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**AGENDA ITEM  
ST. JOHNS COUNTY BOARD OF COUNTY COMMISSIONERS**

*Deadline for Submission - Wednesday 9 a.m. – Thirteen Days Prior to BCC Meeting*

**5/18/2021**

**BCC MEETING DATE**

**TO:** Hunter S. Conrad, County Administrator **DATE:** April 27, 2021

**FROM:** Rebecca Lavie, Senior Assistant County Attorney **PHONE:** 209-0805

**SUBJECT OR TITLE:** Second Reading of Security Ordinance

**AGENDA TYPE:** Business Item, Ordinance

**BACKGROUND INFORMATION:**

This item was submitted to the Board of County Commissioners at its April 20, 2021 meeting. It is being brought back to the Board for second reading. Per the Board's direction at first reading, language regarding overnight parking has been included in Section 5, and language regarding possession of weapons has been removed from Section 6.

**1. IS FUNDING REQUIRED?**   No   **2. IF YES, INDICATE IF BUDGETED.**   No    
**IF FUNDING IS REQUIRED, MANDATORY OMB REVIEW IS REQUIRED:**  
**INDICATE FUNDING SOURCE:**

**SUGGESTED MOTION/RECOMMENDATION/ACTION:**

Motion to enact St. Johns County Ordinance 2021-\_\_\_\_, the St. Johns County Security Ordinance.

**For Administration Use Only:**  
**Legal:** RL 5/6/2021 **OMB:** JDD 5/7/2021 **Admin:** Brad Bradley 5/10/2021

ORDINANCE NO. 2021-\_\_\_\_\_

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY RELATING TO TRESPASS WARNINGS ON COUNTY PROPERTY; ESTABLISHING SCOPE; PROVIDING DEFINITIONS; MAKING FINDINGS OF FACT; IDENTIFYING PERSONNEL AUTHORIZED TO ISSUE A TRESPASS WARNING; DEFINING PROHIBITED CONDUCT; PROVIDING FOR CONTROLLED ACCESS FACILITIES AND SECURE AREAS; PROVIDING FOR TRESPASS WARNINGS; PROVIDING FOR APPEALS; PROVIDING FOR PENALTIES; REPEALING ST. JOHNS COUNTY ORDINANCES 1980-40 AND 1984-66; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY:

**Section 1. Scope.**

This ordinance shall apply to all County property within St. Johns County.

**Section 2. Definitions.**

**A.** *Authorized personnel* means those persons with the authority granted by this ordinance, acting in their official capacity for the County government, to petition a law enforcement officer to issue a trespass warning.

**B.** *Board* means the St. Johns County Board of County Commissioners.

**C.** *Civil Rights Coordinator* means the person designated by the County Administrator to monitor and coordinate the County's compliance with state and federal nondiscrimination laws and to oversee prevention efforts to avoid civil rights violations from occurring.

**D.** *Controlled access building* means any County property to which access is controlled by either a security system or a security post.

**E.** *Conveyance* shall have the same meaning as defined in Chapter 810, Florida Statutes, as may be amended from time to time.

**F.** *County* means St. Johns County, Florida.

**G.** *County property* means any building or property owned, leased, operated, managed, or controlled by the St. Johns County Board of County Commissioners or one of its agencies, divisions, units, or entities, including all buildings, structures, conveyances, parks, beach parks, public natural

areas, public recreation areas, trails, playgrounds, streets, sidewalks, rights-of-way, libraries, docks, pavilions, parking lots, vacant lots, fenced land, posted land, easements, and other properties generally used by the public.

**H.** *Courthouse* means the entire Richard O. Watson Judicial Center including the courtyard and any facility identified by a duly adopted judicial order as a courthouse extension or annex.

**I.** *Hearing officer* means the Special Magistrate appointed pursuant to St. Johns County Ordinance 2007-21.

**J.** *Law enforcement officer* means a deputy sheriff with the St. Johns County Sheriff's Office or any other sworn law enforcement officer certified pursuant to Chapter 943, Florida Statutes.

