

ORDINANCE NO. 1324-15 (CM)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WATSONVILLE AMENDING TITLE 5 (PUBLIC WELFARE, MORALS, AND CONDUCT) OF THE WATSONVILLE MUNICIPAL CODE BY ADDING CHAPTER 47 ENTITLED SHOPPING CART REGULATIONS

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NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WATSONVILLE, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. ENACTMENT.

Title 5 (Public Welfare, Morals, and Conduct) of the Watsonville Municipal Code is hereby amended by adding Chapter 47 entitled Shopping Cart Ordinance to read in words and figures as follows:

**CHAPTER 47
 SHOPPING CART ORDINANCE**

Sec. 5-47.01 Findings

California Business and Professions Code §§ 22435 through 22435.8 authorizes a city, inter alia, to retrieve off-premises shopping and laundry carts and fine the shopping cart owner up to \$50 if four or more shopping or laundry carts are not retrieved in any six month period. Subdivision (d) of Business and Professions Code § 22435.7 authorizes cities which impound shopping carts to recover the actual cost of the recovery service.

California Business and Professions Code §§ 22435.10 through 22435.13 regulates shopping and laundry cart retrieval services.

Sec. 5-47.02 Definitions.

As used in this chapter:

(a) “Abandoned cart” shall mean any cart that has been removed, without written consent of the owner, from the owner’s business premises and is located on either public or private property.

(b) “Agent” shall mean the person or persons designated by the owner of the cart authorized as the person to perform or provide retrieval services on behalf of the owner. The agent may be the owner, store manager, employee or private cart retrieval company.

(c) “Cart” shall mean a basket which is mounted on wheels or a similar device generally used in a retail or commercial establishment by a customer for the purpose of transporting goods of any kind.

(d) “Director” shall mean the Director of Public Works and Utilities or the Director of Community Development for the City of Watsonville or such other director designated by the City Manager to administer this chapter.

(e) "Owner" shall mean any person or entity, who in connection with the conduct of a business, owns, leases, possesses, or makes a cart available to customers or the public. For the purposes of this chapter, owner shall also include the agent.

(f) "Premises" shall mean the entire area owned, occupied, and/or utilized by an owner which provides carts for use by customers or other persons, including any parking lot or other property provided on behalf of the owner for customer parking or use.

Sec. 5-47.03 Unauthorized removal unlawful.

It shall be unlawful for any person, either temporarily or permanently, to remove a cart from a premises or be in possession of a lawfully marked cart that has been removed from a premises without written consent of the owner authorized by this chapter or for the purpose of repair, maintenance, or disposal.

Sec. 5-47.04 Abandonment prohibited.

It shall be unlawful for any person to cause or permit any cart to be abandoned on or upon any sidewalk, street or other public area, other than the premises of the owner of such cart.

Sec. 5-47.05 Cart identification required.

Every cart owned or provided by any owner shall have the sign that includes the owner's name, address and phone number required by Section 22435.1 of the California Business and Professions Code permanently affixed to the cart.

Sec. 5-47.06 Cart removal warning signs.

Owners shall prominently display signs notifying the public that removal of carts from the premises is prohibited under Business and Professions Code Section 22435 et seq and this chapter.

Sec. 5-47.07 Written permission required for off-premises use of cart.

An owner may permit customer off-premises use of a cart for transportation of purchased items. The authorization must be in writing with date and time. This cart must be returned to the owner's premises within 72 hours.

Sec. 5-47.08 Mandatory locking of carts after hours.

Carts stored outdoors shall be locked after business hours in a manner that prevents theft.

Sec. 5-47.09 Mandatory retrieval required within 24 hours of notification by City.

The City shall notify the owner of an abandoned cart when such cart is located in a place that can be accessed safely by the owner. Such notice may be by telephone, email or text message to the owner or owner's agent designated in the Abandoned Cart Prevention and Retrieval Plan. Within 24 hours of City notification, the owner or agent shall cause the identified cart(s) to be retrieved.

Sec. 5-47.10 Abandoned cart prevention and retrieval plan required.

