

**AGENDA
ITEM**

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CITY COUNCIL AGENDA STAFF REPORT

DATE: March 19, 2025
TO: Mayor and City Council
APPROVED BY: Rick Daniels, Interim City Manager *Rick*
PREPARED BY: Michael Coyne, Planning & Building Director *MC*
SUBJECT: Second Reading and Adoption of an Ordinance Regulating Camping on Public or Private Property

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Recommendation: Second Reading and Adoption of an Ordinance Regulating Camping on Public or Private Property

Background: On June 28, 2024, a significant ruling by the U.S. Supreme Court reestablished the authority of cities to enforce camping ordinances, reversing earlier Ninth Circuit Court of Appeals decisions that restricted such regulations. The Supreme Court specifically overruled the Ninth Circuit's decisions in *Martin v. City of Boise* and *Johnson v. City of Grants Pass*, which had limited city regulations on camping in public spaces based on the Eighth Amendment's Cruel and Unusual Punishments Clause. The Supreme Court clarified that the Eighth Amendment concerns the methods of punishment by the state, not the criminalization of certain behaviors, thus allowing local governments to implement stricter regulations on public camping without violating constitutional rights.

Discussion and Analysis: Presently, the only City regulations pertaining to camping relate to City parks, wherein camping, with few exceptions, is prohibited. These existing camping regulations reside in Calexico Municipal Code Chapter 9.18. As such, enforcement of regulations specific to camping is limited for areas outside of the City's park system.

The City has experienced a notable rise in individuals camping and storing personal belongings on both public and certain private properties accessible to the public. A significant portion of these individuals opt not to use available temporary shelters or local social services, choosing instead to reside in public areas or unmanaged private property. This practice gives rise to various public nuisances, such as unsanitary conditions resulting from human waste and litter, obstructions to public pathways, disruptions to business operations, environmental degradation and heightened risks associated with fire hazards from camping activities.

Access to public areas and private property within the City is crucial for residents and visitors alike, yet the current situation compromises this accessibility. The encroachment of camping activities interferes with the legitimate use of these spaces, which adversely impacts neighborhoods and commercial areas. Additionally, the absence of proper provisions for sanitation and fire safety with these currently unregulated camping activities cause public health concerns. The nuisances associated with camping necessitate protective measures to uphold the integrity of public and private property so that they may be used for their intended purposes and to protect the health, safety and welfare of the community.

As such, the primary objective of the proposed Ordinance is to safeguard both public and private properties from the adverse effects associated with unauthorized camping in order to protect the community's health, safety, and overall quality of life. By establishing regulations regarding camping and the storage of personal belongings on both private and public property, the proposed Ordinance would allow the City to mitigate the degradation of its spaces, allowing such spaces to serve their designated functions.

The proposed regulations set forth in the Ordinance outline what constitutes unlawful camping on both private and public property. To clarify terms associated with these regulations, the Ordinance includes specific definitions that outline what constitutes camping, camp facilities, camp paraphernalia and public versus private properties. The proposed regulations prohibit unlawful camping on both public and private property except under certain conditions. For private residential property, overnight camping can occur in rear yard areas with the consent of the property owner for up to three consecutive nights, but not more than 14 cumulative nights during a calendar year. For public property, permission to camp can be granted for special events pursuant to the City's special events permit requirements. Camping may also be permitted by the City during declared natural disasters. The Ordinance also lays out the procedure for confiscation of camp-related personal belongings or camp paraphernalia, with adherence to related California statutes.

Violations of these regulations come with penalties designed to discourage unlawful camping. Infractions range from fines for first-time offenders to potential misdemeanor charges for repeated violations.

Fiscal Impact: No direct fiscal impacts to the City are anticipated with this Ordinance.

Coordinated With: Armando Orozco, Police Chief

Attachment(s):

1. Ordinance Regulating Camping on Public or Private Property

ATTACHMENT NO. 1

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALEXICO, CALIFORNIA, REPEALING CHAPTER 9.18 AND ADDING CHAPTER 9.14 TO THE CITY OF CALEXICO MUNICIPAL CODE REGULATING CAMPING ON PUBLIC OR PRIVATE PROPERTY.

WHEREAS, pursuant to the police power granted to the City of Calexico ("City") under the California Constitution, the City may adopt rules and regulations to serve and protect the health, safety and welfare of the public; and

WHEREAS, the City currently has rules and regulations governing camping within the City limits, set forth in Chapter 9.14, entitled "Park Regulations" of the Calexico Municipal Code; and

WHEREAS, the City Council has determined that camping within the City limits may create a threat to public health and safety; and

WHEREAS, the City Council wishes to revise the current rules and regulations governing camping in the City limits and to codify the same in a new chapter of the Calexico Municipal Code, Chapter 9.14 entitled "Camping on Public or Private Property"; and

WHEREAS, pursuant to the City's police powers, authorized in Article XI, Section 7 of the California Constitution, as well as under the City of Calexico Municipal Code and other provisions of California law, including, but not limited to California Government Code Section 38771, the City has the power through its City Council to declare action and activities that constitute a public nuisance.

