

LEON COUNTY ORDINANCE NO. 22-

1
2
3 AN ORDINANCE OF THE BOARD OF COUNTY
4 COMMISSIONERS OF LEON COUNTY, FLORIDA;
5 REPEALING CHAPTER 11, ARTICLE VIII OF THE CODE OF
6 LAWS OF LEON COUNTY, ENTITLED SOLICITATION ON
7 PUBLIC STREETS; AMENDING CHAPTER 12 OF THE CODE
8 OF LAWS OF LEON COUNTY, BY ADOPTING ARTICLE IV TO
9 BE ENTITLED OFFENSES AGAINST THE PUBLIC HEALTH,
10 SAFETY AND WELFARE; PROVIDING FOR CONFLICTS;
11 PROVIDING FOR SEVERABILITY; AND PROVIDING AN
12 EFFECTIVE DATE.

13
14 **RECITALS**

15
16 WHEREAS, the County has received reports with increasing frequency of persons camping,
17 sleeping, intending to sleep, soliciting, urinating, or defecating in certain public areas; and
18

19 WHEREAS, the Board desires to enact an ordinance to preserve, promote, and improve the
20 health, safety, and welfare of the County's residents and visitors, and to enhance sanitation in certain
21 public areas, pursuant to the home rule powers of the County as set forth in Fla. Const. art. VIII, s. 1(g),
22 F.S. s. 125.01(1), the County's home rule charter, and other applicable controlling law; and
23

24 WHEREAS, the Board desires to repeal Chapter 11, Article VIII of the Leon County Code of
25 Laws, relating to solicitation on public streets, which is outdated and inconsistent with recent Federal
26 cases; and
27

28 WHEREAS, the Board desires to amend Chapter 12 of the Leon County Code of Laws, by
29 enacting a new Article IV relating to offenses against the public health, safety, and welfare;
30

31 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEON
32 COUNTY, FLORIDA, that:
33

34 **Section 1. Amendments to Code, Chapter 11.**

35
36 The Code of Laws of Leon County, Florida is hereby amended by repealing Chapter 11, Article
37 VIII, entitled "Solicitation on Public Streets", in its entirety.
38

39 **Section 2. Amendments to Code, Chapter 12.**

40
41 The Code of Laws of Leon County, Florida, is hereby amended by adopting Article IV to
42 Chapter 12, which article shall read as follows:
43

1 **ARTICLE IV. OFFENSES AGAINST THE PUBLIC HEALTH, SAFETY, AND WELFARE**

2
3 **DIVISION 1. GENERALLY**

4
5 **Sec. 12-101. Authorization.**

6
7 This article is enacted to preserve, promote, and improve the health, safety, and welfare of the
8 County’s residents and visitors, and to enhance sanitation in public areas, pursuant to the home rule
9 powers of the County as set forth in Fla. Const. art. VIII, s. 1(g), F.S. s. 125.01(1), the County’s home
10 rule charter, and other applicable controlling law.

11
12 **Sec. 12-102. Definitions.**

13
14 The following words, terms and phrases, when used in this article, shall have the meanings
15 ascribed to them in this section, except where the context clearly indicates a different meaning:

16
17 *Median* means a paved, planted, or unimproved area of land dividing lanes of a roadway.

18
19 *Public area(s)* means an area open to the public or generally visible to public view, and
20 includes, but is not limited to, public rights-of-way, driveways, parking lots, parks, playgrounds,
21 plazas, and the doorways and entrances to buildings and the grounds adjacent to them.

22
23 *Public right(s)-of-way* means a way open to travel by the public, including, but not limited to,
24 a roadway. The term also includes associated sidewalks and medians, and all culverts, drains, ditches,
25 water storage areas, waterways, embankments, slopes, retaining walls, bridges, and tunnels used in
26 connection therewith.

27
28 *Roadway* means that portion of a public right-of-way improved, designed, or ordinarily used
29 for travel by vehicles, exclusive of any berm, shoulder, median, or sidewalk. If a public right-of-way
30 includes two or more separate roadways, the term “roadway” refers to any such roadway separately,
31 but not to all such roadways collectively.

32
33 *Sidewalk* means that portion of a public right-of-way between the curblines, or the lateral line,
34 of a roadway and the adjacent property lines, intended for use by pedestrians.

35
36 *Vehicle* means a device in, upon, or by which any person or property is, or may be, transported
37 upon a roadway, including, but not limited to, cars, trucks, semi-trucks, vans, buses, motorcycles,
38 mopeds, bicycles, and scooters.

39
40 **Secs. 12-103 – 12-120. Reserved.**

DIVISION 2. SAFE USE OF PUBLIC RIGHTS-OF-WAY

Sec. 12-121. Intent.

- (a) It is the intent of this division to:
- (1) preserve, promote, and protect the public health, safety, and general welfare of the County's residents and visitors;
 - (2) assure the free, orderly, undisrupted movement of vehicles on public right(s)-of-way within the County; and
 - (3) provide safety for pedestrians and occupants of vehicles on public rights-of-way within the County.

