

ORDINANCE NO. 2025-04

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRAWLEY, CALIFORNIA, AMENDING SECTION 19 OF THE BRAWLEY MUNICIPAL CODE BY ADDING CHAPTER 19J TO ADDRESS THE PUBLIC NUISANCE CREATED BY ABANDONED SHOPPING CARTS

THE CITY COUNCIL OF THE CITY OF BRAWLEY, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

1. Purpose:

Abandoned shopping carts constitute a nuisance, create potential hazards to the health and safety of the public, and interfere with pedestrian and vehicular traffic within the City of Brawley. The accumulation of wrecked, dismantled, and abandoned shopping carts on public or private property also tends to create conditions that reduce property values, promoting blight and deterioration in the City. The intent of this Chapter is to ensure that measures are taken by store owners to prevent the removal of shopping carts from store premises and parking lots, to make the removal of shopping carts a violation of this Code, and to facilitate the retrieval of abandoned carts as permitted by State law. Further, this Chapter is intended to supplement existing State law regarding shopping carts as set forth in California Business and Professions Code, Sections 22435, et. Seq.

2. Findings:

The City Council finds that abandoned shopping carts have become a public nuisance and that reasonable regulations pertaining to the prevention of removing shopping carts from the premises of merchants that use them, and the collection and return of shopping carts removed from said premises are necessary to eliminate that public nuisance.

3. Amendment of Municipal Code:

The Brawley Municipal Code, Section 19, is amended to add the CHAPTER 19J, which shall read as follows:

CHAPTER 19J. – UNAUTHORIZED USE OF SHOPPING CARTS

Section 19J.1. Definitions.

“Abandoned Shopping Cart” means any cart that has been removed without the written permission of the owner or on-duty manager from the premises of the business establishment, regardless of whether it has been left on either private or public property. Written permission shall be valid for a period not to exceed 72 hours. This provision shall not apply to shopping carts that are removed from the premises for purposes of repair or maintenance.

“Enforcement personnel,” as used in this Chapter, means any police officer, code enforcement officer, or other designated City of Brawley employee authorized to enforce the provisions of this Chapter.

“Owner,” as used in this Chapter, means any person or entity who, in connection with the conduct of the business, owns, leases, possesses, uses, or otherwise makes any shopping cart available to customers or the public, including tenants or lessees of the business or property. For purposes of this Chapter, owner shall also include the owner’s on-site or designated agent that provides the carts for use by its customers.

“Premises,” as used in this Chapter, means the entire area owned and utilized by the business establishment that provides shopping carts for use by customers, including any parking lot or other property provided by the owner for customer parking.

“Shopping cart,” or “cart” as used in this Chapter, means a device with wheels carrying a basket or other device maintained by a dealer of merchandise upon his premises for the use of patrons or employees thereof to collect merchandise from various locations within the premises and to transport the same to the cashier or the patrons’ means of removing the merchandise from the premises.

Section 19J.2. Enforcement of Chapter

The provisions of this Chapter shall be enforced by enforcement personnel. To the extent otherwise permitted by law, said enforcement personnel may enter onto any public or private property in the City to retrieve, remove, store, and dispose of any lost, stolen, or abandoned shopping cart, or any part thereof. Any act authorized to be performed by the City of Brawley pursuant to any provision of this Chapter may be performed by any enforcement personnel. Any enforcement personnel are authorized to issue an administrative citation upon any owner who they have reasonable cause to believe has violated any provision of this Chapter.

Section 19J.3. Required Signs on Carts

- A. Every shopping cart owned or provided by any business establishment in the City of Brawley must have a sign permanently affixed to it that contains the following information:
 - 1. Identifies the owner of the shopping cart or the name of the business establishment, or both;
 - 2. Notifies the public of the procedure to be utilized for authorized removal of the shopping cart from the business premises, or alternatively notifies the public that the shopping cart may not be removed from the business premises;
 - 3. Notifies the public that the unauthorized removal of the shopping cart from the premises or parking area of the business establishment is a violation of State and City of Brawley Law;
 - 4. Lists a telephone number to contact to report the location of the abandoned, stolen, or removed shopping carts; and
 - 5. Lists an address for returning the shopping carts to the owner or business establishment.
- B. Failure to comply with this section or Chapter may subject the violator to any civil, criminal, or administrative remedies as provided by law.

Section 19J.4. Removal Prohibited or Possession of Abandoned or Removed Shopping Cart.

- A. It shall be unlawful to either temporarily or permanently remove a shopping cart from the premises or parking area of a business establishment without the express prior written approval of the owner or on-duty manager of the business establishment.
- B. It shall be unlawful to be in possession of a shopping cart that has been removed from the premises or parking area of a business establishment unless it is in the process of being immediately returned to the owner or business establishment.
- C. This section shall not apply to shopping carts that are removed for the purposes of repair or maintenance.
- D. A violation of this section or Chapter may subject the violator to any civil, criminal or administrative remedies as provided by law.

