

COUNTY OF HORRY)
STATE OF SOUTH CAROLINA)

ORDINANCE 24-18

AN ORDINANCE TO AMEND CHAPTER 19 ARTICLE I, SECTION 19-6 AND CHAPTER 12.5 ARTICLE IV OF THE HORRY COUNTY CODE OF ORDINANCES PERTAINING TO HOSPITALITY FEES AND BUSINESS LICENSES:

WHEREAS, Horry County Council enacted Ordinance No. 105-96, on October 15, 1996 imposing a Hospitality Fee (as defined therein) in the County pursuant to the terms thereof; and

WHEREAS, Ordinance No. 105-96 has been amended previously on four occasions by Ordinance No. 7-97, Ordinance No. 76-97, Ordinance No. 80-01, and Ordinance No. 11-04 and then amended and restated by Ordinance No. 93-16; and

WHEREAS, Horry County Council wishes to amend Chapter 19 Article I, Section 19-6(c)(2) of the Horry County Code of Ordinances to clarify the due date of any Hospitality Fee; and

WHEREAS, Horry County Council wishes to amend Chapter 19 Article 1, Section 19-6(c)(7) to limit the failure to pay penalty of the Hospitality Fee; and

WHEREAS, Horry County Council wishes to amend Chapter 19 Article 1, Section 19-6 to allow corrections of administrative errors; and

WHEREAS, Horry County Council wishes to amend Chapter 12.5 Article IV, Section 12.5-105 to adjust the late penalty for the failure to pay the proper Business License fee; and

WHEREAS, Horry County Council wishes to establish a procedure whereby it may establish an amnesty period for voluntary compliance with the Hospitality Fee and Business License requirements;

NOW, THEREFORE, by the power and authority granted to the Horry County Council by the Constitution of the State of South Carolina and the powers granted to the County by the General Assembly of the State, the following is ordained and enacted:

1. AMENDMENT OF CHAPTER 19 ARTICLE 1 SECTION 19-6(c)(2). New section 19-(c)(2)(c) is hereby added to read as follows:

(c) when the twentieth day is a Saturday, Sunday or other day the County is not open for regular business, the fee is due on the following day the County is open for regular business.

2. AMENDMENT OF CHAPTER 19 ARTICLE 1 SECTION 19-6(c)(7). Section 19-6(c)(7) is hereby amended to read as follows:

Failure to pay. In the case of failure to pay the entirety of any fee when due, the county shall add a late payment penalty (the "late payment penalty").

The late payment penalty shall be calculated as:

$(X \times Y) \times Z = \text{the Late Payment Penalty}$

Where "X" represents the amount of the entire fee due for the period in question less any accepted partial payment, "Y" represents the daily penalty in percentage terms calculated on the basis of a ten (10) percent per month penalty assuming a thirty-day month (0.333%), and "Z" represents the number of calendar days from the date the payment was due to the date of the payment of such fee, and the late payment penalty. There shall be no limit on the amount of the late payment penalty unless fees found to be due under an

audit. The failure to pay penalty on fees found to be due under audit shall not exceed twenty-five percent (25%) if paid within 10 days of the County's assessment, then the failure to pay penalty is not capped on the unpaid fee from the 11th day until the taxes are paid. An underpayment amount created by filing an amended return is subject to the failure to pay penalty for the underpayment amount.

3. AMENDMENT OF CHAPTER 19 ARTICLE 1 SECTION 19-6. New Section 19-6(l) is hereby added to read as follows:

Penalty Waiver.

- 1) A penalty may be waived by the County administrator or his designee if the delay or failure to file or pay was caused by reliance on erroneous written or oral advice given by a County employee to the licensee or fee remitter, if accurate and complete facts were given to the employee, there is no change in law, and the licensee or fee remitter provides supporting documentation, such as a copy of the licensee or fee remitter's question to the employee and the advice provided by the employee. A penalty will not be waived if the advice was oral, unless the employee verifies that all the facts were provided and that he gave the advice.
- 2) The County administrator or his designee may waive a penalty that is de minimis in nature.

