

ORDINANCE 2025 - 07

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2
3 AN ORDINANCE OF THE COUNTY COUNCIL OF VOLUSIA
4 COUNTY, FLORIDA, AMENDING THE CODE OF
5 ORDINANCES OF THE COUNTY OF VOLUSIA, BY
6 AMENDING CHAPTER 78 – OFFENSES AND
7 MISCELLANEOUS PROVISIONS; BY CREATING SECTION
8 78-1 PROHIBITION OF PUBLIC CAMPING OR SLEEPING
9 WITHIN COUNTY BUILDINGS OR ITS GROUNDS AND THE
10 PUBLIC CAMPING OR SLEEPING COMPLAINT PROCESS;
11 BY AMENDING CHAPTER 94, SECTION 94 - 1 USE OF
12 COUNTY RIGHTS-OF-WAY TO INCLUDE DEFINITIONS OF
13 PUBLIC CAMPING OR SLEEPING; PROVIDING FOR
14 INCLUSION IN CODE; PROVIDING FOR SEVERABILITY;
15 PROVIDING FOR CONFLICTING ORDINANCES; AND
16 PROVIDING FOR AN EFFECTIVE DATE.
17

18 WHEREAS, the Florida Legislature in adopting section 125.0231 Florida Statutes,
19 has made it impermissible, effective October 1, 2024, for counties and municipalities to
20 authorize or otherwise allow public camping or sleeping at public buildings, on public
21 grounds, property or rights-of-way, with the exception of very particular circumstances
22 such as for designated recreational uses; and
23

24 WHEREAS, the intent of the Florida Legislature in adopting section 125.0231
25 Florida Statutes, was to fulfill an important state interest of ensuring the health, safety,
26 welfare, quality of life, and aesthetics of Florida communities while simultaneously making
27 adequate provision for the homeless population of the state; and
28

29 WHEREAS, section 125.0231 Florida Statutes, places an obligation on counties
30 and cities to proactively avoid violations of the new law, failure to do so subjects counties
31 and municipalities to civil actions by residents of the county, owners of a business located
32 in the county or the Attorney General may enjoin violations of the new law, damages
33 including attorneys' fees and costs may be imposed, effective January 1, 2025; and
34

35 WHEREAS, County staff has been proactive in meeting with municipal partners
36 and law enforcement to determine the best approach forward to demonstrate proactive
37 enforcement of the provisions of section 125.0231 Florida Statutes; and
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39 WHEREAS, prior to bringing any recommendations before the County Council of
40 Volusia County, County staff has closely monitored the progress of a United States
41 Supreme Court case challenging the constitutionality of similar Oregon restrictions
42 prohibiting encampments of public property; and
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44 WHEREAS, the United States Supreme Court in *City of Grants Pass, Oregon v.*
45 *Johnson, et. al*, 144 S. Ct. 2202 (2024); Case No. 2023-175 (June 28, 2024), found that

46 such laws are constitutional and do not violate the Eighth Amendment restriction on cruel
47 and unusual punishment against homeless individuals; and

48
49 WHEREAS, the County Council of Volusia County finds it appropriate to create
50 and amend its Code of Ordinances to further align with section 125.0231 Florida Statutes,
51 and ensure it is clear that public camping or sleeping on any county facility, grounds, or
52 right of way is prohibited unless designated as public camping for recreational use.

53
54 **BE IT ORDAINED BY THE COUNTY COUNCIL OF VOLUSIA COUNTY,**
55 **FLORIDA, AS FOLLOWS:**

56
57 **SECTION I:** Incorporation of Recitals. The above recitals represent the legislative
58 findings of the Volusia County Council supporting the need for this ordinance.

59
60 **SECTION II:** Chapter 78 of the Code of Ordinances of the County of Volusia is
61 hereby amended by adding Chapter 78, Section 78-1 to read as follows:

62 **Section 78-1. Prohibition of Public Camping or Sleeping within County Buildings or Its**
63 **Grounds; Public Camping or Sleeping Complaint Process.**

64 **(a) It shall be unlawful for any person to publicly camp or sleep on any public property,**
65 **including but not limited to, any public building or its grounds unless designated for**
66 **public camping and sleeping for recreational purposes by the County or a**
67 **municipality. For purposes of this prohibition, grounds shall include the entirety of the**
68 **parcel of public property beyond the building, including, but not limited to, grass**
69 **areas, sidewalks, public right-of-way and parking facilities.**

70 **(1) For purposes of this section, "Public Camping or Sleeping" shall have the**
71 **following meaning, as set forth in section 125.0231 Florida Statutes:**

72 **a) Lodging or residing overnight in a temporary outdoor habitation used as**
73 **a dwelling or living space and evidenced by the erection of a tent or other**
74 **temporary shelter, the presence of bedding or pillows, or the storage of**
75 **personal belonging; or**

76 **b) Lodging or residing overnight in an outdoor space without a tent or other**
77 **temporary shelter.**

78 **c) The term does not include:**

79 **1. Lodging or residing overnight in a motor vehicle that is registered,**
80 **insured, and located in a place where it may lawfully be; or**

81 **2. Camping for recreational purposes on property designated by the**
82 **County for such purposes.**

83 **(2) Violations. All code enforcement officers and law enforcement officers are**
84 **hereby authorized to enforce this Section. Enforcement may be as outlined in**
85 **Section 1-7 of the County of Volusia, Code of Ordinances, or as follows:**

86 **a) The penalties for the first violation shall be no less than a \$50 fine; the**
87 **penalty for a second offense shall be no less than a \$100 fine; and the**

88 penalty for all subsequent violations shall be no less than a \$200 fine for
89 each offense thereafter. A warning notice may be issued in lieu of fine. In
90 addition to any penalty mentioned herein, a law enforcement officer or
91 designated county official may issue a trespass warning pursuant to
92 Section 78-4 of the County of Volusia, Code of Ordinances, or any other
93 penalty prescribed for a violation of any applicable section of Chapter 810,
94 Florida Statutes. The trespass warning shall be limited to the specific
95 County property where the violation occurred.

