

**REQUEST FOR CITY COUNCIL CONSIDERATION**

Meeting Date: January 9, 2023

Agenda Item: 5K	Prepared by: Chris Noury, City Attorney
Agenda Section: Consent: Ordinance. Second Reading	Date: January 3, 2023
Subject: Amendment to Chapter 16, Offenses and Miscellaneous Provisions, of the Code of Ordinances of North Myrtle Beach, South Carolina establishing the Trespass Enforcement Authorization Program	Division: Legal

A trespass charge is typically made when a property owner or person in legal control of the property calls the North Myrtle Beach Police Department (NMB PD) to notify the PD that someone is on the property without authorization. PD staff will then make contact with the person, place the individual on trespass notice, and require the person to leave the property. If the individual then returns to the property, he or she is subject to arrest.

A recurring problem has developed after hours when the owner or person in legal control of the property is not present on the property to notify the police that someone has entered (and remained on) the property. When the police encounter the above referenced situation, they typically do not arrest the person for trespassing because the police are unable to determine if the person on the property was authorized by the owner (or the person/entity in legal control of the property) to enter upon the property.

The attached ordinance authorizes the NMB PD to enter into an agreement with the property owner/entity in legal control of the property to allow officers with the NMB PD to enter upon the property to conduct an after-hours check of the property. The agreement grants authorization to the NMB PD to enforce the trespass ordinance against persons found on the property without authorization. The agreement requires that the property owner post conspicuous notice/signage that trespassing after hours is prohibited. The program will be available to owners of a business as well as owners of a private residence. If a person is found on the property after the property has been accepted into the program, the police may then arrest the person for trespass.

**Recommended Action:**

Approve or deny the proposed ordinance on second reading

Reviewed by City Manager		Reviewed by City Attorney
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Council Action:  
Motion By \_\_\_\_\_ 2<sup>nd</sup> By \_\_\_\_\_ To \_\_\_\_\_

## AN ORDINANCE

### **AN ORDINANCE OF THE CITY OF NORTH MYRTLE BEACH TO ESTABLISH THE TRESPASS ENFORCEMENT AUTHORIZATION PROGRAM.**

#### **Sec. 16-34.1 Trespass Enforcement Authorization Program**

(1) A property owner, building owner, property manager, or person having legal control of property or their legal representative may authorize the City of North Myrtle Beach Police Department to enforce the trespass ordinance against persons trespassing upon the property of the owner or person/entity in legal control of the property. To grant authority to the North Myrtle Beach Police Department regarding the enforcement of the trespass ordinance contemplated by this section, the owner, person, or entity having legal control of the property shall:

(a) Appear in person at the North Myrtle Beach Police Department or contact the North Myrtle Beach Police Department for an application and affidavit for the Trespass Enforcement Authorization Program.

(b) The application and affidavit shall be signed by the applicant and the signatures of the applicant shall be notarized. After receipt of the executed application and affidavit, Police Department staff will conduct a site visit and determine, in the sole discretion of the North Myrtle Beach Police Department, if the location is appropriate for participation in the program and will further determine the number and placement of signs (to be provided by the City for purchase) for the property. The North Myrtle Beach Police Department will inform the applicant if the location is not suitable for enforcement, due to factors such as excessive undergrowth or other factors. If the location is suitable (or attains suitability after the Police Department site visit), the North Myrtle Beach Police Department will inform the applicant and the Trespass Notification signs may be purchased from the City by the applicant. Thereafter, the signs will be placed on the applicant's property by the applicant in locations upon the property required by the North Myrtle Beach Police Department.

(i) A "conspicuous" sign shall mean a sign that is at least one square foot in size. "Sufficient notice" shall mean the lettering on the notification sign is at least one inch in height and contains the following language or words of similar notice:

(ii) NO TRESPASS AT ANY TIME (OR AS TIMES SET FORTH) PRIVATE  
PROPERTY UNDER TRESPASS ENFORCEMENT AUTHORIZATION PROGRAM  
CITY OF NORTH MYRTLE BEACH POLICE DEPARTMENT

(2) It shall be unlawful to deface damage or remove any sign placed under authority of this section.

(3) The notice of participation in the program will be provided to the applicant. After the property has been accepted into the Trespass Enforcement Authorization Program and the property has been posted with the required trespass notification signage, any person who enters into or upon the

property included in the Trespass Enforcement Authorization Program without authorization is subject to arrest and associated penalties as provided in Section 16-34.

DONE, RATIFIED AND PASSED, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023.

ATTEST:

\_\_\_\_\_  
Mayor Marilyn Hatley

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

FIRST READING: 12.5.2022  
SECOND READING: 1.9.2023

REVIEWED:

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

ORDINANCE: 23-08