



Interoffice Memorandum

December 11, 2024

TO: Mayor Jerry L. Demings
-AND-
County Commissioners

FROM: Isabelle Klier-Graham, Manager *IKG*
Mental Health and Homelessness Division

SUBJECT: January 7, 2025 – Public Hearing
Public Camping Ordinance

On March 20, 2024, the Governor approved House Bill 1365 (2024) creating a new Section 125.0231, Florida Statutes, effective October 1, 2024 (enacted as Chapter No. 2024-11, Laws of Florida) (the "Act"). The Act prohibits counties and municipalities from authorizing or otherwise allowing "...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."

Beginning January 1, 2025, the Act authorizes a resident of the county, an owner of a business located in the county, or the Attorney General to bring a civil action in any court of competent jurisdiction against the county or applicable municipality to enjoin a violation of the Act. The Act requires applications for injunctions filed pursuant to the Act to be accompanied by an affidavit attesting that, in part, the county or municipality "...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." If a resident or business owner prevails in said civil action, then the Act authorizes a court to award reasonable expenses incurred in bringing the civil action, including court costs, reasonable attorney fees, investigative costs, witness fees, and deposition costs.

On June 18, 2024, the Board of County Commissioners held a work session on homelessness. The Board discussed the Act and a U.S. Supreme Court case that was pending at the time (*City of Grants Pass, Oregon v. Johnson*, 144 S. Ct. 2202 (2024)) that could have impacted the County's ability to respond to the Act. On June 28, 2024, the U.S. Supreme Court published an opinion in *City of Grants Pass* holding that local government ordinances that prohibit sleeping or camping on public property do not violate the Eighth Amendment's Cruel and Unusual Punishments Clause.

On November 19, 2024, the Board held a work session on homelessness. The Board discussed the Act and the options the County could take to attempt to cure alleged violations of the Act in an effort to reduce the County's risk of litigation. The Board discussed providing alternative lodging to people engaged in public camping or sleeping, using Florida's trespass statute codified in Section 810.09, Florida Statutes, and adopting an ordinance that prohibits public camping. The Board discussed the homelessness services being provided with the Board's

appropriation of approximately \$56,500,000 in funding for fiscal year 2024-2025, and the Board discussed how other jurisdictions were responding to the Act. In addition to offering alternative lodging when available, the Board directed staff to draft an ordinance that prohibits public camping.

At the public hearing on January 7, 2025, staff will present the draft public camping ordinance to the Board for adoption. In summary, the draft ordinance creates a new Section 26-111 of the Orange County Code that: (1) provides that Orange County's policy is not to authorize or otherwise allow any person to regularly engage in public camping or sleeping; (2) provides that the ordinance is effective in both incorporated and unincorporated Orange County (unless a municipality maintains a similar ordinance) and only applies to public property under Orange County's jurisdiction; (3) defines "public camping or sleeping" in a manner substantially similar to the Act; (4) prohibits public camping or sleeping on public property under Orange County's jurisdiction; (5) provides for notices of violations to be submitted electronically and contain certain information; and (6) provides for enforcement and penalties for violations and provides that the Board's intent is to achieve compliance through services, assistance, warnings, and other non-coercive measures.

ACTION REQUESTED: **Approval and execution of an Ordinance Pertaining to Public Camping or Sleeping in Orange County, Florida; Amending Chapter 26 ("Miscellaneous Provisions and Offenses"), Article VI ("Offenses Involving Public Places"); Creating Section 26-111 ("Public Camping or Sleeping, Prohibition, Notices, and Penalties"); Providing the Purpose; Providing the Scope and Applicability; Providing a Definition of Public Camping or Sleeping; Prohibiting Public Camping or Sleeping; Providing for Notices of Violations; Providing for Enforcement and Penalties; Providing for Repeal of Laws in Conflict; and Providing for Filing of Ordinance and Effective Date.**

IKG
Attachment