NOW, THEREFORE, the City Council of the City of Calexico does hereby ordain as follows:

SECTION 1. Legislative Findings.

The City Council hereby finds as follows:

A. Within the last several years the City has seen an increase in the number of persons who have begun camping on public and private property, creating a number of public nuisance impacts, including:

- 1) Unsanitary conditions resulting from human waste and trash;
- 2) Interference with the use of public property by other members of the public, including hindering or obstructing free passage on public property;
- 3) Interference with the use of commercial property by businesses located there and other private property by owners or others in lawful possession;
- 4) A risk of uncontrolled fires from camp or cooking fires.

B. The streets and public areas within the City should be readily accessible to residents and the public at large without hindrance or obstruction.

C. Private property within the City should be reserved for lawful use as approved by the owners of said property.

D. The use of public and private property within the City for camping purposes or storage of camping paraphernalia and related personal property interferes with the rights of others to use these areas for the purposes for which they were intended.

E. Such activity frequently lacks adequate provision for fire safety, sanitation and refuse disposal and therefore constitutes a public health and safety hazard which adversely affects the public health, safety and welfare of the community, as well as private property rights.

F. Unauthorized camping adjacent to, within, or below the top of banks of any river, canal or stream poses a health and safety risk from potential flooding, proximity to unstable banks with slippage potential, health risks from human waste entering into rivers, streams, canals or other waterways and the risk of damage to environmentally sensitive habitat and species known to exist in some portions of the City, such as rivers, streams, waterways, and wetlands

SECTION 2. Deletion of Title 9, Chapter 9.18 “PARK REGULATIONS” of the Calexico Municipal Code.

SECTION 3. Addition of Title 9, Chapter 9.14 to the Calexico Municipal Code.

Chapter 9.14 of the Calexico Municipal Code is hereby added to read as follows:

“Chapter 9.14 – CAMPING ON PUBLIC OR PRIVATE PROPERTY

9.14.010 - Definitions.

For the purposes of this chapter, the following definitions shall apply:

“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.

“Camp” or “Camping” means use of public property or private property for living accommodation purposes such as: sleeping activities between the hours of sunset to sunrise, or making preparations to sleep (including the laying down of bedding for the purpose of sleeping) between the hours of sunset to sunrise; storing personal belongings; making any fire; using tents, shelter, or other structures or vehicles for sleeping; digging or earth breaking; or carrying on cooking activities. Such activities constitute camping when it reasonably appears, in light of all the circumstances that the participants are using the area as a living accommodation, regardless of the intent of the participants or the nature of any other activities in which they may also be engaging.

“Camp facilities” include, but are not limited to, tents, huts, vehicles, vehicle camping outfits or temporary shelter.

“Camp paraphernalia” includes, but is not limited to: bedrolls; blankets; tarpaulins; cots; beds; sleeping bags; tents; hammocks; non-City designated cooking facilities; open flames; fire stoves; or any other equipment used to “camp.”

“City” means the City of Calexico, including any officers, officials, agents, employees, volunteers, or representatives of the City of Calexico.

“City Manager” means the City Manager or designee.

“Overnight” means any time between the hours of sunset and sunrise.

“Park” means and includes any park, parkway, plaza, greenbelt, garden, lake, river, and any other property owned by the City, including structures thereon, and used, operated, or maintained for recreational purposes whether passive or active. The term “park” also includes all off street parking areas which are used or intended to be used in connection therewith. The term “owned” includes any property interest under which the City operates, maintains, or controls said property. The term also includes any property owned or kept by the City as open space, including undeveloped sites for future parks.

“Private property” means all property, not under the public domain, whether improved or unimproved.

“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.

“Public property” means all property under the public domain, including improved or unimproved land and parks, and the public right of way, including, but not limited to, streets, sidewalks, and alleys.

“Public right-of-way” shall have the same meaning given that term by California Public Utilities Code Section 5830 and means land which by deed, conveyance, agreement, easement, dedication, usage or process of law is reserved for and dedicated to the general public and maintained under public authority or by others and located within streets, roadways, highways, avenues, lanes, alleys, sidewalks, easements, pedestrian walkways, canals, storm drainage and similar public property.

“Unattended personal property” means personal property for which a person is not present to assert or claim ownership over the property.

“Store” means to put aside or accumulate for use when needed, to put for safekeeping and to place or leave in a location.

9.14.020 – Unlawful Camping.