4. AMENDMENT OF CHAPTER 12.5 ARTICLE IV, SECTION 12.5-105. Section 12.5-105 is hereby amended to read as follows:

For nonpayment of all or any part of the correct license fee, the license inspector shall levy and collect a late penalty of ten (10) percent of the unpaid fee for each month or portion thereof after the due date until paid; provided however, that the late penalty to be collected for any one year's delinquent fee shall not exceed thirty (30) percent of the fee due for that year. Any business license holder whose license is not renewed on or before September 30 shall pay, in addition to any other penalty that may have accrued, a reinstatement fee of one hundred dollars (\$100.00) prior to the activation of any expired business license. If any license fee shall remain unpaid for sixty (60) days after its due date, the county shall issue an execution which shall constitute a lien upon the property of the licensee for the tax, penalties and costs of collection, and shall proceed to collect in the same manner as prescribed by law for the collection of other taxes.

5. AMENDMENT OF CHAPTER 19 ARTICLE 1 SECTION 19-6. New Section 19-6(k) is hereby added to read as follows:

(k) Amnesty Period.

- 1) In order to encourage the voluntary disclosure and payment of fees owed to the County, the County Council finds it desirable to allow the County to designate an amnesty period which has a beginning and ending date from time to time as determined by a resolution of County Council. During the amnesty period, the County shall waive the penalties and interest or portion of them at its discretion imposed pursuant to Chapter 12.5 – Licenses and Business Regulations and 19.6 – Hospitality Fee for a licensee or fee remitter who voluntarily files delinquent returns and pays all fees owed. If the County establishes an amnesty period pursuant to this section, it must adopt a resolution of the amnesty period at least sixty days before the commencement of the amnesty period.
- 2) The County shall grant amnesty to a licensee or fee remitter who files a request for an amnesty form and:
 - i. voluntarily files a current license or fee return and pays in full all fees due;
 - ii. voluntarily files an amended license or fee return to correct an incorrect or insufficient original return and pays all fees due; or
 - iii. voluntarily pays in full all previously assessed fee liabilities due within an extended amnesty period which begins at the close of the amnesty period and runs for a period of time as determined by the County. The Administrator or his designee may set up installment agreements as long as all fees are paid within this period.

An installment agreement must be agreed upon before the close of the amnesty period established.

- 3) The County shall not waive penalties and interest attributable to any one filing period if the licensee or fee remitter has outstanding liabilities for other periods.
- 4) A licensee or fee remitter that is currently under audit by the County is not eligible for amnesty for those periods being audited.
- 5) The County may review all cases in which amnesty has been granted and may on the basis of mutual mistake of fact, fraud, or misrepresentation rescind the grant of amnesty. A licensee or fee remitter who files false or fraudulent returns or attempts in any manner to defeat or evade a fee under the amnesty program is subject to applicable civil penalties, interest, and criminal prosecution.


6. **SEVERABILITY.** If any Section or Sub-section or part of this Ordinance shall be deemed or found to conflict with a provision of South Carolina law, or other pre-emptive legal principle, then that Section, Sub-section, or part of this Ordinance shall be deemed ineffective, but the remaining parts of the Ordinance shall remain in full force and effect.

7. **CONFLICT WITH PRECEDING ORDINANCES.** If any Section, Sub-section or provision of this Ordinance shall conflict with the provisions of a Section, Sub-section or part of a preceding Ordinance of Horry County, unless otherwise expressly so providing, then the proceeding Section, Sub-section or part shall be deemed repealed and no longer in effect.

8. **EFFECTIVE DATE.** This Ordinance shall become effective on Third Reading.

AND IT IS SO ORDAINED, ENACTED AND ORDERED this 3rd day of April, 2018

HORRY COUNTY COUNCIL



Mark Lazarus, Chairman

Harold G. Worley, District 1
Dennis DiSabato, District 3
Tyler Servant, District 5
Harold Phillips, District 7
W. Paul Prince, District 9
Al Allen, District 11

Bill Howard, District 2
Gary Loftus, District 4
Cam Crawford, District 6
Johnny Vaught, District 8
Danny Hardee, District 10

Attest:



Patricia S. Hartley, Clerk to Council

First Reading: March 6, 2018

Second Reading: March 20, 2018

Third Reading: April 3, 2018