

DATE SUBMITTED 4/28/2022  
 SUBMITTED BY ACM  
 DATE ACTION REQUIRED 5/04/2022

COUNCIL ACTION (X)  
 PUBLIC HEARING REQUIRED ( )  
 RESOLUTION ( )  
 ORDINANCE 1<sup>ST</sup> READING (X)  
 ORDINANCE 2<sup>ND</sup> READING ( )  
 CITY CLERK'S INITIALS ab

**IMPERIAL CITY COUNCIL  
 AGENDA ITEM**

SUBJECT:	DISCUSSION/ACTION: ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IMPERIAL AMENDING THE CODIFIED ORDINANCES REGARDING THE REGULATION OF CAMPING AND STORAGE OF PERSONAL PROPERTY IN PUBLIC AREAS  1. INTRODUCTION AND FIRST READING BY TITLE ONLY OF ORDINANCE 820 OF THE IMPERIAL CITY COUNCIL AMENDING THE CODIFIED ORDINANCES REGARDING THE REGULATION OF CAMPING AND STORAGE OF PERSONAL PROPERTY IN PUBLIC AREAS.  2. PROVIDE DIRECTION TO STAFF TO PREPARE A SUMMARY OF ORDINANCE NO. 820 FOR PUBLICATION PURPOSES.		
DEPARTMENT INVOLVED:	City Manager's Office/City Attorney		
BACKGROUND/SUMMARY:	At the direction of the Imperial City Council, the staff has prepared the proposed ordinance 820 of the City Council to amend the codified ordinances of the City's municipal code regarding the regulation of Camping and Storage of personal property in public areas. Public areas are defined as public parks, public streets and alleys, public parking lots, public rights-of-way, parkways, public sidewalks, recreational areas, and other publicly-owned or controlled property within the city limits. The purpose and intent of these defined areas within the City is that they should be readily accessible and available for residents, businesses, and public at large for their intended purposes. The use of such areas for camping or the storage of personal property interferes with the rights of others to use and enjoy these areas as intended.		
FISCAL IMPACT: To Be Determined	ADMIN SERV INITIALS	<u>JK</u>	
STAFF RECOMMENDATION: It is staff's recommendation to introduce Ordinance 820 and conduct the first reading in title only.	DEPT. INITIALS	_____	
MANAGER'S RECOMMENDATION: <i>approve 1<sup>st</sup> reading</i>	CITY MANAGER'S INITIALS	<u>JHM</u>	
MOTION:	SECONDED: APPROVED ( ) REJECTED ( ) AYES: DISAPPROVED ( ) DEFERRED ( ) NAYES: ABSENT: REFERRED TO:		

## ORDINANCE NO 820

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IMPERIAL AMENDING THE CODIFIED ORDINANCES REGARDING THE REGULATION OF CAMPING AND STORAGE OF PERSONAL PROPERTY IN PUBLIC AREAS.

The City Council of the City of Imperial does ordain as follows:

**Section 1:** Article XIII “Regulation of Camping and Storage of Personal Property in Public Areas” of Chapter 15 of the Imperial City Code is hereby enacted to read as follows:

#### Article XIII Regulation of Camping and Storage of Personal Property in Public Areas

- 15-97 Purpose and Intent.
- 15-98 Definitions.
- 15-99 Camping in Public Areas prohibited.
- 15-100 Storage of Personal Property in Public Areas prohibited.
- 15-101 Chief of Police to receive Stored Personal Property.
- 15-102 Notice prior to impoundment.
- 15-103 Notice upon impoundment.
- 15-104 Holding and disposal of Stored Personal Property.
- 15-105 Owner may claim personal property.
- 15-106 Unclaimed Personal Property to be used by City or sold at auction–Notice.
- 15-107 Conduct of auction.
- 15-108 Proceeds to be deposited in general fund.
- 15-109 Unsalable and unusable Personal Property.
- 15-110 Dangerous or perishable Personal Property; Evidence.
- 15-111 Provisions not applicable.
- 15-112 Violations, penalties and enforcement.

#### **15-97 PURPOSE AND INTENT.**

The public parks, public streets and alleys, public parking lots, public rights-of-way, parkways, public sidewalks, recreational areas and other publicly-owned or controlled property within the City should be readily accessible and available to residents, businesses and the public at large for their intended purposes. The use of these Public Areas for Camping purposes and/or for the Storage of Personal Property interferes with the rights of others to use and enjoy these Public Areas as they are intended. Such activity can constitute a public health and safety hazard which adversely impacts neighborhoods and commercial areas. The purpose of this Chapter is to maintain these Public Areas within the City in a clean, sanitary, safe and accessible condition, to adequately protect

the health, safety, environment and general welfare of the community, and to ensure that these Public Areas are used for their intended purposes and remain accessible to all citizens, businesses and visitors in the City. Penalties in this Ordinance shall not be applied without first addressing adequate housing of vagrants in the City of Imperial. Nothing in this Chapter is intended to interfere with otherwise lawful and ordinary uses of public property.

