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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).

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LAKE COUNTY, FLORIDA; CREATING ARTICLE IV, CHAPTER 13, LAKE COUNTY CODE, TO BE ENTITLED *LOCAL PROVIDER PARTICIPATION FUND*; AUTHORIZING CREATION OF THE FUND UNDER THE AUTHORITY OF ARTICLE VIII, SECTION 1(F) OF THE CONSTITUTION OF THE STATE OF FLORIDA; SPECIFYING THE METHOD OF SETTING AND COMPUTING ANNUAL NON-AD VALOREM SPECIAL ASSESSMENTS TO BE DEPOSITED INTO THE FUND; SPECIFYING AUTHORIZED USES FOR THE FUND PROCEEDS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR FILING WITH THE DEPARTMENT OF STATE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the State of Florida (the “State”) received federal authority to establish the Statewide Medicaid Managed Care hospital directed payment program (the “DPP”) to offset hospitals’ uncompensated Medicaid costs and improve quality of care provided to Florida’s Medicaid population; and

WHEREAS, the only properties to be assessed are the real property sites of such Hospitals; and

WHEREAS, the County recognizes that one or more Hospitals within the County’s boundaries may be located upon real property leased from governmental entities and that such Hospitals may be assessed because courts do not make distinctions on the application of special assessments based on “property interests” but rather on the distinction of the classifications of real property being assessed; and

1 **WHEREAS**, the funding raised by the County assessment will, through intergovernmental
2 transfers (“IGTs”) provided consistent with federal guidelines, support additional funding for Medicaid
3 payments to Hospitals; and

4 **WHEREAS**, the County acknowledges that the Hospital properties assessed will increase in value
5 directly and especially from the assessment because of the above-described additional funding provided to
6 said Hospitals; and

7 **WHEREAS**, the County has determined that a logical relationship exists between the services
8 provided by the Hospitals, which will be supported by the assessment, and the special and particular benefit
9 to the real property of the Hospitals; and

10 **WHEREAS**, the County has an interest in promoting access to health care for its low-income and
11 uninsured residents; and

12 **WHEREAS**, leveraging additional federal support through the above-described IGTs to fund
13 Medicaid payments to the Hospitals for health care services directly and specifically adds value to the
14 Hospitals’ properties and supports their continued ability to provide those services; and

15 **WHEREAS**, imposing an assessment limited to Hospital properties to help fund the provision of
16 these services and the achievement of certain quality standards by the Hospitals to residents of the County
17 is a valid public purpose that benefits the health, safety, and welfare of the citizens of the County; and

18 **WHEREAS**, the assessment ensures the financial stability and viability of the Hospitals providing
19 such services; and

20 **WHEREAS**, the Hospitals are important contributors to the County’s overall economy and the
21 financial benefit to these Hospitals directly and specifically supports their mission, as well as their ability
22 to grow, expand, and maintain their facilities in concert with the population growth in the jurisdiction of
23 the County; and

24 **WHEREAS**, the County finds the assessment will enhance the Hospitals’ ability to grow, expand,
25 maintain, improve, and increase the value of their properties and facilities under all present circumstances
26 and those of the foreseeable future; and

27 **WHEREAS**, the County is proposing a properly apportioned assessment by which all Hospitals
28 will be assessed a uniform amount that is compliant with 42 C.F.R. § 433.68(d); and

29 **WHEREAS**, the County adopts this Ordinance enabling the County to levy a uniform non-ad
30 valorem special assessment, which is fairly and reasonably apportioned among the Hospitals’ properties
31 within the County’s jurisdictional limits, to establish and maintain a system of funding for IGTs to support
32 the non-federal share of Medicaid payments, thus directly and specially benefitting the Hospital properties.

33 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**
34 **COMMISSIONERS OF LAKE COUNTY, FLORIDA:**

35 **Section 1. Recitals.** The foregoing recitals are incorporated herein by reference.

Section 2. Creation. Article IV, Chapter 13, Lake County Code, to be entitled *Local Provider Participation Fund*, shall be created to read as follows:

ARTICLE IV. – LOCAL PROVIDER PARTICIPATION FUND

Sec. 13-55. - Title.

This article shall be known and may be cited as the “Lake County Local Provider Participation Fund Ordinance.”

Sec. 13-56. - Authority.

