



**COLUMBIA COUNTY BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM REQUEST FORM**

The Board of County Commissioners meets the 1st and 3rd Thursday of each month in the Columbia County School Board Administrative Complex Auditorium, 372 West Duval Street, Lake City, Florida 32055. The first meeting of every month is at 9:30AM while the second meeting of every month takes place at 5:30PM. All agenda items are due in the Board's office one week prior to the meeting date.

Today's Date: 10/9/2024 Meeting Date: 10/17/2024

Department: County Attorney

1. Nature and purpose of agenda item:

ADOPTION HEARING – ORDINANCE NO. 2024-22 - Repeal of Code Relating to Solicitation and Loitering on County Property

2. Recommended Motion/Action:


After public hearing, to adopt Ordinance No. 2024-22

3. Fiscal impact on current budget.

This item has no effect on the current budget.

MEMORANDUM

To: October 17, 2024 Agenda

From: Joel F. Foreman 

Re: **ADOPTION HEARING – ORDINANCE NO. 2024-22**

Date: October 9, 2024

Attached is Ordinance No. 2024-22, which when adopted will repeal certain provisions of the County's Code of Ordinances that were successfully challenged by a plaintiff in the Middle District of Florida, Jacksonville Division.

Based on the preliminary injunction issued by that court, and with advice of our outside counsel Mrs. Erdelyi, FACT on the County's behalf settled with the plaintiff. As part of that settlement I agreed the board would amend the ordinance to remove the provisions the court found problematic. The reason for agreeing to this amendment is that a permanent injunction, which was likely to issue had the case gone to trial, would have the same effect as a repeal but would leave uncertainty about future enforcement and risk of violation. It is a better practice to cure the ordinance by repeal or amendment than to rely on an injunctive order to be followed in perpetuity.

With respect to the issues surrounding the original adoption of this language, primarily solicitors impeding people's access to the County's administration building, the plaintiff agreed that practice is not allowed. Law enforcement will be asked to rely on existing state laws regulating conduct on public property, such as existing but less restrictive prohibitions against loitering found in Ch. 856.

Recommended motion: Following public hearing, to adopt Ordinance No. 2024-22.

COLUMBIA COUNTY, FLORIDA

ORDINANCE NO. 2024-22

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF COLUMBIA COUNTY, FLORIDA, AMENDING CHAPTER 2, ARTICLE VII, DIVISION 2, SECTIONS 2-431 AND 2-436 OF THE COUNTY CODE OF ORDINANCES RELATING TO PROHIBITED ACTIVITIES IN AND AROUND COUNTY BUILDINGS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the County previously adopted Ordinance No. 2022-03 relating to the regulation of the use of County-owned buildings and real property, including prohibition of certain solicitation and loitering activities around and within County-owned or leased buildings and upon County-owned or leased real property, codified at section 2-436 of the Columbia County Code of Ordinances;

WHEREAS, the County was sued to block certain applications of section 2-436 as amended by Ordinance No. 2022-03;

WHEREAS, on advice of its counsel, the County has settled the litigation concerning Ordinance No. 2022-03, and a condition of that settlement is amendment of the County's code to repeal certain provisions of Ordinance No. 2022-03 relating to curtilage, solicitation, and loitering;

WHEREAS, the County wishes to perform under its settlement and amend its code accordingly.

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

Section 1. FINDINGS

The above Recitals are incorporated herein by reference and are hereby adopted as Legislative Findings in support of this Ordinance.

Section 2. AUTHORITY

This ordinance is enacted pursuant to the statutory authority vested in the Board of County Commissioners by Florida Statutes Chapters 125 and the Home Rule Charter for Columbia County, Florida.

Section 3. CODE RELATING TO PROHIBITED ACTIVITIES AT COUNTY BUILDINGS AMENDED

Chapter 2, Article VII, Division 2, Sections 2-431 and 2-436 of the Columbia County Code of Ordinances are hereby amended as reflected in this section. Words that are stricken through shall be removed from the Code of Ordinances while those words that are underlined shall be added. Ellipses (...) indicate portions of the code have been omitted for brevity but should not be included in the Code nor should they indicate any deletion. Unless a deletion or addition is indicated herein, the Code of Ordinances shall not be altered by this Ordinance.

Sec. 2-431. - Definitions.

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

...

~~Curtilage shall mean all outdoor areas adjoining or adjacent to any county building extending from the vertical walls or fixtures of the building itself to the edge of the nearest public right of way, and should be construed as inclusive of all such outdoor areas upon the same parcel or lot without exclusion.~~

Sec. 2-436. Prohibited activities.

The following activities or use regarding county buildings shall be prohibited:

...

~~(7) Solicitation. To ensure all citizens unfettered access to governmental services, no solicitation shall be permitted within or upon any county building or the curtilage of said buildings.~~

~~(8) Loitering. To ensure all citizens unfettered access to governmental services, no loitering shall be permitted within or upon any county building or the curtilage of said buildings.~~

Section 4. SEVERABILITY

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

Section 5. EFFECTIVE DATE

This Ordinance shall take effect immediately upon a certified copy hereof being filed with the Florida Department of State.

DULY ADOPTED by the Board of County Commissioners of Columbia County, Florida,
this 17th day of October 2024.

BOARD OF COUNTY COMMISSIONERS
COLUMBIA COUNTY, FLORIDA

By: _____
Ron Williams, Chair

Approved as to form and legality:



Joel P. Foreman, County Attorney

ATTEST:

James M. Swisher, Jr., Clerk of Court