#### **15-98 DEFINITIONS.**

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

- (a) "Abandoned Personal Property" means Personal Property to which the owner surrenders, relinquishes or disclaims all right, title, claim and possession, with 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.
- (b) "Alley" shall have the meaning set forth in Section 110 of the California Vehicle Code.
- (c) "Camp" or "Camping" means i) 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 ii) 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.
- (d) "Camping Facilities" include, but are not limited to, Tents, huts or other temporary physical shelters, but excluding Umbrellas or Sun Shades.
- (e) "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.
- (f) "Chief of Police" means the Chief of Police of the City of Imperial, or his/her designee.
- (g) "City Clerk" means the City Clerk of the City of Imperial, or his/her designee.
- (h) "City Manager" shall have the same meaning as section 600 of Charter of the City of Imperial, and shall include his/her designee.
- (i) "Community Services Director" means the Community Services Director of the City of Imperial, or his/her designee.
- (j) "Park" shall have the same meaning as defined in Section 13.08.010 of this Code.
- (k) "Police Department" means the Imperial Police Department.
- (l) "Public Area" means a public place, including, but not limited to, any public streets, alleys, public parking lots, public parks, public rights-of-way, parkways, public sidewalks, recreational areas or other publicly-owned or controlled property.

- (m) "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, measured, felt, or touched, including, but not limited to, furniture, appliances, Camping Facilities, Camping Paraphernalia, money, books, and "shopping carts" or "carts" as defined in Chapter 7.52 of this Code.
- (n) "Shopping carts" or "carts" means a basket which is mounted on wheels or a similar device generally used in a retail establishment by a customer for the purpose of transporting goods of any kind. The term "shopping cart" or "cart" includes a laundry cart.
- (o) "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.
- (p) "Street" shall have the meaning set forth in Section 590 of the California Vehicle Code.
- (q) "Tent" means shelter or structure that is not entirely open on all sides;
- (r) "Umbrellas or Sun Shades" 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.
- (s) "Unclaimed Personal Property" means Personal Property that has been turned in to the Chief of Police pursuant to Section 5-100, and that has not been claimed within a period of ninety (90) days by its owner.

**15-99 CAMPING IN PUBLIC AREAS PROHIBITED.**

It shall be unlawful and a public nuisance for any person to Camp in any Public Area, except by permission from the Chief of Police, the Community Services Director or by resolution of the City Council. Fines or penalties related shall not be imposed without evidence of sufficient shelter provided by the City on a sworn statement.

**15-100 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, the Community Services Director or by resolution of the City Council. Personal Property Stored in Public Areas in violation of this section shall be impounded pursuant to Sections 15-101 through 15-102 of this Chapter.
- (b) Any Personal Property left in any park at the time the park is closed to the public and is unattended, shall be immediately impounded, pursuant to the provisions of Sections 15-101 through 15-102 of this Chapter.

**15-101 CHIEF OF POLICE TO RECEIVE STORED PERSONAL PROPERTY.**

The Chief of Police is authorized to impound Personal Property pursuant to the provisions of Sections 15-111 through 15-112, and shall make provisions for the receipt and safekeeping of Personal Property coming into his or her possession pursuant to this Chapter. A receipt shall be issued to the person delivering such Personal Property, unless

the Personal Property was found in the course of employment by an employee of the City. The Chief of Police shall notify the owner of the Personal Property if his or her identity is reasonably ascertainable, or, if the identity of the owner is not reasonably ascertainable, cause a notice to be left in a prominent place on or near the location of the Personal Property for any Personal Property impounded pursuant to Section 15-99, advising that the Chief of Police is in possession of the Personal Property and the location where it may be claimed.

#### **15-102 NOTICE PRIOR TO IMPOUNDMENT.**

- (a) Stored Personal Property may be impounded without notice if there is a reasonable belief 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 15-101.
- (c) If neither subsection "a" nor subsection "b" apply, Personal Property unlawfully Stored in Public Areas shall be impounded only after a notice is left at or near the location of the Personal Property advising that the Personal Property will be impounded if it is not removed. This notice will specify a time when the Personal Property will be impounded if it is not removed.

#### **15-103 NOTICE UPON IMPOUNDMENT.**

If, after any notice required by Section 15-101 is given, Personal Property remains unlawfully Stored in a Public Area, that Personal Property may be impounded. The person impounding the Personal Property shall leave a notice in a conspicuous place at or near where the Personal Property was located prior to being impounded, advising where the Personal Property is being kept and when and where it may be claimed by its owner.

