

ORDINANCE NO. 2024-28

AN ORDINANCE ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, AMENDING CHAPTER 9 “MISCELLANEOUS OFFENSES,” ARTICLE I “IN GENERAL,” DIVISION 1 “GENERALLY,” SECTION 9-9 “PROHIBITION OF LODGING ON PUBLIC LANDS OR IN THE OPEN,” TO INCLUDE ISSUANCE OF A TRESPASS WARNING AS A POSSIBLE CONSEQUENCE FOR VIOLATION OF THIS SECTION; AMENDING CHAPTER 11 “STREETS, SIDEWALKS AND OTHER PUBLIC PLACES,” ARTICLE I “IN GENERAL” SECTION 11-4 “ADMINISTRATION OF PROVISIONS” TO CLARIFY WHO ADMINISTERS THE PROVISIONS OF THIS CHAPTER, ADDING SECTION 11-7 “FACILITY RULES,” AND ADDING SECTION 11-8 “TRESPASS WARNINGS ON PUBLIC PROPERTY AND OTHER PROPERTY GENERALLY OPEN TO THE PUBLIC;” PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the City of Greenacres, Florida (the “City”) is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the City Council seeks to maintain a safe and orderly environment on public property that is conducive to the designated use of the areas and to the efficient rendering of public services; and

WHEREAS, the City Council desires to clarify that sleeping overnight on public benches, streets, alleys, or any other public area within the City limits is prohibited; and

WHEREAS, the City Council desires to enact rules of conduct pertaining to the interior spaces of all City-owned, controlled, and leased buildings; and

WHEREAS, the City Council finds that the presence of individuals who violate federal law, state statutes, or City ordinances, rules, or regulations on City-owned, controlled, and leased property hinders the efficient rendering of public services and creates a threat to the public safety and welfare; and

WHEREAS, the City Council desires to issue trespass warnings of limited duration and scope to individuals who are acting in violation of federal, state, or local laws while on City-owned, controlled, and leased property; and

WHEREAS, the City Council desires to provide consistency and uniformity for the issuance of these trespass warnings; and

WHEREAS, the City Council desires to create process for individuals to appeal these trespass warnings; and

WHEREAS, the City Council further desires that these trespass warnings be enforced by the appropriate law enforcement agency; and

WHEREAS, the City Council has reviewed this proposed Ordinance and has determined that this Ordinance serves a public purpose and is in the best interests of the public health, safety and/or welfare of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, THAT:

SECTION 1. The foregoing recitals are hereby fully incorporated herein by reference as true and correct legislative findings of the City Council of the City of Greenacres and necessary and consistent with the City’s rightful exercise of its police powers.

SECTION 2. The City of Greenacres Code of Ordinances, Chapter 9 “Miscellaneous Offenses,” Article I “In General,” section 9-9 “Prohibition of lodging on public lands or in the open,” is hereby amended to read as follows (words ~~stricken~~ are deletions; words underlined are additions):

Sec. 9-9. - Prohibition of lodging on public lands or in the open.

(a) No person shall at any time lodge or sleep overnight upon public benches, streets, alleys or any other public lands or real property within the city limits of the city nor shall any individual lodge in or sleep overnight, on or about any automobile, truck, camping or recreational vehicle

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or similar vehicle parked upon any public street, public way, right-of-way, parking lot or other public property within the city limits without the consent of such governmental owner, its tenant or its duly authorized agent in charge thereof, authorizing, licensing, or inviting such person to do so.

(b) Public lands or real property for the purposes of this section shall be defined to mean and include, but not be limited to, public streets, roads, highways, swales, drainageways, alleyways and other right-of-ways, public parks, parkways, open spaces, conservation and preservation areas, recreational land and parking lots, including any buildings or structures located thereon.

(c) It shall be unlawful for any person at any time to occupy, lodge, or sleep in the open on private property, in vacant lots, in or under any bridge or structure, without owning the same or without permission of the owner or person entitled to possession of same

(d) Pursuant to section 11-8, a trespass warning may be issued to any person who violates paragraph (a) of this section except that a person may not be trespassed from any public street that is a required and necessary public street for that person’s lawful travel needs within the city.

SECTION 3. The City of Greenacres Code of Ordinances, Chapter 11 “Streets, Sidewalks And Other Public Places,” Article I “In General,” section 11-4 “Administration of provisions,” is hereby amended to read as follows (words ~~stricken~~ are deletions; words underlined are additions):

Sec. 11-4. - Administration of provisions.