**K.** *Posted land* shall have the same meaning as defined in Chapter 810, Florida Statutes, as may be amended from time to time.

**L.** *Respondent* means a person who is issued a trespass warning.

**M.** *Secure area* means any area on County property to which access is controlled by either a security system or a security post.

**N.** *Security personnel* means a County employee, law enforcement officer, or contract security staff employed or assigned to carry out security functions on County property.

**O.** *Security post* means any location on County property that is manned by a contract security officer, law enforcement officer, or other County security personnel.

**P.** *Security system* means a magnetometer, x-ray device, card-operated entry system, operating regulations and related measures, or any combination thereof, installed, promulgated, or operated on County property to ensure that persons entering secure areas are authorized to enter such areas and/or are not in possession of prohibited weapons.

**Q.** *Structure* shall have the same meaning as defined in Chapter 810, Florida Statutes, as may be amended from time to time.

**R.** *Trespass* shall have the same meaning as defined in Chapter 810, Florida Statutes, as may be amended from time to time.

**S.** *Trespass warning* means a written document that bars the respondent from entering or remaining on specified County property.

**T.** *Weapon* shall have the same meaning as defined in Section 790.001, Florida Statutes, as may be amended from time to time.

### **Section 3. Findings of Fact.**

The Board makes the following findings of fact in support of this ordinance:

**A.** The Board seeks to maintain a safe and orderly environment on County property which is conducive to the designated use of County property and to the efficient rendering of public services.

**B.** The Board seeks to discourage unlawful, unsafe, destructive, harassing, or otherwise prohibited conduct on County property that interferes with the designated use of County property or the efficient rendering of public services.

**C.** The Board may lawfully designate the use of County property for activities consistent with its purpose and for the conduct of official County business only.

**D.** The Board recognizes an individual's constitutionally protected liberty interest to be lawfully on County property when using such property for its designated purpose and when engaging in official County business, when such property is open to the public.

**E.** The Due Process Clause of the Fourteenth Amendment of the United States Constitution requires that the deprivation of a liberty interest necessitates notice and an opportunity to be heard at a meaningful time and in a meaningful manner.

**F.** Trespass warnings may be issued to stop or discourage unlawful, unsafe, destructive, harassing, or otherwise prohibited conduct on County property and shall be followed by the opportunity for a hearing to address the deprivation of any constitutionally protected liberty interest.

**Section 4. Authority to Enforce.**

The following persons shall be authorized personnel who may petition a law enforcement officer to issue a trespass warning pursuant to this ordinance:

**A.** Any County employee with management or oversight responsibility over the County property in question at the time the trespass warning is issued;

**B.** Security personnel for any County property at the time the trespass warning is issued;  
or

**C.** Any law enforcement officer when persons in subsections A and B are not present.

**Section 5. Prohibited Conduct.**

The following acts shall be prohibited conduct for the purposes of this ordinance:

**A.** Any action that violates any federal, state, or local law, ordinance, rule, or regulation;

**B.** Any action that violates any County rule or policy, including facility rules or any directive on any sign or notice posted at a County property;

**C.** Use of language which by its very utterance inflicts injury or tends to incite an immediate breach of the peace;

- D. Obstruction of any proceedings before a County agency, including the refusal to comply with the presiding officer of any public meeting of the Board or any County advisory board or committee;
- E. Engaging in disorderly conduct, creating a nuisance, or disturbing the peace on County property;
- F. Loitering or prowling on County property in such a manner as to create a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity;
- G. Sleeping or camping on County property except as may be permitted by County rule or policy;
- H. The unauthorized posting of any sign, advertisement, or notice on County property;
- I. Overnight parking on County property except where specifically permitted; or
- I. Refusing to comply with the request of security personnel to leave the premises of County property pursuant to Section 6 below.

