

**RECEIVED**

**Jan 17 2025**

S.C. SUPREME COURT

**EXHIBIT 1**

**South Carolina Attorney General Opinion  
November 15, 2024**



ALAN WILSON  
ATTORNEY GENERAL

November 15, 2024

The Honorable Larry K. Grooms  
Member  
South Carolina Senate  
P.O. Box 142  
Columbia, South Carolina 29202

Dear Senator Grooms:

We received your letter requesting an opinion of this Office concerning enforcement of municipal parking ordinances by private entities. In your letter, you explain:

It has come to my attention that the governing body of a coastal municipality has contracted with a private entity to enforce the municipality's parking ordinance. The private entity patrols the municipality's streets looking for violators of the ordinance, writes tickets for the violators, and collects the fines. The municipality and the private entity then split the fines based upon a formula in their contract.

Specifically, you ask: "Is it the opinion of your office that a municipality contracting with a private entity to enforce the municipality's parking ordinance is a prohibited delegation of the municipality's police powers"?

#### Law/Analysis

As mentioned in prior opinions, a municipality's police powers are conferred to them by the Legislature primarily through section 5-7-30 of the South Carolina Code (Supp. 2023). Moreover, our courts and the Legislature recognize regulating parking falls under this authority. Owens v. Owens, 193 S.C. 260, 8 S.E.2d 339, 342 (1940) (recognizing a municipality's authority to regulate parking); S.C. Code Ann. § 56-5-710 (2018) (specifying local authorities have the power to regulate parking "with respect to streets and highways under their jurisdiction and within the reasonable exercise of the police power . . ."). For reasons explained below, because regulating parking involves the exercise of a municipality's police powers, we do not believe such authority can be delegated to a private entity.

As you mentioned in your letter, we considered whether a municipality's police powers may be delegated to a private entity in prior opinions issued by this Office. In a 1980 opinion, we considered whether a municipality had the authority to contract with a private security agency

allowing it to make arrests on public streets and public property. Op. Att’y Gen., 1980 WL 121077 (S.C.A.G. Mar. 6, 1980). We determined:

Generally, the State’s police power may be delegated by the legislature to a municipality, but the legislative reach of that authority must be strictly construed. McQuillan, Municipal Corporations, Vol. 6, § 24.39 at 557. Further, a municipality has no greater powers in passing an ordinance relative to the police power than those delegated to it by the legislature. Henderson v. City of Greenwood, 172 S.C. 16, 172 S.E. 689 . . . It has long been the law in this State that no municipality may by contract part with the authority delegated it by the State to exercise the police power, Sammons v. City of Beaufort, 225 S.C. 490, 83 S.E.2d 153. Here the State has delegated the power of law enforcement to its municipalities and the municipality may not part with that power by contract with a private security agency.

Id.

You also mentioned our 2010 opinion addressing a county’s ability to delegate its authority to enforce a county tree removal ordinance to a homeowner’s association. Op. Att’y Gen., 2010 WL 3505050 (S.C.A.G. Aug. 4, 2010). We acknowledged the county’s ability to delegate zoning enforcement to code enforcement officers but found no authority allowing the county to further delegate zoning enforcement to a private entity. Id. We discussed powers that can and cannot be delegated, noting that ministerial duties can be delegated, but in the absence of constitutional or statutory authority, discretionary or quasi-judicial powers cannot be delegated. Because exercising police power is a discretionary function, we concluded “governmental entities are precluded from delegating their police powers to individuals or private entities.” Id.

In our research, we also found a 2012 opinion similarly concluding a homeowner’s association’s private security force did not have law enforcement authority to enforce beach rules on public property. Ops. Att’y Gen., 2012 WL 5376055 (S.C.A.G. Oct. 19, 2012). In the opinion, we cited to the 2010 opinion referenced above as well as a 2008 opinion finding a special tax district did not have the ability to contract with a private company to provide law enforcement. Based on these opinions, we again found local governments cannot delegate their police powers to private entities absent constitutional or statutory authority. Id.

“This Office recognizes a long-standing rule that we will not overrule a prior opinion unless it is clearly erroneous or a change occurred in the applicable law.” Op. Att’y Gen., 2009 WL 959641 (S.C.A.G. Mar. 4, 2009). As our prior opinions conclude, local governments are without the ability to delegate police powers without constitutional or statutory authority. Finding no constitutional or statutory authority allowing municipalities to delegate parking enforcement, which we find is an exercise of their police powers, we do not believe municipalities can delegate this authority to a private entity.

