

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
GENERAL BUSINESS/ AGENDA ITEM # 8a

SUBJECT: Resolution Prohibiting the Placement of Certain Objects on County Property.

DATE OF MEETING: August 5, 2024

OVERVIEW/SUMMARY: This item was tabled from the Board's July 15, 2024, regular meeting at which the Board asked staff to remove references to disruptive behavior from the resolution and to instead focus on physical prohibition designed to ensure the safety and convenience of visitors to county property. The resolution is an attempt to establish basic ground rules to prevent disruption to visitors to county properties and facilities by those engaged in First Amendment activities. The County must balance the right of free speech with the right of residents and visitors to enter upon and utilize County properties and facilities. The attached resolution imposes reasonable time, place, and manner restrictions on the use of County property and facilities.

After the Board tabled the item, the Supervisor of Elections expressed concerns that without the ability to have chairs, tents, coolers, etc. at early voting sites, individuals may be exposed to prolonged high temperatures. Therefore, staff is presenting two resolutions for the Board's consideration. The first follows the discussion of the Board at the July 15 meeting by removing references to disruptive conduct and focusing specifically on the objects that may not be brought onto County properties.

The second resolution addresses the concerns of the Supervisor of Elections by allowing such objects at early polling sites, but only from one hour before the polls open to one hour after the polls close. In addition, the objects cannot impede the flow of vehicles or pedestrians.

Both resolutions prohibit the use of amplified sound such as bullhorns. Lastly, both resolutions contains exemptions, such as for County sponsored or County sanctioned events. In addition, the prohibitions do not apply to visitors to County parks.

STRATEGIC PLAN:

Effective Government

Goal 2 – Build & Maintain Relationships to Support Effective & Efficient Government

EG 2.1: Create a culture of collaboration with municipalities and community partners.

Goal 3 – Provide an Excellent Customer Experience

EG 3.5: Promote a responsive, proactive and transparent government that is open, participative and encourages citizen engagement.

FUNDING INFORMATION: N/A

DEPARTMENT CONTACT: Heidi Petito, County Administrator (386) 313-4001

RECOMMENDATIONS: Adopt Resolution Prohibiting Disruptive Behavior on County Property.

ATTACHMENTS:

1. Resolution Prohibiting the Placement of Certain Objects on County Property
2. Resolution Prohibiting the Placement of Certain Objects on County Property with Accommodations for Early Voting Sites

RESOLUTION NUMBER 2024 - _____**A RESOLUTION OF THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS PROHIBITING THE PLACEMENT OF CERTAIN OBJECTS ON COUNTY OWNED PROPERTIES; PROVIDING FOR IMPLEMENTATION; ESTABLISHING EXEMPTIONS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.**

WHEREAS, the Flagler County Board of County Commissioners (the “Commission”) owns properties and facilities in various locations within Flagler County for the purpose of providing services and amenities to the residents of, and visitors to, Flagler County (collectively, the County-owned properties and facilities shall be referred to herein as “County Properties”); and

WHEREAS, the County encourages people of all ages, backgrounds, and viewpoints to visit the County Properties and utilize their resources and amenities in a safe and comfortable environment; and

WHEREAS, the Commission has a compelling interest in ensuring the safety of visitors to County Properties and in ensuring such visitors have access to government facilities and services without obstacles or impediments. At the same time, the Commission has a constitutional duty to protect the right of free expression of persons visiting County Properties; and

WHEREAS, the County government has the inherent and sovereign right to regulate the use of its own property held in trust for the public; and

WHEREAS, Section 125.01, Florida Statutes, grants the Commission the power to provide for parks, buildings, libraries, and other governmental, recreational, and cultural facilities and programs, and also authorizes the County to adopt resolutions necessary for the exercise of its powers in the common interest of the people of the County; and

WHEREAS, the Commission finds that the prohibitions, exemptions, and implementation procedures herein strike a balance between the rights of visitors and patrons of County Properties with the rights of persons to enter onto County Properties to engage in expressive activities.

NOW THEREFORE, be it resolved by the Board of County Commissioners of Flagler County, Florida:

SECTION 1. Findings. The above recitals are incorporated herein.

SECTION 2. General Prohibitions. The following prohibitions shall apply to County Properties subject to the exemptions in Section 4 below.

(a) No signs may be installed in the ground on County Properties, and no display may be adhered or affixed to the structures or flora on County Properties.

(b) Individuals may not place or erect a chair, table, umbrella, tent, box, or cooler on or in County Properties.

(d) Individuals shall not use amplified sound on or in County Properties.

SECTION 3. Implementation.

(a) Any person or persons who do not abide by the protocols established herein shall be required to immediately cease such activities. Individuals who refuse to cease such activities after being requested to do so by County personnel may be expelled from the County Property by staff of the County Administrator. Persons who refuse to leave the premises after being requested to do so shall be considered trespassers.

(b) Any person who feels they were wrongfully restricted pursuant to this Resolution or wrongfully expelled from County property pursuant to this Resolution may file a written appeal and request for a hearing before the County Administrator within thirty days of the expulsion. The County Administrator will conduct the hearing within thirty days of receipt of the appeal and render such relief as is just under the circumstances. Such appeal shall not be subject to formal rules of evidence, but basic notions of Due Process and fairness shall be observed. The County Administrator shall render a written decision within ten working days of the hearing.

(c) The purpose of this Resolution is to maintain safe and orderly properties and facilities for the use and enjoyment of the public. The implementation of this Resolution shall be done without regard to the content of speech or viewpoint of persons subject to the restrictions herein.

SECTION 4. Exemptions. The following persons or activities are exempt from the prohibitions of this Resolution.