Pursuant to Article VIII, Section 1(f) of the Constitution of the State of Florida, and Chapter 125, Florida Statutes, the Board of County Commissioners is hereby authorized to impose a special assessment against private for-profit and not-for-profit hospitals located within the County to fund the non-federal share of Medicaid payments associated with Local Services.

Sec. 13-57. – Purpose; Lien.

The non-ad valorem special assessment authorized by this article shall be imposed, levied, collected, and enforced against Assessed Properties located within the County. Proceeds from the Assessment shall be used to benefit Assessed Properties through enhanced Medicaid payments for Local Services. When imposed, the Assessment shall constitute a lien upon the Assessed Properties equal in rank and dignity with the liens of all state, county, district, or municipal taxes and other non-ad valorem assessments. Failure to pay may cause foreclosure proceedings, which could result in loss of title, to commence. The Assessment shall be computed and assessed only in the manner provided in this Ordinance.

Sec. 13-58. - Alternative Method.

This article shall be deemed to provide an additional and alternative method, as specified in Section 197.3631, Florida Statutes, for the assessment and collection of the non-ad valorem special assessment described herein. The article shall be regarded as supplemental and additional to powers conferred by other laws and shall not be regarded as in derogation of any powers now existing, or which may exist in the future. This article, being necessary for the health, safety, and welfare of the inhabitants of the County, shall be liberally construed to affect the purposes hereof. Nothing herein prevents the County from utilizing the provisions of Section 197.3632, Florida Statutes.

Sec. 13-59. - Definitions.

When used in this article, the following terms shall have the following meanings, unless the context clearly requires otherwise:

Assessed Property means the real property in the County to which an Institutional Health Care Provider holds a right of possession and right of use through an ownership or leasehold interest, thus making the property subject to the Assessment.

Assessment means a non-ad valorem special assessment imposed by the County on Assessed Property to fund the non-federal share of Medicaid and Medicaid managed care payments that will benefit hospitals providing Local Services.

Assessment Resolution means the resolution described in Section 13-63 hereof.

Board means the Board of County Commissioners of Lake County, Florida.

Clerk of the Court means the Lake County Clerk of the Court, or other such person as may be duly authorized to act on such person's behalf.

County means Lake County, Florida.

Fiscal Year means the period commencing on October 1 of each year and continuing through the next succeeding September 30, or such other period as may be prescribed by law as the fiscal year for the County.

Institutional Health Care Provider means a private for-profit or not-for-profit hospital that provides inpatient hospital services.

Local Services means the provision of health care services to Medicaid, indigent, and uninsured members of the Lake County community.

Non-Ad Valorem Assessment Roll means the special assessment roll prepared by the County.

Ordinance means the Lake County Local Provider Participation Fund Ordinance.

Tax Collector means the Lake County Tax Collector.

Sec. 13-60. - Interpretation.

Unless the context indicates otherwise, the terms “hereof,” “hereby,” “herein,” “hereto,” “hereunder” and similar terms refer to this article. The term “hereafter” means after, and the term “heretofore” means before the effective date of this article.

Sec. 13-61. - Assessment.

(a) Pursuant to Section 125.01, Florida Statutes, the Board is hereby authorized to create a non-ad valorem special assessment that shall be imposed, levied, collected, and enforced against Assessed Property to fund the non-federal share of Medicaid payments benefitting Assessed Properties providing Local Services in the County. Funds generated as a result of the Assessment shall be held in an account called the local provider participation fund and shall be available to be used only to:

(1) Provide to the Florida Agency for Health Care Administration the non-federal share for Medicaid payments to be made directly or indirectly in support of hospitals serving Medicaid and low-income patients and

(2) Reimburse the County for administrative costs associated with the implementation of the Assessment authorized by this article, as further specified in the Assessment Resolution.

(b) The Assessment must be broad based, and the amount of the Assessment must be uniformly imposed on each Assessed Property. The Assessment may not hold harmless any Institutional Health Care Provider, as required under 42 U.S.C. § 1396b(w). As set forth in Section 13-57, the Assessment shall constitute a lien upon the Assessed Properties equal in rank and dignity with the liens of all state, county, district, or municipal taxes and other non-ad valorem assessments. In addition to other remedies available at law or equity, the enforcement of the aforesaid Assessment shall be at the same time and in like manner as

ad valorem taxes and subject to all ad valorem tax enforcement procedures afforded to the official annual real property tax notice.

