOW THEREFORE**, in consideration of the mutual covenants herein contained, the parties agree to bind themselves, their agents, their successors, and any permitted assigns as follows:

I. Use of Public Property and Scope of Services

Vendor agrees to organize, set up, and manage the Surfside Beach Craft Market at Memorial Park (located at the corner of Surfside Drive and Willow Drive in the Town of Surfside Beach) each Thursday from 10:00 a.m. until 3:00 p.m., from the first Thursday in April through the second Thursday in December, 2021.

Vendor agrees to secure artisan and craftspeople to participate as market vendors (“sub-vendors.”) Vendor will develop and implement an application process for this, subject to review by the Town. Vendor acknowledges it shall not discriminate on the basis of gender, race, disability, religion, nationality, or sexual orientation of any applicant.

Vendor agrees to prohibit the sale of Alcohol by all market vendors. In addition, Vendor agrees to ensure that all customers understand that they are prohibited from bringing open container of alcohol on the park property.

Vendor agrees to prohibit the sale of CBD and cannabinoid-related products.

The parties acknowledge Vendor expects to negotiate for and collect a nominal fee from each sub-vendor for space at the Craft Market, at Vendor’s discretion. Vendor shall keep and maintain written records of receipts for all compensation obtained in securing commitments for market vending space, and all proceeds obtained from sales by Vendor or any portion collected from any sub-vendor. At the end of each calendar month, April – December, Vendor will provide copies of such agreements and receipts to the Town of Surfside Beach. Vendor is entitled to keep such proceeds less the compensation due to the Town, described herein below.



## II. Compensation

Upon receipt of Vendor's monthly compensation records, the Town will invoice Vendor 10% of gross monthly proceeds collected, due and payable to the Town on the 20<sup>th</sup> of the following month.

Vendor agrees to pay all fees and licenses to the Town as per ordinance and/or policy.

## III. Representations and Responsibilities of Vendor

Vendor holds a valid Town business license and agrees to maintain same in good standing for the duration of this Agreement. By the signature below of its authorized agent, Vendor certifies it has requisite experience to provide the desired services.

Vendor shall ensure the proper set-up of the Market as a whole, including but not limited to: (1) ensuring no sub-vendor locates within 15 feet of a street (*ref.* §4-24, Town Code); (2) sub-vendors hold town business licenses or have successfully applied for a special event permit and paid the requisite fee (*ref.* §4-23, Town Code); (3) no sub-vendor shall set up on the public sidewalk without a valid encroachment permit (*ref.* §12-28, Town Code); and (4) ensure sub-vendor locations comply with 4-foot pedestrian passageways and other table and chairs requirements of §12-30, Town Code.

Vendor acknowledges the intent of the Craft Market is to showcase artisans and craftspeople. To the extent an applicant proposes to market produce, animal products, florals, or prepared food and beverage, Vendor is responsible to ensure sub-vendors have obtained any and all licenses or permits required for the sale of agricultural products and/or food and beverages as required by the State of South Carolina.

Vendor shall at all times be considered an independent contractor and shall not be considered an employee or agent of the Town, and shall not be entitled to any public employee benefits.

Vendor avers this Agreement is not the result of having colluded or conspired with any member of Town Council, Town staff, or Town employees.

## IV. Representations and Responsibilities of the Town

The Town agrees to provide adequate staff, police, and fire protection when needed for the weekly market. The Town agrees to keep and maintain Memorial Park's landscaping in good order, such that the weekly market may be held.

The Town agrees to respond promptly to requests made under Section III, supra., for the consideration and processing of sub-vendor permit requests, zoning compliance review, and related requests. (*ref.* §12-25, Town Code)

The Town avers this Agreement is not the result of any councilmember, staff member, or employee having colluded or conspired with any agent or representative of Vendor.

## V. Insurance and Liability

Vendor shall purchase and maintain such insurance as will protect it and the Town from all claims under Worker's Compensation, disability, and other similar employee benefit acts. Prior to the Effective Date of this Agreement, Vendor shall provide the Town of Surfside Beach with a

Certificate of Liability Insurance with a minimum of \$1,000,000.00 general liability insurance policy naming the Town of Surfside Beach as additional named insured.

Each party shall be responsible for its own acts as provided under the law of South Carolina and will be responsible for all damages, costs, fees and expenses which arise out of the performance of this Agreement which are due to that party's own negligence, tortious acts and other unlawful conduct and the negligence, tortious action and other unlawful conduct of its respective agents, officers and employees.

Vendor agrees to hold the Town, its employees, officers, officials, and/or representatives, harmless against any and all liabilities, losses, claims, demands, suits, judgments, causes of action and/or expenses, of any kind including, but not limited to attorney's fees, resulting from property damage and/or personal injury to any individuals or third parties resulting from the negligence, and/or willful misconduct of Vendor, arising out of the performance hereunder.

VI. Public Documents

The parties acknowledge the Town is a public body subject to the South Carolina Freedom of Information Act (FOIA), and that all documents are subject to release to the public unless exempt from disclosure under the FOIA or prohibited from release. If Vendor contends a document is proprietary, it shall mark any such documents plainly. If a FOIA request for documents identified as proprietary is received, the Town agrees to promptly notify Vendor, who may seek protection from disclosure by filing an appropriate action in Circuit Court. If litigation is commenced against the Town under the FOIA for items withheld from production under this Agreement, Vendor agrees to indemnify the Town for all fees and costs (including a FOIA plaintiff's attorney's fees if awarded by the Court) incurred by the Town.

