

**ORDINANCE NO. O-25-07**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SEBASTIAN, INDIAN RIVER COUNTY, FLORIDA, AMENDING CHAPTER 70 OF THE CITY OF SEBASTIAN CODE OF ORDINANCES: “OFFENSES AND MISCELLANEOUS PROVISIONS”, “TRESPASSING”; AMENDING SECTION 70-7 TO INCLUDE “PUBLIC CAMPING OR PUBLIC SLEEPING”; PROVIDING FOR FINDINGS, PURPOSE, INTENT AND DEFINITIONS; PROHIBITING PUBLIC CAMPING AND SLEEPING ON PUBLIC PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; CODIFICATION; PROVIDING FOR SCRIVENER’S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Chapter 166 of the Florida Statutes and Article VIII of the Florida Constitution authorizes the legislative body of each municipality to enact ordinances to protect the health, safety, and welfare of its residents; and

**WHEREAS**, the Florida Legislature has enacted 2025 HB 1365, codified in Section 125.0231 of the Florida Statutes, forbidding municipalities from authorizing or otherwise allowing any person to regularly engage in public camping or sleeping on any public property; and

**WHEREAS**, the Florida Statute as enacted creates a cause of action whereby an affected member of the public can bring legal action against the municipality seeking damages for failing to enact legislation or laws which prohibit public camping or sleeping on or after January 1, 2025; and

**WHEREAS**, the Sebastian City Council has determined and finds that the code provisions and regulations contained herein are necessary and in the best interests of the health, safety, and welfare of the general public and the citizens and visitors to City of Sebastian.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SEBASTIAN, INDIAN RIVER COUNTY, FLORIDA, AS FOLLOWS:**

**Section 1.** That the Code of Ordinances, City of Sebastian, Florida, is hereby amended as follows:

Section 70-7 Trespass.

**A. Definitions.**

**“Enforcement Officer” means a sworn law enforcement officer of the City of Sebastian or any other employee duly authorized to enforce the City of Sebastian’s Codes and**

Ordinances.

"Public camping or sleeping" means:

- (1) Lodging or residing 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 belongings; or lodging or residing in an outdoor space without a tent or other temporary shelter.
- (2) Public camping or sleeping does not include:
  - a) Lodging or residing in a motor vehicle that is registered, insured, and located in a place where it may lawfully be.
  - b) Camping for recreational purposes on property designated for such purposes.

"Public right-of-way" means any land over which the City has jurisdiction or control that has been dedicated, deeded, used, or to be used for a public way, highway, street, alley, sidewalk, throughfare, median, walkway, access for ingress or egress, or other public purpose.

- B. It shall be unlawful for any unauthorized person to enter into a room, building, parcel of land, or other area owned by the City that has a sign posted thereon such as Employees Only, Authorized Persons Only, Keep Out, No Trespassing, or other sign specifying that any such room, building, parcel of land, or other area is not open to the general public or is limited to access by a limited class of persons.
- C. It is also unlawful for any person to fail to immediately vacate any room, building, parcel of land, or other area owned by the city when instructed to leave the premises by any ~~police officer of the city for good cause~~ Enforcement Officer. Failure to immediately vacate the area in accordance with the instructions of the Enforcement Officer shall constitute a trespass. ~~be a trespass ab initio.~~

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**D. Public Camping or Public Sleeping.**

(1) Public Camping Prohibited.

It is prohibited, unlawful, and a violation of this section for any person to regularly engage in public camping or sleeping on any public property, including, but not limited to, any public building or its grounds, or public right-of-way under City jurisdiction pursuant to section 125.0231, Florida Statutes.

(2) Enforcement Procedures.

- a) An Enforcement Officer is hereby authorized to issue a written warning to any

person for violation of this Section when, based upon personal investigation, the Enforcement Officer has reasonable cause to believe that the person has committed a violation of this Section.

- b) The warning shall be provided to the person that has committed a violation of this section, including removing any and all tents, temporary structures and personal belongings. Such time period to comply will not exceed sixty (60) minutes.
- c) The City may pursue any enforcement action or legal remedy available to the city to include, but not be limited to, a written warning to be followed by a fine not exceeding \$500.00 unless otherwise authorized by state law, followed by imprisonment for a term not exceeding 60 days unless otherwise authorized by state law.

(3) Exceptions: This section does not apply during any time period in which:

- a) The Governor has declared a state of emergency in Indian River County or another county immediately adjacent to Indian River County and has suspended the provisions of this section pursuant to s. 252.36.
- b) A state of emergency has been declared in Indian River County under F.S. Chapter 870.

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**Section 2. Severability.** In the event a court of competent jurisdiction shall determine that any part of this Ordinance is invalid, the remainder of the Ordinance shall not be affected and it shall be presumed that the Sebastian City Council did not intend to enact such invalid provision. It shall further be assumed that the Sebastian City Council would have enacted the remainder of this Ordinance without said invalid provision, thereby causing said remainder to remain in full force and effect.

**Section 3. Conflicts.** All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 4. Codification.** The sections of the Ordinance shall be codified within part of the City of Sebastian Code of Ordinances and may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "division," or any other appropriate word.

**Section 5. Scrivener's Errors.** Sections of this Ordinance may be renumbered or re-lettered and corrections of typographical errors which do not affect the intent may be authorized by the City Manager, or the City Manager's designee, without need of public hearing, by filing a corrected or re-codified copy of same with the City Clerk.

**Section 6. Effective Date.** This Ordinance shall become effective immediately upon its adoption by the City Council.

The foregoing Ordinance was moved for adoption by Councilmember Jones.  
The Motion was seconded by Councilmember Dixon and, upon being put to a vote, the  
vote was as follows:

Mayor Bob McPartlan	<u>aye</u>
Vice Mayor Fred Jones	<u>aye</u>
Councilmember Kelly Dixon	<u>aye</u>
Councilmember Ed Dodd	<u>aye</u>
Councilmember Christopher Nunn	<u>aye</u>

The Mayor thereupon declared this Ordinance duly passed and adopted this 12th day of  
March, 2025.

CITY OF SEBASTIAN, FLORIDA

By: Bob McPartlan  
BOB McPARTLAN, MAYOR

ATTEST:

Jeanette Williams  
JEANETTE WILLIAMS, MMC  
CITY CLERK

Approved as to form and legality for  
reliance by the City of Sebastian only:

Jennifer Cockcroft  
JENNIFER COCKCROFT, ESQ., BCS  
CITY ATTORNEY

