

City of South Daytona
Office of the City Manager

1672 S. Ridgewood Avenue • South Daytona, FL 32119 • 386/322-3014



MEMORANDUM

To: James L. Gillis Jr., City Manager
From: Becky Witte, Deputy City Clerk
Re: City Council consideration of Ordinance No. 2024-08, amending Section 10-7.1. of the City Code of Ordinances to prohibit sleeping, lodging, or residing overnight in a public place without a tent or temporary shelter. **First Reading. Public Hearing.**
Date: September 18, 2024

On March 20, 2024, Governor Ron DeSantis signed House Bill 1365, which has been codified as Chapter 2024-11, Laws of Florida. The new law is effective on October 1, 2024, and creates Section 125.0231, Florida Statutes. The purpose of the law is to regulate public camping and public sleeping and is focused on Florida’s homeless population, which is over 30,000 persons.

Unsheltered homeless persons’ primary nighttime residences, such as sidewalks, vehicles, abandoned buildings, and parks, are not suitable for habitation, which has a significant impact on a person’s health and safety. When enacting the new law, the Florida Legislature considered that jurisdictions that have placed restrictions on public camping have seen significant declines in the size of the homeless populations.

Section 125.0231, Florida Statutes, prohibits municipalities from authorizing any person from regularly engaging in public camping or sleeping on any public property, public building, or public right-of-way (“public property”) unless the county designates property for such purposes. The prohibition applies to residing overnight with or without a tent. It does not apply to residing overnight in a registered, insured motor vehicle which is parked in a lawful place, nor does it apply to camping for recreational purposes on property designated for such purposes.

City of South Daytona Code of Ordinances, Section 10-7.1., “Camping prohibited in public places,” generally prohibits public camping, but does not currently prohibit sleeping, lodging, or residing overnight in public places without a tent or temporary shelter. The attached ordinance amends Section 10-7.1. to comply with Section 125.0231, Florida Statutes, by prohibiting sleeping, lodging, or residing overnight in a public place without a tent or temporary shelter. It adds language to clarify that the activities prohibited by Section 10-7.1. do not include residing overnight in a registered, insured motor vehicle parked in a lawful place, or recreational camping in designated areas, again, to achieve consistency with Section 125.0231, Florida Statutes. The attached ordinance also allows a person sleeping in an outdoor space to be considered evidence of camping.

Staff proposes these changes to Section 10-7.1. to ensure consistency with the language of the new Section 125.0231, Florida Statutes.

Staff requests the council approve the first reading of Ordinance No. 2024-08, to amend Section 10-7.1. of the City Code of Ordinances to prohibit sleeping, lodging, or residing overnight in a public place without a tent or temporary shelter.

ORDINANCE NO. 2024-08

AN ORDINANCE OF THE CITY OF SOUTH DAYTONA, FLORIDA, AMENDING THE CITY OF SOUTH DAYTONA CODE OF ORDINANCES, CHAPTER 10, OFFENSES AND MISCELLANEOUS PROVISIONS, ARTICLE I, IN GENERAL, SECTION 10-7.1., CAMPING PROHIBITED IN PUBLIC PLACES, TO EXPAND THE PUBLIC CAMPING PROHIBITION TO INCLUDE SLEEPING, LODGING, OR RESIDING OVERNIGHT IN A PUBLIC PLACE WITHOUT A TENT OR TEMPORARY SHELTER; PROVIDING FOR EXCEPTIONS; REVISING CRITERIA CONSTITUTING EVIDENCE OF CAMPING; PROVIDING FOR FINDINGS; AND PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the City of South Daytona, Florida (the “City”) adopts certain rules and regulations in order to promote the health, safety, morals, convenience, order, prosperity, and general welfare of the present and future inhabitants of the City; and

WHEREAS, on March 20, 2024, Governor Ron DeSantis signed House Bill 1365, which has been enacted as Chapter 2024-11, Laws of Florida, and creates Section 125.0231, Florida Statutes, the purpose of which is to regulate public camping and public sleeping and is focused on Florida’s homeless population, which is over 30,000 persons; and

