

ORDINANCE NO. 4019

AN ORDINANCE OF THE CITY OF BRADENTON, FLORIDA, AMENDING CHAPTER 54, ARTICLE I, TO ADD A NEW SECTION 54-15, STORAGE OF PERSONAL PROPERTY, PROHIBITING THE STORAGE OF PERSONAL PROPERTY ON PUBLIC PROPERTY, INCLUDING PUBLIC RIGHTS-OF-WAY, AND PRIVATE PROPERTY WITHOUT APPROVAL OF OWNER; PROVIDING FOR REMOVAL AND/OR DISPOSAL OF PERSONAL PROPERTY IN VIOLATION OF SECTION 54-15; PROVIDING FOR EXEMPTIONS TO SECTION 54-15; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Bradenton has a significant governmental interest in promoting the health, safety and security of citizens and visitors by regulating potentially hazardous conditions on public and private property and within public rights-of-way.

WHEREAS, personal property stored on public property, including public rights-of-way, may pose a health, safety, or security threat to pedestrians and vehicles.

WHEREAS, the City has a significant governmental interest in ensuring that pedestrians have minimally obstructed access to public rights-of way.

WHEREAS, the City has a compelling governmental interest in complying with requirements of the American with Disabilities Act, which include minimally obstructed sidewalk access for those with disabilities.

WHEREAS, it is necessary and in the best interest of the City to add Section 54-15 to prohibit the storage of personal property on public property, including public rights-of-way, and private property without approval of owner, and to allow for the removal and/or disposal of personal property found to be in violation of Section 54-15.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRADENTON, FLORIDA:

Section 1. Findings of Fact. The foregoing whereas clauses are hereby adopted as findings of fact.

Section 2. Amended Code Language.

A. A new Chapter 54, Article 1, Section 54-15 shall be added as follows:

Sec. 54-15. – Storage of personal property.

(a) *Purpose and findings.*

- (1) The city has a significant governmental interest in promoting the health, safety and security of citizens and visitors by regulating potentially hazardous conditions on public and private property and within public rights-of-way.
- (2) Personal property stored on public property, including public rights-of-way, may pose a health, safety, or security threat to pedestrians and vehicles.
- (3) The city has a significant governmental interest in ensuring that pedestrians have minimally obstructed access to public rights-of way.
- (4) The city has a compelling governmental interest in complying with requirements of the American with Disabilities Act, which include minimally obstructed sidewalk access for those with disabilities.
- (5) The city is willing to assist, on a limited basis, in providing storage facilities to those who do not have a location to store personal property.

(b) *Definitions.* For purposes of this section, the following definitions or definitional guidelines shall apply:

- (1) *Custodian* means an owner of personal property or another person entrusted with the care and possession of the personal property by the owner.
- (2) *Public property* means any street, alley, sidewalk, pedestrian pathway, bicycle lane, sidewalk, median, or any other area encompassed within the public right-of-way in the City of Bradenton, Florida, any park, or other outdoor recreation facility in the City of Bradenton, Florida, or any other grounds, buildings, or other facilities, including any structures, fixtures, equipment, furnishings and any other appurtenances located thereon, owned or leased by the City of Bradenton.
- (3) *Reasonable charges* means the city's actual costs incurred, but in determining the reasonableness of the charges, the city may take into consideration the owner's ability to pay the charges.

(4) *Store or stored* when referring to an item on public or private property shall be broadly interpreted to include any action to place, store, park, display, keep, locate, or set an item upon the property.

(c) *Storage of personal property.* It shall be unlawful, subject to the provisions herein, for any person to store unattended items of personal property on public property, or to store attended items of personal property on public property for a time period exceeding twenty-four (24) continuous hours, or to store items of personal property on private property without the permission of the private property owner.

A person shall not be charged with a violation of this section unless and until such person has been given verbal, written or posted notice, under the provisions herein, to remove the prohibited items, and then fails to do so. A person who retrieves their personal property, pursuant to subsection (f), which was unattended when removed by the city, shall not be cited for a violation of this section if it is that person's first violation of this section. A person shall not be charged with a violation of this section if the person, upon receiving notice, removes or causes to be removed all prohibited items from the subject public property or private property immediately and does not at any point thereafter return any personal property to any public property or to private property without the permission of the private property owner. Moving the unlawfully stored items to another location on public property shall not be considered to be removing the item from public property.

If requested by a person in violation of this section, and in consideration of the public health and safety, a law enforcement officer or city code compliance officer shall remove, or cause to be removed, all items of personal property to a secure indoor or outdoor location at a social service agency which has agreed to accept such personal property. The social service agency may establish reasonable rules and guidelines for the use of any storage space in accord with any applicable governmental laws and regulations. Whenever it is determined that personal property has been abandoned at the social service agency, the procedures set forth in F.S. ch. 705 shall apply and be followed.

(d) *Removal of personal property unlawfully stored on public property.*

(1) *Attended property.* If the city identifies items of personal property that are and have been stored continuously on public property for over twenty-four (24) hours and such items are attended by the owner or other custodian, the city shall give the owner or custodian twenty-four (24) hours to remove, or cause to be removed said items to another location that is not on public property. If the owner or custodian is thereafter found with any item of personal property which is unlawfully stored on public property after having been given verbal or written notice

by the city, the city may cause the removal of such unlawfully stored items.

