

ORDINANCE 2024-21 - AN ORDINANCE OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING CHAPTER 15 "OFFENSES—MISCELLANEOUS," ARTICLE I "IN GENERAL," BY ADDING SECTIONS 15-22 "FACILITY RULES" AND 15-23 "TRESPASS WARNINGS ON PUBLIC PROPERTY AND OTHER PROPERTY GENERALLY OPEN TO THE PUBLIC," AND BY AMENDING SECTION 15-29 "LODGING IN PUBLIC AREAS OR IN PARKED VEHICLES IN PUBLIC PLACES" TO PROHIBIT SLEEPING IN PUBLIC AREAS IN THE CITY; AND PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AN EFFECTIVE DATE, AND FOR OTHER PURPOSES

WHEREAS, the City of Lake Worth Beach, Florida (the "City") is a duly constituted municipality having such home rule power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the City Commission seeks to maintain a safe and orderly environment on City-owned, controlled, and leased property that is conducive to the designated use of the areas within such City property and to the efficient rendering of public services; and

WHEREAS, the City Commission desires to prohibit sleeping upon public benches, streets, alleys or any other public area within the City limits; and

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

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

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

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

WHEREAS, the City Commission finds and declares that this Ordinance is appropriate; is in the best interest of the health, safety, and welfare of the City, its residents, and visitors; and is narrowly tailored to address these interests.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA, that:

Section 1: The foregoing "WHEREAS" clauses are incorporated into this Ordinance as true and correct findings of the City Commission.

Section 2: Chapter 15 "Offenses-Miscellaneous," Article I "In General," is hereby amended to add sections 15-22 "Facility Rules" and 15-23 "Trespass warnings on public property and other property generally open to the public" and to amend section 15-29 "Lodging in public areas or in parked vehicles in public areas" as follows (deletions in ~~strike through~~ text and additions in underline text):

Section 15-22. ~~Reserved~~ 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 Lake Worth Beach law.

(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 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 and handled as lost or abandoned property pursuant to Chapter 705, Florida Statutes.

(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.

(14) 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 commission 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.

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

(16) Failure to cease conduct specifically prohibited in items (1) through (15) above immediately after a request by city employee(s) or a deputy of the Palm Beach County Sheriff's Office, or other law enforcement officer with jurisdiction in the City, to do so.

(b) The following conduct is prohibited on the exterior portion of all city-owned, controlled, and leased properties.

(1) Lodging or sleeping.

(2) Entering or remaining on any nonpublic portion of the property.

(3) Engaging in any conduct prohibited by federal, State of Florida, or City of Lake Worth Beach law.

(4) 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 property by others.

(5) Any act which could result in substantial risk of harm to persons or property.

(6) Disrupting city business, events, or other city sponsored or authorized activities.

(7) Leaving unattended packages, backpacks, luggage, or other personal items. Any such items are subject to immediate confiscation and handled as lost or abandoned property pursuant to Chapter 705, Florida Statutes.

(8) Possession of illegal drugs.

(9) Posting or affixing to any portion of the property, 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.

(10) Unlicensed vending.

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

(12) Failure to cease conduct specifically prohibited in items (1) through (11) above immediately after a request by city employee(s) or a deputy of the Palm Beach County Sheriff's Office, or other law enforcement officer with jurisdiction in the City, to do so.

(c) This section may be enforced in any manner authorized by law.

Sec. 15-23. Reserved. 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, or other law enforcement officer with jurisdiction in the City, 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. Trespass warnings issued by the city manager or designee shall be issued in the presence of a deputy of the Palm Beach County Sheriff's Office, or other law enforcement officer with jurisdiction in the City. 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 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 city employee or official or deputies of the Palm Beach County Sheriff's Office, or other law enforcement officer with jurisdiction in the City, 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 or official. Trespass warnings issued by a city employee or

official shall be issued in the presence of a deputy of the Palm Beach County Sheriff's Office, or other law enforcement officer with jurisdiction in the City.

(g) This section shall not be construed to limit the authority of deputies of the Palm Beach County Sheriff's Office, or other law enforcement officer with jurisdiction in the City, 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, to the code enforcement clerk, within ten 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 enforcement hearings 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.

(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) Enforcement of trespass warning. Deputies of the Palm Beach County Sheriff's Office, or other law enforcement officer with jurisdiction in the City, may enforce any violation of a trespass warning by means of Florida Statutes sections 810.08 and 810.09.

(j) 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.

Sec. 15-29. Lodging and sleeping in public areas or in parked vehicles in public areas.

(a) No person shall at any time lodge or sleep upon public benches, streets, alleys or any other public area within the city limits of the City of Lake Worth Beach nor shall any individual lodge or sleep in, on or about any automobile, truck, camping or recreational vehicle or similar vehicle parked upon any public street, public way, right-of-way, parking lot or other public property within the city limits.

(b) It shall be unlawful for any person to violate paragraph (a) of this section and the violator of this provision ~~shall~~ may be punished by a fine not exceeding five hundred dollars (\$500.00) or imprisonment for a term not exceeding sixty (60) days or both such fine and imprisonment. Each day any violation of this section shall continue shall constitute a separate offense.

(c) Any person who violates paragraph (a) of this section may be issued a trespass warning, as authorized by law, and trespassed from the property; except that a person may not be issued a trespass warning for or be trespassed from any public thoroughfare, including alleys and sidewalks, within the city limits.

Section 3: 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 4: Repeal of Laws in Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 5: 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 6: Effective Date. This ordinance shall become effective 10 days after passage.

The passage of this ordinance on first reading was moved by Vice Mayor Malega, seconded by Commissioner May, and upon being put to a vote, the vote was as follows:

Mayor Betty Resch	AYE
Vice Mayor Sarah Malega	AYE
Commissioner Christopher McVoy	NAY

Commissioner Mimi May	AYE
Commissioner Reinaldo Diaz	AYE

The Mayor thereupon declared this ordinance duly passed on first reading on the 3rd day of December, 2024.

The passage of this ordinance on second reading was moved by Commissioner May, seconded by Vice Mayor Malega, and upon being put to a vote, the vote was as follows:

Mayor Betty Resch	AYE
Vice Mayor Sarah Malega	AYE
Commissioner Christopher McVoy	NAY
Commissioner Mimi May	AYE
Commissioner Reinaldo Diaz	NAY

The Mayor thereupon declared this ordinance duly passed on the 7th day of January, 2025.

LAKE WORTH BEACH CITY COMMISSION

By: _____
Betty Resch, Mayor

ATTEST:

Melissa Ann Coyne, MMC, City Clerk