- (c) Creation and implementation of the Assessment will not result in any additional pecuniary obligation on the County, Board, or County residents. The Assessment shall be imposed, levied, collected, and enforced against only Assessed Properties, and the Assessment Resolution shall provide that the County's administrative costs shall be reimbursed from the collected amounts. The County's administrative costs shall not exceed \$150,000. Any reasonable expenses the County incurs to collect delinquent assessments, including any attorney's fees incurred because of contracting with an attorney to represent the County in seeking and enforcing the collection of delinquent assessments, are not subject to the limitation on administrative costs.

Sec. 13-62.- Computation of Assessment.

- (a) The annual Assessment shall be specified for each Assessed Property. The Board shall set the Assessment in amounts that in the aggregate will generate sufficient revenue to fund the non-federal share of Medicaid payments associated with Local Services to be funded by the Assessment.
- (b) The amount of the Assessment required of each Assessed Property may not exceed an amount that, when added to the amount of other hospital assessments levied by the state or local government, exceeds the maximum percent of the aggregate net patient revenue of all Assessed Hospitals in the County permitted by 42 C.F.R. § 433.68(f)(3)(i)(A). Assessments for each Assessed Property will be derived from data contained in hospital cost reports and/or the Florida Hospital Uniform Reporting System, as available from the Florida Agency for Health Care Administration.

Sec. 13-63. - Assessment Resolution.

The Assessment Resolution shall describe:

- (a) The Medicaid payments proposed for funding from proceeds of the Assessment; (b) The benefits to the Assessment Properties associated with the Assessment;
- (c) The methodology for computing the assessed amounts; and
- (d) The method of collection, including how and when the Assessment is to be paid.

Sec. 13-64. - Non-Ad Valorem Assessment Roll.

- (a) The County Manager or designee shall prepare, or direct the preparation of, the Non-Ad Valorem Assessment Roll, which shall contain the following:
- (1) The names and addresses of the Assessed Properties; and
- (2) The Assessment rate and amount of the Assessment to be imposed against each Assessed Property based on the Assessment Resolution.
- (b) The Non-Ad Valorem Assessment Roll shall be retained by the County Manager or designee and shall be open to public inspection. The foregoing shall not be construed to require that the Assessment Roll be in printed form if the amount of the Assessment for each Assessed Property can be obtained by the public in electronic format or via the County's website.

Sec. 13-65. - Notice by Publication.

The County Manager or designee shall publish once in a newspaper of general circulation within the County a notice stating that the Board, at a regular, adjourned, or special meeting, on a certain day and hour, not

earlier than 20 calendar days from such publication, will hear objections of all interested persons to approve the Assessment. Such notice shall include:

- (a) The Assessment rate;
- (b) The procedure for objecting to the Assessment rate;
- (c) The method by which the Assessment will be collected; and
- (d) A statement that the Non-Ad Valorem Special Assessment Roll is available for inspection at the County Manager or designee's office.

Sec. 13-66. - Notice by Mail.

In addition to the published notice required by Section 13-65, but only for the first fiscal year in which an Assessment is imposed by the Board against Assessed Properties, the County Manager or designee shall provide notice of the proposed Assessment by first class mail to the Assessed Properties. Such notice shall include:

- (a) The purpose of the Assessment;
- (b) The Assessment rate to be levied against each Assessed Property;
- (c) The unit of measurement applied to determine the Assessment;
- (d) The total revenue to be collected by the County from the Assessment;
- (e) A statement that failure to pay the Assessment will cause a tax certificate to be issued against the property or foreclosure proceedings, either of which may result in a loss of title to the property;
- (f) A statement that all affected and/or interested parties have a right to appear at the hearing and to file written objections with the Board within 20 days of the notice; and
- (g) The date, time, and place of the hearing.

Notice shall be mailed at least 20 calendar days prior to the hearing to each Assessed Property at such address as is shown on the Assessment Roll. Notice shall be deemed mailed upon delivery thereof to the possession of the United States Postal Service. The County Manager or designee may provide proof of such notice by affidavit. Failure of the Assessed Property to receive such notice, because of mistake or inadvertence, shall not affect the validity of the Assessment Roll or release or discharge any obligation for payment of the Assessment imposed by the Board pursuant to this Article.

