

ALACHUA COUNTY
BOARD OF COUNTY COMMISSIONERS

ORDINANCE NO. 2020-__

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY, FLORIDA, PERTAINING TO PREVENTING THE UNAUTHORIZED TRESPASS INTO COUNTY FACILITIES AND PROPERTIES; PROVIDING FOR A POLICY; PROVIDING FOR APPLICABILITY; PROVIDING FOR DEFINITIONS; PROVIDING FOR COUNTY FACILITY RULES; PROVIDING FOR TRESPASS WARNINGS; PROVIDING FOR A REPEALING CLAUSE; PROVIDING FOR MODIFICATION AT HEARING; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES AND CORRECTION OF SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners (the "Board") seeks to maintain a safe and orderly environment on Alachua County (the "County") property which is conducive to the designated use of County property and to the efficient rendering of public services; and

WHEREAS, the Board seeks to discourage unlawful, unsafe, destructive, harassing or otherwise prohibited activity on County property that interferes with the designated use of County property or the efficient rendering of public services; and

WHEREAS, the Board recognizes individual constitutionally protected liberty interest to be lawfully in or on County property of their choosing when using the same for its designated purpose and when engaging in official County business, when such County property is generally open to the public; and

WHEREAS, the Due Process Clause of the Fourteenth Amendment of the United States Constitution requires that a deprivation of a liberty interest necessitates notice and an opportunity for a hearing at a meaningful time and in a meaningful manner; and

WHEREAS, trespass warnings may be issued to stop or discourage unlawful, unsafe, destructive, harassing, or otherwise prohibited activity on County property, or to maintain a safe

1 and orderly environment on County property, and shall be followed by the opportunity for a
2 hearing to address the deprivation of any constitutionally protected liberty interest.

3 **NOW, THEREFORE, BE IT DULY ORDAINED BY THE BOARD OF COUNTY**
4 **COMMISSIONERS OF ALACHUA COUNTY, FLORIDA, AS FOLLOWS:**

5 SECTION 1. The Board of County Commissioners finds and declares that all statements
6 in the preamble of this Ordinance are true and correct.

7 SECTION 2. Chapter 21 of the Alachua County Code, entitled "Administrative Code" is
8 hereby created as follows:

9 **CHAPTER 21 – ADMINISTRATIVE CODE**

10 **Sec. 21.10. – Trespassing on County Property**

11 (a) *Policy.* It is the policy of Alachua County to maintain an environment which is
12 open and accessible to the public. However, when an individual's actions are deemed to be
13 harmful and/or disruptive to a reasonable person involved in government operations and/or its
14 individual members; where the individual's actions are harmful, disruptive, and/or contrary to
15 Alachua County's policies, rules or regulations; or where the individual's actions are contrary to
16 law, a Trespass Warning may be given to that individual to maintain an environment free of
17 those disruptive, harmful, and/or unlawful influences. Denying a person access to and use of
18 County facilities, conveyances, property and equipment is a matter which the County does not
19 take without due consideration. The objective of this ordinance is to establish controls and
20 methods to be followed in issuing a Trespass Warning to a person on Alachua County property.
21 This Section also outlines an appeal process whereby a person may apply to have a Trespass
22 Warning withdrawn in order to be able to again have access to County provided programs,
23 facilities, and services.

24 (b) *Applicability.* This Section shall be applicable to all County facilities and property
25 within the Alachua County and in the municipalities.

26 (c) *Definitions.* The following definitions shall apply to the interpretation and
27 enforcement of this Section:

28 *Authorized Personnel* means those persons with the authority granted by this Section, acting
29 in their official capacity, to issue a Trespass Warning, and includes any employee with
30 management or oversight responsibility over the County facility or property in question at the
31 time the Trespass Warning is issued, Constitutional officers and their designees, security
32 personnel for any public property at the time the Trespass Warning is issued, and any Law
33 Enforcement Officer.

1 *Conveyance* means any motor vehicle, ship, vessel, railroad vehicle or car, trailer, aircraft, or
2 sleeping car; and “to enter a conveyance” includes taking apart any portion of the conveyance.

