

ORDINANCE NO. 2017-

AN ORDINANCE OF SARASOTA COUNTY, FLORIDA, CREATING ARTICLE V OF CHAPTER 90 OF THE CODE OF ORDINANCES OF SARASOTA COUNTY, FLORIDA, RELATING TO QUALITY OF LIFE CONCERNING HOMELESSNESS; CREATING SECTION 90-94 APPLICABILITY; CREATING SECTION 90-95 FINDINGS OF FACT; CREATING SECTION 90-96 DEFINITIONS; CREATING SECTION 90-97 CAMPING PROHIBITED WITH EXCEPTIONS; CREATING SECTION 90-98 STORAGE OF PERSONAL PROPERTY; CREATING SECTION 90-99 ENFORCEMENT AND PENALTIES; CREATING SECTION 90-100 SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners seeks to discourage unlawful activity, on public property;

WHEREAS, the Board of County Commissioners seeks to maintain a safe and orderly environment on public property;

WHEREAS, the Board of County Commissioners recognizes an individual's constitutionally-protected liberty interest to be in or on public property of their choosing when such public property is generally open to the public;

WHEREAS, the Board of County Commissioners desires to avoid criminalization of the use of temporary shelters and storage of personal property on public property and public rights-of-way, and instead bring about voluntary compliance;

WHEREAS, in April 2017, the Florida Housing Coalition released its final report entitled, "Sarasota: Creating an Effective Homeless Crisis Response System";

WHEREAS, the final written report from the Florida Housing Coalition recommends that an effective homeless crisis response system serves to promote engagement into holistic programs, and not "criminalize" the condition of homelessness; and

WHEREAS, the Board of County Commissioners seeks to balance the need to protect property with efforts to avoid criminalizing the condition of homelessness.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY:

SECTION 1. Article V of Chapter 90 of the Code of Ordinances of Sarasota County, Florida, entitled "Camping and Storage of Personal Property on Public Property," is hereby created.

SECTION 2. Section 90-94 of the Code of Ordinances of Sarasota County, Florida, is hereby created as follows:

Sec. 90-94. Applicability

This article shall be applicable to all of the unincorporated area of Sarasota County.

SECTION 3. Section 90-95 of the Code of Ordinances of Sarasota County, Florida, is hereby created as follows:

Sec. 90-95. Findings of Fact.

(1) Sarasota County population of individuals without homes has been documented by the following activities.

(a) In January 2017, the Suncoast Partnership to End Homelessness conducted the 2017 Point-in-Time Survey, which is a one day count of individuals without homes. The result of the survey identified 877 individuals.

(b) According to data collected by Sarasota County Health and Human Services for calendar year 2016, individuals without homes on average represent 15% of the Sarasota County Jail's population, 53% of admissions to the Addiction Receiving Facility, 46 % of admissions to the Mental Health Crisis Stabilization Unit and 3.2 % of all Sarasota County 911 emergency medical calls.

(2) The financial costs for Fiscal Year 2017 to Sarasota County related to direct and indirect homeless services, through not-for-profit organizations, has been identified at \$ 3,194,833.

(3) The financial costs for calendar year 2016 to Sarasota County's Emergency Medical Service (EMS) to respond and transport individuals without homes to medical care and provide initial medical assessment has been identified at \$1,960,339.

(4) The cost for calendar year 2016 to incarcerate individuals without homes in the Sarasota County Jail has been identified at \$3,372,600.

(5) The EMS and jail costs provide only crisis stabilization services and by nature are not designed to treat the root causes of homelessness.

(6) The local not-for-profit organizations regularly report to the Office of Homeless Services that while their services provide treatment, the lack of available housing and sheltering interfere with the ability to provide continuum of care services to those in need.

(7) Sarasota County Human Services has identified that while currently there are 937 beds in the community to include emergency shelter, transitional housing and permanent housing, all of these beds have restricted access. Sarasota County currently has zero unrestricted beds available for individuals without homes.

(8) Sarasota County currently has no facility with unrestricted beds to accommodate individuals without homes 24 hours a day, 7 days per week.

(9) On April 17, 2017 the Florida Housing Coalition recommended to the City of Sarasota Commission and on April 25, 2017 recommended to the Sarasota County Commission the establishment of an emergency shelter with unrestricted beds where individuals without homes may remain 24 hours a day, 7 days a week to receive services to address their root causes of homelessness and divert their use of the jail and emergency room.