#### **15-104 HOLDING AND DISPOSAL OF STORED PERSONAL PROPERTY.**

Personal Property coming into possession of the Chief of Police pursuant to this Chapter shall be deposited in a safe place for a period of at least ninety (90) days. If the Personal Property consists of money, it shall be deposited with the City's Director of Finance for a period of not less than ninety (90) days, unless sooner claimed by its owner. In the event the Personal Property or money is not claimed within ninety (90) days, it shall be deemed to be Abandoned Personal Property, subject to disposition as provided in this Chapter. The Chief of Police shall not dispose of Personal Property without providing sufficient due process and opportunity for the owner to reclaim such Personal Property.

#### **15-105 OWNER MAY CLAIM PERSONAL PROPERTY.**

During the time that any Personal Property is held by the City, it may be delivered or paid to its owner as follows:

- (a) The Personal Property shall be delivered upon proof of ownership satisfactory to the Chief of Police after ten (10) days' notice by mail to any other person(s) who have asserted a claim of ownership at any address given by such person(s).

- (b) If the Personal Property consists of money, it shall be paid to the owner upon written order from the Chief of Police to the Director of Finance. The Chief of Police shall make such order upon the same proof of ownership and with the same notice as prescribed in the case of Personal Property.
- (c) If ownership cannot be determined to the satisfaction of the Chief of Police, he or she may refuse to deliver the Personal Property or refuse to order the payment of such money to anyone until ordered to do so by a court of competent jurisdiction.

**15-106 UNCLAIMED PERSONAL PROPERTY TO BE USED BY CITY OR SOLD AT AUCTION—NOTICE.**

- (a) Upon expiration of the ninety-day period, any Personal Property received by the City and not delivered to the owner may be appropriated to the use of the City of Imperial upon order of the City Manager on his or her finding that the Personal Property is needed for a public use, and any Personal Property not appropriated to City use may be sold at public auction to the highest bidder.
- (b) All unclaimed money received by the Chief of Police, and not delivered to the owner during the ninety-day period, shall thereafter be deposited in the general fund. Notice of the sale at auction of Unclaimed Personal Property shall be given by the City Clerk at the direction of the Chief of Police at least five (5) days before the time fixed therefor by publication at least once in a newspaper of general circulation.

**15-107 CONDUCT OF AUCTION.**

An auction for the sale of Unclaimed Personal Property shall be conducted by the City Manager.

**15-108 PROCEEDS TO BE DEPOSITED IN GENERAL FUND.**

After any auction for Unclaimed Personal Property is completed, the proceeds of the auction shall be delivered to the Director of Finance for deposit in the general fund.

**15-109 UNSALABLE AND UNUSABLE PERSONAL PROPERTY.**

Any Personal Property advertised and offered for sale but not sold and not suitable for appropriation to the use of the City shall be deemed to be of no value and shall be disposed of in such manner as the City Manager deems appropriate.

**15-110 DANGEROUS OR PERISHABLE PERSONAL PROPERTY; EVIDENCE.**

Subject to the provisions of Section 15-111 below, any Personal Property coming into the possession of the Chief of Police may be disposed of immediately and without notice, in a manner that the Chief of Police determines to be in the public interest, when such Personal Property is perishable, contraband, evidence of a crime, evidence in a criminal investigation, or constitutes an immediate threat to the public health or safety.

**15-111 PROVISIONS NOT APPLICABLE.**

- (a) The provisions of this Chapter 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, evidence in an ongoing criminal investigation and/or civil proceeding pursuant to state or federal law.

- (b) The provisions of this Chapter shall not apply to Abandoned Personal Property, which shall be disposed of forthwith.
- (c) "Shopping carts" or "carts", as defined in this Chapter of this Code, shall be subject to release to the owners and operators of businesses which provide shopping carts for the convenience of their customers.
- (d) Notwithstanding the regulations set forth in this Chapter, 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.

### **15-112 VIOLATIONS, PENALTIES AND ENFORCEMENT.**

Notwithstanding any other provision in this Code, each violation of the provisions of this Chapter may be enforced alternatively as follows:

- (a) A violation of this Chapter may be punishable as a misdemeanor or an infraction at the discretion of the City Attorney;
- (b) 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.

**Section 2:** Effective Date. This ordinance shall take effect and shall be in force thirty (30) days after the date of adoption, and prior to the expiration of fifteen (15) days from the passage thereof, shall be published at least once in a newspaper of general circulation printed and published in the County of Imperial, together with the names of the members of the City Council voting for and against the same.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Imperial,  
this \_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Geoff Dale, Mayor

ATTEST:

\_\_\_\_\_  
Dennis Morita, City Clerk