**Conclusion**

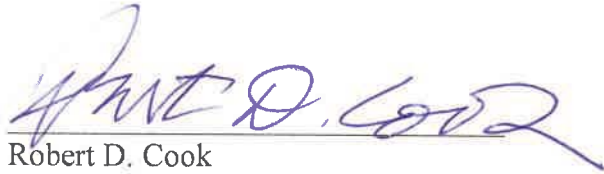
Parking enforcement involves the exercise of a municipality's police powers. Based on prior opinions of this Office, police power may not be delegated to private entities absent legislative or constitutional authority. Finding no such authority, we do not believe a municipality may delegate parking enforcement to a private entity.

Sincerely,



Cydney Milling  
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook  
Solicitor General

# EXHIBIT 2

## Pivot Parking Contract



## **Town of Surfside Beach-**

### **Parking Management Contract Abstract**

- Legal Entity for Pivot for contract is P2 of SC, LLC.
- New Parking management contract is the result of RFP issued by Town in 2022. Pivot provided a proposal as per RFP requirements on 7/28/22
- Contract began 1/1/23 and is for 4 years ending on 12/31/2026 but may be automatically extended for 2 additional one year periods. Termination notices must be given 60 days prior to expiration dates.
- Day to Day Parking Management Responsibilities:
  - Maintain strong focus on customer service
  - Demonstrate expertise in parking enforcement
  - Provide stable, well-trained workforce
- Contract Requirements:
  - Provide schedule of weekly staff assignments
  - Provide emergency services within 2 hours of request by town
- Pivot's Point of Contact (POC) responsibilities (Tina Reid, Jared Glass)
  - Coordinating services based on town's requirements
  - Provide consultation & advice to town for parking management services
  - Act as POC for contract administration, invoicing & status reporting
  - Requesting town review and approval for expenditures
  - Facilitating meetings between town and Pivot staff
  - Communicating among & between town and Pivot staff
  - Prompt responses to town manager
  - Identifying and providing written notice to town of any issues that may threaten delivery of services as required by contract
  - Ensure and follow quality assurance procedures are in place
- Town's POC Responsibilities
  - POC is -Town Manager
  - Town manager will facilitate the flow of information between Pivot and Town
    - Ensure Pivot performs as required by contract
    - Prompt respond to Pivot POC when contacted
    - Reviewing expenditures related to services rendered & approving or denying expenditures in timely fashion
    - Act as POC for contract administration & coordination with town staff
    - Town manager may designate another staff member to be the point of contact
- Pivot Compensation
  - Parking revenue is generated and is deemed Town funds unless directed otherwise by Town.
  - Surfside is MID holder (Merchant Identifier) for credit card transactions
  - Pivot is paid \$725 per month base management fee (BMF) for services
  - Expenses are pass through expenses and billed to town at the end of each month



- and includes the BMF.
- o Pivot also has the ability to be paid more each month of 6.25% of gross revenue.
- o Monthly financials will be required to be completed by the 20<sup>th</sup> of each month for the previous month. I.e. Jan financials will be finalized and submitted to client on or before Feb 20<sup>th</sup>.
- Equipment
  - o Pivot has agreed to provide a LPR (License plate recognition) system to be used for enforcement. This unit will be provided at the sole cost to Pivot and the town will not be charged for the purchase of the system. There are other software fees that will be billed to the town after the first year of use.
- Insurance
  - o Pivot provides general liability and workers comp insurance listing the Town of Surfside as an additional insured. The Certificate of Insurance (COI) has been delivered to client via email.
  - o Automobility insurance that covers the vehicles provided by the town are covered under their own insurance
- Drug Free Workplace
  - o Contract requires we notify employees that illegal drug use is not allowed. Drug testing is not required as a condition of employment but if an accident were to occur, drug testing may be required

#### **EXHIBIT A SUMMARY SCOPE OF SERVICES**

The Company will provide overall management of on-street parking, including parking enforcement, citation processing, the appeals process, meter maintenance, and administration of any merchant validation and parking permit programs. In providing the Services, the Company will be responsible for and focus on the following areas:

##### **1. Parking Meter and Other On-street Parking Enforcement**

a. Enforce parking regulations relating to meters and other parking controls within an area designated by the Town during the months of March through October and during the hours of 7:00 a.m. to 7:00 p.m. Enforcement activities will include electronic ticketing and towing. The Town may adjust the geographic locations for enforcement activities in its sole discretion.

b. Manage Town-owned parking meters, pay stations and any additional non-metered on-street parking spaces including pay by cell and pay by text applications.

c. Issue residential and non-residential parking permits digitally or in printed form.