Unless otherwise indicated, ~~The City engineer~~manager or his designee shall administer the provisions of this chapter.

SECTION 4. The City of Greenacres Code of Ordinances, Chapter 11 “Streets, Sidewalks and Other Public Places,” Article I “In General,” is hereby amended to add sections 11-7 “Facility Rules” and 11-8 “Trespass Warnings on Public Property and Other Property Generally Open to the Public” as follows (words ~~stricken~~ are deletions; words underlined are additions):

Sec. 11-7. - Facility rules.

(a) The following conduct is prohibited within the interior spaces of all city-owned, controlled, and leased buildings:

- (1) Engaging in any conduct prohibited by federal, State of Florida, or City of Greenacres law.

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- (2) Smoking, chewing tobacco, use of e-cigarettes or vaping devices, or carrying any lighted or smoldering pipe, cigar, or cigarette.
- (3) Disruptive, harassing, or unsafe behavior, including, but not limited to, conduct which interferes with city employees or city officials in the performance of their duties, or interferes with the proper use of the city facility by others.
- (4) Abusive or harassing behavior, including, but not limited to, use or display of obscene language, gestures, or graphics.
- (5) Blocking entrances, exits, fire exits, access areas, or otherwise interfering with the provision of services or the use of city facilities.
- (6) Entering or remaining in nonpublic areas without authorization. Areas inside city buildings, including offices, hallways, stairways, and elevators are open to the public only to the extent necessary to attend to city business, or for attending a city-authorized function, event, or activity to which the person is an invitee, or attending a duly noticed public meeting. Otherwise, such areas are deemed nonpublic areas.
- (7) Any act which could result in substantial risk of harm to persons or property.
- (8) Disrupting city business, events, or other city sponsored or authorized activities.
- (9) Leaving unattended packages, backpacks, luggage, or other personal items. Any such items are subject to immediate confiscation.
- (10) Laying down or sleeping in chairs, benches, or otherwise.
- (11) Possession of illegal drugs.
- (12) Posting or affixing to city facilities, without permission from the city manager, or his/her designee, any signs, leaflets, posters, flyers, pamphlets, brochures, and written, pictorial, or graphic material of any kind.
- (13) Tampering with or unauthorized use of building or facility systems or devices, including electrical, plumbing, locks, doors, or cameras. Use of the city electric vehicle charges shall be in accordance with posted rules at each charging station.
- (14) Improper use of amenities at public facilities, including but not limited to, using sinks to bathe or shower.
- (15) Audio and/or video recording anywhere inside of city facilities except during duly noticed public meetings, or as otherwise approved by the city manager, or his/her designee. Except as otherwise approved by the city manager, or his/her designee, audio and/or video recording may only be conducted within the city council chamber, and any room, or office within which said activity has been authorized by law. Any person found to be conducting audio and/or video recording except as authorized by herein, must cease doing so immediately if any visitor, city employee or city official expresses his/her desire

not to be recorded. This rule does not apply to audio and/or video recording performed by authorized law enforcement personnel engaged in the performance of their official duties. Audio and/or video recording of public meetings must be undertaken in a quiet and orderly manner so as not to interfere with the conduct of the meeting, block the view of any person attending the public meeting, or block any aisle, row, ingress or egress.

(16) Remaining in a city facility after posted hours of operation or after the conclusion of an authorized "after hours" public meeting or event.

(17) Failure to cease conduct specifically prohibited in items (a) through (o) above immediately after a request by city employee(s) or the city's law enforcement officers to do so.

(b) This section may be enforced by the city manager or designee or the city's law enforcement officers.

Sec. 11-8. - Trespass warnings on public property and other property generally open to the public.

(a) A trespass warning may be issued by the city manager or designee, or deputies of the Palm Beach County Sheriff's Office, to any individual who violates any federal law, state law, or city ordinance, rule, or regulation, which violation was committed while on or within any city-owned, controlled, and leased buildings, or outdoor area that is open to the general public, including municipal parks. The trespass warning shall be limited to the specific property where the violation occurred.

(b) Trespass warnings shall be in writing and issued for a period not to exceed two years.

(c) A copy of the trespass warning shall be provided by mail or hand delivery to the individual given the warning. The written trespass warning shall advise of the right to appeal and the location at which to file the form to initiate the appeal.

(d) Any person found on or within any city-owned, controlled, and leased buildings, or outdoor area, including municipal parks, in violation of a trespass warning issued in accordance with this section may be arrested for trespassing, except as otherwise provided in this section.

