

ORDINANCE NO: 2024-02

AN ORDINANCE OF THE CITY OF APALACHICOLA, FLORIDA, PROVIDING FOR THE REGULATION OF ACCESS TO CITY OWNED, CONTROLLED OR LEASED PROPERTY; PROVIDING FOR PURPOSE; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Article VII, Section 2 of the Florida Constitution provides that municipalities shall have governmental, corporate and proprietary powers to enable municipalities to conduct municipal government, perform municipal functions and render municipal services; and

WHEREAS, Chapter 166, Florida Statutes, the “Municipal Home Rule Powers Act,” implements the applicable provisions of the Florida Constitution and authorizes municipalities to exercise any power for municipal purposes, except when expressly prohibited by law and to enact ordinances in furtherance thereof;

WHEREAS, the purpose of this Ordinance is to provide regulations governing access to City owned, controlled or leased property throughout the City;

NOW THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF APALACHICOLA, FLORIDA:

Section 1. Control of Access to City-owned, Controlled and Leased Property.

- a. Consistent with decisions of the U.S. Supreme Court, public access to areas within enclosed facilities owned, controlled, and leased by the City of Apalachicola may be restricted depending upon whether such areas are classified as “designated public forum”, “limited designated public forum”, or “nonpublic forum”. How areas within enclosed facilities owned, controlled, and leased by the City of Apalachicola are classified is based upon their intended use. For example, there are certain areas which are intended primarily for the use of City employees in the conduct of their business; there are certain areas which, while primarily intended for the use of City employees in the conduct of their business, may from time to time be utilized for the convening of public meetings; there are certain limited areas which may be open to the public while engaging in legitimate business with

City officers or employees; and there may be certain areas which are primarily intended for the convening of public meetings.

- b. The City Manager is hereby authorized to manage public access to enclosed City-owned, controlled, and leased property. In the performance of such responsibilities, the City Manager shall have the authority to identify which areas are to be considered designated public forum, limited designated public forum, or nonpublic forum.
- c. Upon the classification of areas within enclosed City-owned, controlled, and leased property, the City Manager is hereby authorized, subject to the availability of appropriated funds, to employ whatever means he deems necessary and appropriate to separate designated public forums from nonpublic forums, including, but not limited to the use of physical barriers and signage. The City Manager shall also have the authority to develop and implement procedures to regulate and control public access within City-owned, controlled, and leased property to provide for the security and privacy of public visitors; to provide for the security and privacy of City employees and officers; and to minimize potential disruptions to the work of City government. Any person who engages in conduct that causes disruptions to the work of City government shall be deemed to no longer be present within the City-owned, controlled, or lease property on legitimate public business.
- d. The City Commission Chambers, non-public employee work areas and conference rooms in the City Hall are hereby declared to be nonpublic forums unless or until a public meeting is convened in such areas pursuant to public notice or by invitation. All City employees work areas within City Hall which are designated by appropriate signage as work areas shall be considered as nonpublic forums. Members of the public are prohibited from entering City employee work areas without being escorted by a City employee. All other areas of the City Hall are hereby designated as limited public forums and only persons who are present to engage in legitimate public business with City officers or employees shall be authorized. It shall be a violation of this Ordinance to be within a nonpublic forum or a limited public forum without authorization. Unauthorized persons found by the City Manager, his designee or a City law enforcement officer to be within a nonpublic forum or a limit public forum and who refuse to leave the premises upon request, shall be considered

a trespasser. Law Enforcement at its option, at the request of the City may issue a trespass warning notice for this conduct.

- e. Except within the City Commission Chambers, conference rooms, and other locations in which a public meeting is being conducted pursuant to a public notice, it shall be unlawful and a violation of this Ordinance, to record video and/or sound within City-owned, controlled, and leased property, without the consent of all persons whose voice or image is being recorded. This prohibition shall not apply to any law enforcement activities. In addition to being a violation of this Ordinance, if anyone who is observed to be recording video and/or sound within City-owned, controlled, or leased property, without the consent of all persons whose voice or image is being recorded, and such person refuses to cease activity after being advised that such activity is prohibited under this Ordinance, such refusal shall be considered to be a disruption to the work of City government. Therefore, such persons shall be deemed to no longer be present within the City-owned, controlled, or leased property on legitimate public business. The City Manager and his designees are hereby authorized on behalf of the City of Apalachicola, Florida to request any person who refuses to cease the unconsented video and/or sound recording to immediately leave the premises. Any person who refuses to cease the unconsented to video and/or sound recording, and refuses to immediately leave the premises following the request of the City Manager or his designee, shall be considered as a trespasser. Law Enforcement, at its option, at the request of the City may issue a trespass warning notice for this conduct.
- f. The City Manager and his/her designees may have cause to remove any person they determine: (1) Acts in any manner which violates or is reasonably suspected to violate any federal, state or local law, ordinance, rule or regulation; or (2) Acts in any manner which violates any City rules or policy, including but not limited to the Facility Rules; or any directive on any sign or notice at the public property. The City Manager and his designees are hereby authorized on behalf of the City of Apalachicola, Florida to warn persons of this prohibited activity and request such activity to cease. Law Enforcement, at its option, at the request of the City may issue a trespass warning notice for these violations of conduct.

