

ORDINANCE NO. 2024-041

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA, AMENDING THE CITY'S CODE OF ORDINANCES, BY AMENDING CHAPTER 6, "BUILDINGS AND BUILDING REGULATIONS," ARTICLE III, "MINIMUM BUILDING PREMISES STANDARDS," SECTION 6-39, "ABANDONED REAL AND PERSONAL PROPERTY;" BY AMENDING CHAPTER 14, "OFFENSES," ARTICLE I, "IN GENERAL," TO CREATE SECTION 14-5, "TRESPASS APPEALS;" BY AMENDING CHAPTER 15, "PARKS AND RECREATION," ARTICLE II, "RULES AND REGULATIONS," SECTION 15-24, "RECREATIONAL ACTIVITIES;" AND BY AMENDING CHAPTER 17, "STREETS, SIDEWALKS, WATERWAYS AND OTHER PUBLIC PLACES," TO CREATE ARTICLE V, "PUBLIC CAMPING OR SLEEPING," IN ORDER TO PROHIBIT PUBLIC CAMPING AND SLEEPING ON PUBLIC PROPERTY AND PROVIDE FOR TRESPASS OF VIOLATIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, during the 2024 Legislative Session, the Florida Legislature adopted House Bill 1365, which created Section 125.0231 Florida Statutes, prohibiting unauthorized public camping and sleeping on public property; and

**WHEREAS**, the new law creates a state-wide prohibition on regular public camping or sleeping on any public property within the State and mandates enforcement of the prohibition by local governments; and

**WHEREAS**, it is the policy of the City of Coconut Creek that public sidewalks, streets, alleyways, parks, greenways, natural areas, walkways, pathways, and pedestrian areas should be readily accessible and available for use by residents, visitors, and the public at large for their safe enjoyment; and

**WHEREAS**, public places in the City are maintained in a clean and sanitary condition for the safe enjoyment of and preservation for all residents, visitors, and the public at large; and

**WHEREAS**, the use of public areas by individuals for public camping interferes with the rights of residents, visitors, and the public to freely use public spaces for the purpose for which they were intended; and

**WHEREAS**, the prohibition on public camping and sleeping in public places in the City will further the public health and the safety of residents and visitors to the City; and

**WHEREAS**, the City desires to prohibit unauthorized public camping and sleeping on public property; and

**WHEREAS**, the City Commission has concluded that an individual, once warned as to the prohibition on camping in public places, need not be warned again prior to the commencement of any enforcement action; and

**WHEREAS**, the City Commission finds and determines that this ordinance is in the best interest of the health, safety, and welfare of the City.

**NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF COCONUT CREEK HEREBY ORDAINS:**

**Section 1: Ratification.** That the foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this ordinance.

**Section 2: Code Amendment.** That the Code of Ordinances of the City of Coconut Creek, Florida, is hereby amended by amending Chapter 6, "Buildings and Building Regulations," Article III, "Minimum Building Premises Standards," Section 6-39, "Abandoned real and personal property," to read as follows:

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Words in underscored type are additions to existing text.  
A line of \*\*\* indicates existing text not shown.

**Section 6-39. - Abandoned real and personal property.**

- (a) *Purpose and intent.* It is the purpose and intent of the City to establish a process to address the number of abandoned personal and real properties located within the City. It is the City's further intent to specifically establish an abandoned residential property program as a mechanism to protect residential neighborhoods from becoming blighted through the lack of adequate maintenance and security of abandoned properties.
- (b) *Definitions.* The following words, terms, and phrases when used in this section shall have the meanings ascribed to them in this section except where the context clearly indicates a different meaning:
  - (1) *Abandoned personal property* means wrecked or derelict property, which has been left abandoned and unprotected from the elements and shall include wrecked, inoperative, or partially dismantled motor vehicles, trailers, boats, machinery, refrigerators, washing machines, plumbing fixtures, furniture, and any other similar article which has been left abandoned and unprotected from the elements. Personal belongings as identified in Section 17-93, "Personal belongings," shall not be classified as Abandoned Personal Property under this Section 6-39.