- d. Enforce scofflaw regulations related to towing of vehicles as per Town ordinances.
  - e. Install and manage Town-owned parking kiosks as instructed by the Town. The Town reserves the right to adjust the number of parking kiosks and spaces in its sole discretion.
  - f. Establish designated patrol routes for its enforcement officers.
  - g. Respond to requests from the Town to suspend or emphasize enforcement along certain roads or in certain areas. The Town also reserves the right to temporarily suspend enforcement along any street, or in any zone, according to the needs of the Town.
- The Town will make every effort to provide the Company with adequate notice concerning the location and duration of any such suspension or higher level of enforcement.
- h. Enforce parking regulations for Special events and any other communicated special events, including festivals, etc.

2. **Collection of Monies and Accounting**

- a. Account for all revenues from the kiosks installed. All monies collected from parking kiosks will be deposited daily, in accordance with approved guidelines established by the Town, into an account authorized by the Town.
- b. Collect payments on citations from the public. Payments may be made by cash, check or by credit card "over-the-counter," by telephone or over the Internet.
- c. Town will be the Merchant of Record for credit card processing and all revenues, both cash and credit card, will be deposited into the Town's designated bank account no later than the next business day by 2pm.
- d. Accept payments for other non-parking violations, such as noise, littering, etc. All monies collected for these other program areas will be turned over to the Town for distribution to the appropriate agency.
- e. Assist in the collection of all outstanding citations related to scofflaws. Outstanding citations may predate the contract period.



- f. Issue late notices for overdue payment of citations and provide follow-up collection services.
- g. Download all data from its handheld computers on a daily basis into the system specified by the Town.
- h. Ensure proper accountability and internal control of monies collected.
- i. Provide any periodic or special financial and operational reports as requested by the Town.

**3. Office Administration**

- a. Maintain provided furnished office space in the project area that will serve as the office for enforcement personnel and meter maintenance operations. This office will be open to the public during standard business hours.
- b. Be equipped with computers linked to the Town in order to daily download data requested by the Town and provide the Town access to system activity. The office must have a telephone and the number must be provided to the public and to the Town.
- c. Be responsible for purchasing all materials necessary to carry out all office functions. These include, but are not limited to, paper tickets and ticket books, envelopes, uniforms, office equipment and supplies, an inventory of spare parts for maintenance and repair of meters, and all other necessary equipment.
- d. Coordinate with the Town on the Town's purchase of any new parking equipment.
- e. Administer & implement a Merchant Parking Validation Program if necessary

**5. Personnel Administration**

- a. Parking enforcement personnel will demonstrate high ethical standards of conduct and will observe all written rules and regulations concerning their work assignments.
- b. Supervisors and field personnel will maintain radio/cell contact at all times to ensure appropriate oversight of parking enforcement activities.
- c. The Company will ensure that all enforcement and office personnel wear Town-approved uniforms and be properly groomed while on duty. The uniform must



display approved insignia that clearly identifies the wearer as being responsible for enforcing parking violations, managing parking facilities or servicing parking meters. The uniform will also have a clearly visible and readable nametag that must be worn at all times.

- d. All other employees of the Company providing Services shall at all times be clearly identifiable by uniform, name badges, name tags, or identification cards.
- e. The Company shall employ persons who are fully trained, competent and qualified with the skills and experience necessary to provide the Services during the term of this Agreement.
- f. The Company is responsible for hiring, training and supervising its staff members. All of the Company's staff members assigned to provide the Services are employees of the Company.
- g. The Company personnel shall at all times assure that its employees serve the public in a courteous, helpful, and impartial manner. Correction of any inappropriate behavior or language shall be the responsibility of the Company.
- h. The Company shall respond to any public complaint within forty-eight (48) hours after receipt of the complaint. In the event a report is received alleging an employee of the Company was discourteous, belligerent, profane or in any way intimidating, either physically or verbally, the Company will submit a written report to the Manager within seven (7) days of the date of the report, outlining the complete details of the incident. The report will include the nature of the incident, time, date, location and the name, address and telephone number of the person making the allegation. The report will also include the name and title of the employee and the nature of the disciplinary action taken, if any.
- i. Staff provided by Company shall include at all times one full time, year round manager, one full time, year round assistant manager within the local office, seasonal employees to include sufficient personnel to provide parking enforcement agents on the street March – October.
- j. Company is authorized to operate with less parking enforcement agents on the street during those times where that number of agents is not necessary due to weather conditions or similar circumstances. Company shall communicate such reduced staffing to the Town's Point of Contact. Any monetary savings resulting from such reduction in services shall be passed on to Town by Company.