Every owner who provides carts to customers or intends to provide carts to customers shall develop, implement and comply with the terms and conditions of an approved Abandoned Cart Prevention and Retrieval Plan to prevent unauthorized removal of carts from a premises and, if removed, to retrieve the cart within 24 hours of removal or notice of removal. Such Abandoned Cart Prevention and Retrieval Plan must be approved by the Director to be effective. Such Abandoned Cart Prevention and Retrieval Plan shall include the following elements:

(a) Name. The name of the owner, any agent(s) and the business name, the physical address where the business is conducted, name, address and phone number(s) of the on-site and off-site owner or agent(s) if different.

- (b) Designation of the agent for cart retrieval including direct contact information including phone, text or email information.
- (c) Cart Identification Sign. Owners shall attach an example of the proposed cart ownership identification sign which shall conform to California Business and Professions Code § 22345.1 and this chapter.
- (d) Verification that carts that are stored outdoors shall be locked during hours when the business is closed.
- (e) At any time after the director's approval of any Abandoned Cart Prevention and Retrieval Plan, the owner may propose a change to address different circumstances or to improve the Plan.
- (f) The owner or agent shall provide the City with current contact information for the purpose of notification of abandoned carts by the City.

An owner or agent, who fails, three times or more in any 6-month period, to retrieve a cart within the required 24 hour period upon notification by the City, will be required to submit a revised Abandoned Cart Prevention and Retrieval Plan for approval by the Director. After approval of the revised Abandoned Cart Prevention and Retrieval Plan, an owner or agent who then fails, three times in any subsequent 6-month period, to retrieve a cart within the required 24 hour period upon notification by the City, shall be required to enter into a valid and enforceable contract with a shopping cart or laundry cart retrieval business which complies with Article 2 of Chapter 19 of Division 8 of the Business and Professions Code, commencing with § 22435.10.

SECTION 2. PUBLICATION.

This ordinance shall be published in the Watsonville Register-Pajaronian and/or Santa Cruz Sentinel in compliance with the provisions of the Charter of the City of Watsonville.

SECTION 3. EFFECTIVE DATE.

This ordinance shall be in force and take effect thirty (30) days after its final adoption.

The foregoing ordinance was introduced at a regular City Council meeting of the City of Watsonville, held on the 27th day of October, 2015, by Member Dutra, who moved its adoption, which motion being duly seconded by Member Coffman-Gomez, was upon roll call carried and ordered printed and published by the following vote:

AYES: COUNCIL MEMBERS: **Cervantez Alejo, Coffman-Gomez, Dutra, Garcia, Hurst, Bilicich,**

NOES: COUNCIL MEMBERS: **None**

ABSENT: COUNCIL MEMBERS: **Hernandez**



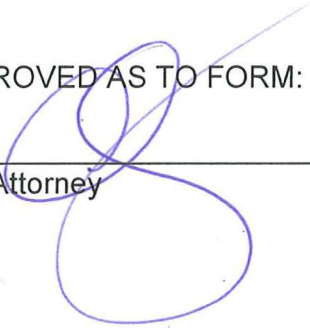
Dr. Nancy A. Bilicich, Mayor

ATTEST:



City Clerk

APPROVED AS TO FORM:



City Attorney

ORDINANCE NO. 1324-15 (CM)

The foregoing ordinance, having been printed and published as required by the Charter of the City of Watsonville, and coming on for final consideration at the regular meeting of the Council of the City of Watsonville, held on the 17th day of November, **2015**, by Member Hurst, who moved its adoption, which motion being duly seconded by Member Coffman-Gomez, was upon roll call carried and the ordinance finally adopted by the following vote:

AYES: COUNCIL MEMBERS: **Cervantez Alejo, Coffman-Gomez, Dutra, Garcia, Hernandez, Hurst, Bilicich**

NOES: COUNCIL MEMBERS: **None**

ABSENT: COUNCIL MEMBERS: **None**



Dr. Nancy A. Bilicich, Mayor

ATTEST:



City Clerk

EFFECTIVE DATE:

December 17, 2015

I, Beatriz Vázquez Flores, City Clerk of the City of Watsonville,
do hereby certify that the foregoing Ordinance No. 1324-15 (CM) of
the Council of the City of Watsonville was passed and adopted by the
Council thereof on the 17th day of November, 2015, and a summary
was published according to law to-wit: by publication for one day in
the Register Pajaronian issue November 14, 2015



City Clerk, City of Watsonville

Dated: Dec 15, 2015