



**MYRTLE BEACH POLICE DEPARTMENT  
ADMINISTRATION REGULATIONS  
AND OPERATING PROCEDURES**

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**Subject: Limits of Authority/Discretion**

**Number: 314-A**

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**Effective Date: May 15, 2021**

**Revised Date: December 13, 2023**

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**Rescinds: 314 – Limits of Authority/Discretion**

**Dated: 05-15-2021**

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A handwritten signature in black ink, appearing to be "J. Smith", written over a horizontal line.

Approved By:

**I. PURPOSE**

To establish limits of authority, discretionary judgment and alternatives to arrest.

**II. POLICY**

All sworn personnel are permitted to apply professional and impartial discretionary judgment in situations involving investigative and arrest procedures. In addition to statutory requirements, legal precedent may be considered when exercising discretion. The use of discretion shall be sharply limited in felony situations. Greater latitude of discretionary judgment will be permitted in the investigation of misdemeanors and City ordinance violations. Nothing in this directive is to be construed as permission to disregard any law. Each officer will be held accountable for his/her actions in these circumstances.

**III. Legal Authority**

- A. This regulation applies to all employees of the City of the Myrtle Beach Police Department who are employed as a sworn Police Officer as described by Section 5-7-110 of the South Carolina Code of Laws with jurisdiction and arrest powers within the city limits of the Myrtle Beach.
- B. The Federal Constitution, South Carolina Constitution and the Code of Laws of South Carolina define the scope and limits of law enforcement authority as it pertains to the enforcement of laws, statutes and ordinances.
- C. The South Carolina Constitution, Article VIII, Section 9, states, "The structure and organization, powers, duties, functions and responsibilities of the municipalities shall be established by general law....".

- D. The Code of Laws of South Carolina, Section 5-7-30, states, " All municipalities of the State shall, in addition to the powers conferred to their specific form of government, have authority to enact regulations, resolutions and ordinances, not inconsistent with the Constitution and general law of this State, including the exercise of such powers in relation to roads, streets, markets, law enforcement, health and order in such municipalities, or respecting any subject as shall appear to them necessary and proper for the security, general welfare and convenience of such municipalities or for preserving health, peace, order and good government therein...."

#### **IV. Use of Police Discretion**

- A. The power of arrest granted to police officers is one of the alternatives available to them under circumstances that require some form of police action. Additional alternatives that are effective and still allow an officer an alternative to arrest should be considered.
- B. Use of arrest alternatives will be sharply limited in violations that are General Session's offenses or when a subject cannot be positively identified. Sworn officers should consult with their supervisors if unsure about arrest alternatives.
- C. Alternatives to Arrest
1. Use of the State Uniform Traffic Ticket, UTT, is permitted in lieu of obtaining an arrest warrant for traffic offenses and certain designated state criminal law offenses. A UTT is also permitted for City Ordinance violations committed in the presence of an officer under section 56-7-10 of the SC Code of Laws.
  2. In accordance with the South Carolina Attorney General's Opinion concerning Section 56-7-15 of the South Carolina Code of Laws: "Offense, including municipal ordinance violation, committed in presence of law enforcement officer and which is within jurisdiction of a magistrate's court and municipal court may be cited on uniform traffic ticket. Use of uniform traffic ticket by officer would confer upon court jurisdiction without necessity of further obtaining arrest warrant."
  3. Informal Resolution - An officer, at their discretion, may offer informal resolutions to situations and conflicts when in the officer's judgment they can be adequately resolved by other means such as informing the proper agency or organization, advising parents of juvenile activity, etc.
  4. Referral – Law enforcement officers often encounter people in need of help that can best be provided by another criminal justice or social service agency. Exercising sound discretion, officer assessment, specific requests, or the necessity of immediate aid should guide those in need of help to the appropriate



agencies.

5. Referral to Criminal Court – Should occur when the police officer determines that sufficient information exists to substantiate a criminal charge but the police officer has no legal basis to act on such information. Civil matters shall be referred to an attorney of the complainant's choice or the appropriate magistrate. Officers shall not recommend any specific attorney.
6. Verbal Warning may be given by an officer when, in their discretionary judgment, it is the most reasonable alternative for the offender and the violation. In the event that a verbal or written warning is given, the officer at a minimum will document or have documented in the CAD, the nature of the violation, the age, gender, and race or ethnicity of the subject being warned
7. Discretion based upon race, ethnic background, gender, sexual orientation, national origin, religion, gender identity, economic standing or cultural group is strictly **prohibited**.