(e) The city manager or designee may upon request authorize an individual who has received a trespass warning to enter the property or premises to exercise his or her First Amendment rights if there is no other reasonable alternative location to exercise such rights or to conduct necessary municipal business. Such authorization must be in writing, shall specify the duration of the authorization and any conditions thereof, and shall not be unreasonably denied.

(f) This section shall not be construed to limit the authority of any city employee or official or deputies of the Palm Beach County Sheriff's Office to issue a trespass warning to any person for any lawful reason on any city-owned, controlled, and leased buildings, or outdoor area, including rights-of-way when closed to general vehicular or pedestrian use, when necessary or appropriate in the sole discretion of the city employee, official or deputy. Trespass warnings

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issued by a city employee or official shall be issued in the presence of a deputy of the Palm Beach County Sheriff's Office.

(g) This section shall not be construed to limit the authority of deputies of the Palm Beach County Sheriff's Office to arrest or cite individuals for the violation of any section of the city's Code of Ordinances or the Florida Statutes.

(h) Appeal of trespass warning. A person to whom a trespass warning is issued under this section shall have the right to appeal the issuance of the trespass warning as follows:

(1) An appeal of the trespass warning must be filed, in writing, with the code compliance department within ten (10) days of the issuance of the warning. The request shall include the appellant's name, date of issuance of trespass warning, and the appellant's current telephone number and mailing address. The city will mail the notice of hearing by regular mail to the mailing address provided. No fee shall be charged for filing the appeal.

(2) Appeals shall be heard by a special magistrate with whom the city contracts to provide this service. The special magistrate appointed to hear code compliance hearing may be used to conduct these hearings.

(3) If the appellant fails to contest the trespass warning within the time afforded by the trespass warning, or if the appellant fails to appear at the special magistrate hearing, the appellant shall have waived all rights to a hearing.

(4) The special magistrate shall hold the hearing as soon as possible. In no event shall the hearing be held later than 40 days from the filing of the appeal.

(5) Each case before a special magistrate shall be presented by the city attorney or by a member of city staff.

(6) All testimony shall be under oath and shall be recorded. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.

(7) At the conclusion of the hearing, the special magistrate shall issue findings of fact, based on evidence of record, and conclusions of law, and shall issue an order affording the proper relief consistent with powers granted herein.

(8) If the special magistrate determines the trespass warning was properly issued, the appellant shall be responsible for the administrative costs of the hearing. All costs shall be paid within thirty (30) days. Failure to timely pay the costs will result in the costs being added to any future service fee, permit fee, or other amount owed to the city.

(9) The decision of the special magistrate shall be final and the appellant shall be deemed to have exhausted all administrative remedies. An aggrieved party, including the local governing body, may appeal a final administrative order of a special magistrate to the circuit court. Such an appeal shall not be a hearing de novo but shall be limited to appellate review

of the record created before the special magistrate. An appeal shall be filed with thirty (30) days of the execution of the order to be appealed. The city attorney or designee is hereby authorized to defend such appeals on behalf of the city and/or special magistrate.

(10) The trespass warning shall remain in effect during the appeal and review process, including any judicial review.

(11) This section applies retroactively.

(i) Nothing in this section shall be construed to limit the City's ability to trespass any individual from any city-owned, controlled, or leased property that is not open to the public.

(j) Enforcement of trespass warning. Deputies of the Palm Beach County Sheriff's Office may enforce any violation of a trespass warning by means of Florida Statutes sections 810.08 and 810.09.

SECTION 5. Repeal of Conflicting Ordinances. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 6. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 7. Codification. The sections of the Ordinance may be made a part of the City Code of Laws and ordinances and may be re-numbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section", "division", or any other appropriate word.

SECTION 8. Effective Date. The provisions of this Ordinance shall become effective immediately upon adoption.

Passed on the first reading this _____ day of _____ 2024.

[Signatures follow on the next page].

PASSED AND ADOPTED on the second reading this _____ day of _____ 2024.

Chuck Shaw, Mayor

Voted:
Judith Dugo, Deputy Mayor

Attest:

Quintella Moorer, City Clerk

Voted:
John Tharpe, Council Member, *District I*

Voted:
Peter Noble, Council Member, *District II*

Voted:
Susy Diaz, Council Member, *District IV*

Voted:
Paula Bousquet, Council Member, *District V*

Approved as to Form and Legal Sufficiency:

Glen J. Torcivia, City Attorney