

2020-13

**AN ORDINANCE OF THE TOWN OF LEXINGTON, SOUTH CAROLINA,  
APPROVING A MUTUAL AID AGREEMENT WITH THE CITY OF  
NORTH MYRTLE BEACH**

**BE IT ORDERED AND ORDAINED BY THE TOWN COUNCIL OF THE TOWN  
OF LEXINGTON, SOUTH CAROLINA, IN COUNCIL DULY ASSEMBLED AND BY  
THE AUTHORITY THEREOF THAT:**

**Section 1. Mutual Aid Agreements**


The Town of Lexington hereby approves and adopts the attached Mutual Aid Agreement with the City of North Myrtle Beach.

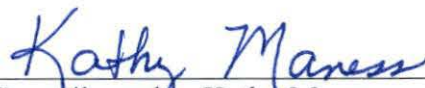
Upon presentation, the Chief of Police is hereby authorized to sign any additional papers necessary to complete or confirm the Mutual Aid Agreement(s) with the respective government entities listed herein.

**Section 2. Balance of Municipal Ordinance to Remain in Effect**

The balance of the Town of Lexington Code of ordinances shall remain in full force and effect.

  
\_\_\_\_\_  
Mayor Steve MacDougall


  
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Mayor Pro Tem Hazel Livingston

  
\_\_\_\_\_  
Councilmember Kathy Maness


  
\_\_\_\_\_  
Councilmember Todd Carnes

  
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Councilmember Ron Williams

  
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Councilmember Steve Baker

  
\_\_\_\_\_  
Councilmember Todd Lyle

Attest:

  
\_\_\_\_\_  
Municipal Clerk Becky Hildebrand

First Reading Approval: April 20, 2020

Final Reading Approval: May 4, 2020

Public Hearing: May 4, 2020

**MUTUAL AID AND LAW ENFORCEMENT  
SUPPORT AGREEMENT BETWEEN THE  
CITY OF NORTH MYRTLE BEACH AND  
THE LEXINGTON POLICE DEPARTMENT**

**Whereas**, § 23-20-20(4) of the Act defines a Mutual Aid Agreement as “any agreement entered into on behalf of a law enforcement agency in this State for the purpose of providing the proper and prudent exercise of public safety functions across jurisdictional lines, including, but not limited to, multijurisdictional task forces, criminal investigations, patrol services, crowd control, traffic control and safety, and other emergency service situations. Such agreements must not be permitted for the sole purpose of speed enforcement”; and

(1) "Law enforcement agency" means any state, county, municipal, or local law enforcement authority that enters into an agreement for the procurement of law enforcement support services.

(2) "Law enforcement provider" means any in-state or out-of-state law enforcement authority that provides law enforcement services to a law enforcement agency pursuant to this chapter.

(3) "Law enforcement services" means any law enforcement assistance or service performed by a certified law enforcement officer; and

Whereas, § 23-20-40 provides

(A) All mutual aid agreements for law enforcement services must be in writing and include, but may not be limited to, the following:

- (1) a statement of specific services to be provided;
- (2) specific language dealing with financial agreements between the parties;
- (3) specification of the records to be maintained concerning the performance of services to be provided to the agency;
- (4) language dealing with the duration, modification, and termination of the agreement;

- (5) specific language dealing with the legal contingencies for any lawsuits or the payment of damages that arise from the provided services;
  - (6) a stipulation as to which law enforcement authority maintains control over the law enforcement provider's personnel;
  - (7) specific arrangements for the use of equipment and facilities; and
  - (8) specific language dealing with the processing of requests for information pursuant to the Freedom of Information Act for public safety functions performed or arising under these agreements.
- (B) Except as provided in subsection (C), a mutual aid agreement entered into on behalf of a law enforcement authority must be approved by the appropriate governing bodies of each concerned county, incorporated municipality, or other political subdivision of this State. Agreements entered into are executed between governing bodies, and, therefore, may last until the agreement is terminated by a participating party of the agreement.
- (C) An elected official whose office was created by the Constitution or by general law of this State is not required to seek approval from the elected official's governing body in order to participate in mutual aid agreements.

**NOW THEREFORE, PURSUANT TO THE CODE OF LAWS OF SOUTH CAROLINA, SECTION 23-20-10 ET SEQ, THE NORTH MYRTLE BEACH DEPARTMENT OF PUBLIC SAFETY (NMBDPS) AND THE LEXINGTON POLICE DEPARTMENT (LPD), THE PARTIES AGREE AS FOLLOWS:**

**1. TEMPORARY TRANSFER OF OFFICERS, SPECIFIC SERVICES TO BE PROVIDED, MODIFICATION AND TERMINATION OF AGREEMENT:**

(a) LPD shall provide Officers on a temporary basis to provide law enforcement services in the City of North Myrtle Beach, South Carolina during the Memorial Day Biker Event beginning on May 14, 2020 through May 25, 2020. The Agreement shall be effective for the period beginning at 12:00 a.m. on May 14, 2020, and ending at 11:59 p.m. on May 25, 2020. However, the LPD Police Department shall not be required to begin providing assistance until May 22, 2020 continuing through May 25, 2020 unless otherwise requested by the City of North Myrtle Beach to commence providing services prior to May 22, 2020 during the above referenced effective period.

(b) The specific law enforcement services that the LPD shall provide include, but are not limited to, patrol services, crowd control, and traffic control.

(c) This agreement shall terminate, as indicated in paragraph 1(a) on Monday, May 25, 2020 at 11:59 pm. This agreement shall not be modified unless both parties

consent, in writing, to a modification. The terms of the modification shall be in writing and shall become a part of the original Agreement.

