

ORDINANCE NO. 2025-05

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRAWLEY, CALIFORNIA, AMENDING ARTICLE III OF THE BRAWLEY MUNICIPAL CODE WHICH PROHIBITS CAMPING AND THE STORAGE OF PERSONAL PROPERTY IN CITY PARKS, ALLEYS, PUBLIC SIDEWALKS, RECREATIONAL AREAS AND OTHER PUBLICLY OWNED OR CONTROLLED PROPERTY WITHIN THE CITY LIMITS OF THE CITY OF BRAWLEY

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

1. Purpose:

Publicly accessible areas under the jurisdiction of the City of Brawley should be readily available and usable for the safe, healthy, and peaceable enjoyment of the public at large. The use of public areas for camping purposes or storage of personal property interferes with the rights of others to use and access these areas in a safe, healthy, and peaceable manner within the purposes for which they are intended. Camping on private property without the consent of the owner, and where camping is not authorized and without proper sanitary measures adversely affects private property rights as well as the public health, safety, and welfare of the residents of Brawley. The purpose and intent of this ordinance, pursuant to Penal Code section 372, is to amend Article III of Chapter 19 of the Brawley Municipal which establishes standards and prohibitions for behaviors related to public camping, or other offenses that are detrimental to the preservation of public property and the health, safety and welfare of the public accessing public property or traversing public rights-of-way to ensure that the same is consistent with current state law; and to ensure and maintain publicly accessible areas in a safe and sanitary manner, and for peaceable use and enjoyment for the public at large; and to maintain private property in a safe and sanitary condition to protect the health, safety and welfare of the community.

2. Findings:

The City Council finds that camping and storage of personal property in city parks and other publicly owned and controlled property, and camping on private property without the permission of the owner and where camping is not authorized, continues to constitute a health hazard and a public nuisance. This practice adversely impacts Brawley residents' ability to use city parks and other Public Areas and private areas for their intended purposes.

3. Amendment to the Municipal Code:

The Brawley Municipal Code, Section 19, Article III, which was adopted by Brawley Ordinance Number 2010-10, is hereby repealed and shall be replaced with the following:

Article III. – Camping and Storing Personal Property in Public is Prohibited.

Sec. 19A.8.1. Definitions.

Unless the particular provisions or the context otherwise require, the definitions contained in this section shall govern the construction, meaning, and application of words and phrases used in this Article.

1. "Abandoned personal property" means personal property to which the owner surrenders, relinquishes, or disclaims all right, title, claim, and possession, with the intention of not reclaiming

it or resuming its ownership, possession, or enjoyment. Indicia of abandoned personal property shall include, but not be limited to, the act of leaving the personal property in a public area so that it may be appropriated by the next comer.

2. "Abatement" means the process of documenting and collecting eligible items for storage, and removing and disposing of, recycling, or reusing waste, camp paraphernalia, or encampment items at an encampment according to the process in this Chapter.
3. "Alley" shall have the meaning set forth in Section 110 of the California Vehicle Code.
4. "Camp" or "camping" means:
 - a. Residing in or using any public area for living accommodation or lodging purposes with one's personal property or while storing one's personal property; and/or
 - b. Constructing, maintaining, occupying, inhabiting or using camping facilities, and/or constructing, using or maintaining camping paraphernalia. For purposes of this section, "camping" shall not include merely sleeping outside in a park or the use of a blanket, towel or mat in a park during the time the park is open to the public.
5. "Camping facilities" include, but are not limited to, tents, huts, or other temporary physical shelters, but excluding umbrellas or sunshades.
6. "Camping paraphernalia" includes, but is not limited to, tarpaulins, cots, beds, sleeping bags, bedrolls, bedding, luggage, hammocks, cooking equipment, and/or other similar articles of equipment or items that are accessory to camping facilities.
7. "Chief of police" means the Chief of Police of the City of Brawley, or his/her designee.
8. "City Clerk" means the City Clerk of the City of Brawley, or his/her designee.
9. "City Manager" means the City Manager of the City of Brawley and shall include his/her designee.
10. "City park" shall have the same meaning as defined in section 19A.7.1. of this Code.
11. "Encampment" means one or more temporary, makeshift, or hand-structures not intended for long-term continuous occupancy, including tents, that are used to shelter one or more persons or their belongings and that are not authorized by the property owner or the City. Encampment includes any camp paraphernalia, camp facilities, and personal property associated with or located in or around the structures or tents.
12. "Public Property" means all public property including, but not limited to, public buildings, streets, sidewalks, trails, alleys, medians, greenways, easements, waterways, canal banks, county highways (as defined in sections 25, 960.5 and 1480 of the California Streets and Highway Code, or as amended), and other rights-of way dedicated for public use and lawfully accepted by the County, and other public amenities.
13. "Private Property" means all private property, including, but not limited to, real property, yards, private alleyways, sidewalks, trails, private roads, agricultural land, and undeveloped lots.
14. "Personal property" means tangible personal belongings or possessions, which shall include any movable or tangible thing that is subject to ownership; property or chattels that can be seen, weighed, measures, felt, or touched, including, but not limited to, furniture, appliances, camping facilities, camping paraphernalia, money, books, and "shopping carts" or "carts".
15. "Shelter" means any City, County, public or private funded, shelter provided as part of the City's coordinated response for shelter placements where individuals and families experiencing homelessness can access beds and other services or an area designated by the City Manager for use by individuals or families experiencing homelessness. Assistance for shelter placements may be found on the Imperial County Department of Social Services website.
16. "Store", "stored" or "storage" means to put aside personal property in a public area or accumulate it for use when needed; to place personal property in a public area for safekeeping; and/or to leave personal property unattended in a public area.
17. "Street" shall have the meaning set forth in Section 590 of the California Vehicle Code.

