

**BOARD OF COUNTY COMMISSIONERS  
LAKE COUNTY, FLORIDA  
OFFICE OF THE COUNTY MANAGER  
AGENDA ITEM COVER SHEET**

**DATE:** 10/19/2022

**TO:** Jennifer Barker, County Manager

**THRU:**

Melanie Marsh, County Attorney

David Langley, Assistant County Attorney

**BY:** Nova Atkinson, Paralegal

**SUBJECT:** Ordinance creating Section 2-4, Lake County Code, to be entitled *Trespass Notices For Public Property*

**MEETING DATE:** 11/15/2022

**ITEM TYPE:** Consent Item

**ITEM ID:** 19168

**RECOMMENDATION/REQUIRED ACTION:** Approve

Recommend approval to advertise an Ordinance creating Section 2-4, Lake County Code, to be entitled *Trespass Notices For Public Property*.

**BACKGROUND SUMMARY:** This proposed Ordinance will amend Chapter 2, Article I, Lake County Code, by creating Section 2-4, entitled *Trespass Notices For Public Property*, to establish a procedure for issuing and contesting trespass notices for County-owned public property.

If approved to advertise, the Public Hearing for this proposed Ordinance will be scheduled for December 20, 2022.

Fiscal Impact: There is no fiscal impact.

Account No.:

Advertised Date:

Paper:

Attachments:

1.	Economic Impact Statement_11.15.2022
2.	Proposed Ordinance

**STAFF APPROVALS AND DATES:**

Nova Atkinson	Created/Initiated - 10/19/2022
Melanie Marsh	Approved - 10/25/2022
Allison Teslia	Approved - 10/27/2022
Melanie Marsh	Approved - 10/28/2022
Jennifer Barker	Approved - 11/7/2022
Misty Spahn	Final Approval - 11/7/2022

**ACTION TAKEN BY BOARD:**

Action: New  
Other:

Continued/Deferred Until:



## ECONOMIC IMPACT STATEMENT

### Contact Information

Date:	11/15/2022	Contact Name:	David Langley
Dept./Division:	County Attorney's Office	Contact Phone:	(352) 343-9787

### Ordinance Information

#### Describe the Ordinance:

The purpose of this Ordinance is to create Section 2-4, Lake County Code, to be entitled *Trespass Notices For Public Property*, which shall establish a procedure for issuing and contesting trespass notices for County-owned public property.

#### Describe the direct economic impact of the ordinance upon the operation of the County:

There is no direct economic impact on the operation of the County.

#### Describe the direct economic impact of the ordinance upon the property owner/taxpayers/citizens who are expected to be affected:

There is no direct economic impact upon the property owner/taxpayers/citizens.

#### Identify any potential indirect economic impacts, positive or negative which might occur as a result of the ordinance:

There are no potential indirect economic impacts.

**Summary of Ordinance**

The purpose of this Ordinance is to create Section 2-4, Lake County Code, to be entitled *Trespass Notices For Public Property*, which shall establish a procedure for issuing and contesting trespass notices for County-owned public property.

Changes are shown as follows: ~~Strikethrough~~ for deletions and Underline for additions to existing Code sections. The notation “\* \* \*” shall mean that all preceding or subsequent text remains unchanged (excluding any renumbering or relettering that might be needed).

**ORDINANCE 2022-\_\_**

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LAKE COUNTY, FLORIDA; CREATING SECTION 2-4, LAKE COUNTY CODE, TO BE ENTITLED *TRESPASS NOTICES FOR PUBLIC PROPERTY*, TO ESTABLISH A PROCEDURE FOR ISSUING AND CONTESTING TRESPASS NOTICES FOR COUNTY-OWNED PUBLIC PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR FILING WITH THE DEPARTMENT OF STATE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Board of County Commissioners of Lake County, Florida, desires to create Section 2-4, Lake County Code, to establish a procedure for issuing and contesting trespass notices for County-owned public property; and

**WHEREAS**, the Lake County Board of County Commissioners determines that these amendments are in the best interests of the citizens of Lake County, Florida.

**NOW THEREFORE**, be it ordained by the Board of County Commissioners of Lake County, Florida, as follows:

**Section 1. Legislative Findings of Fact.** The foregoing recitals are hereby adopted as legislative findings of the Board of County Commissioners and are ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

**Section 2. Creation.** Section 2-4, Lake County Code, to be entitled *Trespass Notices For Public Property*, is hereby created to read as follows:

**Sec. 2-4. – Trespass Notices For Public Property**

(a) The County Manager or designee are hereby authorized to request a law enforcement officer to issue a trespass notice to any person who violates this Code, County policy, or Florida law while on or within a County facility, building, public property, park, or outdoor area. The trespass shall be effective for the specific property where the violation occurred unless otherwise stated.

(b) Trespass notices must be issued as follows:

(1) For the first violation, the person may be issued a trespass notice for a period not to exceed one (1) year.

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(2) For a second or subsequent violation, the person may be issued a trespass notice for a period not to exceed two (2) years.

(c) A copy of the trespass notice must be provided by certified mail or hand delivery to the person and a copy provided to the County employee or official having control over the County park, facility, building or outdoor area. The written trespass notice must advise the person of the right to appeal, provide the address for filing the appeal, identify the County facility, building, or outdoor area, including parks, to which the notice applies, and state the duration of the trespass notice.