**Section 6. Controlled Access Buildings and Secure Areas.**

- A. Except as provided below, any person desiring to enter a controlled access building or secured area shall comply with the security measures in effect, enter through the designated public entrance to the building, and pass through a security system if one is present.
- B. A County employee or contractor assigned to work in a secure area who possesses a valid County identification badge with pre-approved access to the secure area may enter through a designated employee entrance without being subjected to a search upon presenting a valid County identification badge. Pre-approved access may be coded into an employee or contractor's identification badge and is evident when the badge is passed through an electronic card reader, allowing access through a door.
- C. A law enforcement officer wearing the official uniform and conducting official duties may enter through a designated employee or public entrance without being subjected to a search upon presentation of a valid identification badge issued by the officer's agency.
- D. Any person who activates a magnetometer or other scanning device shall be free to leave the premises without further search or questioning. However, such person may not under any circumstances be allowed to continue into the controlled access building or secure area without resolving the cause for the magnetometer activation to the satisfaction of security personnel.
- E. Security personnel shall have reasonable discretion to make accommodations for persons having surgically implanted metal devices, persons wearing surgical or orthopedic clothing or devices that contain metallic support parts, and persons utilizing crutches, wheelchairs, or carts containing metallic parts to assist their mobility.

**F.** A person who has a pacemaker or defibrillator may state that he or she cannot pass through a magnetometer or other scanning device on advice of a doctor. In such circumstances, the security personnel shall request that the person display the Medical Device ID Card identifying the person and the device. The person must consent to a pat-down search in order to be allowed entry into the controlled access building or secure area.

**G.** Except as provided in subsections B and C above, all packages, briefcases, and other containers in the immediate possession of any person seeking entry to a controlled access building or a secure area shall be subject to inspection. No person shall be permitted to carry a package, briefcase, or other container into a controlled access building or a secure area unless the package, briefcase, or other container has been inspected by security personnel to determine that it does not contain a weapon. Inspection of packages, briefcases, or other containers may be carried out by security personnel by visual inspection of the interior of such containers or by x-ray or other electronic survey of the contents thereof.

**H.** The County shall comply with the requirements of Section 790.06, Florida Statutes, with respect to any person in lawful possession of a concealed weapon or firearm who desires to enter a controlled access building or secure area.

#### **Section 7. Trespass Warnings.**

**A.** Authorized personnel may have cause to remove any person from County property upon making a determination that such person is engaging in any activity defined in Section 5 above as prohibited conduct. In determining that a trespass warning is needed in a particular situation, the authorized personnel may consider:

1. The gravity of the alleged violation;
2. Such person's refusal to conform to any verbal requests or warnings to desist or cease the prohibited conduct;
3. Any previous violations committed by such person; or
4. The harm or potential harm to County employees, the public, or County property threatened by the prohibited conduct.

**B.** After determining that a trespass warning is needed in a particular situation, the authorized personnel shall contact the law enforcement agency having jurisdiction over the County property in question and request that a law enforcement officer issue a trespass warning.

**C.** The trespass warning shall be administered in writing to the respondent and shall:

1. State the facts and circumstances justifying its issuance;
2. Designate with specificity which County rule or policy, or which federal, state, or local law, rule, ordinance, or regulation has been violated;

3. Identify the scope of its prohibition by address, parcel identification number, or other description so that a reasonable person would understand its meaning;
4. Advise the respondent of the right to appeal and that any appeal must be filed with the Office of the County Attorney in writing no later than ten days after the issuance of the trespass warning.

**D.** The maximum duration for a trespass warning shall be one year. During the duration of the trespass warning, the respondent shall be prohibited entry onto the property identified in the trespass warning for any reason. Should the respondent require access to the property identified in the trespass warning for official business or for the lawful exercise of his or her First Amendment rights, if there is no other reasonable alternative to conduct such business or exercise such First Amendment rights, the respondent shall contact the County's Civil Rights Coordinator who will arrange for temporary access limited to that necessary to the conduct of official business or the lawful exercise of First Amendment rights.