96 b) Nothing within this Section precludes the County from pursuing other civil
97 or administrative remedies.

98 (3) Exceptions. It shall not be a violation, and the prohibitions of this section shall
99 not apply if the activities in (a) of this section occur:

100 a) During any time period that the Governor of the State of Florida has
101 declared a state of emergency in Volusia County, Florida and has
102 suspended the provisions of Section 125.0231 Florida Statutes pursuant
103 to Section 252.36 Florida Statutes; or

104 b) On a property during any time when such property is effectively
105 designated and operated for the purpose of public camping or sleeping
106 pursuant to Section 125.0231(3) Florida Statutes.

107 (b) Public Camping or Sleeping Complaints Process.

108 (1) A resident of the County, an owner of a business located in the County, or the
109 Florida Attorney General, may provide written notice of a violation of
110 subsection (2) of section 125.0231 Florida Statutes and Section 78-1 to the
111 County Council of Volusia County.

112 a) The County Manager shall designate an e-mail address or other
113 electronic submission method, to be displayed on the County's website,
114 to serve as the primary means of receiving written notice of an alleged
115 violation of subsection (2) of section 125.0231 Florida Statutes and
116 Section 78-1 during County business hours. If written notice is received
117 after County business hours or during a weekend or holiday, notice will
118 be given effective the next County business day.

119 b) To enable the County to take reasonable action within the limits of its
120 authority to cure an alleged violation, the written notice must specify:

- 121 1. The location of the violation;
- 122 2. The date(s) and time(s) of the alleged violation;
- 123 3. A description or photograph of the alleged violator; and
- 124 4. Any other information that will assist the County to address or
125 otherwise to cure the alleged violation.
- 126 5. The local address of the individual submitting the notice of the violation
127 or name and principal County address of the business for which the

128 owner is submitting the notice of violation, including proof of
129 ownership of that business.

130 ...

131 **SECTION III:** Chapter 94, Article I, Section 94-1 of the Code of Ordinances, County
132 of Volusia, is hereby amended to read as follows:

133 **Section 94-1. - Use of county rights-of-way**

134 ...

135 (c) Recreational use. Unless specifically designed for such purpose, the prohibition
136 set out in subsection (a) of this section shall also include camping, sleeping, parking
137 (except for emergency reasons), and any other use that would tend to obstruct traffic
138 along the county rights-of-way, including appendages thereto, and to any other public
139 lands under the authority of the county council, without prior written approval by the
140 county.

141 (1) For purposes of this section, "camping, sleeping" shall include "Public
142 Camping or Sleeping" as defined in section 125.0231 Florida Statutes:

143 a) Lodging or residing overnight in a temporary outdoor habitation used as
144 a dwelling or living space and evidenced by the erection of a tent or other
145 temporary shelter, the presence of bedding or pillows, or the storage of
146 personal belonging; or

147 b) Lodging or residing overnight in an outdoor space without a tent or other
148 temporary shelter.

149 c) The term does not include: 1. Lodging or residing overnight in a motor
150 vehicle that is registered, insured, and located in a place where it may
151 lawfully be; or 2. Camping for recreational purposes on
152 property designated by the County or a municipality for such purposes.

153 ...

154 **SECTION IV: AUTHORIZING INCLUSION IN CODE** - The provisions of this
155 ordinance shall be included and incorporated into the Code of Ordinances of the County
156 of Volusia, as additions or amendments thereto, and shall be appropriately renumbered
157 to conform to the uniform numbering system of the code.

158 **SECTION V: SEVERABILITY** - Should any word, phrase, sentence, subsection,
159 or section be held by a court of competent jurisdiction to be illegal, void, unenforceable,
160 or unconstitutional, then that word, phrase, sentence, subsection, or section so held shall
161 be severed from this ordinance and all other words, phrases, sentences, subsections, or
162 sections shall remain in full force and effect.

163 **SECTION VI: CONFLICTING ORDINANCES** - All ordinances, or part thereof, in
164 conflict herewith are, to the extent of such conflict, repealed.

167

168 **SECTION VII: EFFECTIVE DATE** – A certified copy of this Ordinance shall be
169 filed with the Department of State by the County Manager within ten (10) days after
170 enactment by the County Council and this Ordinance shall take effect upon filing with the
171 Department of State.

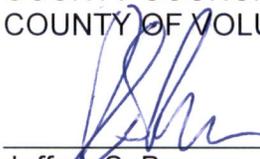
172
173 ADOPTED BY THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, IN
174 OPEN MEETING DULY ASSEMBLED IN THE COUNTY COUNCIL CHAMBERS AT THE
175 THOMAS C. KELLY ADMINISTRATION CENTER, 123 WEST INDIANA AVENUE,
176 DELAND, FLORIDA, THIS 4th DAY OF FEBRUARY 2025 A.D.

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178
179

180 ATTEST:

181 
182 _____
183
184 George Recktenwald
185 County Manager

COUNTY COUNCIL
COUNTY OF VOLUSIA, FLORIDA



Jeffrey S. Brower
County Chair

