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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.

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

53
54 **Section 1:** The foregoing “WHEREAS” clauses are incorporated into this Ordinance
55 as true and correct findings of the City Commission.

56
57 **Section 2:** Chapter 15 “Offenses-Miscellaneous,” Article I “In General,” is hereby
58 amended to add sections 15-22 “Facility Rules” and 15-23 “Trespass warnings on public property
59 and other property generally open to the public” and to amend section 15-29 “Lodging in public
60 areas or in parked vehicles in public areas” as follows (deletions in ~~strike through~~ text and additions
61 in underline text):

62
63 **Section 15-22. Reserved Facility rules.**

64
65 (a) The following conduct is prohibited within the interior spaces of all city-owned, controlled, and
66 leased buildings:

67
68 (1) Engaging in any conduct prohibited by federal, State of Florida, or City of Lake Worth
69 Beach law.

70
71 (2) Smoking, chewing tobacco, use of e-cigarettes or vaping devices, or carrying any lighted
72 or smoldering pipe, cigar, or cigarette.

73
74 (3) Disruptive, harassing, or unsafe behavior, including, but not limited to, conduct which
75 interferes with city employees or city officials in the performance of their duties, or interferes
76 with the proper use of the city facility by others.

77
78 (4) Abusive or harassing behavior, including, but not limited to, use or display of obscene
79 language, gestures, or graphics.

80
81 (5) Blocking entrances, exits, fire exits, access areas, or otherwise interfering with the
82 provision of services or the use of city facilities.

83
84 (6) Entering or remaining in nonpublic areas without authorization. Areas inside city buildings,
85 including offices, hallways, stairways, and elevators are open to the public only to the extent
86 necessary to attend to city business, or attending a city-authorized function, event, or activity
87 to which the person is an invitee, or attending a duly noticed public meeting. Otherwise, such
88 areas are deemed nonpublic areas.

89
90 (7) Any act which could result in substantial risk of harm to persons or property.

91
92 (8) Disrupting city business, events, or other city sponsored or authorized activities.

93
94 (9) Leaving unattended packages, backpacks, luggage, or other personal items. Any such
95 items are subject to immediate confiscation and handled as lost or abandoned property
96 pursuant to Chapter 705, Florida Statutes.

97
98 (10) Laying down or sleeping in chairs, benches, or otherwise.

99
100 (11) Possession of illegal drugs.
101

102 (12) Posting or affixing to city facilities, without permission from the city manager, or his/her
103 designee, any signs, leaflets, posters, flyers, pamphlets, brochures, and written, pictorial, or
104 graphic material of any kind.

105
106 (13) Tampering with or unauthorized use of building or facility systems or devices, including
107 electrical, plumbing, locks, doors, or cameras.

108
109 (14) Audio and/or video recording anywhere inside of city facilities except during duly noticed
110 public meetings, or as otherwise approved by the city manager, or his/her designee. Except
111 as otherwise approved by the city manager, or his/her designee, audio and/or video recording
112 may only be conducted within the city commission chamber, and any room, or office within
113 which said activity has been authorized by law. Any person found to be conducting audio
114 and/or video recording except as authorized by herein, must cease doing so immediately if
115 any visitor, city employee or city official expresses his/her desire not to be recorded. This rule
116 does not apply to audio and/or video recording performed by authorized law enforcement
117 personnel engaged in the performance of their official duties. Audio and/or video recording of
118 public meetings must be undertaken in a quiet and orderly manner so as not to interfere with
119 the conduct of the meeting, block the view of any person attending the public meeting, or block
120 any aisle, row, ingress or egress.

121
122 (15) Remaining in a city facility after posted hours of operation or after the conclusion of an
123 authorized "after hours" public meeting or event.

124
125 (16) Failure to cease conduct specifically prohibited in items (1) through (15) above
126 immediately after a request by city employee(s) or a deputy of the Palm Beach County
127 Sheriff's Office, or other law enforcement officer with jurisdiction in the City, to do so.

128
129 (b) The following conduct is prohibited on the exterior portion of all city-owned, controlled, and
130 leased properties.

131
132 (1) Lodging or sleeping.

133
134 (2) Entering or remaining on any nonpublic portion of the property.

135
136 (3) Engaging in any conduct prohibited by federal, State of Florida, or City of Lake Worth
137 Beach law.

138
139 (4) Disruptive, harassing, or unsafe behavior, including, but not limited to, conduct which
140 interferes with city employees or city officials in the performance of their duties, or interferes
141 with the proper use of the property by others.

142
143 (5) Any act which could result in substantial risk of harm to persons or property.

144
145 (6) Disrupting city business, events, or other city sponsored or authorized activities.

