

## ORDINANCE

**AN ORDINANCE OF THE CITY OF NORTH MYRTLE BEACH PROVIDING THAT THE CODE OF ORDINANCES, CITY OF NORTH MYRTLE BEACH BE AMENDED BY REVISING CHAPTER 16 "OFFENSES AND MISCELLANEOUS PROVISIONS," ARTICLE I, "IN GENERAL," SECTION 16 TO REGULATE THE USE OF LASER DEVICES.**

**BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MYRTLE BEACH, SOUTH CAROLINA, IN COUNCIL DULY ASSEMBLED, THAT:**

WHEREAS, laser pointers are small handheld devices, usually battery operated, equipped with a laser diode emitting a very narrow laser beam of visible light, intended to be used to highlight something of interest by illuminating it with a small bright spot of colored light; and

WHEREAS, laser pointers are often used in educational and business presentations for visual demonstrations as a pointing device, are useful in the construction setting, and for certain gun sights; however, if they are aimed at a person's eyes, they can cause temporary disturbances to vision, and in some cases permanent retinal damage; and

WHEREAS, when pointed at aircraft at night, laser pointers may cause spatial disorientation, and otherwise dazzle and distract pilots at critical times, and have been used maliciously to distract or annoy individuals on the ground as well as in the air; and

WHEREAS, recently there has been a proliferation of lasers in the marketplace, particularly higher powered lasers of greater than 1 milliwatt output and brighter color (e.g. green), due to their appeal as a recreational device, coupled with the low cost of manufacture; and

WHEREAS, especially because of these higher powered lasers, with the resulting increase in their intensity and range, and extra potential hazard when pointed at objects and people, there also has been a dramatic escalation recently in the number of incidents in which damaging laser beams are being directed at people and aircraft in Horry County; and

WHEREAS, the U.S. Coast Guard, Charleston Sector, has reported several recent cases where pilots were forced to land their aircraft and abort missions during search and rescue operations after being hit with laser beams, particularly debilitating when the pilot is wearing night vision equipment; and

WHEREAS, during the summer of 2012 alone, there have been over 70 reported incidents of aircraft being hit by lasers in and around the Myrtle Beach International Airport.

WHEREAS, therefore, it is the will of City Council to provide for regulation of the sale, possession, and use of laser pointed devices in the City, and to provide for the enforcement thereof, in the interest of the public's health, safety, and welfare.

NOW, THEREFORE, the following law with respect to the regulation of laser pointed devices is hereby ordained and enacted:

13-05

## ARTICLE I: IN GENERAL.

### **Sec. 16-52. Definitions**

*Laser pointer or device* means a device that is designed to amplify electromagnetic radiation by stimulated emission that emits a beam designed to be used by the operator as a pointer or highlighter to indicate, mark, or identify a specific position, place, item, or object. Such term also means a device that projects a beam or point of light by means of light amplification by stimulated emission of radiation or other means or that emits light which simulates the appearance of a beam of light.

*Contraband* means a) any laser pointer or device that is used unlawfully, or b) any laser pointer or device that is greater than 1 milliwatt, as shown by the manufacturer's or distributor's technical specifications as shown on the pointer or device or otherwise, or c) any laser pointer or device for which the merchant who offers the device for distribution, sale or barter has no technical specifications showing the manufacturer's or distributor's confirmation that the laser pointer or device is 1 milliwatt or less in output. Excluded from this definition are: 1) lasers used by an authorized individual in the conduct of research and development or flight test operations conducted by an aircraft manufacturer, the Federal Aviation Administration, or any other person authorized by the Federal Aviation Administration to conduct such research and development or flight test operations; 2) lasers used by members or elements of the Department of Defense or Department of Homeland Security acting in an official capacity for the purpose of research, development, operations, testing or training; 3) lasers used by an individual as an emergency signaling device to send an emergency distress signal; 4) lasers used by public safety officials in the regular conduct of their duties; 4) laser uses specifically permissible by federal or State law; 5) lasers used for legitimate educational purposes; 6) lasers used for testing in the course of product manufacturing; 6) lasers used for legitimate business purposes and during the normal course of such business; 7) lasers in the possession of individuals if such possession is necessary for the individual's employment, education, trade or occupation, and when not in use; 8) lasers possessed and/or used as part of a gun sight, so long as such are possessed and/or used in a lawful manner.

*Minor* means any person who has not attained 17 years of age.

### **Sec. 16-53. Possession by minors unlawful; exception.**

- (a) It shall be unlawful for any minor to possess a laser pointer or device, while not under the direct supervision of a parent, guardian or teacher, which parent, guardian or teacher takes full responsibility for its possession and use under this Article, and bears the full consequences of its misuse.
- (b) Laser pointers or devices in the unlawful possession of minors are subject to immediate confiscation as contraband.
- (c) It shall be unlawful for any person, other than a parent, guardian or teacher, to knowingly provide a laser pointer or device to a minor.