3 *County Facility or Property* means property owned, leased, operated, managed or controlled
4 by the Alachua County Board of County Commissioners or one of its agencies, divisions, units
5 or entities, including but not limited to, all buildings including administration buildings,
6 structures, conveyances, parks, beach parks, public natural areas, public recreation areas, trails,
7 playgrounds, streets, sidewalks, rights of way, libraries, docks, pavilions, parking lots, vacant
8 lots, fenced land, posted land, easements, and other property generally used by the public.

9 *Law Enforcement Officer* means a deputy sheriff with the Alachua County Sheriff’s Office or
10 any other sworn Law Enforcement Officer certified pursuant to F.S. Ch. 943.

11 *Respondent* means the person who was issued the Trespass Warning.

12 *Structure* means a building of any kind, either temporary or permanent, which has a roof over
13 it, together with the curtilage thereof. However, during the time of a state of emergency declared
14 by executive order or proclamation of the Governor under Chapter 252 and within the area
15 covered by such executive order or proclamation and for purposes of Section 810.02, Florida
16 Statute, and Section 810.08, Florida Statute only, the term means a building of any kind or such
17 portions or remnants thereof as exist at the original site, regardless of absence of a wall or roof.

18 *Trespass* means a person, without being authorized, licensed, or invited, willfully enters or
19 remains in any Structure or Conveyance, or, having been authorized, licensed, or invited, is
20 warned by the owner or designee of the premises to depart and refuses to do so.

21 *Trespass Warning* means a written document that bars the Respondent from entering or
22 remaining on specified County Facility or County Property.

23 (d) *County Facility Rules.* All persons entering County Facilities or Properties shall
24 comply with the rules set out herein. All County Facilities and Properties are reserved for the
25 conduct of official County business only (unless reserved in advance for a private event).
26 Authorized Personnel are authorized to establish rules and procedures, and to post additional
27 rules deemed necessary or convenient for government operations.

28
29 The following conduct is prohibited in or on County Facility and Properties:

- 30 (1) Engaging in any activity prohibited by law.
- 31 (2) Engaging in activities or behaviors that are likely to, or do, result in injury
32 or harm to others, including visitors or employees.
- 33 (3) Engaging in activities or behaviors that are likely to, or do, result in
34 damage to County property.
- 35 (4) Tampering with or unauthorized use of interior or exterior building or
36 facility system or devices, including but limited to electrical, plumbing, locks, doors, or cameras.

1 (5) Entering into areas reserved for employees, otherwise not open to the
2 general public, or reserved for a private function, without authorization.

3 (6) Solicitation of petitions, pamphleteering, demonstrating or protesting
4 anywhere inside of County buildings or conveyances, or in areas where such activities are
5 otherwise prohibited on County Facilities or Property. However, as permitted by law, these
6 activities may be done in an orderly manner and without harassment to employees or to the
7 public outside of the entryway of any County Facility or Property building, on any public
8 sidewalk or public-right-of-way near or adjacent to any County Facility or Property building, or
9 in areas otherwise designated for expressive activity. The Board may establish rules governing
10 public conduct during public meetings.

11 (7) Unauthorized leaving or storing of personal property, with or without the
12 intention to return and reclaim. All unattended property shall be collected the department
13 designated by the Board or County Manager and will be retained for a limited period of time
14 only and then disposed of in accordance with law.

15 (8) Use of insulting or fighting words which by their very utterance inflict
16 injury or tend to incite an immediate breach of the peace.

17 (9) Disrupting the normal course of business through harassing or unsafe
18 behavior, including conduct which intentionally interferes with employees in the performance of
19 their duties or intentionally interferes with the proper use of the County Facility or Property by
20 others.

21 (10) Being under the influence of any controlled substance or intoxicating
22 liquor or beverage.

23 (11) Possessing, selling, distributing, or consuming any alcoholic beverage,
24 except as allowed by a permit, rule, or law at an approved event.