**E.** It shall be a violation of this ordinance for any respondent to remain on County property after being issued a trespass warning or to return to County property in violation of any trespass warning issued pursuant to this ordinance. Such respondent may be arrested for, and charged with, trespass consistent with the provisions of Chapter 810, Florida Statutes, as may be amended from time to time.

**F.** This section shall not be construed to limit the authority of law enforcement officers to arrest or cite individuals for violating any other federal, state, or local law, ordinance, rule, or regulation.

### **Section 8. Appeal.**

**A.** An appeal of a trespass warning shall be filed, in writing, no later than ten days after the respondent's receipt of the trespass warning. The appeal shall be filed with the Office of the County Attorney and shall set forth the grounds on which the trespass warning should be overturned. No fee shall be charged for filing an appeal.

**B.** An appeal of a trespass warning shall be quasi-judicial and shall be heard by the hearing officer. The hearing officer shall have the authority to control the order and presentation of evidence at the hearing. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings. The respondent shall have the right to be represented by counsel, the right to testify, the right to call and cross-examine witnesses, and the right to present evidence.

**C.** The hearing officer shall schedule a hearing no later than seven days after the filing of the appeal. The hearing shall be held no later than thirty days after the filing of the appeal. Notice of the hearing shall be provided to the respondent through regular U.S. Mail to the respondent's address as provided on the notice of appeal.

**D.** The hearing officer shall consider the testimony, reports or other documentary evidence, and any other evidence presented at the hearing. The County shall bear the burden of proof by a preponderance of the evidence that the trespass warning was properly issued pursuant to the criteria set forth in this ordinance.

**E.** The failure of the respondent to appear at the hearing either personally or through legal counsel shall result in dismissal of the appeal and an order affirming the issuance of the trespass warning.

**F.** The hearing officer shall issue a written decision on the appeal no later than 7 days after the hearing. The hearing officer's decision shall be provided to the respondent through regular U.S. Mail to the respondent's address as provided on the notice of appeal.

**G.** The hearing officer's decision shall be final. Upon issuance of the hearing officer's decision, the respondent shall be deemed to have exhausted all administrative remedies. The decision of the hearing officer may be appealed by petition for writ of certiorari to the circuit court in accordance with the Florida Rules of Appellate Procedure. The review shall be limited to the administrative record.

**H.** The trespass warning shall remain in effect during the appeal process, including any judicial review.

#### **Section 9. Penalties.**

Any person violating any provision of this ordinance shall be prosecuted in the same manner as misdemeanors are prosecuted and shall, upon conviction, be punished by a fine not to exceed \$500.00, by imprisonment not to exceed 60 days, or by both such fine and imprisonment. Each day that an offense or violation continues shall be deemed a separate offense. The St. Johns County Sheriff, or any other competent law enforcement agency having jurisdiction, is authorized to enforce the provisions of this ordinance.

#### **Section 10. Repeal.**

St. Johns County Ordinances 1980-40 and 1984-66 are hereby repealed. The Clerk of Court is instructed to remove Ordinances 1980-40 and 1984-66 from the County Code.

#### **Section 11. Severability.**

If any portion of this ordinance, or application thereof, is declared invalid, void, or otherwise unenforceable by a court of competent jurisdiction, such portion or application shall be severable and shall not affect the validity of the remainder of this ordinance.

#### **Section 12. Effective Date.**

This ordinance shall be effective upon its enactment by the Board of County Commissioners of St. Johns County.



**PASSED AND ENACTED BY THE BOARD OF COUNTY COMMISSIONERS OF  
ST. JOHNS COUNTY THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2021.**

**BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA**

By: \_\_\_\_\_  
Jeremiah R. Blocker, Chair

**ATTEST: BRANDON J. PATTY,  
CLERK OF THE CIRCUIT COURT AND COMPTROLLER**

By: \_\_\_\_\_  
Deputy Clerk

THE ST. AUGUSTINE RECORD  
Affidavit of Publication

MINUTES AND RECORDS  
500 SAN SEBASTIAN VIEW

SAINT AUGUSTINE, FL 32084

ACCT: 15634

AD# 0003354886-01

PO# 051821 Security Ordinance

PUBLISHED EVERY MORNING SUNDAY THROUGH SATURDAY  
ST. AUGUSTINE AND ST. JOHNS COUNTY, FLORIDA

STATE OF FLORIDA  
COUNTY OF ST. JOHNS

Before the undersigned authority personally appeared MELISSA RHINEHART who on oath says he/she is an Employee of the St. Augustine Record, a daily newspaper published at St. Augustine in St. Johns County, Florida; that the attached copy of advertisement being a **NOTICE OF HEARING** in the matter of **051821 Security Ordinance** was published in said newspaper on **05/08/2021**.

Affiant further says that the St. Augustine Record is a newspaper published at St. Augustine, in St. Johns County, Florida, and that the said newspaper heretofore has been continuously published in said St. Johns County, Florida each day and has been entered as second class mail matter at the post office in the City of St. Augustine, in said St. Johns County, Florida for a period of one year preceding the first publication of the attached copy of advertisement; and affiant further says the he/she has neither paid nor promised any person, firm or corporation any discount, rebate, commission, or refund for the purpose of securing this advertisement for publication in said newspaper.

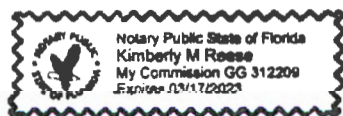
Sworn to (or affirmed) and subscribed before me by means of

physical presence or  
 online notarization

this \_\_\_\_\_ day of May 10 2021

by *Melissa Rhinehart* who is personally known to me or who has produced as identification

*Kimberly M. Reese*  
(Signature of Notary Public)



NOTICE OF PUBLIC HEARING OF  
THE  
ST. JOHNS COUNTY BOARD OF  
COUNTY COMMISSIONERS

NOTICE IS HEREBY GIVEN that the Board of County Commissioners of St. Johns County, Florida, will hold a public hearing to consider adoption of the following ordinance at a regular meeting on Tuesday, May 18, 2021, at 9:00 a.m. in the County Auditorium at the County Administration Building, 500 San Sebastian View, St. Augustine, Florida:

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY RELATING TO TRESPASS WARNINGS ON COUNTY PROPERTY; ESTABLISHING SCOPE; PROVIDING DEFINITIONS; MAKING FINDINGS OF FACT; IDENTIFYING PERSONNEL AUTHORIZED TO ISSUE A TRESPASS WARNING; DEFINING PROHIBITED CONDUCT; PROVIDING FOR CONTROLLED ACCESS FACILITIES AND SECURE AREAS; PROVIDING FOR TRESPASS WARNINGS; PROVIDING FOR APPEALS; PROVIDING FOR PENALTIES; REPEALING ST. JOHNS COUNTY ORDINANCES 1980-40 AND 1984-66; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.**

The proposed ordinance is on file in the office of the Clerk of the Board of County Commissioners at the County Administration Building, 500 San Sebastian View, St. Augustine, Florida, and may be examined by interested parties prior to the said public hearing. Please take note that the proposed ordinance is subject to revision prior to hearing or adoption. All parties having any interest in said ordinance will be afforded an opportunity to be heard at the public hearing.

If a person decides to appeal any decision made with respect to any matter considered at the hearing, such person will need a record of the proceedings, and for such purposes he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

**NOTICE TO PERSONS NEEDING SPECIAL ACCOMMODATIONS AND TO ALL HEARING IMPAIRED PERSONS:** In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in the proceedings should contact the ADA Coordinator at (904) 209-0650 at the St. Johns County Administration Building, 500 San Sebastian View, St. Augustine, Florida 32084. For hearing impaired individuals: Florida Relay Service: 1-800-955-8770, no later than 5 days prior to the date of the meeting.

BOARD OF COUNTY  
COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA  
BRANDON J. PATTY, ITS CLERK  
By: Yvonne King, Deputy Clerk  
0003354886, May 8, 2021