Section 19J.5. Mandatory Plan to Prevent Cart Removal/Evaluation Report

- A.** Every owner shall develop and implement a specific plan to prevent customers from removing carts from the business premises (“prevention plan”). The prevention plan must include the following elements and a detailed description of how they will be implemented:
 - 1. Notice to customers. Written notification shall be provided to customers that removal of carts from the premises and parking lots are prohibited and a violation of state and local law. This notice may be provided in the form of flyers, warnings on shopping bags, or any other form of written notification that will effectively notify customers of the prohibition.
 - 2. Signs. Signs shall be placed in pertinent places near door exits and near parking lot exits that warn customers that cart removal is prohibited and constitute a violation of state and local law.
 - 3. Physical measures. Specific physical measures shall be implemented to prevent cart removal from the business premises. These measures may include, but are not limited to, disabling devices on all carts, posting of a security guard to deter and stop customers who attempt to remove carts from the business premises, bollards and chains around business premises to prevent cart removal, security deposits required for use of all carts, or the rental or sale of carts that can be temporarily or permanently used for transport of purchase. All carts shall be securely locked and stored at all times while the business is closed.
 - 4. Cart retrieval operations. The procedure by which the owner or qualified cart retrieval service will search, find and return carts removed from the business premises. The cart retrieval operation must demonstrate that carts will be actively located within one mile of the business premises and respond to complaints from the public or notifications from City enforcement personnel in a manner which results in the retrieval of carts within 24 hours of receiving the notification. An owner may contract with a third-party vendor for cart retrieval services. If an owner contracts with a cart retrieval service, the retrieval service must be a City approved service, and shall not place limits on daily loads or days per week to retrieve carts within the City. The owner shall provide written authorization to all retrieval personnel, which authorization shall be carried by each person while performing cart retrieval services on behalf of the owner and shall be provided to any enforcement personnel upon request.
 - 5. Employee training. The owner of the retail establishment shall implement and maintain a periodic training program for its new and existing employees designed to educate said employees concerning the requirements of the prevention plan and the provisions of state and local law prohibiting the unauthorized removal of shopping carts from the premises of the retail establishment.
- B.** Evaluation Report. If a prevention plan was in place the previous year and if the owner has 20 or more carts and 20 percent or more of the owned carts are retrieved within the previous year, a report shall be submitted to the City evaluating the measures that were used and approved in the prior calendar year and providing information on the changes that will be made to improve the prevention plan performance. The report shall include, but not be limited to, the inventory of carts owned/used by the business establishment and the number of carts that had to be replaced due to loss, theft or abandonment.

Section 19J.6. Prevention Plan Timelines and Approve Process

- A.** Existing owners. The proposed prevention plan for preventing shopping cart removal shall be submitted for approval to the Code Enforcement Department Supervisor or his/her designee within 30 days of receiving notice from the City that such a plan is required pursuant to this chapter.
- B.** New businesses, new construction, and change in ownership. All new construction projects that will accommodate businesses providing more than ten shopping carts shall install disabling device equipment. If a new business begins conducting business in the City and provides shopping carts to

its customers, the new owner shall notify the Administrative Police Commander or his/her designee within 30 days of opening the business to the public and submit a new prevention plan. If an existing business changes ownership, the new owner shall notify the Administrative Police Commander or his/her designee within 30 days of the change and submit a new prevention plan or agree to adopt the existing prevention plan on file with the City for that business. All businesses subject to this paragraph shall submit a proposed prevention plan and obtain City approval prior to providing any shopping carts to customers of the retail establishment. For prevention plans which include contracting for retrieval services as a component of the plan, the contractor for service must be in place prior to approval of the plan.

- C. Approval. Within 30 days of receipt of the prevention plan, the owner shall be notified whether the prevention plan is approved. If the plan is not approved, the notice shall state the reasons that the plan was not approved and provide recommendations to the owner to ensure plan approval. The owner shall submit a new prevention plan within 15 days of receiving this notice. Once a prevention plan is approved, the proposed measures shall be implemented by no later than 30 days after City approval is given. If an evaluation report is submitted, the prevention measures shall be continued until and unless the City indicates that a measure(s) needs to be modified. Unless otherwise agreed, any modifications to the plan imposed by the City shall be implemented within 30 days after the City notifies the owner of the needed modifications.
- D. Revocation. If an owner has more than twenty (20) shopping carts and if more than 25 percent of an owner's shopping carts are retrieved by the City within a six-month period, the owner's prevention plan may be revoked upon notification by the City and the owner will be required to submit a new prevention plan to the Administrative Police Commander within 15 days of receiving notice of the revocation. Any owner failing to implement the new prevention plan within 30 days of approval, shall be subject to penalties under this Chapter.
- E. Multiple revocations. Upon the third prevention plan revocation within a four-year time period, the owner shall be required to place disabling devices on all shopping carts owned/leased/used by the business to prevent removal of shopping carts from the business premises and parking lots, if such disabling devices are not already in use. If disabling devices on all shopping carts are in proper working order. Any subsequent prevention plans submitted shall include the implementation of a maintenance plan for all disabling devices.