(d) Upon the completion of an appeal pursuant to this Section or the expiration of the time to file an appeal, any person found on or within any County facility, building, or outdoor area, including parks, but excluding rights-of-way, in violation of a trespass notice may be arrested for trespassing.

(e) The County Manager or designee, or law enforcement officers, may authorize a person who has received a trespass notice 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 County business. Such request and authorization must be in writing, must specify the duration of the authorization and any conditions, and must not be unreasonably denied.

(f) This section must not be construed to limit the authority of any law enforcement officer to issue a trespass notice to any person for any lawful reason for any County property, excluding rights-of-way, when closed to general vehicular or pedestrian use, when necessary or appropriate in the sole discretion of the law enforcement officer.

(g) The provisions of this Section shall encompass and include all County owned property within the legal boundaries of unincorporated Lake County and County owned property within the boundaries of Lake County municipalities.

(h) Appeal of trespass notice. A person to whom a trespass notice is issued under this section will have the right to appeal as follows:

(1) Appeals will be heard by the County’s Code Enforcement Special Master in accordance with Chapter 8 of this Code.

(2) No later than ten (10) days from the receipt of a trespass notice, a person may file an appeal of the notice. The appeal must include the person’s name, address, and phone number, if any. No fee will be charged for filing the appeal.

(3) The appeal must be filed with the County Attorney’s Office. The appeal may be filed in person at 315 West Main Street, Suite 335, Tavares, Florida 32778, or by certified mail at P.O. Box 7800, Tavares, Florida, 32778.

(4) The hearing must be held as soon as possible and not later than thirty (30) days from the filing of the appeal unless the County and appellant agree to

1 hold the hearing more than thirty (30) days from the filing of the appeal.  
2 Written notice of the hearing must be provided to the address provided in  
3 the appeal. If no address is provided, a copy of the notice will be posted in  
4 the County Administration Building located at 315 West Main Street,  
5 Tavares, Florida 32778.

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7 (5) Copies of documents in the County’s control which are intended to be used  
8 at the hearing, and which directly relate to the issuance of the trespass  
9 notice to the appellant, will be made available upon request to the appellant  
10 prior to the hearing. Normal fees for public records will be charged.

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12 (6) The appellant and the County will have the right to testify, to call  
13 witnesses, to cross-examine witnesses, and to present evidence. The  
14 appellant will have the right to bring a court reporter, at the appellant’s  
15 expense. Attorneys may represent the appellant and the County at the  
16 hearing.

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18 (7) The Special Master shall consider any other evidence presented at the  
19 hearing. Formal rules of evidence will not apply, but fundamental due  
20 process will govern the proceedings.

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22 (8) The County will bear the burden of proof by clear and convincing evidence  
23 that the trespass notice was properly issued pursuant to the criteria of this  
24 section.

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26 (9) If the appellant fails to attend a scheduled hearing, the Special Master may  
27 review the evidence presented and determine if the trespass notice was  
28 properly issued pursuant to the criteria of this section.

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30 (10) No later than five (5) days after the hearing, the Special Master shall issue  
31 a written order on the appeal which shall be mailed by certified mail to the  
32 appellant at the address provided. If no address is provided, a copy of the  
33 decision will be posted in the County Administration Building located at  
34 315 West Main Street, Tavares, Florida 32778. A copy will also be  
35 provided to the County.

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37 (11) The written order of the Special Master will be a final order and the  
38 appellant will be deemed to have exhausted all administrative remedies.  
39 Such order may be subject to judicial review in the manner provided by  
40 law.

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42 (12) The trespass notice shall remain in effect during the appeal and review  
43 process, including any judicial review.

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45 **Secs. 2-45—2-20. - Reserved.**

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48 **Section 3. Inclusion in Code.** It is the intent of the Board of County Commissioners that the  
49 provisions of this Ordinance shall become and be made a part of the Lake County Code and that the sections  
50 of this Ordinance may be renumbered or relettered and the word “ordinance” may be changed to “section”,  
51 “article”, or such other appropriate word or phrase in order to accomplish such intentions.

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**Section 4. Severability.** If any section, sentence, clause, or phrase or word of this Ordinance is for any reason held or declared to be invalid, unconstitutional, inoperative or void by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portion of this Ordinance; and it shall be construed to have been the Commissioners’ intent to pass this Ordinance without such unconstitutional, invalid or inoperative part therein; and the remainder of this Ordinance, after the exclusion of such part or parts shall be deemed and held to be valid, as if such parts had not been included herein; or if this Ordinance or any provisions thereof shall be held inapplicable to any person, groups of persons, property, kind of property, circumstances or set of circumstances, such holding shall not affect the applicability thereof to any other person, property or circumstances.

**Section 5. Filing with the Department of State.** The Clerk shall be and is hereby directed forthwith to send an electronic copy of this Ordinance to the Secretary of State for the State of Florida in accordance with Section 125.66, Florida Statutes.

**Section 6. Effective Date.** This Ordinance shall become effective as provided for by law.

ENACTED this day of \_\_\_\_\_ day of \_\_\_\_\_, 2022.

FILED with the Secretary of State the \_\_\_\_ day of \_\_\_\_\_, 2022.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
OF LAKE COUNTY, FLORIDA

\_\_\_\_\_  
Gary J. Cooney, Clerk  
Board of County Commissioners of  
Lake County, Florida

\_\_\_\_\_  
Sean M. Parks, Chairman  
This \_\_\_\_ day of \_\_\_\_\_, 2022.

Approved as to form and legality:

\_\_\_\_\_  
Melanie Marsh, County Attorney