(b) This division is intended to be narrowly tailored to serve the significant governmental interest of public safety, and to leave ample alternative channels open for displaying advertising, distributing goods and materials, and soliciting personal, business, and charitable donations.

(c) This division is intended to apply evenhandedly to all persons who engage in the activities proscribed in this division, regardless of the message being conveyed.

Sec. 12-122. Applicability.

The provisions of this division shall apply in both the unincorporated areas and the incorporated areas of the County; provided, however, that a municipal ordinance shall prevail over any provisions of this division to the extent of any conflict within the boundaries of the municipality. To the extent that a municipal ordinance covers the same subject matter as the provisions of this division without conflict, then both the municipal ordinance and this division shall be effective, each being deemed supplemental to the other.

Sec. 12-123. Prohibited acts.

It shall be unlawful for a person to stand or remain on any median while holding or displaying any advertisement, sign, or other media that is for view by any occupant of a vehicle.

Sec. 12-124. Exclusions for Activities on Roadways and Sidewalks.

(a) The provisions of this division shall not apply to or otherwise proscribe any activities governed by state law, including, but not limited to, activities taking place within a roadway subject to F.S. s. 316.130 and F.S. s. 316.2045.

(b) The provisions of this division shall not apply to or otherwise proscribe any activities taking place on a sidewalk.

1 **Sec. 12-125. Enforcement; penalties.**

2 A person who violates this division shall be cited in the same manner as an infraction of
3 pedestrian regulations pursuant to F.S. s. 318.18(1) as may be amended.
4

5 **Secs. 12-126 – 12-140. Reserved.**
6

7 **DIVISION 3. CAMPING OR SLEEPING IN PUBLIC AREAS**
8

9 **Sec. 12-141. Findings; intent.**
10

11 (a) The County finds that camping or sleeping outdoors in public areas impedes the ingress
12 and egress of vehicles and persons to and from businesses and other public areas; impedes sidewalks
13 and other portions of public right(s)-of-way; and is contrary to the health, safety, and welfare of the
14 County's residents and visitors.
15

16 (b) The County recognizes that, in accordance with the decision of the United States
17 Eleventh Circuit Court of Appeals in *Joel v. City of Orlando*, 232 F.3d 1353 (11th Circ. 2000), homeless
18 persons are not a suspect or protected class and that sleeping outdoors is not a fundamental right.
19

20 (c) The County further recognizes that, in accordance with the *Joel* decision, prohibiting
21 camping or sleeping in certain public areas is rationally related to the County's interest in promoting
22 aesthetics, sanitation, public health, and safety and, furthermore, does not violate a person's Eighth
23 Amendment right to be free from cruel and unusual punishment if fair notice is provided to persons
24 about what conduct is prohibited, and if any such prohibition is enforced only if and when a sleeping
25 or camping person is informed that he or she can be accommodated in an adequate shelter space and
26 refuses the accommodation.
27

28 (d) The intent of this division is to provide a measured and lawful prohibition against
29 camping or sleeping in public areas, in order to: preserve and protect the public health, welfare, and
30 safety of the County's residents and visitors; promote sanitation; and maintain the aesthetics of the
31 County.
32

33 **Sec. 12-142. Applicability.**
34

35 The provisions of this division shall apply in both the unincorporated areas and the incorporated
36 areas of the County; provided, however, that a municipal ordinance shall prevail over any provisions
37 of this division to the extent of any conflict within the boundaries of the municipality. To the extent
38 that a municipal ordinance covers the same subject matter as the provisions of this division without
39 conflict, then both the municipal ordinance and this division shall be effective, each being deemed
40 supplemental to the other.
41

1 **Sec. 12-143. Definitions.**
2

3 The following words, terms and phrases, when used in this division, shall have the meanings
4 ascribed to them in this section, except where the context clearly indicates a different meaning:
5

6 *Camp or camping* means sleeping or otherwise being in a temporary shelter outdoors, sleeping
7 or intending to sleep outdoors, or cooking over an open flame outdoors, except that *camp* or *camping*
8 does not include tailgating, picnicking, or other similar temporary celebratory activities conducted in
9 good faith in connection with the occurrence of a legitimate sporting event, concert, theatrical event,
10 or other similar activity conducted by a school, college, university, professional sports association,
11 orchestra, governmental agency, religious or civic organization, or Section 501(c)(3) organization.
12

13 *Street Outreach Team member(s)* shall mean persons trained as homeless outreach workers
14 contracted or employed by an organization(s) approved by the County Administrator responsible for
15 providing information about a variety of available social services for individuals and/or families
16 experiencing homelessness, including, but not limited to, shelter or housing alternatives, mental health
17 counseling, substance abuse counseling, and assistance to homeless veterans.
18

19 **Sec. 12-143. Prohibited acts.**
20

21 (a) After having been informed and given notice by a law enforcement officer that the
22 following conduct is in violation of this division, and further after the completion of the Street Outreach
23 Team efforts delineated in this division, it shall be unlawful for any person to engage in the following
24 conduct:
25