- (2) *Unattended property.* If the city identifies items of personal property that are being stored on public property and said items are unattended and are not determined to be lost or abandoned property under F.S. ch. 705, then the city shall affix a written notice to the personal property giving the owner forty-eight (48) hours to remove or cause to be removed said items to another location that is not on public property. If the property owner fails to remove any item of personal property which is unlawfully stored on public property after posted notice by the city, the city may cause the removal of such unlawfully stored items.
 - (3) *Property that is a threat to health, safety or welfare.* If the city identifies items of personal property, whether attended or left unattended, that are being stored on public property and determines that the stored items are a threat to the health, safety, or welfare of the public, the city may immediately remove such stored items. A threat to the health, safety, or welfare of the public shall include, but not be limited to, a fire hazard, an explosive hazard, noxious odors, an infectious or pathogenic hazard, or an infestation of vermin, including rodents, lice, roaches and fleas, to which the public would be exposed due to unlawful storage. If the items are removed without prior notice, a written notice shall be posted at the location where or nearby where the items were removed from and at the city police department property division.
 - (4) *Property within posted notice of no storage.* If the city identifies items of personal property left unattended that are being stored on public property which is posted with a sign conforming to the requirements of subsection 54-15(g) stating that unattended personal property may not be stored on public property and may be removed immediately, then no additional notice shall be required and the unattended item(s) may be removed immediately by the city.
- (e) *Removal of personal property unlawfully stored on private property.* If the city identifies items of personal property that are being stored on private real property without the permission of the private real property owner, the city may immediately remove such unlawfully stored items at the request of the private real property owner.
 - (f) *Disposal of personal property that has been removed by the city.* The city may dispose of personal property after it has been removed from public property or from private property upon the expiration of thirty (30) days after its removal or after seven (7) days if the items are deemed to be a threat to the health, safety, or welfare of the public pursuant to this subsection. However, the owner of the personal property may retrieve said property

within the thirty-day period, after presentation to the city of adequate proof of ownership thereof and payment to the city of reasonable charges for the storage and removal thereof, if applicable. The city shall post notice at the police department with a description of the items removed, the location the items were removed from, and the deadline for the recovery of the items by their owner. The removal and disposal of any items of personal property under this section may be accomplished either by the city or by someone under contract to the city to remove or dispose of such items.

(g) *Posted notice.* The city shall be authorized to post, or cause to be posted, notice of the prohibitions of subsection 54-15(c) on public property under the following circumstances:

(1) Temporary signs warning of immediate removal of unattended items from public property may be posted at least thirty-six (36) hours in advance of preplanned events, including, but not limited to, parades and special events which are likely to draw large crowds to the city.

(2) Temporary signs may be posted in a particular area in the event the city determines there is a need for a cleanup or clearance of unattended items from that area. Signs shall be posted at least thirty-six (36) hours in advance of the cleanup or clearance operation.

(3) Permanent signs warning of the immediate removal of unattended items from public property may be posted on public property frequently traveled by pedestrians in order to facilitate access to businesses, schools and government facilities in commercial areas of the city or when required to ensure access as required by the Americans with Disabilities Act.

(4) Permanent signs warning of the immediate removal of unattended items from public property may be posted in public parks and around schools and public buildings or facilities which are likely targets for the placement of explosive devices by terrorists or dissidents.

All signage authorized by this subsection shall be readable to pedestrians traveling in or upon the public property; shall be prominently displayed on the public property where the prohibitions apply; shall state "NO storage of unattended personal property on Public Property allowed;" shall state where a claim of recovery of personal property removed under this section may be made; and shall cite this section.

(h) *Exemptions.* The following items shall be exempt from the prohibitions of subsection 54-15(c), unless any such exemption creates and/or causes a hazardous condition or threatens public safety:

- (1) *Medical emergency.* Items stored pursuant to a medical emergency are exempt from the prohibitions of subsection 54-15(c) until the resolution of the medical emergency.
- (2) *Permitted event.* Items stored pursuant to permitted events in the city, such as but not limited to, parades, festivals, assemblies or concerts are exempt from the prohibitions of subsection 54-15(c), for the duration of the event, at the discretion of the city.
- (3) *Permitted property.* Items stored pursuant to a permit issued by, or other authority from, the city are exempt from the prohibitions of subsection 54-15(c).
- (4) *Government property.* Items stored by a government entity or pursuant to direction from a government entity are exempt from the prohibitions of subsection 54-15(c), at the discretion of the city.

Section 3. Codification. The City Clerk shall ensure that this Ordinance shall be submitted for codification of the language in Section 2 herein upon taking effect.

Section 4. Repeal of Inconsistent Ordinances. This Ordinance hereby repeals all ordinances, or parts thereof, in conflict herewith to the extent of such conflict.

Section 5. Severability. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

Section 6. Effective Date. This Ordinance shall take effect as provided by law.

FIRST READING	September 13, 2023
PUBLICATION DATE	September 15, 2023
SECOND READING	September 27, 2023

PASSED AND DULY ADOPTED, BY THE CITY COUNCIL OF THE CITY OF BRADENTON, FLORIDA, with a quorum present and voting, this ____, day of _____, 2023.

CITY OF BRADENTON, FLORIDA:

Gene Brown, Mayor

ATTEST:

By: _____
Tamara Melton, City Clerk

APPROVED AS TO FORM:

By: _____
Scott Rudacille, City Attorney