**6. Training and Customer Service**

- a. Provide thorough training for enforcement and other personnel, including general information and directions to assist customers visiting the Surfside Beach area
- b. Respond in accordance with the Town of Surfside Beach principles on customer service to public inquiries about the on-street parking program, ticketing and enforcement, or any other citizen concern. The Company will provide a high level of customer service by employing friendly, helpful, customer-oriented personnel.
- c. Assist the Town in its efforts to inform the public about the Program.
- d. Provide all enforcement personnel with an adequate supply of material regarding Town services and Town attractions, sites and events for distribution to citizens requesting such information.
- e. Keep an accurate record of all citizens' complaints, their resolution, and the action taken to contact the complainant. All such records shall be retained during the term of this Agreement and made available to the Manager.

**7. Installation and Maintenance**

- a. Annual installation, removal and maintenance of parking kiosks and paystations shall be carried out by Company in accordance with the Town's standards.
- b. Maintain the kiosks installed in good working condition. Good working condition is defined as repairing/replacing any defective meter within 12 hours of a report of failure. All Company employees will be required to immediately report any damaged, missing, or malfunctioning meters or facilities to the appropriate supervisor.
- c. Implement and follow a regular preventive maintenance schedule for all parking meters.
- d. Keep a meter log of all complaints. The log will note date, meter number, location, problem, and name of the person calling in the problem, the tag number of the car (if any), the date the mechanics checked the meter, the nature of the problem and the date it was corrected.
- e. It shall be the responsibility of Company to maintain adequate inventory levels of spare parts for parking kiosks maintenance and repair. It is recommended that the Town engage in extended warranty programs if available for parking kiosks.



**8. Safety**

- a. Take adequate steps to ensure the safety and security of all personnel and property. Town expressly acknowledges that Company's obligations in connection with the management, operation and promotion of the Parking Services, and employment of persons in connection therewith, do not include the rendition of service, supervision, or furnishing of personnel in connection with the personal safety and security of employees, tenants, customers, or other persons within and about the Parking Services. Company does not have knowledge or expertise as a guard or security service, and does not employ personnel for that purpose, nor do Company's employees undertake the obligation to guard or protect customers against the intentional acts of third parties.

**9. Special Events**

- a. If a special event is scheduled, the Company may be required to reset any or all kiosks. These events include, but are not limited to, festivals, parades etc.

**10. Towing/Booting**

- a. The Company will be responsible for arranging for towing and/or booting of illegally parked vehicles and scofflaws, in accordance with Town-approved policies and procedures to be established.

**11. Response to Hurricanes and Other Similar Emergencies**

- a. In the event of a hurricane or other similar emergency, the Company will be responsible for removing all parking kiosks to a safe and secure location in advance of such hurricane or other emergency at the direction of the Town's primary point of contact when removal of equipment is deemed as not necessary, Company will ensure equipment is covered by means of plastic coverings to ensure as less damage as possible.
- b. Company will be reimbursed for those costs it incurs in responding to such hurricane or emergency which exceed the approved budget amounts. Company will be responsible for providing Town with sufficient information to demonstrate the manner in which its cost exceeded the approved budgeted amounts and Town shall have no obligation to pay such amounts absent information supporting such additional expenses satisfactory to Town.

**12. Other**



a. Change Company procedures as necessary to conform to revisions in the Town's ordinances, parking regulations, policies, and initiatives.

b. Consult with the Town, as requested, regarding the design or enhancement of the parking program.