It is unlawful and a public nuisance for any person to camp, occupy camp facilities, or use camp Paraphernalia on any public or private property except as provided in Calexico Municipal Code Section 9.14.030. Any person violating the provisions of this Section is guilty of a trespass pursuant to the provisions of California Government Code Section 37359.

9.14.030 – Exceptions.

Unlawful camping does not apply to:

Overnight camping on private residential property with the consent of the property owner or a person in lawful possession of the property, provided the camping occurs in the rear yard area of a developed residential property and does not pose a threat to the public health, safety, and welfare or otherwise create a public nuisance or private nuisance and so long as the overnight camping is limited to not more than three (3) consecutive nights and not more than fourteen (14) cumulative nights per calendar year.

Camping on public or private property in connection with a special event, when authorized pursuant to Chapter 12.18 of the Calexico Municipal Code.

Camping on any property that has been specifically zoned and/or identified by the City Council for camping purposes.

As authorized by the City Manager, sixty (60) days following a declared natural disaster or state of emergency affecting the City wherein structures have been deemed uninhabitable.

9.14.040 – Storage of Personal Property.

It is unlawful and a public nuisance for any person to store camp paraphernalia in the following areas:

- A. Any Public Property; or
- B. Outside a structure on any Private Property without the prior written consent of the property owner. Any storage on Private Property shall be subject to all local and state regulatory controls, including, but not limited to the abatement procedures set forth in Calexico Municipal Code Section 8.44.040 if determined to be a nuisance. Unattended personal property or possessions on private property that are hazardous, unsanitary, soiled or verminous may be summarily abated and destroyed in accordance with Calexico Municipal Code Section 8.44.170.

9.14.050 - Confiscation of Unattended Property.

The City shall have the right to confiscate any personal property stored in violation of this Chapter. Any personal property located on public property that is unattended and whose owner cannot be readily identified are presumed to be abandoned.

- A. The City shall make a good faith effort to locate the owner(s) of the unattended personal property and to provide him or her with an opportunity to collect the personal

property before seizing the items, by providing written notice of the intent to seize the personal property seventy-two (72) hours before seizing the items. However, unattended personal property causing an immediate health and safety risk, including, but not limited to, impeding vehicular or pedestrian passage on a public right of way may be immediately removed.

- B. Upon removing any personal property, the City shall leave a written notice at the location of the confiscation confirming that a seizure has occurred pursuant to this Chapter and providing instructions for how to claim the items.
- C. The City shall store all items confiscated pursuant to this Chapter for ninety (90) days in accordance with California Civil Code § 2080, *et seq.* (as amended).
- D. The City shall comply with the provisions of California Civil Code § 2080, *et seq.* (as amended) in selling any items confiscated pursuant to this Chapter and in collecting the costs thereof.
- E. Unattended personal property or possessions on public property that are hazardous, unsanitary, soiled or verminous may be summarily abated and destroyed.

9.14.060 – Penalty for Violation.

Any violation of this chapter shall be deemed an infraction punishable by a fine not to exceed \$100, for a first offense, and, for a second or subsequent offense, a misdemeanor punishable by a fine not to exceed \$500 or imprisonment in the County jail for a period not to exceed three months or by both fine and imprisonment. A violation of this Chapter may also be enforced as a public nuisance using any of the remedies set forth in Penal Code Section 370, and as provided in Chapter 8.44 of the Calexico Municipal Code. The penalties herein are not exclusive, so that a person violating any of the provisions of this Chapter is subject to any other applicable fines and penalties, including but not limited to civil penalties and administrative citations.

SECTION 4. Effective Date. This Ordinance shall take effect thirty (30) days after its adoption.

SECTION 5. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional. If for any reason any

portion of this ordinance is found to be invalid by a court of competent jurisdiction, the balance of this ordinance shall not be affected.

SECTION 6. Certification. The City Clerk shall certify to the adoption of this Ordinance and cause publication to occur in a newspaper of general circulation and published and circulated in the City in a manner permitted under California Government Code Section 36933.

SECTION 7. CEQA. The City Council finds that this Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

PASSED, ADOPTED, AND APPROVED at a regular meeting of the City Council of the City of Calexico, California on the 19th day of March, 2025, by the following vote:

Diana Nuricumbo, Mayor

ATTEST:

Veronica L. Alvarado, City Clerk

APPROVED AS TO FORM:

Carlos Campos, City Attorney

STATE OF CALIFORNIA)
COUNTY OF IMPERIAL) ss
CITY OF CALEXICO)

I, Veronica L. Alvarado, City Clerk of the City of Calexico, California, do hereby certify that the foregoing Ordinance was adopted at a regular meeting of the City Council of the City of Calexico held on the 19th day of March, 2025, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Veronica L. Alvarado
City Clerk