VII. Extension, Amendment, Assignment, Termination

This agreement may be extended on the same terms and conditions as herein provided, for one season (first Thursday in April 2022 through second Thursday in December 2022 upon mutual agreement of the parties in writing, approved by Town Council. If not extended with Council approval by December 31, 2021, this Agreement shall be terminated.

This Agreement may be amended in writing.

This Agreement may not be assigned by either party, and specifically but without limitation, as to monies that may become due, and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

Either party may cancel this Agreement by giving 30 days' notice to the other party, in writing.

VIII. Severability

If any part or provision of this Agreement is held invalid or unenforceable under applicable law, such invalidity or unenforceability shall not in any way affect the validity or enforceability of the remaining parts and provisions of this Agreement.

IX. Governing Law

This Agreement and the rights, obligations and remedies of the parties shall in all respects be construed in accordance with the laws of the State of South Carolina.

X. Notice and Communication

Notices under this Agreement shall be by the United States Postal Service, postage prepaid. The parties acknowledge digital or telephone communication will be the primary method of communication for the duration of this Agreement:

Town: William P. Shanahan, Jr.  
Town of Surfside Beach  
115 U.S. Highway North  
Surfside Beach, SC 29575

Vendor: My Olive Shack, LLC

**IN WITNESS WHEREOF**, The Town and Consultant have executed this Agreement in triplicate on the date identified hereinabove.

As to the Town of Surfside Beach:

\_\_\_\_\_  
William P. Shanahan, Jr.  
Town Administrator

\_\_\_\_\_  
Sheri Medina  
Town Clerk

As to Vendor:

\_\_\_\_\_  
Its: \_\_\_\_\_

\_\_\_\_\_  
Witness as to Vendor

Sec. 4-24. - Roadside vendors.

It shall be unlawful for any person to sell or offer for sale any goods or wares as a roadside vendor. This provision shall not apply to persons selling or offering to sell fresh provisions provided such person provides adequate off-street parking for motor vehicles, and does not establish the location of such provisions nearer than one hundred fifty (150) feet from the boundaries of a street right-of-way.

(Ord. No. 09-0662, 4-14-09)

Sec. 4-23. - Special events.

It shall be unlawful for any person to sell, hawk, peddle, drum, solicit, etc., goods, wares or provisions of any kind without a valid business license. Such license shall only be issued for the sale of such goods, wares, or provisions as are by custom sold at such events, and such license shall only be valid at the location of and during the time period in which such event is conducted. The town may grant an exception at an official town recognized festive or sportive event where the town has agreed to accept and the vendor or event promoter has paid to the town a special event fee in lieu of a business license.

(Ord. No. 09-0662, 4-14-09)

DIVISION 2. - OUTDOOR CAFES

Sec. 12-25. - Purpose and applicability of division.

The provisions of this division shall apply to conforming businesses within a nonresidential district for the establishment, operation and maintenance of outdoor displays and outdoor dining areas located on sidewalks and public plazas. The purpose of this division is to promote the general economic development and atmosphere of the C-2 and C-3 zoning districts, where sidewalk widths are greater than or equal to six (6) feet, for the benefit of all businesses and citizens located there, and no rights of individuals or individual businesses are created in this division. The town administrator shall have broad discretion to grant, modify, or revoke permits issued pursuant to this division in the interests of improving the public health, safety, and welfare. However, no permit issued pursuant to this division shall be construed to authorize the operation of a business that is prohibited by the town's zoning ordinance.

(Ord. No. 11-0703, § 1, 6-14-11; Ord. No. 19-0906, 9-24-19)

Sec. 12-26. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Design requirements* means the standards adopted with this division that guide design and materials in encroachment areas.

*Encroachment* means stands, tables, umbrellas, chairs, signs, objects related to the business, or other items on the public right-of-way, sidewalk or common area on public property.

*Outdoor café* means the business of providing food and beverage service with chairs, tables on sidewalks and plazas, adjacent to a business licensed to operate as an eating establishment where food and/or other refreshments are served.

*Permit administrator* means the town personnel designated by the town administrator to enforce this division.

*Permittee* means the recipient of an encroachment permit under the terms and provisions of this division.

*Plaza* means any landscaped outdoor area which is owned or controlled by the town, which is open to the general public, but which is not a sidewalk or street.

*Sidewalk* means that area of the public right-of-way between the curblines or the lateral lines of a roadway and the adjacent property lines and which is reserved for pedestrian traffic, but not including street crossings.

(Ord. No. 11-0703, § 1, 6-14-11)

Sec. 12-27. - Penalty.

Any person violating any provision of this division shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with section 1-16 of the Town Code of Ordinances. Each day any violation of this division shall continue shall constitute a separate offense. In addition to any other penalty, violation of this division shall be cause for revocation of any permit granted hereunder.

(Ord. No. 11-0703, § 1, 6-14-11)

Sec. 12-28. - Permit required.

- (a) It shall be unlawful for any person to create, establish, operate, maintain or otherwise be engaged in the business of running an outdoor cafe, or to place any items upon the sidewalks or public property, in the town unless he shall hold a currently valid permit issued under the terms of this division.
- (b) Permits shall be issued only to validly licensed businesses that wish to set up tables and chairs or other objects related to their business on the public sidewalk or plaza.

(Ord. No. 11-0703, § 1, 6-14-11)

Sec. 12-29. - Application for permit; fee.

- (a) Application for the permit required by this division shall be made with the town in a form deemed appropriate by the town administrator. Such application shall include but, not be limited to, the following information:
  - (1) Name, home and business address and telephone number of the applicant, and the name and address of the owner of the business if other than the applicant.
  - (2) Name, home address and telephone number of a responsible person whom the town may notify or contact at any time concerning the applicant's encroachment.