1-833- GoPivot  
[www.pivotparking.com](http://www.pivotparking.com)

c. Assist in maintaining and expanding the program, if required to do so, as needed.

d. Coordinate with the Town and stay involved in the Town's efforts to inform the public about the parking program.

e. Provide consulting services to the Town on its parking program without charge, provided that the consulting services do not require extraordinary expense to the Company.

f. Provide any other service or program as indicated in the response to the RFP that the Company submitted to the Town as part of the Proposal.

#### EXHIBIT C ITEMS PROVIDED BY TOWN

##### Items to be provided by the Town:

- a. Parking management office inclusive of utilities and office furniture unless directed by town to operator to purchase new office furniture
  - b. Minimum of 2 working, street legal golf carts for enforcement. Preference for LPR system is one small automobile.
  - c. Existing pay stations and/or meters unless directed by Town to remove from parking areas and replace with new equipment.
  - d. Listing of items to be transferred from current operator to Pivot Parking during transition.
-

# EXHIBIT 3

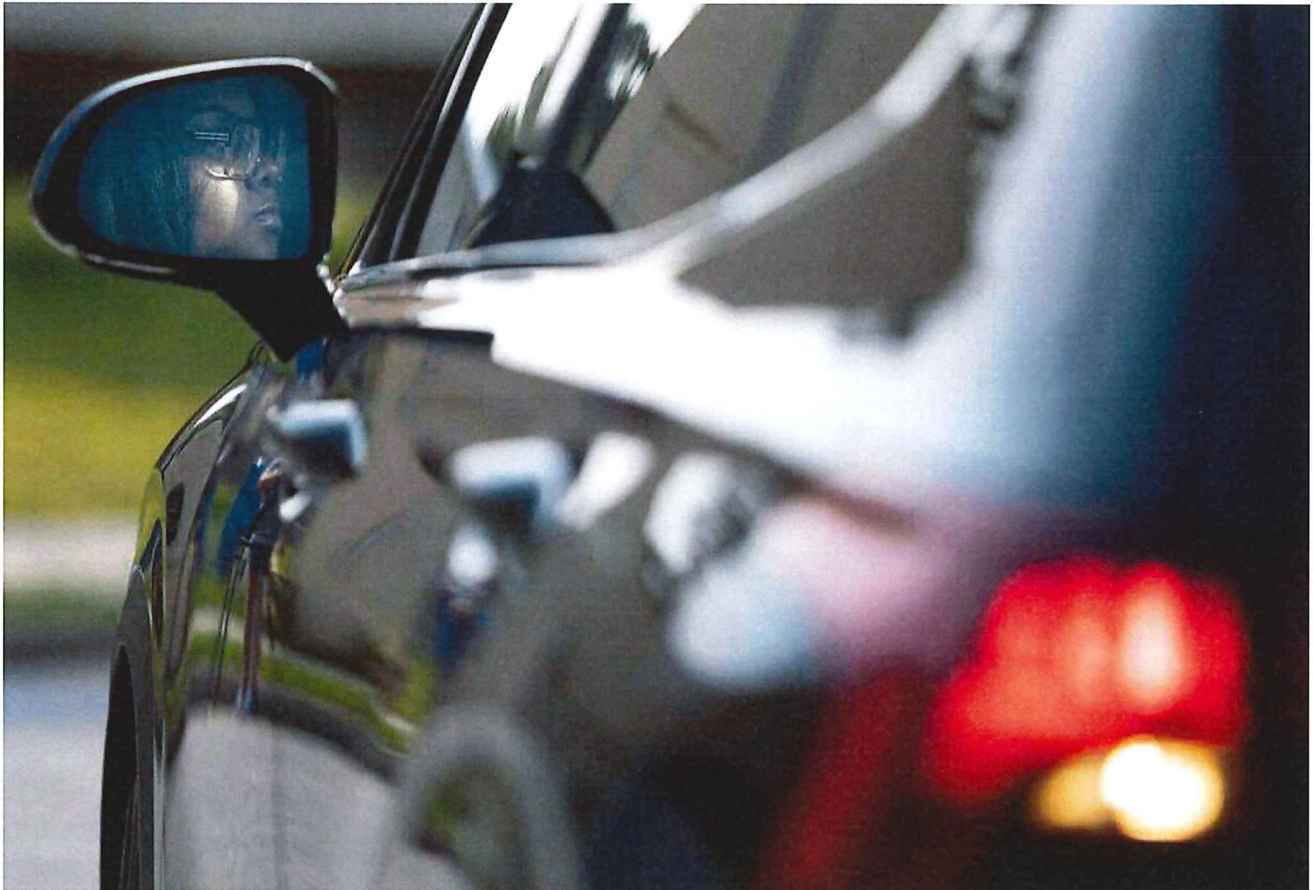
*My Horry News Interview*

[https://www.myhorrynews.com/news/sc-attorney-general-says-cities-can-t-use-outside-companies-to-enforce-parking/article\\_387497b0-a916-11ef-8df2-fbb34b3b347c.html](https://www.myhorrynews.com/news/sc-attorney-general-says-cities-can-t-use-outside-companies-to-enforce-parking/article_387497b0-a916-11ef-8df2-fbb34b3b347c.html)