Section 19J.7. Penalties for Failing to Submit a Prevention Plan or Evaluation Report or to Implement Prevent Measures

Any owner that fails to submit a prevention plan, implement the proposed plan measures, or implement any required modifications to the plan by the City within the time frames specified in this Chapter shall be required to place disabling devices on all shopping carts owned/leased/used by the business to prevent removal of shopping carts from the business premises and parking lots. Any owner that fails to place a disabling device on all shopping carts, if applicable, shall be subject to a civil penalty of \$50.00 for each day of non-compliance.

Section 19J.8. Maintenance Requirements for Shopping Cart Disabling Devices

If an owner has equipped carts with disabling devices, either voluntarily or by order from the City, the owner shall conduct regular maintenance to ensure the disabling devices are working properly. If at any time, the owner determines the disabling device installed on a cart is not working properly, the shopping cart shall be pulled from circulation until it is repaired. The owner shall inspect, test, and repair all abandoned shopping carts returned to the owner prior to making the returned carts available for use.

Section 19J.9. Notification for Retrieval of Abandoned Shopping Carts

Pursuant to Business and Professions Code Section 22435.7, the City shall notify the owner of any abandoned carts owned or used by the business establishment that have been located within the City of Brawley, if the City intends to impound the shopping cart(s) pursuant to Section 22435.7. The owner shall have three days from the date the notification is given, to retrieve the shopping carts from the City.

Section 19J.10. Administrative Costs and Fines

Pursuant to Business and Professions Code Section 22435.7, any owner that fails to retrieve its abandoned shopping cart(s) within three days of receiving actual notice from the City, shall pay the City's administrative costs for retrieving the shopping cart(s) and providing the notification to the owner as may be established by resolution of the City Council. Any owner who fails to retrieve abandoned shopping carts in accordance with this chapter in excess of three times during a specified six-month period, shall be subject to a \$50.00 fine for each occurrence. An occurrence includes all shopping carts owned by the owner that are impounded by the City in a one-day period.

Section 19J.11. Disposition of Shopping Carts After 30 Days

According to State Law, any cart not reclaimed from the City within 30 days after notification to the owner shall be sold or otherwise disposed of by the City. Any cart that fails to have the identification required by State Law or this chapter may be sold or otherwise immediately disposed of at the discretion of the City.

Section 19J.12. Business Establishments Without Shopping Carts

A business establishment or business which does not own, rent, lease, or otherwise possess its own shopping carts, but which receives a benefit by the use of shopping carts owned by other businesses, merchants, grocers, or other similar establishments, shall provide a location upon its premises for the storage of shopping carts and shall immediately contact the City's shopping cart retrieval service to retrieve any shopping carts that are left on the premises. This section also applies to recycling centers.

Section 19J.13. Alteration Prohibited.

No person shall alter, convert or tamper with any shopping cart, shopping basket or other similar device or remove any part thereof without the owner's written consent.

Section 19J.14. Severability

If any section, subsection paragraph or sentence of this Chapter, or any part thereof, is for any reason found to be unconstitutional, invalid or beyond the authority of the City of Brawley by a court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Chapter.

4. Effective Date:

This ordinance shall be effective thirty (30) days after its adoption and the City Clerk shall cause a certified copy, or summary of this ordinance to be published one time within fifteen (15) days after its adoption in a newspaper of general circulation printed in Imperial County and circulated in the City of Brawley.

APPROVED, PASSED, AND ADOPTED at a regular meeting of the City Council held on the 2nd day of September 2025.

CITY OF BRAWLEY, CALIFORNIA

Gil Rebollar, Mayor

ATTEST:

Ana Gutierrez, City Clerk

**STATE OF CALIFORNIA)
COUNTY OF IMPERIAL)
CITY OF BRAWLEY)**

1st Reading

I, Ana Gutierrez, City Clerk of the City of Brawley, California, **DO HEREBY CERTIFY** that the foregoing Ordinance No. 2025-04 was passed and adopted by the City Council of the City of Brawley, California, at a regular meeting held on the 2nd day of September 2025 and that it was so adopted by the following roll call vote:

**AYES:
NAYES:
ABSTAIN:
ABSENT:**

DATED: September 2, 2025

Ana Gutierrez, City Clerk

**STATE OF CALIFORNIA)
COUNTY OF IMPERIAL)
CITY OF BRAWLEY)**

2nd Reading & Adoption

I, Ana Gutierrez, City Clerk of the City of Brawley, California, **DO HEREBY CERTIFY** that the foregoing Ordinance No. 2025-04 was passed and adopted by the City Council of the City of Brawley, California, at a regular meeting held on the 16th day of September 2025 and that it was so adopted by the following roll call vote:

**AYES:
NAYES:
ABSTAIN:
ABSENT:**

DATED: September 16, 2025

Ana Gutierrez, City Clerk