25 (12) Smoking, the use of tobacco products, and the use of e-cigarettes or other
26 vaping devices are prohibited inside all County Facilities or Buildings, in accordance to Section
27 386.201, Florida Statute, and Chapter 67, Alachua County Code.

28 (13) Blocking access to any County Facility or Property for any purpose
29 without authorization.

30 (14) Remaining in a County Facility or Property after posted hours of operation
31 or after the conclusion of an "after hours" public meeting.

32 (15) Failure to cease conduct prohibited in items 1 through 14 above
33 immediately after a request by County staff, a Constitutional Officer's staff, or by a
34 representative of law enforcement to do so.

1 (16) Failure to leave the premises immediately after the issuance of a Trespass
2 Warning by Authorized Personnel's staff, a Constitutional Officer's staff, or by a representative
3 of law enforcement.

4 (e) *Trespass Warnings*

5 (1) Authorized Personnel having control over a County Facility or Property
6 are authorized to issue a Trespass Warning to any individual who violates any county ordinance,
7 rule or regulation, or state law or lawful directive of a County employee or deputy sheriff, if said
8 violation is committed while on or within a County Facility or Property. That warning can be for
9 the specific facility or property where the violation occurred, or for that property and additional
10 facilities or properties, if the severity of the violation circumstances warrant.

11 (2) The Sheriff and the Sheriff's deputies, or any state or municipal Law
12 Enforcement Officer is authorized to issue a Trespass Warning to any individual who violates
13 any provision of this Section while on or within a County Facility or Property for the specific
14 facility where the violation occurred, or for that property and additional facilities or properties, if
15 the severity of the violation circumstances warrant. Nothing in this Section limits law
16 enforcement's authority to issue trespass or effect arrests, as permitted by law.

17 (3) A Respondent shall have the right to appeal the issuance of the Trespass
18 Warning. The Trespass Warning shall advise the Respondent of the right to appeal and the
19 location and requirements to initiate the appeal.

20 SECTION 4. Repealing Clause. All ordinances or portions thereof in conflict herewith
21 are, to the extent of such conflict, hereby repealed.

22 SECTION 5. Modification. It is the intent of the Board of County Commissioners that
23 the provisions of this ordinance may be modified as a result of considerations that may arise
24 during public hearings. Such modifications shall be incorporated into the final version of the
25 ordinance adopted by the Board and filed by the Clerk to the Board.

26 SECTION 6. Severability. If any word, phrase, clause, paragraph, section or provision of
27 this ordinance or the application hereof to any person or circumstance is held invalid or
28 unconstitutional, such finding shall not affect the other provisions or applications of the
29 ordinance which can be given effect without the invalid or unconstitutional provisions or
30 application, and to this end the provisions of this ordinance are declared severable.

1 SECTION 7. Inclusion in the Code, Scrivener's Error. It is the intention of the Board of
2 County Commissioners of Alachua County, Florida, and it is hereby provided that the
3 provisions of this ordinance shall become and be made a part of the Code of Ordinances of
4 Alachua County, Florida; that the section of this ordinance may be renumbered or re-lettered to
5 accomplish such intent and that the word "ordinance" may be changed to "section", "article", or
6 other appropriate designation. The correction of typographical errors that do not affect the intent
7 of the ordinance may be authorized by the County Manager or designee, without public hearing,
8 by filing a corrected or re-codified copy of the same with the Clerk of the Circuit Court.

9 SECTION 8. Effective Date. A certified copy of this ordinance shall be filed with the
10 Department of State by the Clerk of the Board within ten (10) days after enactment by the
11 Board and shall take effect upon filing with the Department of State.

12 **DULY ADOPTED** in regular session, this ____ day of _____, 2020.

BOARD OF COUNTY COMMISSIONERS
OF ALACHUA COUNTY, FLORIDA

By: _____
Robert Hutchinson, Chair

ATTEST:

Jessie K. Irby, II
Clerk of Court

APPROVED AS TO FORM

County Attorney

(SEAL)