- (a) County staff conducting activities in the scope of their public duties.
- (b) Law enforcement and emergency responders acting within the scope of their employment.
- (c) County sponsored or County sanctioned events, such as special events permitted by the County.
- (d) Visitors to County parks are not subject to the prohibition on tents, chairs, umbrellas, boxes and coolers so long as the items do not impede the flow of pedestrians or vehicles and do not disrupt the normal use and enjoyment of the park by others.

SECTION 5. Severability. It is the intent of the Board of County Commissioners of Flagler County, Florida, that if any section, subsection, sentence, clause, phrase, or provision of this Resolution is held invalid or unconstitutional, such invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining provisions of this Resolution.

SECTION 6. Effective Date. This Resolution shall become effective upon adoption.

[Signature Page to Follow.]

ADOPTED by the Board of County Commissioners of Flagler County, Florida, on this 5th day of August 2024.

**FLAGLER COUNTY BOARD OF
COUNTY COMMISSIONERS**

ATTEST:

Andrew S. Dance, Chair

Tom Bexley, Clerk of the Circuit
Court and Comptroller

Approved As To Form:

Sean S. Moylan, Deputy County
Attorney

RESOLUTION NUMBER 2024 - _____**A RESOLUTION OF THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS PROHIBITING THE PLACEMENT OF CERTAIN OBJECTS ON COUNTY OWNED PROPERTIES; MAKING EXCEPTIONS FOR EARLY POLLING SITES; PROVIDING FOR IMPLEMENTATION; ESTABLISHING EXEMPTIONS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.**

WHEREAS, the Flagler County Board of County Commissioners (the “Commission”) owns properties and facilities in various locations within Flagler County for the purpose of providing services and amenities to the residents of, and visitors to, Flagler County (collectively, the County-owned properties and facilities shall be referred to herein as “County Properties”); and

WHEREAS, the County encourages people of all ages, backgrounds, and viewpoints to visit the County Properties and utilize their resources and amenities in a safe and comfortable environment; and

WHEREAS, the Commission has a compelling interest in ensuring the safety of visitors to County Properties and in ensuring such visitors have access to government facilities and services without obstacles or impediments. At the same time, the Commission has a constitutional duty to protect the right of free expression of persons visiting County Properties; and

WHEREAS, individuals engaging in First Amendment activities at polling locations during early voting periods are exposed to prolonged high temperatures and shall therefore be accorded special dispensation bring certain objects onto County Properties subject to the limitations herein; and

WHEREAS, the County government has the inherent and sovereign right to regulate the use of its own property held in trust for the public; and

WHEREAS, Section 125.01, Florida Statutes, grants the Commission the power to provide for parks, buildings, libraries, and other governmental, recreational, and cultural facilities and programs, and also authorizes the County to adopt resolutions necessary for the exercise of its powers in the common interest of the people of the County; and

WHEREAS, the Commission finds that the prohibitions, exemptions, and implementation procedures herein strike a balance between the rights of visitors and patrons of County Properties with the rights of persons to enter onto County Properties to engage in expressive activities.

NOW THEREFORE, be it resolved by the Board of County Commissioners of Flagler County, Florida:

SECTION 1. Findings. The above recitals are incorporated herein.

SECTION 2. General Prohibitions. The following prohibitions shall apply to County Properties subject to the exemptions in Section 4 below.

(a) No signs may be installed in the ground on County Properties, and no display may be adhered or affixed to the structures or flora on County Properties.

(b) Individuals may not place or erect a chair, table, umbrella, tent, box, or cooler on or in County Properties, except at polling places for early voting in accordance with the following conditions:

- i.) Such objects may only be placed at the polling site one hour prior to the opening of the poll and must be removed within one hour after the closing of the poll.
- ii.) Such objects may not be placed on driveways, parking lots, sidewalks, or walkways and shall not otherwise hinder the ingress and egress of pedestrians or vehicles.
- iii.) Space for such objects shall be available on a first come, first available basis.

(d) Individuals shall not use amplified sound on or in County Properties.

SECTION 3. Implementation.

(a) Any person or persons who do not abide by the protocols established herein shall be required to immediately cease such activities. Individuals who refuse to cease such activities after being requested to do so by County personnel may be expelled from the County Property by staff of the County Administrator. Persons who refuse to leave the premises after being requested to do so shall be considered trespassers.

(b) Any person who feels they were wrongfully restricted pursuant to this Resolution or wrongfully expelled from County property pursuant to this Resolution may file a written appeal and request for a hearing before the County Administrator within thirty days of the expulsion. The County Administrator will conduct the hearing within thirty days of receipt of the appeal and render such relief as is just under the circumstances. Such appeal shall not be subject to formal rules of evidence, but basic notions of Due Process and fairness shall be observed. The County Administrator shall render a written decision within ten working days of the hearing.

(c) The purpose of this Resolution is to maintain safe and orderly properties and facilities for the use and enjoyment of the public. The implementation of this Resolution shall be done without regard to the content of speech or viewpoint of persons subject to the restrictions herein.

SECTION 4. Exemptions. The following persons or activities are exempt from the prohibitions of this Resolution.

- (a) County staff conducting activities in the scope of their public duties.
- (b) Law enforcement and emergency responders acting within the scope of their employment.
- (c) County sponsored or County sanctioned events, such as special events permitted by the County.
- (d) Visitors to County parks are not subject to the prohibition on tents, chairs, umbrellas, boxes and coolers so long as the items do not impede the flow of pedestrians or vehicles and do not disrupt the normal use and enjoyment of the park by others.

SECTION 5. Severability. It is the intent of the Board of County Commissioners of Flagler County, Florida, that if any section, subsection, sentence, clause, phrase, or provision of this Resolution is held invalid or unconstitutional, such invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining provisions of this Resolution.

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