

**ORDINANCE NO. 2024-02**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF CLEWISTON, FLORIDA AMENDING THE CLEWISTON CODE OF ORDINANCES, CHAPTER 62, STREETS, SIDEWALKS, AND CERTAIN PUBLIC PLACES, CREATING ARTICLE V - TRESPASSING; AUTHORIZATION TO ISSUE TRESPASS WARNING FOR PUBLIC PROPERTY; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; CONFLICT; SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City Commission of the City of Clewiston, Florida, finds that it is necessary for the proper administration of the City to provide regulations outlining the use of city-owned and operated public property.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF CLEWISTON, FLORIDA, AS FOLLOWS:**

**SECTION 1.** The Clewiston Code of Ordinances, Chapter 62, Article V. – Trespassing is hereby created to read as follows:

**ARTICLE V. – TRESPASSING**

**Sec. 62-111. – Trespass Warning; Authorization to Issue Trespass Warning for Public Property.**

- (1) Any law enforcement officers authorized to enforce the laws of the state within the city limits of Clewiston are authorized to issue a trespass warning to any individual who violates any City ordinance, rule or regulation, State law, or lawful directive of a law enforcement officer, which violation was committed while on or within a City facility, building, or outdoor area, including municipal parks, for the specific property where the violation occurred.
  - a. Trespass warnings shall be issued as followed:
    - i. For the first violation, the individual may be issued a trespass warning for a period of one year.
    - ii. For a second or subsequent violation, the individual may be issued a trespass warning for a period of two years.

- iii. A copy of the trespass warning shall be provided by mail or hand-delivered to the individual. The written trespass warning shall advise of the right to appeal and the location and telephone number for filing the appeal.
  - iv. Any person found on or within any city facility, building, or outdoor area, including the municipal parks, in violation of a trespass warning may be arrested for trespassing.
  - v. A City employee or official having control over city facilities 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, specify the duration of the authorization, and any conditions thereof, and shall not be unreasonably denied.
- b. Appeal of trespass warning. A person to whom a trespass warning is issued under this section shall have the right to appeal as follows:
- i. An appeal 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 the filing of an appeal.
  - ii. The appeal shall be filed at the City of Clewiston Police Department.
  - iii. Appeals shall be set and heard by the City Special Magistrate.
  - iv. Notice of hearing shall be provided to the appellant in one of two ways:
    - 1. By leaving or posting notice at the City of Clewiston Police Department, or
    - 2. By telephone if a telephone number has been provided by appellant. If appellant cannot be reached by telephone, then notice at the Police Department shall be deemed sufficient.
  - v. Copies of documents in the City's possession intended to be used at the hearing shall be made available to the appellant upon request at no cost.

- vi. The appellant and City shall have the right to attend with an attorney, the right to testify, present evidence and call witnesses. The appellant shall have the right to bring a court reporter at their own expense.
- vii. The magistrate shall consider the testimony, documentary evidence, and any other evidence presented at the hearing.
- viii. 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.
- ix. The magistrate shall issue a written decision and order 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 City of Clewiston Police Department.
- x. The Decision of the magistrate shall be final, and the appellant shall be final. Such decision may be subject to judicial review in the manner as otherwise provided by law.
- xi. The trespass warning shall remain in effect during the appeal and review process, including any further judicial review.

Secs. 62-112 - 62-120. – Reserved.

**SECTION 2.** Codification. The provisions of this Ordinance shall become and be made part of the Code of Laws and Ordinances of the City of Clewiston.

**SECTION 3.** Severability. If any phrase, sentence 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 individual provision, and such holding shall not affect the validity of the remaining portions thereof.

**SECTION 4.** Repeal of Laws in Conflict. All ordinances of the City of Clewiston, Florida, which are in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION 5.** Effective Date. This Ordinance shall take effect immediately upon its passage and consistent with all requirements of general law.

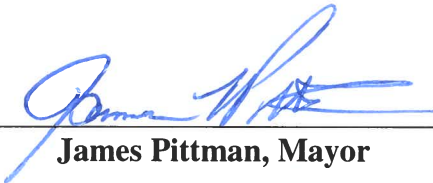
**PASSED** on first reading by the City Commission on January 22, 2024.

**PASSED AND ADOPTED** on second and final reading by the City Commission on February 19, 2024.

**ATTEST:**

**CITY OF CLEWISTON, FLORIDA**

  
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Mary K. Combass, City Clerk

  
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James Pittman, Mayor

(MUNICIPAL SEAL)

**APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY**

By:   
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Dylan J. Brandenburg, City Attorney