- (3) A copy of a valid business license to operate a business establishment adjacent to the public property which is the subject of the application.
  - (4) Proof of current general liability insurance and, if applicable, alcohol liability insurance issued by one (1) or more insurance companies licensed to do business in the State of South Carolina, protecting the licensee and the town from all claims for damage to property and bodily injury, including death, which may arise from operation under or in connection with the encroachment permit. Such insurance shall name the town as an additional insured, shall include an indemnification agreement in both form and content acceptable to town, and shall provide that the policy shall not terminate or be canceled prior to the expiration date without thirty (30) days' advance written notice to the town. Each policy shall be for a minimum of one million dollars (\$1,000,000.00) coverage. The indemnification agreement shall include provisions requiring the applicant to indemnify and save harmless the town from any claim of liability, and associated defense costs, that arise out of the applicant's use of the sidewalk area, and shall preserve the right of the town to its choice of defense counsel.
  - (5) A sketch, to scale, of the proposed location, showing the layout and dimensions of the existing public area and adjacent private property.
  - (6) Proof of any required LOP license, health permits or other state permits for the business involved.
  - (7) Photographs, drawings or manufacturers' brochures fully describing the appearance of all proposed tables, chairs, umbrellas or other objects related to the business.
- (b) Not later than fifteen (15) days after the filing of a completed application for a temporary encroachment permit, the applicant shall be notified by the permit administrator of the decision on the issuance or denial of the permit. An annual fee of twenty-five dollars (\$25.00) for one hundred fifty (150) square feet or less or fifty dollars (\$50.00) for any area greater than one hundred fifty (150) square feet, shall be due and payable on or before July 1 of each year for the following year. This fee is in addition to the business license fee required for operation within the town. Only new permits shall be prorated on a quarterly basis. No fees shall be charged for encroachments solely for the purpose of beautification, but all other provisions of this division shall apply.
- (c) Application for a permit shall be made with the permit administrator within forty-eight (48) hours of written notice for failure to obtain a permit, or as soon thereafter as town offices are open. Where the same owner, occupant or person responsible has been given notice for the same violation at the same location within the previous one hundred eighty (180) days, such requirements of written notice may be waived and legal proceedings commenced immediately.

(Ord. No. 11-0703, § 1, 6-14-11; Ord. No. 12-0722, 8-14-12)

Sec. 12-30. - Prohibited acts.

- (a) No merchant, vendor, business or property owner shall:
- (1) Block or restrict the pedestrian passageway to less than four (4) feet in width, or block ingress or egress to or from any building in areas of congested pedestrian activity, the permit administrator is authorized to require a wider pedestrian path as circumstances dictate. Also, no items shall be placed so as to block any driveway, crosswalk, but stop, counter service window or block visibility within an intersection.

- (2) Sublicense the encroachment area.
  - (3) Place objects around the perimeter of an area occupied by tables and chairs which would have the effect of forming a physical or visual barrier, except within a plaza, without the written approval of the permit administrator.
  - (4) Use tables, chairs, umbrellas, awnings and any other objects of such quality, design, materials and workmanship which are not authorized by the permit administrator. Objects in a plaza must meet design requirements set forth for that public space.
  - (5) Use umbrellas or awnings which are not fire-retardant, pressure-treated or manufactured of fire-resistive material if larger than ten (10) feet by ten (10) feet.
  - (6) Fail to secure permission of the landlord where a building has multiple occupants.
  - (7) Utilize the area for commercial activity in any way without the insurance coverage specified.
  - (8) Sound or permit the sounding of any device on the public property which produces a loud noise, or use or operate any loudspeaker, public address system, radio, sound amplifier or similar device.
  - (9) Fail to pick up, remove and dispose of all trash or refuse left by the business or its patrons on the public right-of-way.
  - (10) Store, park or leave any stand or items of merchandise overnight on any street or sidewalk, except for tables and chairs, which may be kept in the permitted area at the permittee's risk.
- (b) The encroachment permit is a temporary license, which may be denied, suspended or revoked for any conduct which is contrary to the provisions of this division or for conduct of the business in such a manner as to create a public nuisance or constitute a danger to the operator's or the public's health, safety or welfare. No property right is created by this division, and the decision of the town administrator shall be final.

(Ord. No. 11-0703, § 1, 6-14-11; Ord. No. 19-0906, 9-24-19)

Sec. 12-31. - Form and conditions of permit.

The permit required by this division shall be issued on a form deemed suitable by the permit administrator. In addition to naming the permittee and any other information deemed appropriate by the permit administrator, the permit shall contain the following conditions:

- (1) Each permit shall be effective for one (1) year, from July 1—June 30, unless revoked, suspended or retracted prior to expiration.
- (2) The permit issued shall be personal to the permittee only and shall not be transferable in any manner.
- (3) The permit may be suspended by the permit administrator when necessary to clear the public property for public safety for a community or special event authorized by a permit issued by the town.
- (4) The permit administrator may require the temporary removal of items within the encroachment area when street, sidewalk, common area or utility repairs necessitate such action.