## 2. AUTHORITY

(a) The North Myrtle Beach City Council has approved this Agreement and has authorized the LPD to request the temporary transfer of law enforcement officers from the LPD to the extent of available personnel and equipment not required for the adequate protection of the remainder of Town of Lexington. The Police Chief or commanding officer of the LPD shall determine the amount of personnel and equipment available for law enforcement aid in North Myrtle Beach. The decision of the Police Chief or the commanding officer of the LPD shall be final.

(b) The Town of Lexington authorizes the Police Chief of the LPD or his designee to render temporary law enforcement aid to the NMBDPS to the extent of available personnel and equipment not required for adequate protection of the remainder of the Town of Lexington.

(c) Law enforcement officers from the LPD acting under this Agreement shall be commanded by superior authority from within the LPD to maintain the peace or perform duties in the municipality of North Myrtle Beach, South Carolina. While in North Myrtle Beach, officers from the LPD shall be under the direction and authority of a designated person from the LPD. The designated person from the LPD with authority over the officers from the LPD shall in turn be under the direction and authority of Director of Public Safety for the NMBDPS or the Director's designee. Officers from the LPD transferred to perform law enforcement duties within the City of North Myrtle Beach shall have all powers and authority of a law enforcement officer employed by the City of North Myrtle Beach. The bond for any officer transferred from the LPD shall include coverage for his/her activity in the municipality of North Myrtle Beach in the same manner and to the same extent provided by bonds of officers employed by the NMBDPS.

## 3 COMPENSATION

The NMBDPS shall provide a thirty-five dollar (\$35) per diem to each officer from the LPD transferred to the municipality of North Myrtle Beach pursuant to this Agreement. In addition, the NMBDPS shall provide lodging for each officer from the LPD transferred to the municipality of North Myrtle Beach pursuant to this Agreement. The NMBDPS shall also reimburse the LPD the rate of salary or the hourly rate of wages for each officer transferred from the LPD. Such reimbursement for each officer shall include any overtime and any applicable state and federal taxes and SCPORS contributions. LPD shall submit an invoice to the NMBDPS within thirty (30) days from May 31, 2020 regarding reimbursement for officers transferred pursuant to this Agreement. Reimbursement shall not include travel expenses.

Other than the compensation to be paid to the LPD as indicated above, the NMBDPS shall not be obligated to pay additional remuneration to the LPD however, in the event

any extraordinary cost is incurred by the LPD in the rendering of law enforcement services pursuant to this Agreement, the LPD may submit a request for compensation to off-set any extraordinary cost. The NMBDPS shall not unreasonably withhold payment to the LPD for any extraordinary costs incurred by the LPD while rendering law enforcement services pursuant to this Agreement.

The temporary transfer of officers from the LPD to the NMBDPS pursuant to this Agreement shall in no manner affect or reduce the compensation, pension, or retirement rights of transferred or assigned officers and such officers shall continue to be paid by the Town of Lexington where such officers are permanently employed.

#### **4. LIABILITY**

(a) To the extent permitted by law, and without waiving sovereign immunity, each agency shall be responsible for any and all claims, demands, suits, actions, damages and causes of action related to or arising out of or in any way connected with its own actions and the actions of its personnel in providing law enforcement services under this agreement.

(b) The NMBDPS and the City of North Myrtle Beach shall not be responsible for reimbursing any amounts paid or due as benefits to employees of the LPD or the Town of Lexington under the terms of the South Carolina Workers' Compensation Act due to personal injury or death occurring while such employees are engaged in rendering aid under this Agreement. The NMBDPS and the Town of Lexington shall be responsible for payment of compensation and benefits only to their respective employees.

(c) All individuals retain all compensation, pension, retirement and disability rights while performing duties in accordance with this agreement, and all officers shall continue to be paid by the entity where they are permanently employed as of the dates services are rendered.

(d) This Agreement shall not be construed as, or deemed to be, an agreement for the benefit of any third party or parties. No third party or parties shall have any right of action under this agreement for any cause of action whatsoever.

#### **5. EQUIPMENT AND FACILITIES**

The LPD may utilize equipment from its own agency, if approved of the by Director of Public Safety for the NMBDPS or his designee, in carrying out law enforcement services pursuant to this Agreement.

#### **6. RECORDS**

In the event that it is necessary for any officer with the LPD to issue a uniform traffic ticket, prepare an incident report, traffic accident report, and/or prepare any document(s)

necessary for the issuance of an arrest warrant, the originals of the above stated documents shall remain with and be maintained by the NMBDPS. In the event it is necessary for an officer with the LPD to return to the City of North Myrtle Beach to aid in the prosecution of any traffic citation issued or arrest warrant obtained by, or with the assistance of, any officer from the LPD while he/she was performing law enforcement services pursuant to this Agreement, such officer shall reasonably cooperate with the NMBDPS to return to North Myrtle Beach for the purpose of providing testimony if the matter is to be disposed of via bench trial or jury trial. The NMBDPS shall pay for the officer's mileage at the prevailing IRS mileage rate.

**7. PROCESSING REQUESTS FOR INFORMATION PURSUANT TO THE  
SOUTH CAROLINA FREEDOM OF INFORMATION ACT**

Any requests for information submitted to the City of North Myrtle Beach and/or the North Myrtle Beach Department of Public Safety pursuant to the South Carolina Freedom of Information Act (FOIA) regarding public safety functions performed or arising under these agreements shall be processed by the City of North Myrtle Beach. Any requests for information submitted to the Lexington Police Department pursuant to the South Carolina Freedom of Information Act (FOIA) regarding public safety functions performed or arising under these agreements shall be processed by the Lexington Police Department.

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Michael G. Mahaney, City Manager  
City of North Myrtle Beach

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Terrence Green, Chief  
Lexington Police Department

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

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