

ORDINANCE NO. 2644

**AN ORDINANCE AMENDING CHAPTER 17 -
PROTECTION OF PUBLIC AND PRIVATE RIGHTS -
ADDING SECTION 17-24, OF THE GENERAL
ORDINANCES; PROVIDING FOR TRESPASS WARNINGS
ON PUBLIC PROPERTY; AND PROVIDING AN
IMMEDIATELY EFFECTIVE DATE.**

BE IT ENACTED BY THE PEOPLE OF THE CITY OF PANAMA CITY, FLORIDA:

WHEREAS, the City of Panama City Commission has adopted that trespass warnings can be issued on public property for violations of any city ordinance, rule or regulation, or state law.

WHEREAS, the City of Panama City Commission has found that a trespass warning shall be issued for a period of one (1) year to any individual violating the City's ordinance on any of the City's public property.

WHEREAS, the City of Panama City Commission has determined that the health, safety, and wellbeing of the citizens will be promoted by providing the Police Department with a tool that prevents an individual with no regard for the public from being allowed to continue to diminish the use and enjoyment of public property for the citizens.

NOW THEREFORE, IT IS ORDAINED by the City Commission of Panama City, Florida, amends the Protection of Public and Private Rights as follows:

(~~Strikethrough~~ text is being deleted; Underlined text is being added; Sections not referenced have not been amended.)

Sec. 17-24. - Trespass Warnings on Public Property.

(a) Officers of the Panama City Police Department are authorized to issue a trespass warning to any individual who violates any city ordinance, rule or regulation, or state law, which violation was committed while on or within any city facility, building, or outdoor area, including municipal parks, and including beach access as that term is defined in Section 101-3 (but excluding other public rights-of-way). The trespass warning shall be limited to the specific property where the violation occurred.

(1) *Public Property* shall mean property owned, leased, operated or managed by a government or one of its agencies, divisions or entities, including, but not limited to, structures, conveyances, parks, beach park, public natural area, public recreation area, trails, playgrounds, streets, sidewalks, rights-of-way, libraries, docks, pavilions, parking lots, vacant lots, fenced land, posted land, easements, and other property generally used by the public. This definition shall not include school property or school safety zones as those terms are defined in F.S. ch. 810.

(b) Trespass warnings shall be in writing and issued for a period of one (1) year.

- (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 appeal.
- (d) Any person found on or within any city facility, building, or outdoor area, including municipal parks, and beach access, 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 his/her 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 officer of the Panama City Police Department to issue a trespass warning to any person for any lawful reason for any city property, including rights-of-way when closed to general vehicular or pedestrian use, when necessary or appropriate in the sole discretion of the officer; nor shall this section be construed to limit the authority of any officer of the Panama City Police Department to arrest or cite individuals for violating any section of the Panama City Code or the Florida Statutes.
- (g) 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 with the City Clerk or his/her designee, in writing, within ten (10) days of the issuance of the warning, and shall include the appellant's name, address and phone number, if any. No fee shall be charged for filing the appeal.
 - (2) Appeals shall be heard by a special magistrate at an alternative proceeding as outlined in Chapter 2, Article IX, Sec. 2-750, the alternative hearing proceeding for the Code Enforcement Board.
 - (3) Within ten (10) days following the filing of the appeal, the City Clerk or his/her designee shall schedule a hearing. Notice of the hearing shall be provided to the appellant in one of three ways:

 - a. By providing the appellant a copy of the notice of hearing in person at the time he or she files the appeal. When it is not reasonably practical or possible to provide notice in this manner, the appellant shall be informed that notice of the hearing will be provided in accordance with either paragraph b. or c. below;
 - b. By posting the notice at city hall; or
 - c. By telephone if a telephone number has been provided and mailing when a mailing address has been provided.
 - (4) In no event shall the hearing be held sooner than seven (7) days following the filing of the appeal or later than thirty (30) days from the filing of the appeal except that the

appellant may request that the scheduled hearing be postponed up to an additional thirty (30) days during the appeal period.


- (5) Copies of documents in the city's control which are intended to be used at the hearing, and which directly relate to the issuance of the trespass warning to the appellant, shall be made available upon request to the appellant at no cost.
- (6) The appellant shall have the right to attend with an attorney, to testify and to call witnesses, cross examine witnesses and present evidence. The appellant shall have the right to bring a court reporter, at appellant's own expense.
- (7) The special magistrate shall consider the testimony, reports or other documentary evidence, and any other evidence presented at the hearing. Formal rules of evidence shall not apply, but fundamental due process shall govern the proceedings.
- (8) The city shall bear the burden of proof by clear and convincing evidence that the trespass warning was properly issued pursuant to the criteria of this section.
- (9) If the appellant fails to attend a scheduled hearing, the special magistrate shall review the evidence presented and determine if the trespass warning was properly issued pursuant to the criteria of this section.
- (10) Within ten (10) days of the hearing, the special magistrate shall issue a written decision on the appeal which shall be mailed to the appellant at the address provided.
- (11) The decision of the special magistrate shall be final and the appellant shall be deemed to have exhausted all administrative remedies. Such decision may be subject to judicial review in the manner provided by law.
- (12) The trespass warning shall remain in effect during the appeal and review process, including any judicial review.

PASSED, APPROVED, AND ADOPTED at the regular meeting of the Commission of the City of Panama City, Florida on the 24th day of April, 2018.

CITY OF PANAMA CITY, FLORIDA

By 
Greg Brudnicki, Mayor

ATTEST:


T.D. Hachmeister, City Clerk-Treasurer