- (5) The permit shall be specifically limited to the area shown on the diagram attached to the permit application. As a condition of approval, the town may reduce and otherwise reconfigure the proposed area and the number of requested chairs, tables, and items within the encroachment area.
- (6) The encroachment area covered by the permit shall be maintained in a neat and orderly appearance at all times, and the area shall be cleared of all debris on a periodic basis during the day, and again at the close of each business day.
- (7) No advertising is permitted (except for the posting of prices) on any stand or item, except to identify the name of the product.
- (8) No tables or chairs or any other parts of the business shall be attached, chained or in any manner affixed to any tree, post, sign or other fixtures, curb or sidewalk within or near the permitted area in a manner which causes or threatens to cause injury to any person or damage to public or private properties. No additional outdoor seating authorized under this division shall be used for calculating seating requirements pertaining to location of, application for or issuance of an LOP license for any establishment, or be used as the basis for computing required seating for restaurants and dining rooms, or as grounds for claiming exemption from such requirements under the provisions of any town ordinance or state law.
- (9) The issuance of a permit does not grant or imply vested rights to use of the area by the permittee. The town retains the right to deny the issuance of a permit or the renewal of a permit for any reason.
- (10) Tables, chairs, umbrellas and any other objects provided shall be maintained with a clean and attractive appearance and shall be kept safe and in good repair at all times.
- (11) The town may require the posting or placement of the permit and relevant notices to facilitate the administration and enforcement of this division.

(Ord. No. 11-0703, § 1, 6-14-11)

Sec. 12-32. - Denial, suspension, retraction or revocation of permit; removal of property by town.

- (a) *Grounds for denial, suspension, retraction or revocation; removal of property by town.* The permit administrator may deny, retract, revoke or suspend a permit issued under this division at any time for any business authorized in the town if it is found that:
  - (1) Any necessary business or health permit has been suspended, revoked or canceled.
  - (2) The permittee does not have insurance in force which is correct and effective in the minimum amount described in subsection 8-255(a)(4).
  - (3) Changing conditions of pedestrian or vehicular traffic causing congestion or changes of property conditions necessitating removal of the encroachment. Such decision shall be based upon findings of the permit administrator that the minimum four (4) foot pedestrian path is insufficient under existing circumstances and represents a danger to the health, safety, or general welfare of pedestrians or vehicular traffic.
  - (4) The permittee has failed to correct violations of this division or conditions of the permit upon receipt of the permit administrator's notice of the violation delivered in writing to the permittee.



- (5) The permittee has failed to make modifications upon receipt of the permit administrator's notice to make such modifications delivered in writing to the permittee.

Tables, chairs and other vestiges of the business may be removed by the department of public works, and a reasonable fee charged for labor, transportation and storage, should the permittee fail to remove the items within thirty-six (36) hours of receipt of the permit administrator's final notice to do so for any reason provided for under this division. If the action is taken based on subsection (a)(2) or (a)(3) of this section, the action shall become effective upon the receipt of such notice and the permittee shall remove the items, immediately.

- (b) *Notice of denial or revocation.* Upon denial or revocation, the permit administrator shall give notice of such action to the applicant or the permittee, in writing, stating the action which has been taken and the reason therefor. The action shall be effective upon giving such notice to the permittee.
- (c) *Appeals.* The permittee shall have the right to appeal the decision of the permit administrator to the town administrator within five (5) working days from receipt of notice. An appeal does not stay the denial, suspension, or revocation of the permit. The appeal shall be held within two (2) working days from the date of notice of the request, if the town administrator is available or as soon thereafter as the town administrator shall be available. The town administrator shall notify the permittee or applicant of the determination in writing.

(Ord. No. 11-0703, § 1, 6-14-11; Ord. No. 19-0906, 9-24-19)

**Sec. 12-33. - Mobile food vendors.**

Mobile food vendors shall be allowed only during town sponsored and/or town approved events subject to the following conditions:

- (1) Required to maintain documentation of the necessary approvals from SCDHEC (South Carolina Department of Health and Environmental Control) and any other agency documentation that is necessary to provide food service; and
- (2) Required to possess a current Town of Surfside Beach Business License or an event vendor's permit; and
- (3) The events supervisor has authority to determine the parking location of each mobile food vendor; and
- (4) The events supervisor has authority to limit the number of mobile food vendors per event as deemed appropriate; and
- (5) The sale of alcoholic beverages from mobile food vendors shall be prohibited.

(Ord. No. 17-0849, 8-22-17)

Secs. 12-34—12-40. - Reserved.

**Public purpose doctrine:**

Public monies must be pledged primarily toward public purpose.

1. What is the ultimate benefit to the public?
2. Is the public the primary beneficiary, or private parties?
3. How speculative is the public benefit?
4. What is the probability the public interest will be served?

*"We adopted the four-part test from Byrd to use in determining whether the public purpose doctrine is violated. "The Court should first determine the ultimate goal or benefit to the public intended by the project. Second, the Court should analyze whether public or private parties will be the primary beneficiaries. Third, the speculative nature of the project must be considered. Fourth, the Court must analyze and balance the probability that the public interest will be ultimately served and to what degree." WDW PROPERTIES v. City of Sumter, 342 S.C. 6 (S.C., 2000)*

*See also Art. X, sec. 11, S.C. Const.*

*The credit of neither the State nor of any of its political subdivisions shall be pledged or loaned for the benefit of any individual, company, association, corporation, or any religious or other private education institution except as permitted by Section 3, Article XI of this Constitution. Neither the State nor any of its political subdivisions shall become a joint owner of or stockholder in any company, association, or corporation.*



## Chapter 5 - ELECTIONS<sup>11</sup>

### Footnotes:

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**Editor's note**— Ord. No. 19-0886, adopted February 26, 2019, repealed the former Ch. 5, §§ 5-1, 5-16—5-19, 5-31—5-33, 5-51—5-61, and enacted a new Ch. 5 as set out herein. The former Ch. 5 pertained to similar subject matter and derived from Code 1969, §§ 2-1—2-3, 2-5, 2-10—2-13, 2-15—2-20, 2-22, 2-23, 2-30; Ord. No. 86-0234, Sept. 2, 1986; Ord. No. 88-0261, Aug. 2, 1988; Ord. No. 94-0355, Dec. 6, 1994; Ord. No. 95-0363, June 6, 1995; Ord. No. 01-0467, Jan. 1, 2002; Ord. No. 04-0534, July 27, 2004; Ord. No. 05-0573, Sept. 27, 2005; Ord. No. 06-0600, June 27, 2006; Ord. No. 12-0716, July 25, 2012; Ord. No. 13-0763, Oct. 22, 2013; Ord. No. 14-0778, June 9, 2014; Ord. No. 18-0869, April 24, 2018.