18. "Tent" means a shelter or structure that is not entirely open on all sides.
19. "Umbrellas or sunshades" means any canopy or cover that is open on all sides, consists of pliable tent-like material such as canvas, nylon or other synthetic fabric, and that is held aloft by one or more supporting metal, plastic or wooden poles.
20. "Unclaimed personal property" means personal property that has been turned in to the Chief of Police pursuant to Section 19A.8.6, and that has not been claimed within a period of ninety days by its owner.
21. "Waste" means material of any nature that constitutes rubbish, solid waste, liquid waste, or medical waste. Waste also includes abandoned or unidentified personal property that is left unattended on public sidewalks and rights-of-ways or other public property. Waste includes hazardous waste as defined in California Public Resources Code section 4141.7 and Infectious waste as defined in California Code of Regulations, title 14, section 17225.56. Waste does not include compost piles, composting or recyclable material property contained and disposed of in a timely fashion.

Sec. 19A.8.2. Camping in public areas is prohibited.

It is unlawful and a violation of this Article for any person(s) to camp, occupy camp facilities, or use camping materials on public property not specially designated for day and/or overnight campgrounds except by permission from the Chief of Police or by resolution of the City Council.

At All times, regardless of the availability of shelter space or beds, it is unlawful and a public nuisance for any person to camp, or to maintain an encampment, or places and camp paraphernalia or camp facilities where such activity poses an immediate or unreasonable risk of harm to public health or safety, or an immediate threat or unreasonable risk to any natural person, or disrupts any vital government services.

At all times, regardless of the availability of shelter space or beds, it is unlawful to camp or maintain an encampment within two blocks of any shelter, provided signs prohibiting camping are posted.

19A.8.3 Unpermitted camping on private property prohibited.

- A. Except as provided in this Section, it is unlawful and a violation of this Article for any person(s) to camp, occupy camp facilities, or use camping paraphernalia on private property not appropriately zoned under the City of Brawley Zoning Ordinance, Chapter 27 of the Brawley Municipal Code, hereinafter referred to as the "Zoning Ordinance" or authorized by the necessary land use entitlements for camping and camping related recreational activities.
- B. Nothing in this Article shall prohibit camping on private property by the owner(s), and lessee(s), or other persons with the written permission of the owner; provided that such consent is verified upon demand by City staff and peace officers; and provided that all provisions of the Zoning Ordinance and all State and County and local health and sanitation requirements are complied with.
- C. This Article shall not apply to private property for camping and camping related activities provided, sponsored, and/or facilitated by youth organizations, religious organizations, or private associations on land specifically designated for camping and camping related activities and such uses are approved pursuant to the Zoning Ordinance and all State and County and local health and sanitation requirements are complied with.

- D. Nothing in this Article shall prohibit camping on private property where camping and camping-related activities are an approved use under the Zoning Ordinance and all State, County, and local health and sanitation requirements are complied with.
- E. In the situation where an unpermitted camp is erected, notification shall be provided prior to enforcement action.

Section 19A.8.4 Obstruction of public access to sidewalks, trails, public facilities, and other public rights-of-way, and other public offenses.