(10) Sarasota County Government manages and protects public lands and facilities such as parks, beaches, preserves, libraries, office buildings and transportation centers to ensure public access, health, and welfare so all citizens and visitors have the opportunity to use lands, open spaces and buildings for their intended purposes including recreation, exchange of information, operation of government, and conveyance of persons, respectively.

(11) Unpermitted camping on public lands and facilities such as parks, beaches, preserves, libraries, office buildings, and transportation facilities interferes with public access and their intended public purpose.

(12) Unpermitted camping on public lands and facilities may result in trespassing, unattended fires, public disturbances, public intoxication, public urination or defecation, litter, or other public health and safety problems.

(13) Unpermitted camping results in incompatible use of property, resulting in diminished property values.

(14) Unpermitted camping on public streets, sidewalks, and walkways interferes with their primary purposes of pedestrian and vehicle use.

(15) It is the intent of the Board of County Commissioners to protect public lands and buildings for their intended purposes while ensuring a shelter, free of restrictions and available 24 hours a day, 7 days a per week for individuals without homes to conduct necessary life-sustaining activities.

(16) The storage of personal property on public property likewise interferes with its intended uses.

(17) The plight of individuals without homes who must perform certain life-sustaining activities, such as sleeping outdoors due to a lack of available space in an Available Shelter, storage of personal property outdoors, or public urination, should not be resolved through criminal sanction, but rather by encouraging the Individual Without a Home to seek temporary lodging and aid from social services at an Available Shelter.

SECTION 4. Section 90-96 of the Code of Ordinances of Sarasota County, Florida, is hereby created as follows:

Sec. 90-96. Definitions

The following definitions shall apply to the interpretation and enforcement of this Article:

Abandoned Property shall have the same meaning as defined in Chapter 705, Florida Statutes.

Available Shelter shall mean a private or public shelter for an individual without a home, with a bed for sleeping and restrooms provided at no cost to the individual without a home, within the territorial boundaries of Sarasota County, that treats individuals without a homes with dignity and respect, accepts those who may be impaired by the use of drugs and/or alcohol, imposes no religious requirements, does not impose involuntary substance abuse or mental health treatment, allows the storage of a reasonable amount of personal property, and is available 24 hours a day, 7 days a week, except for routine maintenance and cleaning.

Beach means any sandy or rocky area located waterward or seaward of the vegetation line or a bluff. Where a functioning shore-parallel seawall or rock revetment exists, the beach shall constitute the sandy or rocky area located seaward or waterward thereof.

Code Enforcement Officer means any employee or agent of Sarasota County designated by the County Administrator to enforce the codes and ordinances enacted by the Board of County Commissioners of Sarasota County.

County Administrator means the County Administrator or duly authorized representative.

County Park means Public Beach Parks, Public Natural Areas, Public Recreation Areas, other County-owned public lands maintained for the protection and preservation of their natural features or historic significance, including the facilities and amenities located within. The term also includes Designated City Parks and School Board Facilities as defined in this Article.

Individual without a Home shall mean a person that lacks a fixed, regular, and adequate residence or has a primary residency that is: (a) a supervised publicly or privately operated shelter designed to provide temporary living accommodations; (b) an institution that provides a temporary residence for individuals intended to be institutionalized; or (c) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. The term does not include any person imprisoned or otherwise detained pursuant to general law.

Law Enforcement Officer shall mean a deputy sheriff with the Sarasota County Sheriff's Office or any other sworn law enforcement officer certified pursuant to Chapter 943, Florida Statutes.

Lost Property shall have the same meaning as provided in Chapter 705, Florida Statutes.

Permit means written authorization issued by the County: (a) to use a County Park or Designated City Park; or (b) participate in a program or event at a County Park or Designated City Park in accordance with County Parks General Facility Use Guidelines available for review at www.scgov.net/parks.

Public Property shall mean property owned, leased, operated or managed by a government or one of its agencies, divisions or entities, including but not limited to structures, conveyances, County Park, trails, playgrounds, Public Right-of-Way, libraries, docks, pavilions, parking lots, vacant lots, fenced land, posted land, easements, and other property generally used by the public.

Public Right-of-Way shall mean land in which the state, the Florida Department of Transportation, a county, or other public entity owns the fee or has an easement associated with any Road, including the Road Surface and Sidewalk.

Public Beach Park means any public parkland owned, leased, or operated by the County that is contiguous to a Beach or separated by a roadway from a Beach that is located along the Gulf of Mexico and/or Big Sarasota Pass, any Sarasota bay, Venice Inlet, or a reestablished Midnight Pass, including parking areas associated with the Public Beach Park.