### ARTICLE I. - IN GENERAL

#### Sec. 5-1. - Authority to conduct election transferred to county election commission.

Pursuant to S.C., Code of Laws, § 5-15-145, as amended, and ~~upon acceptance by in accordance with ordinance #xx-xxx as approved by Horry County Council, the tTown of Surfside Beach (hereinafter referred to as "Town")~~ transfers its authority to conduct municipal elections to the Horry County Election Commission.

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(Ord. No. 19-0886, 2-26-19)

#### Sec. 5-2. - State election laws applicable.

State election law as set forth in the South Carolina Code of Laws, as amended, is adopted and made a part of this Code, except as otherwise provided in Title 5 of the South Carolina Code. All elections within the tTown, whether general or special, shall be governed by the applicable provisions of the state election laws as well as the provisions of this article not in conflict with such state laws.

(Ord. No. 19-0886, 2-26-19)

#### Sec. 5-3. - Nonpartisan elections.

All nominations for mayor and town council shall be nonpartisan under the nonpartisan ~~run-off~~ plurality method as provided in this chapter and in S.C. Code of Laws, § 5-15-~~6261~~, as amended.

(Ord. No. 19-0886, 2-26-19)

#### Sec. 5-4. - Qualified electors.

All electors of the tTown must meet the qualifications of residency and must be at least eighteen (18) years of age, and otherwise qualified to vote in South Carolina. The qualifying period of residency is thirty (30) days residence in the town. Proof of residency satisfactory to the tTown shall be presented at the time of registration by any person seeking to ~~vote be a candidate~~ in the tTown election.

(Ord. No. 19-0886, 2-26-19)

**Cross reference**— Definition of candidate, § 5-18.

**State Constitution reference**— Art. II, §§ 4, 5.

Secs. 5-5—5-15. - Reserved.

ARTICLE II. - CANDIDATES

Sec. 5-16. - Qualifications for candidates.

All qualified electors of the ~~town~~ may offer as candidates, compliant with the filing deadlines, fee requirements, and other requirements set forth herein, ~~and~~ by the State of South Carolina, and the Horry County Election Commission. In addition to being a qualified elector, a qualified candidate must have resided in the town for ~~thirty (30) days~~ prior to filing and must continue to reside in the ~~town~~ at the time of election, and so certify upon request.

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(Ord. No. 19-0886, 2-26-19)

**Cross reference**— Qualifications for mayor and town council, § 2-17.

Sec. 5-17. - Filing.

Qualified individuals desiring to offer as candidates on the ballot in any regular or special election shall file with the Town ~~of Surfside Beach~~ by delivering a notice of candidacy, filing fee, and candidacy pledge in person at town hall to the town clerk or other designee of the town administrator not earlier than ninety (90) days and not later than sixty (60) days prior to the date of the election, primary or general. Candidates shall file statements and fees as required by law.

(Ord. No. 19-0886, 2-26-19)

Sec. 5-18. - Disclosure.

Candidates shall comply with the South Carolina Code of Laws in regard to filing campaign disclosure forms and statements of economic interests. Elected officials, and town employees so required, shall file annual statements of economic interests pursuant hereto.

(Ord. No. 19-0886, 2-26-19)

Sec. 5-19. - Definition of candidate.

A candidate is an individual, qualified to offer as a candidate as described in this article, who has properly filed his or her candidacy for ~~town~~ office with the town clerk for the Town ~~of Surfside Beach~~, to be placed on the ballot by the Horry County Election Commission.

Notice of candidacy shall include the statement of candidacy which shall be signed by the candidate and in substantially the following form:

*I hereby file notice that I am a candidate for election to the office of (Mayor or Town Council, as applicable) in the (regular or special, as applicable) election to be held on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_. I certify that I am or will be a qualified elector in the Town of Surfside Beach on the date of election, and meet the residency requirement, along with any additional authorizations or acknowledgements in compliance with State Law or deemed appropriate by the Town.*

(Ord. No. 19-0886, 2-26-19)

**Cross reference**— Qualifications for mayor and town council, § 2-17; qualified electors, § 5-4.

**State Law reference**— Similar provisions, S.C. Code of Laws, Art. II, §§ 3, 4, 5; XVIII(A) Ch. 5 of Title 7; § 7-13-351.

**State Constitution reference**— Art. XVII, §§ 4, 51.

Sec. 5-20. - Appearance on ballot.

Candidates for the offices of mayor or town council shall appear on the ballot compliant with this article.

Appearance on the ballot by filing shall entitle the candidate to participation in ~~T~~own-sponsored functions as candidates, if any.

(Ord. No. 19-0886, 2-26-19)

Sec. 5-21. - Write-in voting.

Nothing herein shall be interpreted to restrict any elector's right to write-in the name of an individual for whom he or she wishes to vote, or the right of any individual to seek to be written-in on a ~~T~~own ballot on election day.

Should a write-in contender obtain a sufficient number of votes to be successful in the bid for election, his or her qualifications for candidacy and service shall be presented to the Horry County Election Commission for its determination of eligibility to serve.

(Ord. No. 19-0886, 2-26-19)

Secs. 5-22—5-30. - Reserved.

