

<b>Date:</b> 02/04/2025		<b>AGENDA ITEM</b>		<b>Item: 08</b>	
<input checked="" type="checkbox"/> Ordinance		<input type="checkbox"/> Resolution		<input type="checkbox"/> Budget Resolution	
<input type="checkbox"/> Other					
<b>County Goals</b>					
<input type="checkbox"/>	More Efficient Regulatory Framework	<input type="checkbox"/>	Increase Efficiency and Effectiveness of Government Operations	<input type="checkbox"/>	Implement a Plan for Expanded Recreation
<input type="checkbox"/>	Enhance Fiscal Stewardship	<input type="checkbox"/>	Support a Solution-Oriented Culture	<input checked="" type="checkbox"/>	NA
<b>Department:</b> Legal Department					
<b>Division:</b> Legal					
<b>Subject:</b> Ordinance 2025-07, Prohibition of public camping or sleeping within County buildings or its grounds and public rights of way					
Michael Dyer County Attorney Approved by:  <i>Michael Dyer</i> Department Approval		Approved By:		<b>Legal</b>  Morgan Swenk Assistant County Attorney Approved By:  <i>Morgan Swenk</i>	
Approved By:  Division Approval		Approved By:		<b>County Manager's Office</b>  Ryan Ossowski Chief Financial Officer Approved By:  <i>Ryan Ossowski</i>	
<b>Approved as to Form and Legality</b>					
<b>Council Action:</b>					
<b>Modification:</b>					
<b>Account Number(s): NA</b>					
<b>Total Item Budget: NA</b>					
<b>Staff Contact(s):</b>		<b>Phone:</b>		<b>Ext.</b>	
Morgan Swenk		386 736 5950		12946	
Brad Burbaugh		386 943 7039		13455	
<b>Summary/Highlights:</b>					
The proposed ordinance complies with section 125.0231 Florida Statutes, which made it impermissible, effective October 1, 2024, for counties and municipalities to authorize or otherwise allow public camping or sleeping at public buildings, on public grounds, property or rights-of-way, except for enumerated circumstances such as property designated for recreational uses or during declared states of emergency. Section 125.0231 Florida Statutes placed the obligation on counties and municipalities to avoid violations of the new law and failure to do so subjects those counties and municipalities to civil action by residents of the county, owners of a business located in the county, or the Attorney General.					
The proposed ordinance will prohibit individuals from regularly camping or sleeping on public property owned by the County, unless the area is specifically designated for recreational camping by the County. Exceptions are made for individuals staying in lawfully parked,					

registered, and insured motor vehicles or for recreational camping in areas designated by the County. Violating this ordinance may result in fines and trespass charges. The proposed ordinance also provides a complaint process to be used by residents of the county, owners of a business located in the county, or the Attorney General should a purported violation occur. The proposed ordinance serves the health, safety, welfare, of the County.

The proposed ordinance is aligned with the new statute. The ordinance was advertised on January 17, 2025, in the News-Journal, per the statutory requirements.

**Recommended Motion: Approval**

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2  
3 **ORDINANCE 2025 - 07**

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

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  
38

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  
43

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

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

164

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

167



125.0231. Public camping and public sleeping

Effective: October 1, 2024

(1) As used in this section, the term:

(a) “Department” means the Department of Children and Families.

(b) 1. “Public camping or sleeping” means:

a. Lodging or residing overnight in a temporary outdoor habitation used as a dwelling or living space and evidenced by the erection of a tent or other temporary shelter, the presence of bedding or pillows, or the storage of personal belongings; or

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

2. The term does not include:

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

b. Camping for recreational purposes on property designated for such purposes.

(2) Except as provided in subsection (3), a county or municipality may not authorize or otherwise allow any person to regularly engage in public camping or sleeping on any public property, including, but not limited to, any public building or its grounds and any public right-of-way under the jurisdiction of the county or municipality, as applicable.

(3) A county may, by majority vote of the county’s governing body, designate property owned by the county or a municipality within the boundaries of the county to be used for a continuous period of no longer than 1 year for the purposes of public camping or sleeping. If the designated property is within the boundaries of a municipality, the designation is contingent upon the concurrence of the municipality by majority vote of the municipality’s governing body.

(a) A county designation is not effective until the department certifies the designation. To obtain department certification, the county shall submit a request to the Secretary of Children and Families which shall include certification of, and documentation proving, the following:

1. There are not sufficient open beds in homeless shelters in the county for the homeless population of the county.

2. The designated property is not contiguous to property designated for residential use by the county or municipality in the local government comprehensive plan and future land use map.

3. The designated property would not adversely and materially affect the property value or safety and security of other existing residential or commercial property in the county or municipality and would not negatively affect the safety of children.

4. The county has developed a plan to satisfy the requirements of paragraph (b).

Upon receipt of a county request to certify a designation, the department shall notify the county of the date of receiving the request, and of any omission or error, within 10 days after receipt by the department. The department shall certify the designation within 45 days after receipt of a complete submission from the county, and the designation shall be deemed certified on the 45th day if the department takes no action.



(b) Except as provided in paragraph (e), if a county designates county or municipal property to be used for public camping or sleeping, it must establish and maintain minimum standards and procedures related to the designated property for the purposes of:

1. Ensuring the safety and security of the designated property and the persons lodging or residing on such property.
2. Maintaining sanitation, which must include, at a minimum, providing access to clean and operable restrooms and running water.
3. Coordinating with the regional managing entity to provide access to behavioral health services, which must include substance abuse and mental health treatment resources.
4. Prohibiting illegal substance use and alcohol use on the designated property and enforcing such prohibition.

(c) Within 30 days after certification of a designation by the department, the county must publish the minimum standards and procedures required under paragraph (b) on the county's and, if applicable, the municipality's publicly accessible websites. The county and municipality must continue to make such policies and procedures publicly available for as long as any county or municipal property remains designated under paragraph (a).

(d) The department may inspect any designated property at any time, and the secretary may provide notice to the county recommending closure of the designated property if the requirements of this section are no longer satisfied. A county and, if applicable, a municipality must publish any such notice issued by the department on the county's and, if applicable, the municipality's publicly accessible websites within 5 business days after receipt of the notice.

(e) A fiscally constrained county is exempt from the requirement to establish and maintain minimum standards and procedures under subparagraphs (b)1.-3. if the governing board of the county makes a finding that compliance with such requirements would result in a financial hardship.

<Subsection (4) effective Jan. 1, 2025, and applies to causes of action accruing on or after that date. >

(4)(a) A resident of the county, an owner of a business located in the county, or the Attorney General may bring a civil action in any court of competent jurisdiction against the county or applicable municipality to enjoin a violation of subsection (2). If the resident or business owner prevails in a civil action, the court may award reasonable expenses incurred in bringing the civil action, including court costs, reasonable attorney fees, investigative costs, witness fees, and deposition costs.

(b) An application for injunction filed pursuant to this subsection must be accompanied by an affidavit attesting that:

1. The applicant has provided written notice of the alleged violation of subsection (2) to the governing board of the county or applicable municipality.
2. The applicant has provided the county or applicable municipality with 5 business days to cure the alleged violation.
3. The county or applicable municipality has failed to take all reasonable actions within the limits of its governmental authority to cure the alleged violation within 5 business days after receiving written notice of the alleged violation.

(5) This section does not apply to a county during any time period in which:

(a) The Governor has declared a state of emergency in the county or another county immediately adjacent to the county and has suspended the provisions of this section pursuant to [s. 252.36](#).

(b) A state of emergency has been declared in the county under chapter 870.