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**Section 3: Code Amendment.** That the Code of Ordinances of the City of Coconut Creek, Florida, is hereby amended by amending Chapter 14, "Offenses," Article I, "In General," by creating Section 14-5, "Trespass Appeals," to read as follows:

**Section 14-5. – Trespass Appeals.**

- (a) A person to whom a trespass warning is issued under the City Code of Ordinances or state law shall have the right to appeal as follows:
  - (1) An appeal of the trespass warning must be filed, in writing, within ten (10) calendar days of the issuance of the warning with the Director of Sustainable Development, or designee, and shall include the appellant's name, address, and phone number, if any.
  - (2) Appeals shall be heard by the City's Code Enforcement Special Magistrate.
  - (3) Within ten (10) calendar days following the filing of the appeal, the Special Magistrate shall schedule the appeal for hearing. Notice of the hearing shall be provided to the appellant in the following ways:
    - a. By posting the notice at the City Hall.
    - b. By regular United States mail if an address has been provided; provided, however, that, in the event of non-delivery, then the notice posted at the City Hall shall be sufficient.

- (4) The Special Magistrate shall hold the hearing as soon as possible. In no event shall the hearing be held sooner than seven (7) calendar days following the filing of the appeal and no later than forty-five (45) calendar days from the filing of the appeal.
  - (5) Copies of documents in the City's control which are intended to be used at the hearing, and which directly relate to the issuance of the trespass warning to the appellant, shall be made available upon request to the appellant.
  - (6) The appellant and the City shall have the right to attend with an attorney at their own expense, the right to testify, to call witnesses, to cross-examine witnesses and to present evidence. The appellant shall have the right to bring a court reporter at his or her own expense.
  - (7) The Special Magistrate shall consider the testimony, reports, or other documentary evidence, and any other evidence presented at the hearing. Formal rules of evidence shall not apply, but fundamental principles of administrative due process shall govern the proceedings.
  - (8) The City shall bear the burden of proof by clear and convincing evidence that the trespass warning was properly issued pursuant to the applicable provisions of the City Code or state law.
  - (9) If the appellant fails to attend a scheduled hearing, the Special Magistrate shall review the evidence presented and determine if the trespass warning was properly issued pursuant to the applicable law.
  - (10) Within fourteen (14) calendar days of the hearing, the Special Magistrate shall issue a written decision on the appeal, which shall be mailed to the appellant at the address provided. If no address is provided, a copy of the decision shall be posted at the City Hall for thirty (30) calendar days.
  - (11) The decision of the Special Magistrate shall be final action of the City and the appellant shall be deemed to have exhausted all administrative remedies. Such decision may be subject to judicial review in the manner provided by law. The City may not appeal any decision of the Special Magistrate.
  - (12) The trespass warning shall remain in effect during the appeal and review process, including any judicial review.
- (b) This section is not applicable to Trespass Warnings that result in arrest.

**Section 4: Code Amendment.** That the Code of Ordinances of the City of Coconut Creek, Florida, is hereby amended by amending Chapter 15, "Parks and Recreation," Article II, "Rules and Regulations," Section 15-24, "Recreational Activities," to read as follows:

**Section 15-24. - Recreational activities.**

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- (d) Picnic areas and use:
  - (1) The director shall designate those areas of a park where picnicking is permitted. No person shall have a picnic other than in a designated picnic area.
  - (2) Individual ~~fireplaces~~ grills, tables and picnic areas shall be available on a first-come, first-served basis. Group picnic facilities require a permit which must be obtained in advance from the director.
  - (3) It is prohibited and unlawful for any person at a park to use a table, bench or other improvement to engage in sleeping, camping, or lodging under the guise of having a picnic or meal.
- ~~(e)~~ Camping:
  - ~~(1) No person shall camp in a park, except in areas that have been so designated by the director.~~
  - ~~(2) No person shall camp in a park without first obtaining a camping permit from the director.~~
- ~~(f)~~ Fires:
  - (1) No person shall start or maintain any outdoor fire except in designated areas. Fires shall be limited to cooking on picnic grills. No ground fires are permitted.
  - (2) Cooking fires shall be started and maintained only in a stove, ~~fireplace~~ grill or barbecue pit maintained by the department. Fuels used in cooking fires shall not produce any noxious fumes or smoke.
  - (3) No person starting or maintaining any fire in a park shall leave the area without first extinguishing the fire.
- ~~(g)~~ Animals:
  - (1) No person in a park shall:
    - a. Permit the entry of any animal into park areas, except in such areas that are clearly marked by signs permitting domestic animals;
    - b. Abandon any animal in any city park or at any city recreational facility.
  - (2) The prohibitions of this section shall not apply to:
    - a. Horses or dogs used by the public safety department; or
    - b. Trained dogs necessary to the aid of physically handicapped persons.
- ~~(h)~~ Games and activities. No activities shall take place in any park involving the use of arrows, golf balls, javelins or model airplanes, or any other dangerous equipment, except in areas so designated. The playing of organized games such as soccer, football and baseball is prohibited, except on fields, courts or areas so designated by the director.

