

SUWANNEE COUNTY

County Attorney Executive Summary

Objective:

Pass Ordinance prohibiting the dumping of human waste, authorize enforcement of the prohibition by citation, set up a procedure for processing civil citations

Considerations:

- Last year the Board ordered me to set up a means of setting up a civil citation system to penalize the dumping of human waste
- This was more complicated than it would seem as
 - o 1) there is a statute which makes dumping of human waste (from a car or vessel) a crime, which creates pre-emption issues
 - o 2) Our enforcement mechanisms have been limited using the special magistrate and there are natural issues if there is a two pronged enforcement mechanism
 - o 3) We needed to have citation procedures/infrastructure generally to use it for one or any citations
- Turns out we already authorized citations for public nudity, but the system did not comply with the statutory requirements
- The proposed ordinance integrates with the human waste/littering statute, so there is no preemption issue
- The proposed citation system comports with applicable Florida law
- Use of the citation system will initially be limited violations of the ordinances regarding public nudity and human waste. Gives the BOCC the authority to add additional codes/ordinances to be enforced by citation by subsequent resolution or ordinance.
- Before using the citation system, code enforcement will need to develop a form citation which will need to be approved by the BOCC
- County Judge Griffin has been consulted and is OK with the additional work load it may put on her office for court hearings related to the human waste citations.

Recommendation

- If the BOCC wants to generally prohibit the dumping of human waste and allow the prohibition to be enforced by civil citation, enact the proposed ordinance.

Respectfully Submitted,



Adam Morrison
County Attorney

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF SUWANNEE COUNTY, FLORIDA OUTLAWING THE DUMPING OF HUMANE WASTE; AUTHORIZING CIVIL PENALTIES FOR VIOLATIONS OF CERTAIN COUNTY ORDINANCES OR CODES; ESTABLISHING CIVIL PENALTIES FOR VIOLATIONS OF CERTAIN COUNTY ORDINANCES OR CODES; ESTABLISHING PROCEDURES FOR CONTESTING CITATIONS; ESTABLISHING AN EFFECTIVE DATE; AND REPEALING ALL ORDINANCES IN CONFLICT HERewith

WHEREAS, the dumping of human waste happens throughout Suwannee County; and,

WHEREAS, the dumping of human waste has negative impacts on the environment and health of the people of Suwannee County; and,

WHEREAS, the current code enforcement mechanism of referrals to a special magistrate or reporting to law enforcement has proven ineffective at curbing or stopping people from dumping human waste; and,

WHEREAS, Florida Statute § 403.413(5) prohibits the dumping of raw human waste from any train, aircraft, motor vehicle, or vessel upon the public or private lands or waters of the state.; and,

WHEREAS, Florida Statute § 403.413(6)(j) makes it a crime to dump human waste from any train, aircraft, motor vehicle, or vessel upon the public or private lands or waters of the state; and,

WHEREAS, Florida Statute § 403.413(7) authorizes non-law enforcement County employees to enforce the provisions of Florida Statute § 403.413; and,

WHEREAS, per Florida Statute § 403.413(8), Suwannee County is free to enact and enforce other additional laws and penalties relating to littering and the dumping of human waste; and,

WHEREAS, Suwannee County's home rule powers in Florida Statutes Chapter 125 authorize the creation of ordinances for the benefit of the people of Suwannee County; and,

WHEREAS, an alterative means of immediate enforcement to penalize the dumping of human waste, outside of the criminal proceedings and special magistrate referrals, is necessary to incentivize violators to immediately cease dumping human waste; and,

WHEREAS, Florida Statute § 162.21 authorizes the County to establish a civil citation procedure to enforce its ordinances and codes; and,

WHEREAS, the County desires to supplement the Florida Statutes by adding a civil penalty to the dumping of human waste and authorizing its code enforcement officers to enforce that law via an authorized citation procedure.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF SUWANNEE COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1: INCORPORATION OF RECITALS. The above recitals are true and correct and are hereby incorporated by reference.

SECTION 2: AUTHORIZATION OF SUWANNEE COUNTY CODE ENFORCEMENT OFFICIALS TO ENFORCE FLORIDA STATUTE § 403.413. Pursuant to Florida Statute § 403.413(7), all employees of Suwannee County charged with code enforcement responsibilities of any kind are hereby authorized to enforce Florida Statute § 403.413 as permitted by said statute. This authority is in addition to, and not in lieu of, any other regulatory or enforcement powers available to the employee and otherwise authorized by law.

SECTION 3: PROHIBITING THE DUMPING OF HUMAN WASTE. There is hereby created, under Chapter 52 of the Suwannee County Code of Ordinances, an ARTICLE III.