Public Natural Area means any property owned, leased, or operated by the County for public use and preservation of its natural resources.

Public Recreation Area means any property owned, leased, or operated by Sarasota County or the municipalities and used for a public park including, but not limited to, parking areas and public accesses associated with the Public Recreation and Public Natural Areas.

Public Restroom means a restroom which is dedicated to public use where any person may avail him or herself of a toilet or urinal and sink without requiring the permission of any other person or business.

Road shall mean the Road Surface, medians, travel lanes, turn lanes and all ways open to travel by operators of motorized vehicles within Sarasota County. The definition excludes private roads and roads that are not open to motor vehicle travel, and Sidewalks open for pedestrian travel.

Road Surface shall mean the flat paved or concrete area of the road intended for vehicular use, including any bicycle or breakdown lanes, gutters, and any curb to the top of the curb abutting the paved or concrete area.

School Board Facility means a facility or space owned by the Sarasota County School Board and managed by the County that is used as a Public Recreation Area pursuant to an agreement or permit.

Sidewalk shall mean that portion of the Right-of-Way between the Road Surface and the adjacent property lines intended for use by pedestrians. A sidewalk may be paved or unpaved.

Store or Storage shall mean any action place, leave, park, or set an item upon Public Property, Public Right-of-Way, or private property for a period of time in excess of twenty-four (24) hours.

SECTION 5. Section 90-97 of the Code of Ordinances of Sarasota County, Florida is hereby created as follows:

Sec. 90-97. Camping Prohibited; Exceptions.

(1) *Prohibition of Camping.* It shall be unlawful and a violation of the Code for any person to knowingly Camp, except as otherwise provided in this Code.

(2) *Camp or Camping Defined.* Camp or camping shall mean lodging out-of-doors, which must include demonstration of at least one of the following elements:

(a) the laying down of bedding, such as a blanket, sleeping bag, bed roll, newspapers, cardboard, or similar material, for sleeping purposes; or

(b) the erection, use, or occupation of any tent, hut, lean-to, shack, temporary shelter, hammock, or the like, for sleeping purposes.

(3) *Additional Elements of the Offense.* A law enforcement officer must also:

(a) observe one or more of the following:

(1) numerous items of personal belongings in and around the bedding, tent, hut, lean-to, shack, temporary shelter, hammock or the like;

(2) evidence of existing or past cooking activities;

(3) evidence of an existing or past fires;

(4) evidence of digging or earth breaking activities;

(5) evidence of public urination or defecation outside of a toilet or urinal connected to a septic system, central sewer system, or other sanitary disposal system; or

(6) the person is asleep.

(b) afford the person the opportunity to remove any bedding, tent, hut, lean-to, shack, temporary shelter, hammock, or the like, without a return to Camping;

(c) find that Available Shelter exists;

(d) provide the person details of the Available Shelter in writing, including the following:

(1) the Available Shelter may be used at no cost;

(2) use of the Available Shelter does not require sobriety;

- (3) use of the Available Shelter does not include any religious imposition;
- (4) use of the Available Shelter does not require mental or substance abuse treatment;
- (5) the Available Shelter provides a place to store a reasonable amount of personal property; and
- (6) the Available Shelter may be used 24 hours a day, 7 days a week, except during times of routine maintenance and cleaning.

(e) afford the person the opportunity for free transport to Available Shelter; and

(f) hear or observe the person’s refusal of the offer for free transport to Available Shelter.

(4) *Exceptions.* The prohibition in subsection (1) of this section shall not apply under any of the following circumstances:

- (a) To any person using any County Park during posted hours of operation and in accordance with any posted rules.
- (b) To any person who is using a camping area approved by the County or municipalities and in accordance with any posted rules.
- (c) Any conduct which is in conformity with the conditions of any permit pursuant to this Code.
- (d) To any person camping with the permission of the County Administrator.
- (e) To any person who has an active trespass warning issued within the past year associated with the Available Shelter.

SECTION 6. Section 90-98 of the Code of Ordinances of Sarasota County, Florida, is hereby created as follows:

Sec. 90-98. Storage of Personal Property

(1) *Storage of Personal Property.* It shall be unlawful for any person to knowingly Store personal property in or on Public Property or Public Right-of-Way.

(2) *Removal of Personal Property.* A person shall not be charged with a violation of this section if the person removes or causes to be removed all prohibited items from any Public Property, Public Right-of-Way, or private property immediately after warning and does not return any personal property to any Public Property or Public Right-of-Way.