WHEREAS, while enacting House Bill 1365, the Florida Legislature considered evidence that approximately 50 percent of people experiencing homelessness in Florida were unsheltered, meaning their primary nighttime residence is a place not suitable for human habitation, such as sidewalks, vehicles, abandoned buildings or parks, and found that living unsheltered can have significant impacts on a person’s health and safety; and

WHEREAS, the City of South Daytona has a significant interest in providing a safe and pleasant environment and in eliminating public camping or sleeping on any public property, public building, or public right-of-way; and

WHEREAS, Section 10-7.1., City of South Daytona Code of Ordinances, restricts camping on public property within a tent or other temporary shelter; and

WHEREAS, the City Council of the City of South Daytona finds it appropriate to expand existing prohibitions on public camping to include sleeping, lodging, or residing overnight in a public place without a tent or temporary shelter; and

WHEREAS, the City of South Daytona City Council finds that it is in the best interest of the citizens of South Daytona to amend the South Daytona Code of Ordinances as set forth herein; and

WHEREAS, for purposes of this Ordinance, underlined type shall constitute additions to the original text, *** shall constitute ellipses to the original text and ~~strikethrough~~ shall constitute deletions to the original text.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOUTH DAYTONA, VOLUSIA COUNTY, FLORIDA, THAT:

SECTION 1. Recitals. The above recitals are true and correct and are incorporated herein by reference.

SECTION 2. Chapter 10, Offenses and Miscellaneous Provisions, Article I, In General, Section 10-7.1, Camping prohibited in public places, of the City of South Daytona Code of Ordinances is amended to read as follows:

Sec. 10-7.1. Camping prohibited in public places.

(a) *Definitions.*

(1) *Camping* means:

- a. Sleeping in a temporary shelter out-of-doors or otherwise being in a temporary shelter out-of-doors; or
- b. Cooking over an open flame or fire out-of-doors or utilizing non-city designated cooking facilities; or
- c. Sleeping, lodging, or residing overnight in an outdoor space without a tent or other temporary shelter.

(2) *Public place* means any public street, sidewalk, alley or other public right-of-way, pedestrian mall, park, playground, or government-owned areas within the city.

(b) *Prohibit activities.* It shall be unlawful for any person to engage in camping on any public place within the city unless specifically authorized for that purpose by the city manager or designee. This section shall not be construed to prohibit the following activities:

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

(2) Camping for recreational purposes on property designated for such purposes.

(c) *Evidence of camping.* Prior to enforcing a violation of this section, an officer must consider the following:

~~(1) Simply being asleep in a public place is not sufficient to constitute a violation of this section; and~~

(1) ~~(2)~~ Camping must be taking place in a public place; and

(2) ~~(3)~~ ~~The person who~~ Evidence of whether a person is engaged in camping must be inside or covered with material which provides a temporary cover from the elements, including may include, but is not limited to, the presence of a tent, sleeping bag, hammock, or blanket, cots, beds, tarpaulins, newspapers, cardboard, or foliage, or the storage of personal belongings, or the person has built a campfire, or placed other items out as a camp, or the person has built a campfire, or the person is asleep in an outdoor space, or other evidence of camping activities.

(d) *Enforcement and penalties.* Any person who is observed engaged in camping in an unauthorized area shall vacate the public place upon request of an authorized official or law enforcement officer.

The willful refusal to vacate the area shall be punished as a misdemeanor in accordance with this section 10-7.1.

SECTION 3. Codification. The provisions of this Ordinance shall become and be made a part of the City of South Daytona, Florida, Code of Ordinances, and the Sections of this Ordinance may be re-numbered or re-lettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word; provided, however, that portions other than Section 2 shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

SECTION 4. Conflicts. All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 5. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 7. Effective Date. This Ordinance shall take effect immediately upon enactment.

APPROVED upon first reading on the 24th day of September 2024 at a regular meeting of the City Council of the City of South Daytona.

APPROVED AND ADOPTED upon second and final reading on the 8th day of October 2024 at the regular meeting of the City of South Daytona City Council.

CITY OF SOUTH DAYTONA:

ATTEST:

William C. Hall, Mayor

James L. Gillis, Jr., City Manager

CERTIFIED AS TO FORM:

Wade C. Vose, City Attorney