[underline indicates additions; ~~strikethrough~~ indicates deletions]

Sec. 52-31 – Title. This Article shall be known as the Human Waste Dumping Prohibition Ordinance

Sec. 52-32 – Intent. It is the intent of this Ordinance to protect and preserve the safety and health of the citizens of Suwannee County by prohibiting the dumping human waste in the waters of or upon the private and public lands of Suwannee County.

Sec. 52-33 – Definitions. As used in this Article, the following terms mean:

“Dump” means to dump, throw, discard, place, deposit, drain, discharge, or dispose of.

“Person” means any individual, firm, sole proprietorship, partnership, corporation, unincorporated association, association, joint venture, partnership, estate, trust, business trust, syndicate, fiduciary, corporation and all other groups and legal entities or combinations thereof.

“Human Waste” means the waste products of the human body, including urine and feces. The term shall also include items that are routinely disposed of with human waste, including, but not limited to, water, toilet paper and feminine hygiene products.

Sec. 52-34 – Dumping of Human Waste is Prohibited. It is unlawful for any person to knowingly, intentionally, recklessly or negligently dump Human Waste anywhere, including but not limited to, any body of water or any private or publicly owned land.

Sec. 52-35 – Territory Embraced. All territory within the legal boundaries of unincorporated Suwannee County shall be embraced by the provisions of this article.

Sec. 52-36 – Enforcement. Violation of this article shall be a civil infraction and enforced by issuance of a citation pursuant to Section 2-97 of the Suwannee County Code of Ordinances. The maximum penalty for said civil infraction shall not exceed \$500.00. If the person who committed the violation does not contest the citation, civil penalties of less than the maximum shall be assessed as follows:

(a) First violation: \$250.00

(b) Second violation: \$450.00

Any person who is found in violation of this article in any court proceeding waives the right to pay a minimum penalty and shall instead pay the maximum penalty of \$500.00.

SECTION 4: AUTHORIZATION TO ISSUE CITATIONS FOR VIOLATIONS OF ORDINANCES OR CODES. Chapter 2, Article III of the Suwannee County Code of Ordinances is hereby amended as follows:

[underline indicates additions; ~~strikethrough~~ indicates deletions]

Sec. 2-97 – Civil Citations for Violations of Certain Ordinances or Codes

(a) A code enforcement officer is hereby authorized to issue a citation to any person for violation of any Ordinance or Code as authorized by Suwannee County Code Sec. 2-100. The citation must be based upon personal investigation where the code enforcement officer has reasonable cause to believe that a violation has occurred. The word "person" shall extend and be applied to individuals, children, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations and all other groups and legal entities or combinations thereof.

(b) Except as provided by subsection (c) below, the code enforcement officer shall provide notice to the person that the person has committed a violation of such code or ordinance and shall establish a reasonable time period within which the person must correct the violation. Such time period to correct the violation shall not exceed thirty (30) days.

(c) A code enforcement officer is not required to provide the person with a reasonable time period to correct a violation prior to issuing a citation and may immediately issue a citation if:

i. A repeat violation is found, or

ii. The code enforcement officer has reason to believe that the violation presents a serious threat to the public health, safety or welfare, or

a. Violations of Suwannee County Ordinance 52-34 regarding the dumping of Human Waste shall be deemed a serious threat to the public health, safety or welfare

iii. The violation is irreparable or irreversible.

(d) Written warning notices, if applicable, and citations shall be provided to the alleged violator by hand delivery by the code enforcement officer. In the absence of the alleged violator, issuance of a written warning notice or citation may be accomplished by leaving a copy at the alleged violator's residence with any person residing therein who is fifteen (15) years of age or older and informing the person of the contents, or by registered or certified mail, return receipt requested. If the alleged violator cannot be located and a citation relates to a motor vehicle, the citation shall be posted on the motor vehicle and the code enforcement officer shall attempt to identify the owner and effect delivery by registered or certified mail to the registered owner of the motor vehicle.

(e) Issuance of a written warning notice or citation to a business may be accomplished by leaving a copy at the business during regular business hours with any employee and informing the employee of the contents, or by registered or certified mail, return receipt requested. Each employee of the business shall be deemed to be an agent of the business for service of warning notices and citations.

(f) If upon personal investigation the code enforcement officer finds that the violation has not been corrected within the time period, a code enforcement officer may issue a citation for a civil infraction to the person accused of committing the violation.

(g) The citation shall be in such form prescribed by the Board of County Commissioners and consistent with the requirements of Florida Statutes Chapter 162, part II.

(h) Each violation of a code or ordinance is a separate civil infraction. Each day such violation continues shall be deemed to constitute a separate civil infraction.