- A. No individual shall camp, maintain an encampment, obstruct a street, sidewalk, alleyway, trail, county highway (as defined in sections 25, 960.5 and 1480 of the California Streets and Highway Code, or as amended), entrance to public facilities, or other public right-of-way (as defined by the Americans with Disabilities Act of 1990, or as amended) by sitting, lying or sleeping, or using or storing personal property in, or upon any public road or other public right-of-way.
- B. No individual shall camp, maintain an encampment, obstruct any street, sidewalk, alleyway, trail, county highway, or other public right-of-way by sitting, lying or sleeping, or using or storing personal property in, or upon any public street, alleyway, sidewalk, public property, or other public right-of-way within the following locations:
 - 1. One thousand (1000) feet of public or private schools, public parks, playgrounds, public or private childcare facilities, and public libraries.
 - 2. Five hundred (500) feet of railroad tracks, railroad property, and railyards.
 - 3. One hundred (100) feet of any roadway overpass or underpass, freeway off ramp or on ramp, tunnels or bridges.
 - 4. Fifty (50) feet of a fire hydrant, fire plug, or other fire department or fire protection district connection and any designated fire lanes; and
 - 5. Ten (10) feet of any operational or utilizable driveway or loading dock.
- C. Immediate Removal: Any person in violation of this Article shall be subject to immediate removal by enforcement officers and peace officers. Any personal property stored in violation of this Article shall be subject to removal within a reasonable amount of time by enforcement officers and peace officers.
- D. It is unlawful and a violation of this Article to bathe in public fountains or other public water features or conveyances.
- E. It is unlawful and a violation of this Article to urinate or defecate upon public property not designated as a restroom facility.

Sec. 19A.8.5. Storage of personal property in public areas prohibited.

- (a) It shall be unlawful and a public nuisance for any person to store personal property in any public area except as otherwise approved in writing by the Chief of Police, or by resolution of the City Council. Personal property stored in public areas in violation of this section shall be impounded pursuant to the provisions of this Article.
- (b) Any personal property left in any public area, whether or not the personal property is unattended, shall be impounded, pursuant to the provisions of this Article.

Sec. 19A.8.6. Abatement of encampments and camp facilities and materials.

- A. The City may abate or remove camp paraphernalia and other related materials, or an encampment established in violation of this Article after providing written notice of such

abatement. Any camp paraphernalia and related materials, or encampments established in violation of this Article may be subject to abatement without advanced written notice by the City, if the encampment poses an imminent and substantial threat to public health or safety, as determined by the Chief of Police and upon consultation with the City Manager.

- B. Abatement pursuant to this Section may include, but is not limited to, removal of encampments, camp facilities, camp paraphernalia and other related materials, trash, debris, junk, hazardous waste, infectious waste, and vehicles. Any personal property identified and left behind shall be stored and subject to retrieval pursuant to policies and procedures developed by the City Manager and the Chief of Police.
- C. Except as provided in Section 19A.8.4, 19A.8.5, 19A.8.8, or other similar provision in this Article, written notice is required prior to abatement.
 - 1. A written notice of clean-up will be posted on each tent or structure and in any other distinct area of the encampment providing notice of the date of clean-up and giving a minimum of 24 hours for persons to remove their personal property.
 - 2. After 24 hours, the Chief of Police, in conjunction with the Public Works Department, shall conduct abatement of the site on the date posted on the notice of clean-up. If abatement is delayed or rescheduled, the Chief of Police may conduct abatement within 48 hours of the posted notice of clean-up without reposting a new notice of clean-up. If abatement is delayed longer, the Chief of Police shall repost a notice of clean-up with a new date.
- D. The Chief of Police may follow these additional procedures when persons are present at an encampment during abatement:
 - 1. When shelter is available, the Chief of Police may offer any person at an encampment with shelter and service information and direct them to remove their belongings from the site.
 - 2. Any person who returns to an encampment during abatement shall be allowed to remove their personal property from the site. Personal property left behind will be deemed abandoned.
 - 3. Any person arrested for a criminal offense or an outstanding warrant shall not be required to abandon personal property they identify as their own. Unless the person requests the personal property be discarded or entrusted to another, all personal property of apparent value will be taken by the City for impoundment in accordance with existing policy and procedure. Where the owner of the items cannot be readily identified or discovered, the Chief of Police shall follow the abatement process in this section.
- E. The Chief of Police shall document the abatement process as follows:
 - 1. Photograph or record the site before, during, and after the abatement process.
 - 2. Open backpacks, purses, suitcases, and other small storage containers to determine whether they contain items eligible for storage.
 - 3. Set out items contained in bags or suitcases and photograph the items.
- F. Unclaimed items found during abatement shall be eligible for storage if:
 - 1. Circumstances indicate that the item belongs to a person;
 - 2. The item has apparent utility in its current condition and circumstances; and
 - 3. The item can be safely retrieved from the site.