## SC Attorney General says cities can't use outside companies to enforce parking

BY TOM O'DARE [TOM.ODARE@MYHORRYNEWS.COM](mailto:TOM.ODARE@MYHORRYNEWS.COM)

Nov 25, 2024



People practice reverse angle parking on 8th Avenue North in Myrtle Beach on Thursday, June 29, 2023. File photo



Two local municipalities use a third-party company to enforce its parking, including writing tickets and collecting fines.

But that all may change if the municipalities adhere to an opinion issued by South Carolina Attorney General Alan Wilson's office.

Surfside Beach and Myrtle Beach use an outside source to enforce parking in their public lots and spaces.

The attorney general's office said enforcing parking is a police power and cities can't farm that out to a private entity.

"Parking enforcement involves the exercise of a municipality's police powers. Based on prior opinions of this office, police power may not be delegated to private entities absent legislative or constitutional authority. Finding no such authority, we do not believe a municipality may delegate parking enforcement to a private entity," said the Nov. 15 opinion written by assistant attorney general Cydney Milling.

The opinion was requested by state Sen. Larry Grooms from Berkeley County. Grooms asked for the opinion to question the Isle of Palms' use of a third-party company.

An attorney general's opinion is advisory and not binding like a court decision. The actual legality of using the private companies would have to be settled in court.

Surfside Beach town administrator Gerald Vincent said he wasn't aware of the recent opinion. He noted that it was just an opinion.

The town uses Pivot Parking for its enforcement of all public parking meters and areas. This includes collecting revenue and issuing tickets.

Vincent said last year, Surfside Beach took in a gross amount of \$1 million and the town netted \$600,000 after fees and expenses.

Myrtle Beach Public Information Officer Meredith Denari said that city uses Reef Parking for all its parking enforcement and collections at city metered spaces.

For the last fiscal year that ended on June 30, Myrtle Beach brought in \$3.3 million in parking revenues and netted \$450,000.

Denari said all revenue garnered by parking meters goes back into improving parking infrastructure throughout the city.

She added that Myrtle Beach was aware of the attorney general's opinion, but "we need all of our officers for police duties."

---

Tom O'Dare

# EXHIBIT 4

## Mason Ticket



Town of Surfside Beach  
South Carolina

CITATION #: 5033629  
DATE : 10/19/2024 14:40 PM  
OFFICER : ES

---

VEHICLE  
MAKE : TOYOTA  
MODEL : TUNDRA  
COLOR : BLK  
PLATE/ST : VAC551 / SC  
PLATE EXP : /

LOCATION: 1st Ave South

---

VIOLATION(S) :  
3, Parked Within 30ft of Stop Sign  
\$200.00

---

TOTAL DUE : \$200.00

---

COMMENTS: PHOTO(S) TAKEN

TOWN OF SURFSIDE BEACH BEACH  
PARKING PROGRAM

Fines escalate after 30 days of  
non-payment

Parking tickets can be paid online  
at <https://surfsidebeach.citationportal.com/>

**VIOLATION**

## TOWN OF SURFSIDE BEACH PARKING PROGRAM

Your vehicle has been cited for a municipal parking violation for reason noted on front of citation.

Payment options:

- Online - <https://surfsidebeach.citationportal.com/> or scan QR Code
- By Telephone – (843) 945-0747
- By Mail- by sending check or money order with citation number listed.  
**DO NOT MAIL CASH**
- In Person at Town Hall, 210 US-17 BUS South, Surfside Beach, SC 29575

To file an appeal, go online to <https://surfsidebeach.citationportal.com/>

The Surfside Beach Parking Program is managed by Pivot Parking



Park Surfside Beach  
210 US-17 BUS South  
Surfside Beach, SC 29575