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**Section 5: Code Amendment.** That the Code of Ordinances of the City of Coconut Creek, Florida, is hereby amended by amending Chapter 17, "Streets,

Sidewalks, Waterways and Other Public Places," by creating Article V, "Public Camping or Sleeping," to read as follows:

## **ARTICLE V. PUBLIC CAMPING OR SLEEPING**

### **Section 17-90. - Definitions.**

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

*City* means the City of Coconut Creek, Florida, or the area within the territorial limits of the City of Coconut Creek over which the City has the jurisdiction or control by virtue of ownership or any constitutional or Charter provisions, or any law.

*Heating device* means a camp stove, grill, heater, or other container or device capable of generating or containing an open flame.

*Officer* means a sworn law enforcement officer or authorized agent or employee of the City so designated in Chapter 2, Article V of the City Code whose duty it is to ensure Code compliance.

*Public camping or sleeping* means to engage in sleeping, camping, or lodging, or to pitch or occupy a tent or other temporary shelter for sleeping or other habitation purposes or sleeping, camping, lodging or residing overnight in an outdoor space without a tent or other temporary shelter. Camping may include the use of camping equipment, sleeping or otherwise being in a temporary shelter out-of-doors, sleeping out-of-doors; or cooking over an open flame or fire out-of-doors. Evidence of camping includes, but is not limited to, a person occupying public property, a person is inside a tent or sleeping bag, or is covered by materials such as blankets, newspapers, cardboard, or is inside some form of temporary shelter, a person has built a campfire, a person is asleep and when awakened he or she volunteers that he or she has no home or other permanent shelter, or when an area is being used to dispose of human waste.

*Public property* means an outdoor area to which the public has access, including but not limited to public rights-of-way, parks, greenways, natural areas, streets, sidewalks, hiking and biking trails, transit facilities, underpasses and parking lots within the boundaries of the City.

*Proper Identification* means a driver's license, a government or employment identification card with a photograph, a passport, or other form of photo-bearing identification, which would satisfy a reasonable law enforcement officer as to the identity of the person.

### **Section 17-91. - Prohibitions.**

- (a) Public Camping is prohibited on all public property, except as may be specifically authorized by the appropriate governmental authority.

- (b) Public Camping is prohibited on all private property in the City provided, however, that camping is permitted on such property with the permission and consent of the property owner.
- (c) It shall be unlawful for any person to camp, lodge, or sleep in, on, or about any automobile, truck, camping, or recreation vehicle, or similar vehicle in any public street, public way, right-of-way, parking lot, or other public property, within the limits of the City.

### **Section 17-92. - Procedure for enforcement.**

- (a) Preliminary enforcement procedures. Before issuing a warning or making an arrest of a person for a violation of Section 17-91, "Prohibitions," an Officer shall implement the following preliminary enforcement procedures:
  - (1) Attempt to ascertain whether the person is in need of medical or social services assistance, including, but not limited to services for mental health, drugs or alcohol. If the Officer determines that the person is in need of such assistance, the Officer shall afford the person an opportunity to be transported to either a medical facility or a public shelter and shall make available such transportation as may be available for such purpose.
  - (2) If the person is not in need of medical or social services assistance or is in need of such services and has refused to be transported to a public shelter or medical facility, the Officer shall orally request or order the person to refrain from the alleged violation of Section 17-91, "Prohibitions."
  - (3) The Officer shall provide a reasonable time (two hours) after issuance of the request or order for the person to pick up his or her belongings and comply.
  - (4) If a person elects to be transported to a public shelter or medical facility, or if the person complies with the Officer's order within the proscribed time, the person shall not be charged with a violation of Section 17-91, "Prohibitions."
- (b) Citation and arrest. If after implementing Section 17-92(a), "Preliminary Enforcement Procedures," the person continues to violate Section 17-91, "Prohibitions," he or she may be given a warning or may be arrested as provided in Section 17-94, "Penalties."
- (c) Notice regarding personal belongings. Upon initiating transport to a public shelter or medical facility or upon an arrest pursuant to this Article, the Officer shall advise the person that all of his or her personal property, which is not taken with the person when they are transported, except that which is in an unsanitary condition, shall be inventoried and stored by the city for a maximum of thirty (30) calendar days, until reclaimed pursuant to Section 17-93, "Personal belongings."

