

CITY OF SENECA

ORDINANCE NO. 2022-23

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES,
CITY OF SENECA, SOUTH CAROLINA, TO ADOPT SECTION 18-175
WHICH PROVIDES FOR THE ESTABLISHMENT AND ADOPTION
OF THE TRESPASS ENFORCEMENT AUTHORIZATION PROGRAM

WHEREAS, the City of Seneca finds that the public interest of the City requires careful balancing of the protection of individual constitutional protections with the fair, humane, and effective enforcement of regulations protecting use and enjoyment of private property rights, as well as the public health, safety, and welfare; and

WHEREAS, the City of Seneca, based on these interests, finds it desirable and appropriate to adopt and implement the trespass enforcement authorization program to promote the public safety through more efficient enforcement of the state trespass statute found in S.C. Code Ann. § 16-11-620.

NOW, THEREFORE, upon motion of City Council, and BY SENECA CITY COUNCIL, in Council duly assembled, and with a quorum present and voting, BE IT ORDAINED, that the Code of Ordinances, City of Seneca, South Carolina, shall be hereby amended by adding Section 18-175 which shall read as follows:

Sec. 18-175. Trespass enforcement authorization program

- (a) A property owner, building owner, property manager, or person having legal control or possession of property, or their legal representative, may provide advance authorization for the City of Seneca Police Department to enforce, in absolute police discretion, the trespass statute (S.C. Code Ann. § 16-11-620) on specified private property. To request trespass enforcement pursuant to this section, the party must submit an application and notarized affidavit for the trespass enforcement authorization program, as set forth herein, on a form supplied by the police department.
- (b) An owner or representative may identify in its application locations where it proposes to have posted conspicuous notice that, during designated hours of each day or certain days of the week, which may include a designation of 24 hours per day, 7 days per week (i.e. "any time"), members of the public are not authorized to enter or remain on the premises or some portion thereof, and may authorize the police department to enter the premises to enforce the trespass statute on the basis of such posting. When property has been posted by the City of Seneca with conspicuous signage of sufficient notice, placed at the main entrances to the property or upon the prohibited part thereof, declaring the property to be under the trespass enforcement authorization program, it shall be prima facie evidence that consent to enter or remain upon the premises of another is absent, denied, or withdrawn. As a result, any individual found on such a

premises in violation of the posted signage shall be guilty of Trespass After Notice as defined by Section 18-169 of the Code of Ordinances, City of Seneca, South Carolina.

(c) In the application and notarized affidavit for participation in the trespass enforcement authorization program, the applicant must:

- (1) authorize the police department to enter the premises at any time to inspect and implement the trespass enforcement program;
- (2) specify the prohibited hours and the designated portions of the property;
- (3) specify the proposed number and location of signs;
- (4) specify any reasonable exceptions to the enforcement authorization to include, for example, any class of individuals, such as employees, who are authorized to be on the premises at any time, as well as any type of entry, such as brief ingress/egress across walkways, that is permitted;
- (5) declare the application and affidavit to be a public record for the purposes of Rule 803(8) of the South Carolina Rules of Evidence and agree to appear in municipal court if subpoenaed; and
- (6) agree to indemnify and hold harmless the City of Seneca and its employees should any claim or suit be made against them arising from program participation based upon an allegation that the applicant lacked power to grant the enforcement authorization.

(d) After receipt of the application and affidavit, the police department will conduct a site visit and determine if the location is appropriate for program participation. The Chief of Police shall have complete discretion to determine whether a property is appropriate for participation based upon consideration of the property condition, layout, and use, resource limitations, enforcement priorities, past demonstrated need, and any other factor deemed relevant to the exercise of the city's police power to promote the public safety, health and welfare.

(e) Sign placement and requirements shall be as follows:

- (1) The police department will determine, after receipt of the application and notarized affidavit, the number and placement of signs required for participation in the program and will notify the applicant of the cost to be paid to the city for the purchase and posting of the signs in advance of the posting of such signs.
- (2) For purposes of this section, a "conspicuous" sign shall mean a sign that is at least one square foot in size, and "sufficient notice" shall mean the lettering on

a conspicuous sign is at least one (1) inch in height and contains the following language or words of similar notice:

NO TRESPASSING AT ANY TIME [OR AT TIMES SET FORTH]
PRIVATE PROPERTY UNDER TRESPASS ENFORCEMENT
AUTHORIZATION PROGRAM
CITY OF SENECA POLICE DEPARTMENT

- (3) It shall be unlawful to deface, damage or remove any sign placed under authority of this section. However, a participant may remove a sign and provide written notification to the police department if it wishes to withdraw from the trespass enforcement authorization program.
- (f) The chief of police may determine at any time, with or without cause, that a property shall no longer be included in the trespass enforcement authorization program and shall provide written notice to the participant of the same. A program participant may provide written notice to the police department at any time that its property is withdrawn from participation.
- (g) By electing to participate in the trespass enforcement authorization program under this section, an owner/representative acknowledges that the purpose of the program is to more efficiently promote public safety, and further acknowledges that the city and police department do not undertake any private, special, enhanced, or other duty or relationship to the owner or any other party by accepting the property into the program or by engaging or declining to engage in any enforcement activity.

Should any provision, section, paragraph, sentence or word of this Ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences, or words of this Ordinance as hereby adopted shall remain in full force and effect. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

THIS ORDINANCE SHALL BE EFFECTIVE IMMEDIATELY UPON FINAL READING.

PROPOSED ORDINANCE APPROVED AS TO FORM this 11th day of October, 2022.



R. BOATNER BOWMAN, City Attorney

APPROVED AND RATIFIED on First Reading this 13 day of September, 2022 by a vote of

7 YES 0 NO 0 ABSTAIN

APPROVED, RATIFIED and ADOPTED on Second and Final Reading this 11th day of October, 2022 by a vote of

7 YES Ø NO Ø ABSTAIN

Kathy Wickes, Clerk

Attest:

Ann Hesel, Mayor