

ORDINANCE 2024 - ____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA CREATING SECTION 16 OF CHAPTER 306, TITLED “PROHIBITION OF PUBLIC CAMPING OR SLEEPING WITHIN COUNTY BUILDINGS, OR ON ITS GROUNDS, STREETS, SIDEWALKS, RIGHT-OF-WAY AND OTHER PUBLIC PROPERTY”; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

RECITALS

WHEREAS, the Florida Legislature in adopting Florida Statute 125.0231, has made it impermissible, effective October 1, 2024, for counties and municipalities to authorize or otherwise allow public camping or sleeping on any public property, including, but not limited to public buildings, public grounds, right-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 Florida Statute 125.0231, was to fulfill the important state interest of ensuring the health, safety, welfare, quality of life, and aesthetics of Florida communities; and

WHEREAS, Florida Statute 125.0231 places an obligation on counties and cities to proactively avoid violations of the new law or face civil actions by residents, business owners, and/or the Attorney General, who may enjoin violations of the new law and obtain damages including attorneys’ fees and costs; and

WHEREAS, County staff has conferred with law enforcement to determine the best approach forward to enforce the provisions of Florida Statute 125.0231; and

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

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

NOW THEREFORE, be it ordained by the Board of County Commissioners of Indian River County as follows:

Section 1. Findings

The above recitals are true and correct and are hereby incorporated herein as if they had been set forth in their entirety.

Section 2. Chapter 306.16 titled “Prohibition of Public Camping or Sleeping Within County Buildings, Its Grounds, County Streets, Sidewalks, Right-of-Way, and Other Public Property”, Chapter 306.16 of the INDIAN RIVER County Code of Ordinances, is hereby created as follows (note strikethrough text indicates deletions, underline text indicates additions):

Section 306.16. Prohibition of Public Camping or Sleeping within County Buildings, Or on Its Grounds, Streets, Sidewalks, Right-of-Way, and Other Public Property.

- (1) It shall be unlawful for any person to publicly camp or sleep in any County owned building or upon its grounds unless designated for public camping and sleeping for recreational purposes by the County. For purposes of this prohibition, grounds shall include the entirety of the parcel of property owned by the County beyond the building, including, but not limited to, grass areas, sidewalks and parking facilities.
- (2) It shall be unlawful for any person to publicly camp or sleep on any County owned street, sidewalk, right-of-way or other County owned property unless designated for public camping and sleeping for recreational purposes by the County.
- (3) For purposes of this section, “Public Camping or Sleeping” shall have the following meaning:
 - (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 by permit holders on property designated by the County for such purposes.
- (4) A person who violates this code section and refuses to obey an order to leave the public property, may be subject to punishment as provided for in Indian River County Code Section 100.05. In addition, law enforcement may pursue trespass violations in accordance with chapter 810, Florida Statutes against any person violating this code section and may remove a person who fails to comply with an order to leave.

Section 6. Conflicts. In any case where a provision of this Ordinance is found to be in conflict with a provision of any other ordinance of the County, the provision which establishes the higher standards for the promotion and protection of the health and safety of the people shall prevail.

Section 7. Severability. If any portion of this Ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holding shall not affect the remaining portions of this Ordinance. If this Ordinance or any provision thereof shall be held to be inapplicable to any person, property or circumstances, such holding shall not affect its applicability to any other person, property or circumstances.

Section 8. Codification. It is the intention of the Board that the provisions of this Ordinance shall become a part of the County’s Code of Ordinances, as amended. The provisions of this Ordinance may be renumbered or re-lettered and the word “ordinance” may be changed to “section,” “article” or other appropriate word to accomplish such intention.

Section 9. Effective date. The provisions of this Ordinance shall take effect as provided by law.

This ordinance was advertised in the *Indian River Press Journal* on the ____ day of _____, 2025, for a public hearing to be held on the ____ day of _____, 2025, at which time it was moved for adoption by Commissioner _____, seconded by Commissioner _____, and adopted by the following vote:

Chairman Joseph E. Flescher	_____
Vice Chairman Deryl Loar	_____
Commissioner Susan Adams	_____
Commissioner Joseph H. Earman	_____
Commissioner Laura Moss	_____

The Chairman thereupon declared the ordinance duly passed and adopted this ____ day of _____, 2025.

Attest: Ryan Butler , Clerk and
Comptroller

BOARD OF COUNTY COMMISSIONERS
INDIAN RIVER COUNTY, FLORIDA

By _____
Deputy Clerk

By _____
Joseph E. Flescher, Chairman

Approved as to form and
legal sufficiency:

By _____

Christopher A. Hicks, Assistant County Attorney

Effective Date: This ordinance was filed with the Department of State and becomes effective on the _____ day of _____, 2025.