146
147 (7) Leaving unattended packages, backpacks, luggage, or other personal items. Any such
148 items are subject to immediate confiscation and handled as lost or abandoned property
149 pursuant to Chapter 705, Florida Statutes.

150
151 (8) Possession of illegal drugs.

152

153 (9) Posting or affixing to any portion of the property, without permission from the city manager,
154 or his/her designee, any signs, leaflets, posters, flyers, pamphlets, brochures, and written,
155 pictorial, or graphic material of any kind.

156
157 (10) Unlicensed vending.

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

160
161 (12) Failure to cease conduct specifically prohibited in items (1) through (11) above
162 immediately after a request by city employee(s) or a deputy of the Palm Beach County
163 Sheriff's Office, or other law enforcement officer with jurisdiction in the City, to do so.

164
165 (c) This section may be enforced in any manner authorized by law.

166
167 **Sec. 15-23. Reserved. Trespass warnings on public property and other property generally**
168 **open to the public.**

169
170 (a) A trespass warning may be issued by the city manager or designee, or deputies of the Palm
171 Beach County Sheriff's Office, or other law enforcement officer with jurisdiction in the City, to
172 any individual who violates any federal law, state law, or city ordinance, rule, or regulation,
173 which violation was committed while on or within any city-owned, controlled, and leased
174 buildings, or outdoor area that is open to the general public, including municipal parks.
175 Trespass warnings issued by the city manager or designee shall be issued in the presence of
176 a deputy of the Palm Beach County Sheriff's Office, or other law enforcement officer with
177 jurisdiction in the City. The trespass warning shall be limited to the specific property where the
178 violation occurred.

179
180 (b) Trespass warnings shall be in writing and issued for a period not to exceed two years.

181
182 (c) A copy of the trespass warning shall be provided by mail or hand delivery to the individual
183 given the warning. The written trespass warning shall advise of the right to appeal and the
184 location at which to file the form to initiate the appeal.

185
186 (d) Any person found on or within any city-owned, controlled, and leased buildings, or outdoor
187 area, including municipal parks, in violation of a trespass warning issued in accordance with
188 this section may be arrested for trespassing, except as otherwise provided in this section.

189
190 (e) The city manager, or his/her designee, may upon request, authorize an individual who has
191 received a trespass warning to enter the property or premises to exercise his or her First
192 Amendment rights if there is no other reasonable alternative location to exercise such rights
193 or to conduct necessary municipal business. Such authorization must be in writing, shall
194 specify the duration of the authorization and any conditions thereof, and shall not be
195 unreasonably denied.

196 (f) This section shall not be construed to limit the authority of any city employee or official or
197 deputies of the Palm Beach County Sheriff's Office, or other law enforcement officer with
198 jurisdiction in the City, to issue a trespass warning to any person for any lawful reason on any
199 city-owned, controlled, and leased buildings, or outdoor area, including rights-of-way when
200 closed to general vehicular or pedestrian use, when necessary or appropriate in the sole
201 discretion of the city employee or official. Trespass warnings issued by a city employee or

202 official shall be issued in the presence of a deputy of the Palm Beach County Sheriff's Office,
203 or other law enforcement officer with jurisdiction in the City.
204

205 (g) This section shall not be construed to limit the authority of deputies of the Palm Beach County
206 Sheriff's Office, or other law enforcement officer with jurisdiction in the City, to arrest or cite
207 individuals for the violation of any section of the city's Code of Ordinances or the Florida
208 Statutes.
209

210 (h) Appeal of trespass warning. A person to whom a trespass warning is issued under this section
211 shall have the right to appeal the issuance of the trespass warning as follows:
212

213 (1) An appeal of the trespass warning must be filed, in writing, to the code enforcement clerk,
214 within ten days of the issuance of the warning. The request shall include the appellant's
215 name, date of issuance of trespass warning, and the appellant's current telephone number
216 and mailing address. The city will mail the notice of hearing by regular mail to the mailing
217 address provided. No fee shall be charged for filing the appeal.
218

219 (2) Appeals shall be heard by a special magistrate with whom the city contracts to provide
220 this service. The special magistrate appointed to hear code enforcement hearings may be
221 used to conduct these hearings.
222

223 (3) If the appellant fails to contest the trespass warning within the time afforded by the
224 trespass warning, or if the appellant fails to appear at the special magistrate hearing, the
225 appellant shall have waived all rights to a hearing.
226

227 (4) The special magistrate shall hold the hearing as soon as possible. In no event shall the
228 hearing be held later than 40 days from the filing of the appeal.
229

230 (5) Each case before a special magistrate shall be presented by the city attorney or by a
231 member of city staff.
232