### **Section 17-93. - Personal belongings.**

- (a) Personal property inventoried and stored by the city pursuant to this Article V, "Public Camping or Sleeping," shall not be deemed abandoned personal property under Section 6-39, "Abandoned real and personal property," of the City's Code of Ordinances, but shall be stored, released, and disposed of pursuant to this Section 17-93, "Personal belongings."
- (b) Any personal property that was inventoried and stored by the city for a person transported to a medical facility or public shelter under the provisions of this Article or arrested pursuant to this Article for trespass, nuisance, or a violation of this Article, which has not been reclaimed within thirty (30) calendar days of the date the personal property was inventoried and stored shall be deemed abandoned and disposed of according to Chapter 705, Florida Statutes.

### **Section 17-94. - Penalties.**

- (a) Trespass. A person who violates Section 17-91, "Prohibitions," may be issued trespass warnings as follows:
  - (1) For the first violation, the person may be issued a trespass warning for a period not to exceed one (1) year and will be subject to arrest if they violate the trespass warning under Chapter 810, Florida Statutes.
  - (2) For a second or subsequent violation, the individual may be issued a trespass warning for a period not to exceed two (2) years and will be subject to arrest under Chapter 810 Florida Statutes.
  - (3) Any person found on or within city property or a city facility in violation of a trespass warning may be arrested for trespassing, except as otherwise consistent with the provisions of this section and controlling state law.
  - (4) The City Manager, or designee, may authorize an individual who has received a trespass warning to enter the property or premises to exercise his or her First Amendment rights if there is no other reasonable alternative location to exercise such rights or to conduct necessary municipal business. Such authorization must be in writing, shall specify the duration of the authorization and any conditions thereof, and shall not be unreasonably denied.
- (b) Public Nuisance. A person who violates Section 17-91, "Prohibitions," may be arrested and charged with a public nuisance pursuant to Sections 125.0231, 823.01, and 823.05, Florida Statutes.
- (c) Additional Remedies. Section 17-94, "Penalties," shall not be construed to limit the authority of Law Enforcement Officers of the City's Police Department to cite or arrest individuals for violating any City or County ordinance or State law.

**Section 17-95. – Public camping or sleeping; complaints.**

- (a) Upon discovery of an individual regularly violating Section 17-91, “Prohibitions,” a resident of the City, a business located in the City of Coconut Creek, or the Florida Attorney General, may provide written notice of a violation of Article V, “Public Camping and Sleeping.”
- (1) The City Manager shall designate an e-mail address, or other electronic submission method, to be displayed on the City website to serve as the primary means of receiving such written notice.
- (2) 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) of the alleged violation;
  - c. A description or photograph of the alleged violator; and
  - d. Any other information that will assist the City to address or otherwise cure the alleged violation.

**Section 6: Conflicts.** That all ordinances or parts of ordinances, all City Code sections or parts of City Code sections, and all resolutions or parts of resolutions in conflict with this ordinance are hereby repealed to the extent of such conflict.

**Section 7: Severability.** That should any section or provision of this ordinance or any portion thereof, any paragraph, sentence, clause or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part hereof other than the part declared invalid.

**Section 8: Codification.** That the provisions of this ordinance shall be codified within the Code of Ordinances of the City of Coconut Creek, Florida, and any paragraph or section may be renumbered to conform to the Code of Ordinances.

**Section 9: Effective Date.** That this ordinance shall become effective upon its passage on second and final reading.

**PASSED FIRST READING THIS 26<sup>TH</sup> DAY OF SEPTEMBER, 2024.**

**PASSED SECOND READING THIS 24TH DAY OF OCTOBER, 2024.**

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Sandra L. Welch, Mayor

Attest:

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Joseph J. Kavanagh, City Clerk

	<u>1<sup>st</sup></u>	<u>2<sup>nd</sup></u>
Welch	<u>Aye</u>	<u>Aye</u>
Railey	<u>Aye</u>	<u>Aye</u>
Rydell	<u>Aye</u>	<u>Aye</u>
Brodie	<u>Aye</u>	<u>Aye</u>
Wasserman	<u>Aye</u>	<u>Aye</u>

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