### ARTICLE III. - ELECTION PROCEDURE

Sec. 5-31. - Method of election.

The mayor and members of the town council shall be elected from the ~~T~~own at large.

(Ord. No. 19-0886, 2-26-19)

Sec. 5-32. - Election of mayor and council.

- (a) *General election.* The general election shall be held on the first Tuesday after the first Monday in November in each odd-numbered year. ~~The first town election to be held in an odd year will be held on Tuesday after the first Monday in November 2019, and thereafter in odd years and the 2019 election shall be for the office of mayor and three councilmembers. In the event of a tie vote for any office, a runoff election shall be held pursuant to S.C. Code 1976, § 5-15-125 two (2) weeks following the general election.~~
- (b) *Term.* ~~So long as eligible under this Code and South Carolina Law, the~~ mayor and members of town council shall be elected to four (4) year terms. Staggered terms shall be maintained by the election of three (3) town council members in each general election and the mayor every (4) years. ~~So long as eligible under this Code and South Carolina Law, the mayor and council members elected serve a four (4) year term.~~ Upon certification of the election results, those elected shall be

sworn in and assume the duties of their respective offices at the next ~~December~~-regular scheduled meeting of town council. Where the results are contested, the incumbent shall hold over until the contest is determined. No elected official may take the oath of office or enter upon his or her official responsibilities until filing a certified campaign report pursuant to S.C. Code of Laws, § 8-13-1300, et seq.

To effect the change to elections in odd number years under this article, the terms of office for councilmembers seated at the time of this article shall be amended as follows:

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- (1) Members whose terms expire in May 2020 shall relinquish their seats ~~at the December 10, 2019 regular meeting,~~ when members-elect from the November 2019 election ~~shall be~~ seated.
  - (2) Members whose terms expire in May 2022 shall relinquish their seats ~~at the December 14, 2021 regular meeting,~~ when members-elect from the November 2021 election ~~shall be~~ seated.
- (c) *Continuing qualification.* During the term of office of the mayor or town council member, he or she shall comply with all the requirements for public office in state law, this chapter, and section 2-17, Surfside Beach Town Code of Ordinances. Except where authorized by law, neither the mayor nor any member of town council shall hold any other position of honor ~~or~~ profit in local, state or federal government or any other municipal office or municipal employment. The mayor or any town council member shall forfeit his office if he or she:
- (1) Lacks at any time during his or her term of office any qualification for office prescribed by ordinance or the general law and constitution of the state; or
  - (2) Violates any express prohibition of S.C. Code 1976, §§ 5-1-10 through 5-17-30.

The town council shall be the judge of the qualifications of its members and grounds for forfeiture of office.

(Ord. No. 19-0886, 2-26-19)

**State Law reference**— Similar provisions, S.C. Code of Laws § 5-7-21.

Sec. 5-33. - Determining results.

- (a) *Majority vote required.* Except as otherwise provided in this chapter, results in nonpartisan town elections shall be determined by a majority of the votes cast. A majority shall be determined as follows: When more than one (1) person is seeking election to a single office, the candidate that receives the highest number of votes majority shall be ascertained by dividing the total votes cast for all candidates by two (2). ~~Any excess of the sum so ascertained shall be a majority and the candidate who obtains a majority shall be declared elected.~~
- (b) ~~*Runoff elections.* If no candidate for a single office receives a majority of the votes cast in the first election, a runoff election shall be held. This runoff shall be a second election, conducted pursuant to S.C. Code 1976, § 5-15-62 two (2) weeks after the general or special election if necessary, between the two (2) candidates receiving the largest number of votes in the first election who do not withdraw. The candidate receiving a majority of the votes cast in the runoff election shall be declared elected.~~
- (c) ~~*Declaration of results.* Where the results have been certified by the Horry County Election Commission, the town shall make the results available to the public not later than three (3) days following the election.~~

(Ord. No. 19-0886, 2-26-19)

**Cross reference**— Nonpartisan elections, § 5-3.

Sec. 5-34. - Special elections.

A special election may be required to fill the unexpired term of the mayor or any member of town council because of resignation, death, disqualification or any other cause requiring a special election to fill a vacant office. Any unexpired term of an elected official ~~greater than one (1) year~~ shall be filled by special election, ~~except when less than six (6) months is left of the elected official's term~~. Special elections shall be held on the first Tuesday after the first Monday in November or at such times as further set by ordinance, compliant with the sixty (60) day notice requirement in state law.

Filing for special elections shall be opened as soon as it is determined a special election is required and the election date established. Candidates shall appear in person in the office of the town clerk and must file not later than 12:00 noon forty-five (45) days prior to the special election.

(Ord. No. 19-0886, 2-26-19)

**State Law reference**— Similar provisions, S.C. Code of Laws § 5-15-50; § 7-13-190.

Sec. 5-35. - Precincts.

There shall be voting precincts as established by the Horry County Election Commission. The precinct lines defining the precincts are shown on maps filed with the Horry County Election Commission, Clerk of Court, and State Election Commission. The polling places shall be open from 7:00 a.m. to 7:00 p.m.

(Ord. No. 19-0886, 2-26-19)

**State Law reference**— Similar provisions, S.C. Code of Laws § 7-7-320(C); § 8-7-320(B).

Secs. 5-36—5-50. - Reserved.

ARTICLE IV. - ADMINISTRATION

Sec. 5-51. - County election commission.

