



AGENDA ITEM REPORT

TOWN OF HILLIARD, FLORIDA

TO: Town Council Regular Meeting Meeting Date: May 2, 2024

FROM: ***Christian Waugh – Town Attorney***

SUBJECT: Town Council to consider Ordinance No. 2024-03, An Ordinance of the Town of Hilliard, Florida adding a section to the Code of Ordinances regarding Trespass Warnings on public property and other property generally open to the public. Adopting on First Reading and Setting a Public Hearing for June 6, 2024

BACKGROUND:

Due to recent circumstances regarding Town property, at the April 4, 2024, Regular Meeting, Town Attorney Waugh asked the Town Council to consider adopting an Ordinance that would allow the trespassing of citizens on Town property or property generally open to the public.

FINANCIAL IMPACT:

None.

RECOMMENDATION:

Town Council adoption of Ordinance No. 2024-03, on First Reading and Set a Public Hearing & Final Reading for June 6, 2024.

ORDINANCE 2024-03

AN ORDINANCE OF THE TOWN OF HILLIARD, FLORIDA ADDING A SECTION TO THE CODE OF ORDINANCES REGARDING TRESPASS WARNINGS ON PUBLIC PROPERTY AND OTHER PROPERTY GENERALLY OPEN TO THE PUBLIC.

WHEREAS, the Town of Hilliard desires the Nassau County Sheriff's Office to issue trespass warnings to individuals who are acting in violation of any Town Ordinance, rule or regulation, or state law while on or within a town facility, building, or outdoor area; and

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

WHEREAS, the Town of Hilliard desires to create a process for individuals to appeal these trespass warnings; and

WHEREAS, the Town of Hilliard finds that the presence of individuals who violate town ordinances, rules or regulations, or state laws on public property creates a threat to the public safety and welfare and deems this ordinance necessary to promote public safety and public welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HILLIARD, FLORIDA:

Section 1. The Code of Ordinances, Town of Hilliard, Florida is hereby amended by adding a section to be numbered 30-79, which section reads as follows:

Sec 30-79. Trespass warnings on public property and other property generally open to the public.

- (a) Any head of a Town department, including but not limited to the Town Clerk, head of the Public Works department, and head of the Parks and Recreation department, is authorized to issue a trespass warning to any individual who violates any town ordinance, rule or regulation, or state law, which violation was committed while on or within a town facility, building, or outdoor area, including municipal parks, but excluding public right-of-way. The trespass warning shall be limited to the specific property where the violation occurred.
- (b) For the purpose of this section, "right-of-way" shall only include those sidewalks which are adjacent to a paved street, provided that the street-side edge of the sidewalk is within 20 feet of the curb line.
- (c) Trespass warnings shall be issued as follows:
 - (1) For the first violation, the individual may be issued a trespass warning for a period not to exceed one year.

- (2) For a second or subsequent violation, the individual may be issued a trespass warning for a period not to exceed two years.
- (d) 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.
 - (e) Any person found on or within any town facility, building, or outdoor area, including municipal parks, in violation of a trespass warning may be arrested for trespassing, except as otherwise provided in this section.
 - (f) The Town Clerk may 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.
 - (g) This section shall not be construed to limit the authority of any town employee or official to issue a trespass warning to any person for any lawful reason for any town property, including rights-of-way when closed to general vehicular or pedestrian use, when necessary or appropriate in the sole discretion of the town employee or official.
 - (h) This section shall not be construed to limit the authority of officers of any police department or sheriff's office to cite or arrest individuals for violating any section of the Code of Ordinances or the Florida Statutes.
 - (i) Appeal of trespass warning. A person to whom a trespass warning is issued under this section shall have the right to appeal as follows:
 - (1) An appeal of the trespass warning must be filed, in writing, within ten 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) The appeal shall be filed at the location specified in the trespass warning.
 - (3) Appeals shall be heard by the Nassau County Code Enforcement Board pursuant to the Interlocal Agreement between Nassau County and the Town of Hilliard dated August 14, 2000, or such other entity, including a special magistrate, as the town contracts to provide this service.
 - (4) Within fifteen days following the filing of the appeal, the Nassau County Code Enforcement Board or other entity specified pursuant to Section 30-79(i)(3), *supra*, shall schedule a hearing. Notice of the hearing shall be provided to the appellant in the following ways:
 - a. By posting the notice at the town hall, and
 - b. By mail if an address has been provided. In the event of non-delivery, then the notice posted at the town hall shall be sufficient.
 - (5) Nassau County Code Enforcement Board or the other specified entity shall hold the hearing as soon as possible. In no event shall the hearing be held sooner

than 15 days following the filing of the appeal and no later than 45 days from the filing of the appeal.

(6) Copies of documents in the town'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.

(7) The appellant and the town shall have the right to attend with an attorney, the right to testify, to call witnesses, to cross-examine witnesses and to present evidence. The appellant shall have the right to bring a court reporter, at his or her own expense.

(8) Nassau County Code Enforcement Board or such other specified entity 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.

(9) The town 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.

(10) If the appellant fails to attend a scheduled hearing, Nassau County Code Enforcement Board or such other specified entity shall review the evidence presented and determine if the trespass warning was properly issued pursuant to the criteria of this section.

(11) Within ten days of the hearing, Nassau County Code Enforcement Board or such other specified entity shall issue a written decision on the appeal which shall be mailed to the appellant at the address provided. If no address is provided, a copy of the decision shall be posted at the town hall.

(12) The decision of the Nassau County Code Enforcement Board or such other specified entity 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.

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

Section 2. This Ordinance shall be effective upon its final approval by the Town Council.

The within and foregoing Ordinance was introduced and read on first reading before the Town Council of the Town of Hilliard, Florida at its meeting held at Hilliard Town Hall held on the ____ day of _____, 2024.

ADOPTED this ____ day of _____, 2024, by the Hilliard Town Council.

Kenny Sims
Council President

ATTEST:

Lisa Purvis
Town Clerk

APPROVED:

John Beasley
Mayor

Town Council First Reading:	May 2, 2024
Town Council Publication:	May 15, 2024
Town Council Public Hearing:	June 6, 2024
Town Council Final Reading:	June 6, 2024