233 (6) All testimony shall be under oath and shall be recorded. Formal rules of evidence shall
234 not apply, but fundamental due process shall be observed and shall govern the
235 proceedings.
236

237 (7) At the conclusion of the hearing, the special magistrate shall issue findings of fact, based
238 on evidence of record and conclusions of law, and shall issue an order affording the
239 proper relief consistent with powers granted herein.
240

241 (8) If the special magistrate determines the trespass warning was properly issued, the
242 appellant shall be responsible for the administrative costs of the hearing.
243

244 (9) The decision of the special magistrate shall be final and the appellant shall be deemed to
245 have exhausted all administrative remedies. An aggrieved party, including the local
246 governing body, may appeal a final administrative order of a special magistrate to the
247 circuit court. Such an appeal shall not be a hearing de novo but shall be limited to
248 appellate review of the record created before the special magistrate. An appeal shall be
249 filed with thirty (30) days of the execution of the order to be appealed. The city attorney
250 or designee is hereby authorized to defend such appeals on behalf of the city and/or
251 special magistrate.
252

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

255
256 (11) This section applies retroactively.

257
258 (i) Enforcement of trespass warning. Deputies of the Palm Beach County Sheriff’s Office, or other
259 law enforcement officer with jurisdiction in the City, may enforce any violation of a trespass
260 warning by means of Florida Statutes sections 810.08 and 810.09.

261
262 (j) Nothing in this section shall be construed to limit the City’s ability to trespass any individual
263 from any city-owned, controlled, or leased property that is not open to the public.

264
265 **Sec. 15-29. Lodging and sleeping in public areas or in parked vehicles in public areas.**

266
267 (a) No person shall at any time lodge or sleep upon public benches, streets, alleys or any other
268 public area within the city limits of the City of Lake Worth Beach nor shall any individual lodge
269 or sleep in, on or about any automobile, truck, camping or recreational vehicle or similar
270 vehicle parked upon any public street, public way, right-of-way, parking lot or other public
271 property within the city limits.

272
273 (b) It shall be unlawful for any person to violate paragraph (a) of this section and the violator of
274 this provision shall may be punished by a fine not exceeding five hundred dollars (\$500.00)
275 or imprisonment for a term not exceeding sixty (60) days or both such fine and imprisonment.
276 Each day any violation of this section shall continue shall constitute a separate offense.

277
278 (c) Any person who violates paragraph (a) of this section may be issued a trespass warning, as
279 authorized by law, and trespassed from the property; except that a person may not be issued
280 a trespass warning for or be trespassed from any public thoroughfare, including alleys and
281 sidewalks, within the city limits.

282
283 **Section 3: Severability.** If any section, subsection, sentence, clause, phrase or portion
284 of this Ordinance is for any reason held invalid or unconstitutional by any court of competent
285 jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and
286 such holding shall not affect the validity of the remaining portions thereof.

287
288 **Section 4: Repeal of Laws in Conflict.** All ordinances or parts of ordinances in conflict
289 herewith are hereby repealed to the extent of such conflict.

290
291 **Section 5: Codification.** The sections of the ordinance may be made a part of the City
292 Code of Laws and ordinances and may be re-numbered or re-lettered to accomplish such, and
293 the word “ordinance” may be changed to “section”, “division”, or any other appropriate word.

294
295 **Section 6: Effective Date.** This ordinance shall become effective 10 days after
296 passage.

297
298 The passage of this ordinance on first reading was moved by Vice Mayor Malega,
299 seconded by Commissioner May, and upon being put to a vote, the vote was as follows:

300
301 Mayor Betty Resch AYE
302 Vice Mayor Sarah Malega AYE
303 Commissioner Christopher McVoy NAY

304 Commissioner Mimi May AYE
305 Commissioner Reinaldo Diaz AYE
306

307 The Mayor thereupon declared this ordinance duly passed on first reading on the 3rd day
308 of December, 2024.
309

310
311 The passage of this ordinance on second reading was moved by _____,
312 seconded by _____, and upon being put to a vote, the vote was as follows:
313

- 314 Mayor Betty Resch
- 315 Vice Mayor Sarah Malega
- 316 Commissioner Christopher McVoy
- 317 Commissioner Mimi May
- 318 Commissioner Reinaldo Diaz

319
320
321 The Mayor thereupon declared this ordinance duly passed on the _____ day of
322 _____, 2025.
323

324
325
326 LAKE WORTH BEACH CITY COMMISSION
327

328
329 By: _____
330 Betty Resch, Mayor

331 ATTEST:
332

333
334 _____
335 Melissa Ann Coyne, MMC, City Clerk