- (d) Business license holders that distribute, sell or barter laser pointers or devices to minors are subject to the suspension and ultimate revocation of their business licenses.

**Sec. 16-54. Prohibited uses; exceptions.**

- (a) It shall be unlawful for any person to direct the light from a laser pointer or device from public or private property upon another person, a person's means of conveyance, or an animal, on public or private property, or upon a watercraft, airplane, helicopter or other aircraft, in public airspace or waterways at any time. Excluded are the possession and use of laser gun sights when possessed and used for lawful hunting purposes, or for self-defense as defined by law.
- (b) It shall be unlawful for any parent, guardian, person acting in loco parentis, or responsible adult to purchase and give to any minor, or permit any minor in their custody to possess or use, a laser pointer or device while not under the direct supervision of such parent, guardian, person acting in loco parentis, responsible adult, or teacher.

**Sec. 16-55. Regulated sales.**

- (a) It shall be unlawful for any person to distribute, sale or barter, any laser pointer or device to any adult except under the following conditions:
  - (1) Any distribution of any laser pointer or device shall be verified by the manufacturer's or distributor's technical specifications confirming that the pointer or device is not more than 1 milliwatt, and the proof of wattage as shown by the technical specifications which must be maintained by the merchant, to be available upon demand of law enforcement. It is the merchant's responsibility to obtain proof from the seller/vendor wholesaler. Laser pointers or devices offered for distribution, sale or barter that do not have the proper proof of wattage limitations are subject to immediate confiscation as contraband. Laser pointers and devices offered for sale in their original unopened packaging which confirms that the devices are 1 milliwatt or less in output are sufficient proof of compliance. If greater than 1 milliwatt, the distribution, sale or barter must be accompanied by a statement concerning their use limitations, as set forth in this Article, with a written acknowledgment on the part of the buyer as to which exception(s) apply to the possession and use of such laser pointer or device.
  - (2) Any distribution, sale or barter of each individual laser pointer or device must be accompanied by the written warnings of use as required herein, and a signed customer receipt that the warnings of use have been provided in conjunction with the distribution, sale or barter. After verifying the adult status of the customer, the merchant shall require the customer to affix his signature under the legible printed name affirming that the warning has been provided and read.

(b) REQUIRED WARNINGS OF USE.

I, the undersigned, have read and understand the warnings of use that are required to accompany the receipt of this laser pointer or device.

WARNING ON POSSESSION AND USE OF A LASER POINTER OR DEVICE  
PARENTS! DO NOT BUY THIS PRODUCT FOR MINORS!  
THIS PRODUCT CAN BE CONSIDERED A WEAPON!

- Laser beams can temporarily blind or disorient an operator of an airplane, helicopter or vehicle when the beam is directed toward them. The beam is much larger at long distances than you might think. Even though the laser projects a small, millimeter-sized dot close up, at longer distances the beam can be many inches across. When the beam hits the windscreen of a cockpit, or the bubble of a helicopter, imperfections in and on the glass spread the light out even more, making it impossible for the pilot to safely navigate. Pilot exposure to the beam can result in flash blindness, glare and distraction in the immediate task of piloting the aircraft. Pointing a laser at an aircraft places all the persons aboard in mortal jeopardy.
- It is a federal felony crime to aim a laser pointer at an aircraft, or at the flight path of an aircraft. The federal penalty is up to 5 years in a federal prison and/or a fine of several thousand dollars. The U.S. Federal Aviation Administration "will pursue the toughest penalties" against persons who deliberately aim lasers at aircraft, Transportation Secretary Ray LaHood announced on May 16 2012. Since June 2011, FAA has taken action against 28 persons, with an average fine of \$11,000 per laser strike. The highest penalty sought so far is \$30,800. FAA has directed its staff not to seek warning notices or counseling, but to use "moderately high civil penalties" for inadvertent laser illuminations, and maximum penalties for deliberate violations. Horry County will inform the federal authorities of any arrests relating to this crime so that appropriate prosecution to the fullest extent of the law can be achieved at the federal level.
- Section 55-3-130 of the South Carolina Code of laws also makes it criminal offense to point, aim, or discharge a laser device at an occupied aircraft, in the air or on the ground, providing a potential sentence for a first offense of one year in prison, a fine of \$2,000, or both. A second or subsequent violation triggers the possibility of even greater sentencing.
- A laser's light is concentrated into a narrow beam. If aimed at a person's eye from close up, most or all of the light goes through the pupil. The already-concentrated light is further focused by the lens onto a sharp ("diffraction-limited") dot on the retina. Even at the lower power outputs, the power density from a 1 milliwatt laser, focused to a point, is brighter than the equivalent area of the sun's surface. This can cause a detectable injury to the retina, if the laser stays in one spot for a few seconds. Laser beams can permanently blind a person or animal when the beam is directed into their eyes.
- Any person of 17 years or older who possesses a laser pointer or device unlawfully, or who points a laser beam toward any vehicle, person or animal is subject to a conviction for violation of City ordinance, for assault and battery, and/or for mistreatment of animals, with a \$500.00 fine and up to 30 days imprisonment, or both, as well as being civilly liable for any personal injury to a person or animal, or damage to property, that might result from this illegal act.
- PARENTS, GUARDIANS, RESPONSIBLE ADULTS: YOU WILL BE HELD PERSONALLY RESPONSIBLE FOR THE MISUSE OF THIS DEVICE BY ANY MINOR TO WHOM YOU PROVIDE THIS DEVICE, OR BY ANY OTHER PERSON TO WHOM THAT MINOR PROVIDES THIS DEVICE.

