

ORDINANCE NO. 15-2025

AN ORDINANCE OF THE CITY OF DELTONA, FLORIDA, ESTABLISHING CHAPTER 43, "PUBLIC CAMPING" OF THE GENERAL ORDINANCES TO PROHIBIT PUBLIC CAMPING OR SLEEPING WITHIN CITY BUILDINGS, PROPERTIES, AND RIGHTS OF WAY AND TO CREATE THE PUBLIC CAMPING OR SLEEPING COMPLAINT PROCESS; AMENDING SECTION 58-31, "USE OF CITY RIGHTS-OF-WAY" OF ARTICLE II, "RIGHTS OF WAY," OF CHAPTER 58, "STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES," TO INCLUDE THE DEFINITIONS OF PUBLIC CAMPING AND SLEEPING; PROVIDING FOR CONFLICTS, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the Florida Legislature in adopting section 125.0231 Florida Statutes, has 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, with the exception of very particular circumstances such as for designated recreational uses; and

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

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

WHEREAS, City staff has been proactive in meeting with law enforcement to determine the best approach forward to demonstrate proactive enforcement of the provisions of section 125.0231 Florida Statutes; and

WHEREAS, prior to bringing any recommendations before the City Commission of the City of Deltona, City staff has closely monitored the progress of a United States Supreme Court case challenging the constitutionality of similar Oregon restrictions prohibiting encampments of public property; and

WHEREAS, the United States Supreme Court in *City of Grants Pass, Oregon v. Johnson, et. al*, 144 S. Ct. 2202 (2024); Case No. 2023-175 (June 28, 2024), found that such laws are constitutional and do not violate the Eighth Amendment restriction on cruel and unusual punishment against homeless individuals; and

WHEREAS, the City Commission finds it appropriate to create and amend its Code of Ordinances to further align with section 125.0231 Florida Statutes, and ensure it is clear that public camping or sleeping on any city facility, grounds, or right of way is prohibited unless designated as public camping for recreational use.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELTONA, FLORIDA, as follows:

Section 1. Recitals Adopted. The foregoing "Whereas" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this ordinance upon adoption hereof.

Section 2. Amendment to the Code of Ordinances. The City Commission hereby approves and adopts Chapter 43, "Public Camping," to prohibit public camping

or sleeping within city buildings, properties, and rights of way and to create the public camping or sleeping complaint process as set forth in "Exhibit A" attached hereto.

The City Commission hereby approves and adopts Section 58-31, "Use of city rights-of-way," of Chapter 58, "Streets, Sidewalks, and Other public Places," amended to include the definitions of public camping and sleeping as set forth in "Exhibit B" attached hereto.

Section 3. Conflicts. Any and all Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

Section 4. Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision or application of this ordinance which can be given effect without the invalid provision or application.

Section 5. Codification. The provisions of this Ordinance shall be codified as and be made part of the Code of Ordinances of the City of Deltona. The sections of this Ordinance may be renumbered to accomplish such intention.

Section 6. Effective Date. This Ordinance shall take effect immediately upon its final adoption by the City Commission.

**PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF
DELTONA, FLORIDA THIS _____ DAY OF _____, 2025.**

First Reading: _____

Advertised: _____

Second Reading: _____

BY: _____
Santiago Avila, Jr., MAYOR

ATTEST:

Joyce Raftery, CMC, MMC, CITY CLERK

Approved as to form and legality
for use and reliance of the City of
Deltona, Florida

TG Law, PLLC, CITY ATTORNEY

Name	Yes	No
Avila-Vazquez		
Colwell		
Heriot		
Howington		
Lulli		
Santiago		
Avila		

EXHIBIT A

CHAPTER 43 – PUBLIC CAMPING

Sec. 43-1. – Short title.

This ordinance shall be known as the "Deltona Public Camping Ordinance" which shall be designated chapter 43, sections 43-1 thru 43-6.

Sec. 43-2. – Definitions.

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

- (1) 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 belonging; or
- (2) Lodging or residing overnight in an outdoor space without a tent or other temporary shelter.
- (3) 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; or
 - (b) Camping for recreational purposes on property designated by the City for such purposes.