(3) *Destruction of Personal Property of an Individual without a Home.* With the exception of any personal property that poses a health hazard to officers or members of the public, in no event shall a Law Enforcement Officer, Code Enforcement Officer, or outreach worker destroy any personal property known to belong to an individual without a home, or readily recognizable as property belonging to an individual without a home (i.e., bedding or clothing or other belongings organized or packaged together in a way indicating it has not been abandoned) except as specified in this section.

(4) *Handling Personal Property of an Individual without a Home.* A Law Enforcement Officer, Code Enforcement Officer, or outreach worker shall make a reasonable attempt to ascertain the rightful owner of the personal property stored in violation of subsection (1) and request its removal. When collecting and disposing of the personal property, whether found on public or private property, the procedure detailed in Chapter 705, Florida Statutes, shall be followed. All Abandoned Property may be disposed of consistent with Chapter 705, Florida Statutes. All Lost Property shall be moved to a secure indoor or outdoor location until claimed or otherwise disposed of through the procedure detailed in Chapter 705, Florida Statutes.

(5) *Transport of Personal Property to an Available Shelter.* A Law Enforcement Officer who offers free transport to an Individual without a Home to an Available Shelter shall allow that individual the opportunity to take a reasonable amount of personal property with them to the Available Shelter. For any personal property which cannot be reasonably transported to the Available Shelter, a Law Enforcement Officer shall contact a Code Enforcement Officer or outreach worker to take possession of the remaining personal property for disposition consistent with Chapter 705, Florida Statutes.

(6) *Imminent Threat.* In the event a Law Enforcement Officer, Code Enforcement Officer, or outreach worker determines that any personal property located on Public Property, Public Right-of-Way, or private property constitutes an imminent threat to the health, safety, and welfare of the public, the officer or outreach worker may immediately remove such property. Examples of an imminent threat include a fire hazard, an explosive hazard, or an infestation of vermin such as rodents, lice, cockroaches, or fleas. The procedure detailed in Chapter 705, Florida Statutes shall be followed. In the interest of security and safety, permanent signs warning of the immediate removal of personal property from Public Property may be posted around public buildings which are likely targets by terrorists or dissidents.

SECTION 7. Section 90-99 of the Code of Ordinances of Sarasota County, Florida, is hereby created as follows:

Sec. 90-99. Enforcement and Penalties.

(1) *Enforcement by Law Enforcement Officers.* This article shall be enforced by a Law Enforcement Officer. Violations of this section shall be prosecuted in the same manner misdemeanors are prosecuted pursuant to section 125.69, Florida Statutes, punishable by a fine not to exceed \$500.00 or by imprisonment in the County jail not to exceed 60 days or by both such fine and imprisonment. Each day of continued violation or

noncompliance shall be considered as a separate offense. A Law Enforcement Officer shall secure all personal items of an arrestee in a manner consistent with Section 90-98 of this Code. After the personal items are secure, a Law Enforcement Officer may contact a Code Enforcement Officer to take possession of the items for storage in accord with the requirements of Chapter 705, Florida Statutes.

(2) *Civil Remedies.* Nothing in this article shall prevent or restrict Sarasota County from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any violation or noncompliance, including, but not limited to, an equitable action for injunctive relief or an action at law for damages.

(3) *Code Enforcement.* Nothing in this article shall be construed to prohibit Sarasota County from prosecuting any violation of this section pursuant to the procedures set forth in Chapter 162, Florida Statutes, and Chapter 2, Article VIII, of this Code.

(4) *Independence of Remedies.* All remedies and penalties provided for in this section shall be cumulative and independently available to the County and the County shall be authorized to pursue any and all remedies to the full extent allowed by law.

SECTION 8. Section 90-100 of the Code of Ordinances of Sarasota County, Florida, is hereby created as follows:

Sec. 90-100. Severability.

It is declared to by the intent of the Board of County Commissioners that if any section, subsection, sentence, clause, phrase or provision of this ordinance is for any reason held or declared to be invalid, unconstitutional, inoperative or void, such ruling or holding shall not be so construed as to render invalid, unconstitutional, inoperative or void 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 9. Effective date.

This Ordinance shall take effect on March 31, 2018.

**PASSED AND DULY ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS
OF SARASOTA COUNTY, FLORIDA, this ____ day of _____, 2017.**

BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY, FLORIDA

By: _____
Chairman

ATTEST:

KAREN E. RUSHING, Clerk of Circuit
Court and Ex-Officio Clerk of the Board of
County Commissioners of Sarasota County,
Florida

By: _____
Deputy Clerk