



CITY OF SALINAS COUNCIL STAFF REPORT

DATE: **October 23, 2018**

DEPARTMENT: **OFFICE OF THE CITY ATTORNEY**

FROM: **CHRISTOPHER A. CALLIHAN, CITY ATTORNEY**

TITLE: **ORDINANCE REGULATING ABANDONED SHOPPING CARTS**

RECOMMENDATION MOTION:

A motion to adopt an ordinance relating to the prevention of abandoned shopping carts.

RECOMMENDATION:

It is recommended that the City Council adopt the proposed ordinance.

EXECUTIVE SUMMARY:

The proposed ordinance regulates the accumulation of wrecked, dismantled, and abandoned shopping carts on public or private property and operates to insure 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 the Salinas Municipal Code, and to facilitate the retrieval of abandoned carts as permitted by State law.

DISCUSSION:

This item comes forward at the request of Councilmember Craig, with the support of Councilmember Villegas.

The City Council last considered this issue in 2008, when an ordinance was considered by the City Council to regulate abandoned shopping carts in the same manner as in the currently proposed ordinance. City staff was later directed to put this issue on hold due to changes in the City Council's top priorities and resource concerns, so the ordinance was not adopted by the City Council at that time.

The State has promulgated a series of statutes designed to address the problem of abandoned shopping carts. California Business and Professions Code Sections 22435 through 22435.8 authorizes a city to retrieve off-premises shopping carts and laundry carts and fine the shopping cart owner if four or more shopping carts or laundry carts are not retrieved in a six-month period. Subdivision (d) of Business and Professions Code Section 22435.7 authorizes cities which

impound shopping carts to recover the actual cost of the recovery service. California Business and Professions Code Sections 22435.10 through 22435.13 regulates shopping cart and laundry cart retrieval services. The state law provisions apply, however, only when a cart has a sign permanently affixed to it that identifies the owner of the cart or retailer, that notifies the public of the procedure for unauthorized removal of carts from the premises, and that notifies the public that unauthorized removal of carts or unauthorized possession of carts is a violation of state law. The cart must also have a valid telephone number or address displayed for returning the cart removed from the premises.

Unless written consent is obtained from a storeowner or his or her agent, it is a violation of state law, punishable as a misdemeanor, to remove carts, abandon carts, and/or be in the possession of carts removed from store premises with the intent to temporarily or to permanently deprive the owner or the retailer of possession of the cart.

Under State law, the City is authorized to impound carts that are located outside the premises or parking areas of a retail establishment or that would impede emergency services; however, the City may only recover actual costs for providing this service under specific circumstances and is prohibited by State law from issuing a fine exceeding fifty dollars (\$50.00) for each occurrence. An “occurrence” includes all shopping carts impounded in a one-day period.

The proposed ordinance is consistent with state law and is consistent with the approaches taken by many other California cities including Watsonville, San Jose, Santa Ana, and Riverside, for example. The central requirement of the proposed ordinance is to mandate business owners to adopt, implement, and maintain an “Abandoned Cart Prevention Plan,” thereby placing the burden on them for keeping their shopping carts within store premises. Store owners who violate any provision of the regulations would be subject to enforcement authorized by the Municipal Code and/or other available legal remedies. Under the proposed ordinance, City staff (Public Works staff, primarily) would notify the business/owner if any of their carts were found outside their store premises. Upon either written or verbal notice, the business/owner will have twenty-four (24) hours to retrieve the reported abandoned carts. In the event the carts are not retrieved by businesses within the required time period, City staff will have the authority under the proposed ordinance to gather the carts and place them in the City Yard (or some other storage facility maintained by the City) for no more than thirty (30) days. The City, in accordance with State law, will then have the authority to dispose of any carts left for a period longer than thirty (30) days.¹

The proposed ordinance was shared with the Executive Directors of the Salinas Valley Chamber of Commerce and the Salinas United Business Association (SUBA) on October 1, 2018. Updates

¹ The City Council must consider that it does not have an impound lot for storage of carts. Staff’s existing practice is to remove carts to the City Yard. There is insufficient space at the Yard to store and to inventory carts. An alternate location would need to be obtained or developed for cart storage, which may be one of the properties in the City’s inventory.

will be provided to Council in the event either of these organizations submits comments on the proposed ordinance.

CEQA CONSIDERATION:

The City of Salinas has determined that the proposed action is categorically exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15301 concerning the operation or minor alteration of existing public facilities involving negligible or no expansion of use.

STRATEGIC PLAN INITIATIVE:

This item is not among the specific goals and objectives listed in the 2016-2019 Salinas City Council Strategic Plan; however, it is consistent with the City Council's goal of maintaining a safe, livable community and of promoting a high quality of life.

FISCAL AND SUSTAINABILITY IMPACT:

There may be costs associated with the collection and the storage of abandoned shopping carts; however, the full costs associated with this program have not yet been determined. Additional data on the number(s) of abandoned carts collected will be needed to determine the impact and it will take time to gather such data. The City's costs may also be passed on to the owners/businesses that fail to retrieve their abandoned carts after notice by the City.

DEPARTMENTAL COORDINATION

Implementation and enforcement of the proposed ordinance will require coordination among several City departments including Community Development (Code Enforcement), Public Works, Police Department, and City Attorney's Office.

ATTACHMENTS:

Proposed Ordinance