Sec. 43-3. - Public camping or sleeping within city buildings, properties, and rights-of-way prohibited.

It shall be unlawful for any person to publicly camp or sleep on any public property, including but not limited to, any public building or its grounds unless designated for public camping and sleeping for recreational purposes by the City. For purposes of this prohibition, grounds shall include the entirety of the parcel of public property beyond the building, including, but not limited to, grass areas, sidewalks, public rights-of-way and parking facilities.

Sec. 43-4. – Violation; penalties.

All code enforcement officers and law enforcement officers are hereby authorized to enforce this Section. Enforcement shall be as follows:

- (1) The penalties for the first violation shall be no less than a \$50 fine; the penalty for a second offense shall be no less than a \$100 fine; and the penalty for all subsequent violations shall be no less than a \$200 fine for

EXHIBIT A

each offense thereafter. A warning notice may be issued in lieu of fine. In addition to any penalty mentioned herein, a law enforcement officer or designated city official may issue a trespass warning or any other penalty prescribed for a violation of any applicable section of Chapter 810, Florida Statutes. The trespass warning shall be limited to the specific City property where the violation occurred.

- (2) Nothing within this Section precludes the City from pursuing other civil or administrative remedies.

Sec. 43-5. – Exceptions.

Exceptions. It shall not be a violation, and the prohibitions of this section shall not apply:

- (1) During any time period that the Governor of the State of Florida has declared a state of emergency in Volusia County, Florida and has suspended the provisions of Section 125.0231 Florida Statutes pursuant to Section 252.36 Florida Statutes; or
- (2) On a property during any time when such property is effectively designated and operated for the purpose of public camping or sleeping pursuant to Section 125.0231(3) Florida Statutes.

Sec. 43-6. – Public camping or sleeping complaints process.

(1) A resident of the City, an owner of a business located in the City, or the Florida Attorney General, may provide written notice of a violation of subsection (2) of section 125.0231 Florida Statutes and Section 43-3 to the City Commission

(2) The City Manager shall designate an e-mail address or other electronic submission method, to be displayed on the City's website, to serve as the primary means of receiving written notice of an alleged violation of subsection (2) of section 125.0231 Florida Statutes and Section 43-3 during City business hours. If written notice is received after City business hours or during a weekend or holiday, notice will be given effective the next City business day.

(3) To enable the City to take reasonable action within the limits of its authority to cure an alleged violation, the written notice must specify:

- (a) The location of the violation;
- (b) The date(s) and time(s) of the alleged violation;
- (c) A description or photograph of the alleged violator;
- (d) Any other information that will assist the City to address or otherwise to cure the alleged violation; and
- (e) The local address of the individual submitting the notice of the violation or name and principal City address of the business for which the

EXHIBIT A

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

EXHIBIT B

Sec. 58-31. - Use of city rights-of-way.

- (a) *Consent required.* Pursuant to the police power of the city, the city commission determines, in the interest of the health, safety and welfare of its citizens, that the use of any city right-of-way, including appendages, and the use of any public lands under the authority of the city commission, except for their intended purpose, without prior written consent of the city shall be prohibited.
- (b) *Commercial use.* The prohibition set out in subsection (a) of this section includes any commercial use, including but not limited to the sale of and display for sale of any merchandise, the servicing or repair of any vehicles except the rendering of emergency service, the storage or parking of vehicles and the display of advertising of any sort.
- (c) *Recreational use.* Unless specifically designed for such purpose, the prohibition set out in subsection (a) of this section shall also include camping, sleeping, parking (except for emergency reasons), and any other use that would tend to obstruct traffic along the city rights-of-way, including appendages, and to any other public lands under the authority of the city commission, without prior written approval by the city.

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

- 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 belonging; or
- b. Lodging or residing overnight in an outdoor space without a tent or other temporary shelter.
- c. The term does not include: (1) Lodging or residing overnight in a motor vehicle that is registered, insured, and located in a place where it may lawfully be; or (2) Camping for recreational purposes on property designated by the County or a municipality for such purposes.

- (d) *Reserved.*