Sec. 13-67. - Adoption of Assessment Resolution and Non-Ad Valorem Assessment Roll.

At the time named in the notice, the Board shall receive and consider any written objections of interested persons. All objections to the Assessment Resolution and Non-Ad Valorem Assessment Roll shall be made in writing and filed with the County Manager or designee at or before the time of the adjourned time of such hearing. At the date and time named in the notice, the Board may adopt the Assessment Resolution and Non-Ad Valorem Assessment Roll which shall:

- (a) Set the rate of the Assessment to be imposed;
- (b) Approve the Non-Ad Valorem Assessment Roll, with such amendments as it deems just and right; and
- (c) Affirm the method of collection.

Sec. 13-68. - Revisions to the Assessment Roll.

The Board may revise the Non-Ad Valorem Assessment Roll during the Fiscal Year to modify the Assessment rate through the adoption of an additional Assessment Resolution, following the procedures described in Sections 13-63 through 13-67.

Sec. 13-69. - Effect of the Assessment Resolution.

The adoption of an Assessment Resolution shall be the final adjudication of the issues presented (including, but not limited to, the method of apportionment and Assessment, the Assessment rate, the initial rate of Assessment, the Non-Ad Valorem Assessment Roll, and the levy and lien of the Assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of Board action on the Assessment Resolution. The Non-Ad Valorem Assessment Roll shall be delivered to the Tax Collector or such other official as the Board by resolution shall designate.

Sec. 13-70. - Method of Collection.

The amount of the Assessment is to be collected pursuant to the Alternative Method, as specified in the Assessment Resolution; provided, however, that the Board may change its method of collection in the Assessment Resolution to allow for collection in any manner permitted by Florida law.

Sec. 13-71. - Refunds.

If, at the end of the Fiscal Year, additional amounts remain in the local provider participation fund, the Board is hereby authorized to make refund to Assessed Properties in proportion to amounts paid in during the Fiscal Year for all or a portion of the unutilized local provider participation fund.

Sec. 13-72. - Responsibility for Enforcement.

The County and its agent, if any, shall maintain the duty to enforce the prompt collection of the Assessment by the means provided herein. The duties related to collection of assessments may be enforced at the suit of any holder of obligations in a court of competent jurisdiction by mandamus or other appropriate proceedings or actions.

Sec. 13-73. - Correction of Errors and Omissions.

No act of error or omission on the part of the Clerk of the Court, Property Appraiser, Tax Collector, County Manager or designee, Board, or their deputies or employees shall operate to release or discharge any obligation for payment of the Assessment imposed by the Board under the provision of this Chapter.

Sec. 13-74. - Limitations on Surcharges

Payments made by Assessed Properties under this article may not be passed along to patients of the Assessed Property as a surcharge or as any other form of additional patient charge.

Secs. 13-75 – 13-145. – Reserved.

{Remainder of page is left intentionally blank.}

Section 3. Amendment. The *Reservation* section of Article III, Chapter 13, shall be amended to read "Secs. 13-49 - 13-54. – Reserved."

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

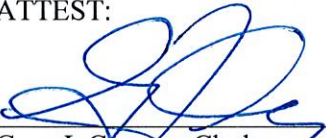
Section 6. Filing with the Department of State. The Clerk shall be and is hereby directed forthwith to send an electronic copy of this Ordinance to the Secretary of State for the State of Florida in accordance with Section 125.66, Florida Statutes.

Section 7. Effective Date. This Ordinance shall become effective as provide for by law.

Enacted this 4th day of January, 2022.

Filed with the Secretary of State January 4, 2022.

ATTEST:


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



BOARD OF COUNTY COMMISSIONERS
OF LAKE COUNTY, FLORIDA


Sean M. Parks, Chairman

This 4th day of January, 2022.

Approved as to form and legality:


Melanie Marsh, County Attorney



FLORIDA DEPARTMENT of STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

January 4, 2022

Mr. Gary J. Cooney
Clerk of the Circuit Court and Comptroller
Lake County
550 West Main Street
P. O. Box 7800
Tavares, Florida 32778-7800

Attention: Stephanie Cash

Dear Mr. Cooney:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge your electronic copy of Lake County Ordinance No. 2022-2, which was filed in this office on January 4, 2022.

Sincerely,

Anya Owens
Program Administrator

AO/lb