- Any parent, guardian, person acting in loco parentis, or responsible adult person, who purchases a laser pointer or device for a minor, or who allows a minor in their custody to access, possess or use a laser pointer or device within the unincorporated area of Horry County, and that laser pointer or device is possessed or used unlawfully, is subject to arrest and prosecution, and upon conviction, is further subject to a fine of \$500.00 and up to 30 days imprisonment, or both. The parent is chargeable as a principal to the crime along with the minor in possession, or who illegally uses the device as a weapon, and is also subject to prosecution for contributing to the delinquency of a minor.

- Any minor 16 years or younger, who is in possession of, or who uses, a laser pointer or device unlawfully, is subject to service of a juvenile summons and will be prosecuted in Family Court by the Solicitors Office.
- Lasers in the unlawful possession of minors are subject to immediate confiscation as contraband, in addition to any other law enforcement action.
- Laser pointers or devices that are used illegally are contraband, and subject to immediate confiscation, in addition to any other law enforcement action.

Date:

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Print merchant name and signature that adult status has been verified, and that manufactures technical specifications are available to prove that the device is 1 milliwatt or less, or if greater than 1 milliwatt, set forth specific exception(s) applicable to possession and use.

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Print customer's name and signature that affirms the warning have been received and read.

**Sec. 16-56. Laser pointers are considered weapons; assault and battery on person; mistreatment or abuse of animal.**

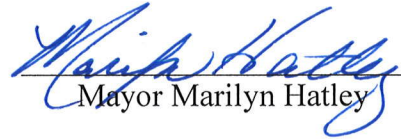
- (a) A laser pointer, or any other similar article, which consists of a hand-held, battery-operated device of any output, designed or adapted to emit a laser beam and that may be used for the purposes of aiming, targeting or pointing, is considered a weapon when used unlawfully.
- (b) When a laser pointer is directed to a person, or upon a conveyance piloted, operated or occupied by a person, such conduct is deemed an assault and battery.
- (c) When a laser pointer is directed to an animal (other than for lawful hunting purposes), such conduct is considered abuse or mistreatment of animals.

**Sec. 16-57. Penalty; immediate confiscation.**

- (a) Any person violating any of the provisions of this Article shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as the law allows for a misdemeanor crime, with a fine not greater than \$500.00 or 30 days imprisonment, or both, per incident.
- (b) Any laser pointer or device found upon the person of a minor, or used by any person in a prohibited manner, or found in a business as an item for sale without manufacturer's technical specification showing that the output is 1 milliwatt or less, may be immediately seized as contraband by law enforcement, a Court of competent jurisdiction to determine the temporary or permanent nature of the confiscation.

**Sec. 16-58. SEVERABILITY.** If any Section, Subsection, 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 this Ordinance shall remain in full force and effect.

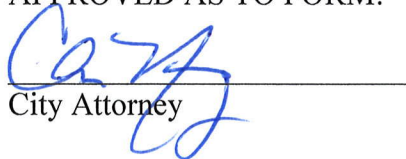
DONE, RATIFIED AND PASSED, THIS 18<sup>th</sup> DAY OF February, 2013.

  
Mayor Marilyn Hatley

ATTEST:

  
City Clerk

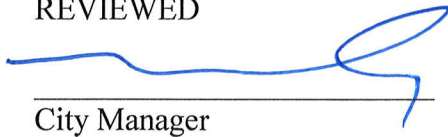
APPROVED AS TO FORM:

  
City Attorney

FIRST READING: 2-4-13

SECOND READING: 2-18-13

REVIEWED

  
City Manager