The Town ~~of Surfside Beach~~, pursuant to agreement with the Horry County Election Commission approved by town council and county council, delegates the following authority and responsibilities:

- (a) The ~~T~~own shall pay one hundred (100) percent of the costs of including its municipal contests on ballots in general and special elections conducted by the Horry County Election Commission for filling the ~~T~~own's elected offices and/or answering ballot questions.
- (b) The ~~T~~own will retain the authority to administer the filing process, including but not limited to collection of fees, ~~verification of~~ proof of residency, and required documents and reports for regular and special election candidates for office in the Town ~~of Surfside Beach~~ and shall certify same to the Horry County Election Commission.
- (c) The Horry County Election Commission will advertise the Town's municipal elections in accordance with this chapter, prepare and distribute ballots and election materials, appoint managers of election for each polling place, and otherwise supervise and conduct municipal elections within the Town ~~of Surfside Beach~~.
- (d) Upon the closing of the polls at any municipal election in the Town ~~of Surfside Beach~~, the Horry County Election Commission shall count votes cast for each candidate for mayor and council member and publicly display the unofficial results.



- (e) The Horry County Election Commission shall determine the validity of any challenged or provisional ballots in accordance with the S.C. Code of Laws, § 7-13-830, for the general election and runoff-special election.
- (f) The Horry County Election Commission shall hear and decide protests, if any, and certify the results of the elections and transmit the certified results to the town administrator and town clerk to be shared with town council as soon as practical following the certification.

(Ord. No. 19-0886, 2-26-19)

# Decision Paper

Meeting Date: \_\_\_\_\_

**Written By:** Chief Kenneth Hofmann

**1. SUBJECT: Renewal of Memorandum of Understanding with City of Myrtle Beach Police Department**

**2. PURPOSE: To allow inter-operability between the Surfside Beach Police Department and Myrtle Beach Police Department in emergency situations, crime scene assistance, special events, and/or any other law enforcement function.**

**3. FACTS:**

(a) The Town of Surfside Beach and City of Myrtle Beach entered into a Memorandum of Understanding to provide mutual aid to one another on March 26, 2019. The agreement was effective for 2 years.

(b) South Carolina Code of Laws sections 23-20-10 through 23-20-60 authorize law enforcement agencies to enter into contractual agreements with other law enforcement providers as may be necessary for the proper and prudent exercise of public safety functions.

(c) During the previous term of this contractual agreement, Myrtle Beach has requested assistance from the Surfside Beach Police Department to provide manpower during the Myrtle Beach Marathon special event. SBPD provided one officer to assist in those events.

(d) During this same term, SBPD has made numerous manpower requests in the form of crime scene assistance, negotiations team assistance, and traffic collision investigations assistance.

(e) The MOU with the Myrtle Beach Police Department provides tremendous benefit to the public safety of the Town of Surfside Beach and is an integral component of the Emergency Operations Plans of both agencies.

**4. ACTION: Request that Council authorize the Town Administrator to sign the renewal of the Memorandum of Understanding between the Surfside Beach Police Department and the Myrtle Beach Police Department.**



CITY OF MYRTLE BEACH  
COUNTY OF HORRY  
STATE OF SOUTH CAROLINA

MEMORANDUM OF UNDERSTANDING

This agreement is made and entered by and between Surfside Beach Police Department (Police Agency) and the City of Myrtle Beach Police Department (the Parties) and shall be effective on the date that the agreement has been signed by both parties and approved by their governing body, as shown below.

WHEREAS, sections 23-20-10 through 23-20-60 of the Code of Laws of South Carolina (1976) as amended, authorize law enforcement agencies to enter into contractual agreements with other law enforcement providers as may be necessary for the proper and prudent exercise of public safety functions. These sections specify contractual provisions and approvals that are required for such an agreement. The officers of a law enforcement provider under such an agreement have the same legal rights, powers and the duties to enforce the laws of South Carolina as the law enforcement agency contracting for the services; and

WHEREAS, S.C. Code Ann. Section 23-1-210 provides for the temporary transfer of law enforcement officers pursuant to written agreement; and

WHEREAS, S.C. Code Ann Section 23-1-215 authorizes agreements between multiple law enforcement jurisdictions for purposes of criminal investigations; and

WHEREAS, the parties hereto desire to enter into such an agreement to promote public safety for the purpose of securing to each other the benefits of mutual aid; and

WHEREAS, it is the desire and intent of the parties to evidence their joint undertaking for the provision of mutual assistance in law enforcement matters by the temporary assignment of law enforcement officers between jurisdiction to the fullest extent as is allowed by law; and

WHEREAS, it is the intent of the parties to share jurisdiction under this written agreement to the fullest extent permitted under South Carolina law; and

WHEREAS, the purpose of this Agreement is to define the scope of such mutual aid and the responsibilities of the parties cooperating in law enforcement actions (statement of the specific services to be provided), thereto:

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the parties agree as follows:

Assistance. The assistance to be rendered pursuant to this Agreement shall solely involve the temporary transfer or assignment of law enforcement officers and/or equipment from each party's jurisdiction to the support and aid of the aforementioned MOU, in cooperation with the parties named herein. When so transferred or assigned, such law enforcement officers shall have all rights, powers, authority, and duties to enforce the laws of South Carolina as a law enforcement officer employed by the respective jurisdiction to this agreement, and to which assignment is made.

When requesting an officer, specialized teams (such as K9, SWAT, Traffic, etc.), the officers/teams will only perform those duties which they have been trained or certified to conduct or perform and in accordance with the MBPD Policies and Procedures.

Request for Assistance. The parties to the MOU may request law enforcement assistance from the parties to this Agreement, and such request may be made for assistance with public safety functions, which include traditional public safety activities which are performed over a specific period of time for investigations and intelligence sharing.