- 26 (1) Camp in a public area without permission or authorization of the owner of such
27 public area; or
28
29 (2) Construct or maintain in a public area any temporary structure, tent, or other
30 objects intended to be used for camping, without permission or authorization of
31 the owner of such public area.
32

33 **Sec. 12.144. Street Outreach Team efforts.**
34

35 (a) A violation of this division shall not be enforced against any person prior to a
36 determination by a Street Outreach Team member that a shelter or housing alternative is available.
37

38 (b) If it is determined that a person is in need of shelter or housing assistance, the Street
39 Outreach Team member shall evaluate the person's shelter or housing needs and take all reasonable
40 steps toward directing the person to the appropriate shelter or housing service provider, including,
41 without limitation, transportation to such provider.
42

1 **Sec. 12-145. Enforcement; penalties.**

2
3 (a) If a person refuses the Street Outreach Team members' offer of shelter or housing
4 assistance, or if the person has been offered or received such assistance within the previous ninety (90)
5 days, and the person otherwise fails to comply with this division after notice of a violation has been
6 provided, the person may be cited for a violation of this division.

7
8 (b) Nothing in this division shall prevent a law enforcement officer from obtaining
9 voluntary compliance by way of warning, notice, or education.

10
11 (c) A violation of this division shall be prosecuted in the same manner as misdemeanors are
12 prosecuted. Upon conviction, a person shall be punished by a fine not to exceed \$500.00 or by
13 imprisonment in the County detention facility for a term not exceeding 60 days, or by both such fine
14 and imprisonment. With respect to violations of this division that are continuous with respect to time,
15 each day the violation continues is a separate offense.

16
17 **Secs. 12-146 – 12-160. Reserved.**

18
19 **DIVISION 4. URINATING AND DEFECATING IN PUBLIC AREAS.**

20
21 **Sec. 12-161. Findings; intent.**

22
23 (a) The County finds that persons urinating and/or defecating in public areas not designated
24 for use as a urinal or toilet is a public nuisance and detrimental to the health, safety, and welfare of the
25 County's residents and visitors.

26
27 (b) The County finds that prohibiting persons from urinating and/or defecating in public
28 areas not designated for use as a urinal or toilet is necessary and rationally related to the County's
29 interests in promoting aesthetics, sanitation, and public health and safety.

30
31 **Sec. 12-162. Applicability.**

32
33 The provisions of this division shall apply in both the unincorporated areas and the incorporated
34 areas of the County; provided, however, that a municipal ordinance shall prevail over any provisions
35 of this division to the extent of any conflict within the boundaries of the municipality. To the extent
36 that a municipal ordinance covers the same subject matter as the provisions of this division without
37 conflict, then both the municipal ordinance and this division shall be effective, each being deemed
38 supplemental to the other.

39
40 **Sec. 12-163. Definitions.**

41
42 The following words, terms and phrases, when used in this division, shall have the meanings
43 ascribed to them in this section, except where the context clearly indicates a different meaning:

44
45 *Defecate or defecation* means the act of passing the contents of the bowels to the outside of the
46 body.

1
2 *Urinate or urination* means the act of releasing urine from the urinary bladder to the outside of
3 the body.

4
5 **Sec. 12-163. Prohibited acts.**

6
7 (a) It shall be unlawful for any person:

8
9 (1) to urinate in any public area that has not been designated for use as a urinal or
10 toilet; or

11
12 (2) to defecate in any public area that has not been designated for use as a toilet.

13
14 **Sec. 12-164. Exceptions.**

15
16 The provisions of this division shall not apply to children five years of age or younger.

17
18 **Sec. 12-165. Enforcement; penalties.**

19
20 A person who violates this division shall be fined in the amount of \$50.00. All other remedies
21 available at law or equity, including injunction, remain available to the County, even after issuance of
22 a citation.

23
24 **Section 3. Conflicts.**

25
26 All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby
27 repealed to the extent of such conflict, except to the extent of any conflicts with the Tallahassee-Leon
28 County 2030 Comprehensive Plan as amended, which provisions shall prevail over any parts of this
29 ordinance which are inconsistent, either in whole or in part, with the said Comprehensive Plan.

30
31 **Section 4. Severability.**

32
33 If any word, phrase, clause, section, or portion of this Ordinance is declared by any court of
34 competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and
35 portions of this Ordinance shall remain in full force and effect.

36
37 **Section 5. Effective Date.**

38
39 This ordinance shall have effect upon becoming law.

40

1 DONE, ADOPTED AND PASSED by the Board of County Commissioners of Leon County,
2 Florida, this _____ day of _____, 2022.

3
4
5
6
7
8
9
10

LEON COUNTY, FLORIDA

By: _____
Bill Proctor, Chair
Board of County Commissioners

11 ATTESTED BY:
12 Gwendolyn Marshall Knight, Clerk of Court
13 & Comptroller, Leon County, Florida

14
15
16
17

By: _____

18
19 APPROVED AS TO FORM:
20 Chasity H. O’Steen, County Attorney
21 Leon County Attorney’s Office

22
23
24

By: _____