Examples of items potentially eligible for storage include, but is not limited to, identification and associated paperwork; medication stored in medication bottles with identifying information; art; art supplies; musical instruments; and items that reasonably appear to have sentimental value in their current condition. An item need not be in a new or perfect condition to have apparent utility.

- G. An eligible item found during an abatement shall be put into storage, unless it meets one of the following disqualifying conditions:
 - 1. Hazardous, including items contaminated with human waste, animal waste, or bugs, explosives, weapons, liquids, drug paraphernalia, or mold;
 - 2. Likely to become hazardous in storage, including perishables, wet materials that might become moldy, and items covered in mud;
 - 3. Bulk items that are practically un-storable, due to large size, weight, or other similar characteristic;
 - 4. Contraband or stolen items; or
 - 5. Items that objectively appear to be abandoned.
- H. The Chief of Police shall record each eligible item to be stored, including the location it was found and the date of storage. Any stored items shall be kept in storage for at least 60 calendar days and then may be disposed.
- I. After abatement has concluded and when eligible items are collected and will be placed in storage by the City, the Chief of Police shall post notices at the location of the abatement that includes information how a person can claim stored items. Information about retrieval of stored items shall also be available on the City's website. A person may retrieve stored items based on a description with sufficient specificity to demonstrate ownership. A person may retrieve stored items without inquiry into the person's criminal background and outstanding warrants.
- J. Expedited Abatement
 - 1. In an expedited abatement the Chief of Police shall follow the same abatement and storage procedures in Section 19A.8.6 but shall post a notice of clean-up giving a minimum of three (3) hours for all persons to remove their personal property.
 - 2. The Chief of Police shall prioritize and expedite the removal of an encampment if:
 - a. The City receives direction from the County or other governmental agency that abatement of the encampment is necessary to preserve the public health, safety, and welfare, including to address known or suspected outbreaks of diseases; or
 - b. The Chief of Police observes or reasonably suspects the encampment creates a condition that presents a significant risk of property damage, bodily injury or death.

Sec. 19A.8.7. Interference with Abatement.

No person shall willfully prevent, delay, resist, obstruct, or otherwise interfere with a City official, employee, contractor, or volunteer in their execution of an abatement pursuant to this Article.

Sec. 19A.8.8. Notice prior to impoundment.

- a. Stored personal property may be impounded without notice if there is a reasonable believe that it is abandoned, presents an immediate threat to public health or safety, is evidence of a crime, is evidence in a criminal investigation, or is contraband.
- b. The City may erect signs in public areas stating that any personal property stored in those areas will be impounded. Those signs shall serve to provide the notice required by this section 19A.8.6.

Sec. 19A.8.9. Provisions not applicable.

- a. The provisions of this Article shall not apply to real or personal property or money subject to confiscation pursuant to state or federal law, to personal property that constitutes evidence of a

crime, or evidence in an ongoing criminal investigation and/or civil proceeding pursuant to state or federal law.

- b. "Shopping carts" or "carts", shall be subject to release to the owners and operators of businesses which provide shopping carts for the convenience of their customers.
- c. Notwithstanding the regulations set forth in this Article, the City Manager and/or Chief of Police are hereby authorized to promulgate additional rules and policies for the implementation of this chapter in a manner consistent with state and federal law.

Sec. 19A.8.10. Violations, penalties, and enforcement.

Notwithstanding any other provision in the Brawley Municipal Code, and subject to the general penalty therein, each violation of the provisions of this article may be enforced alternatively as follows:

- 1. A violation of this chapter is declared to be a public nuisance and subject to the penalties stated herein.
- 2. A violation of this chapter is a misdemeanor, punishable by confinement of up to six months in jail and/or fines up to \$500 per violation.
- 3. As an alternative to a fine or jail sentence, the County would encourage the Court to grant diversion or probation with a condition the offender complete a rehabilitation program or treatment plan.
- 4. The City attorney may institute an action in any court of competent jurisdiction to restrain, enjoin or abate the condition(s) found to be in violation of the provisions of this chapter, as provided by law.

Sec. 19A.8.11. Violations, penalties and enforcement.

If any section, subsection, paragraph, or sentence of this Article, 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 Article.

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. 2025-05 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. 2025-05 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