Primary Responsibility. It is agreed and understood that the primary responsibility of the parties hereto is to provide law enforcement services within the geographical boundaries of their respective jurisdictions. Therefore, it is agreed that the law enforcement agency whose assistance is requested shall be the sole judge as to whether or not it can respond and to what extent it can comply with the request for assistance.

Request. A request for assistance shall only be made by the Sheriff or Chief of Police, if available, and otherwise by the senior duty officer of the law enforcement agency whose assistance is requested. If the request is granted, the requesting law enforcement agency shall be immediately informed of the number of law enforcement officers to be furnished.

Reply. A reply to any request for assistance shall only be made by the Sheriff or Chief of Police, if available, and otherwise by the senior duty officer of the law enforcement agency whose assistance is requested. If the request is granted, the requesting law enforcement agency shall be immediately informed of the number of law enforcement officers to be furnished.

Officer-in-Charge. The personnel temporarily transferred or assigned by the assisting law enforcement agency shall report to their respective Chains of Command, and Officer-in-Charge and shall be subject to orders and commands of that official. The assisting law enforcement officers shall exert their best efforts to cooperate with and aid the requesting law enforcement agency.

Release. The law enforcement officer temporarily transferred or assigned shall be released by the Officer-in-Charge when their services are no longer required or when they are needed to respond to a situation within the geographical boundaries of their own jurisdiction; provided, however, the assisting law enforcement officers shall use their best efforts to complete the requested service prior to being released.

Vesting of Authority and Jurisdiction. To the fullest extent permitted by the Constitution and statutes of this State, officers assigned under this agreement shall be vested with all authority,

jurisdiction, rights, immunities and privileges within the requesting jurisdiction for the purposes of investigation, arrest, or any other activity related to the purpose for which they were requested. Local ordinances adopted by a sending agency shall not be deemed extended into areas which are outside the territorial limits of the sending jurisdiction.

Radio Communications. Radio communications between the requesting law enforcement agency and the assisting law enforcement officers shall be maintained by use of the State regional radio channel system, unless a radio channel that is mutually shared by the parties hereto is otherwise available.

Compensation and Reimbursement. The temporary transfer or assignment of law enforcement officers made pursuant to this Agreement shall in no manner affect or reduce the compensation, pension or retirement rights of such transferred or assigned officers, and such officers shall continue to be paid by the agency where they are permanently employed.

The parties agree that compensation and/or reimbursement for services provided hereunder shall be limited to the reciprocal provision of services of like kind, to include the ancillary benefits of increased investigation and prevention of narcotics and related offenses in their respective jurisdictions. Any other agreement for reimbursement between the parties must be written and executed in the same manner as this agreement.

Equipment and Facilities. Each party shall supply the equipment for its law enforcement officers and shall bear the risk of its damage or loss; provided, however, that if the equipment is damaged by the acts or omissions of employees of the other party, then the other party shall reimburse the damaged party for its loss. The host agency will provide the facilities for law enforcement operations and will designate its location at the time assistance is requested.

Records. The requesting law enforcement agency shall be primarily responsible to maintain records relating to the incident for which assistance has been requested. However, each law enforcement agency shall maintain records of activities of its personnel that would generate records in its own jurisdiction including, but not limited to, incident reports, records of application or execution of an arrest or search warrant, incident reports for arrests made by personnel, uniform traffic tickets issued, and use of force forms. Each party shall make these records available to the other party upon request and without cost.

Freedom of Information Act ("FOIA") Requests. The requesting law enforcement agency shall be primarily responsible for responding to FOIA requests relating to the incident for which assistance has been requested. However, each law enforcement agency shall maintain records as set forth above and assist the requesting law enforcement agency in responding to FOIA requests.

Insurance and Bond. It is agreed and understood that the parties hereto shall be solely responsible to maintain such insurance protection and workers compensation coverage on its employees as may be required by law or deemed advisable by the party. The bond, if any, for

any officers operating under this agreement shall include coverage for their activity in the other jurisdiction covered by this agreement in the same manner and to the same extent provided by the bonds of regularly employed officers of that county or municipality.

Employment Status. Nothing herein contained shall be construed or interpreted to imply that the law enforcement officers temporarily transferred or assigned in accordance with this agreement are employees of the law enforcement agency requesting such assistance.

Legal Contingencies. Neither party shall be responsible for defending any legal action brought against the other party or its employees arising out of circumstances in which assistance was requested or provided, nor shall it be responsible to pay any fees, costs, damages or verdicts incurred by the other party in such legal action.

No Indemnification or Third-Party Rights. The parties shall be solely responsible for the acts and omissions of their respective employees, officers and officials. No right of Indemnification is created by the agreement and the parties expressly disclaim such a right. The provisions of this agreement shall not be deemed to give rise to or vest any rights or obligations in favor of any person or entity not a party to this agreement.

Other Agreements and Investigations. This agreement shall not repeal or supersede any existing agreements between the parties hereto nor does it restrict in any way the normal cooperation between law enforcement agencies concerning ongoing criminal investigations.

Modification. This Agreement shall not be modified, amended or changed in any manner except upon the express written consent of the parties hereto.

Duration. This Agreement will continue in effect for two (2) years from the date of effectiveness of last signing below. Renewal shall be accomplished only by legislative act of equal dignity.

Termination. This Agreement may be terminated by either party by providing written notice to the other party. Such notice becomes effective upon receipt of the notice by the other party.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on the dates shown below.

Approved by Town of Surfside Beach

\_\_\_\_\_  
Town Administrator

Date approved for execution by Town Council: \_\_\_\_\_

Approved by City of Myrtle Beach

\_\_\_\_\_  
City Manager

Date approved for execution by City Council: \_\_\_\_\_