- g. The City Manager and his designees are hereby authorized on behalf of the City of Apalachicola, Florida to warn persons who have entered into or remain in areas where they are not authorized to be, and to request such persons to depart. The City Manager, and his designees, are hereby authorized to call upon Law Enforcement to treat as trespassers any persons who refuse to depart after such a request has been made. Law Enforcement, at its option, may enforce any person's refusal to depart by means of Section 810.08 and 810.09, Florida Statutes or issue a trespass warning notice.

Section 2. Facility Rules.

The following conduct is prohibited within the interior spaces of all City-owned or controlled buildings of the City of Apalachicola:

- (1) Engaging in any conduct prohibited by federal, State of Florida, or City of Apalachicola law.
- (2) Possessing any weapons, except as specifically permitted by law.
- (3) Smoking, chewing tobacco, use of e-cigarettes or vaping devices, or carrying any lighted or smoldering pipe, cigar, or cigarette.
- (4) Disruptive, harassing or unsafe behavior, including conduct which interferes with City employees or City officials in the performance of their duties, or interferes with the proper use of the City facility by others.
- (5) Abusive or harassing behavior, including use or display of obscene language, gestures, or graphics.
- (6) Blocking entrances, exits, fire exits, access areas, or otherwise interfering with the provision of services or the use of City property.
- (7) Entering or remaining in nonpublic areas without authorization. Areas inside City buildings, including offices, hallways, stairways, and elevators are open to the public only to the extent necessary to attend to City business, or attending a City-authorized function, event, or activity to which the person is an invitee, or attending a duly noticed public meeting. Otherwise, such areas are deemed nonpublic areas.
- (8) Any act which could result in substantial risk of harm to persons or property.
- (9) Disrupting City business, events, or other City sponsored or authorized activities.
- (10) Leaving unattended packages, backpacks, luggage, or other personal items. Any such items are subject to immediate confiscation.
- (11) Lying down or sleeping in chairs, benches, or otherwise.

(12) Possession of illegal drugs.

(13) Posting or affixing to City property without permission from the City Manager, or his/her designee, any signs, leaflets, posters, flyers, pamphlets, brochures, and written, pictorial or graphic material of any kind.

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

(15) Audio and/or video recording anywhere inside of City buildings except during duly noticed public meetings, or as otherwise approved by the City Manager, or his/her designee. Except as otherwise approved by the City Manager, or his/her designee, audio and/or video recording may only be conducted within the City Commission Chamber, and any room, or office within which said activity has been authorized by law. Any person found to be conducting audio and/or video recording except as authorized by herein, must cease doing so immediately if any visitor, City employee or City official expresses his/her desire not to be recorded. This rule does not apply to audio and/or video recording performed by authorized law enforcement personnel engaged in the performance of their official duties. Audio and/or video recording of public meetings must be undertaken in a quiet and orderly manner so as not to interfere with the conduct of the meeting, block the view of any person attending the public meeting, or block any aisle, row, ingress or egress.

(16) Remaining in a City building after posted hours of operation or after the conclusion of an authorized "after hours" public meeting or event.

(17) Failure to cease conduct specifically prohibited in items 1 through 16 above immediately after a request by City staff to do so.

(18) A copy of the foregoing Facility Rules shall be posted in close proximity to all public entrances of City-owned or controlled buildings of the City of Apalachicola.

Section 3. Severability. If any portion of this Ordinance is declared invalid, the valid remainder hereof shall remain in full force and effect.

Section 4. Effective Date: This Ordinance shall become effective upon adoption.

First Reading on	:May 7, 2024
Second Reading and Adoption on	:June 4, 2024

ATTEST:

City Commission of the
City of Apalachicola, Florida

By:


Sheneidra Cummings, City Clerk

By:


Brenda Ash, Mayor