(i) After issuing a citation to an alleged violator, the code enforcement officer shall:

(1) Deposit the original citation and one (1) copy of the citation with the Clerk of Court for the county court;

(2) Provide the person cited with one (1) copy; and

(3) Retain one (1) copy in the code enforcement officer's department or division file.

(j) If the alleged violator is known and present upon presentment of the citation and refuses to sign the citation, the code enforcement officer shall write the words "refused" or "refused to sign" in the space provided for the person's signature. The code enforcement officer shall then leave a copy of the citation with the person cited, if possible, and shall contact the Suwannee County Sheriff's Office to file the necessary reports alleging a violation of Florida Statute § 162.21(6), which provides that a person who willfully refuses to sign and accept a citation issued by a code enforcement officer shall be guilty of a misdemeanor of the second degree punishable as provided in Florida Statute § 775.082 or § 775.083.

Sec. 2-98 – Civil Citation Penalties

a) Violation of an authorized Ordinance or Code is civil infraction. A violation of a county code cited and enforced under the provisions of this division shall be deemed a civil infraction.

(b) Maximum penalty. The maximum civil penalty for each violation shall not exceed the sum of \$500.00 plus any applicable court costs.

(c) Uncontested citation. A civil penalty of less than the maximum civil penalty shall be assessed if the person who has committed the civil infraction does not contest the citation. A schedule of such civil penalties may be adopted by the board of county commissioners by separate resolution or ordinance.

(d) Payment of civil penalties. All civil penalties shall be paid to and collected by the clerk of the court. All penalties collected by the clerk shall be turned over to the county finance department for deposit in the general revenue fund of the county.

Sec. 2-99. Procedure for contesting a citation in county court.

An alleged violator shall be entitled to contest any citation through an evidentiary hearing before the county court. The alleged violator shall be afforded an opportunity to request a hearing and, if requested, the hearing will be scheduled through the county court for a date and time certain. If the court determines no violation occurred, then no penalty shall be assessed against the alleged violator. If the court determines that an infraction did occur, the court shall order payment of the penalty together with taxable court costs. If said penalty and costs are not paid by a date and time certain as determined by the court, a civil judgment shall be issued against the violator in favor of the county.

If a person fails to pay the civil penalty or requests a hearing within 30 days of the date of issuance of the citation, fails to appear in court to contest the citation when a hearing has been requested, or fails to appear in court as may be otherwise required, the court may enter judgment for an amount not to exceed the sum of \$500.00 per

infraction plus taxable costs and/or may issue a rule to show cause upon the request of the county. The court rule to show cause shall require such person to appear before the court to explain why action on the citation has not been taken. If any person against whom such rule has been issued fails to appear in response to the court's directive, the person may be held in contempt of court in the sole discretion of the county court. The county, as an additional remedy, may refer cases of violations not paid and not contested within 15 days of issuance to a collection agency for processing, collection, and notification of failure of payment to the credit bureau.

At any hearing pursuant to this division, the commission of a violation of a county ordinance must be proved by a preponderance of the evidence. The Florida Rules of Civil Procedure and the Florida Evidence Code shall be applicable to any such hearing.

Sec. 2-100. Ordinances and Codes authorized to be Enforced by Civil Citation.

At the discretion of the code enforcement officer, a violation of an Ordinance or Code may be enforced by issuance of a civil citation pursuant to Suwannee County Code of Ordinances 2-97 thru 2-99 for the following offenses:

- (a) Violations of Article II of Chapter 52 of the Suwannee County Code of Ordinances relating to public nudity
- (b) Violations of Article III of Chapter 52 of the Suwannee County Code of Ordinances relating to dumping of human waste
- (c) Any other ordinances or codes as the Board of County Commissioners authorizes. Such authorization may be made by Ordinance or Resolution.

SECTION 5. SEVERABILITY. Should any section or provision of this Ordinance or any portion thereof, or any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof other than the part declared to be invalid.

SECTION 6. INCLUSION INTO THE SUWANNEE COUNTY CODE OF ORDINANCES. It is the intent of the Board that the provisions of this Ordinance shall become and be made part of the Suwannee County Code of Ordinances and the sections of this Ordinance may be renumbered or re-lettered to accomplish that intent.

SECTION 7. REPEAL OF ORDINANCES IN CONFLICT. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SUWANNEE COUNTY ORDINANCE NO.: _____

SECTION 8. EFFECTIVE DATE. A certified copy of this Ordinance shall be filed with the Department of State within 10 days after its enactment by the Board and shall take effect as provided by law.

PASSED AND DULY ADOPTED in regular session with a quorum present and voting, by the Board of County Commissioners this _____ day of _____, 2025.

Attest:

BOARD OF COUNTY COMMISSIONERS OF
SUWANNEE COUNTY, FLORIDA

Barry A. Baker
County Clerk

Travis Land
Chairperson