

STAFF REPORT

City Council Business Item

DATE: August 7, 2023

TO: Honorable Mayor and Council Members

FROM: Casey Day, Chief of Police; and Ryan Plotz, City Attorney

THROUGH: Merritt Perry, City Manager

SUBJECT: Public Hearing: Introduction and First Reading of *Ordinance No. 2023-763* Amending Title Eight (8), Chapter 8.26 – Abandoned Shopping Carts and Determining the Ordinance to be Exempt from CEQA

STAFF RECOMMENDATION:

Receive staff report, receive public comment, and discuss and consider conducting a first reading of *Ordinance No. 2023-763* by title only.

EXECUTIVE SUMMARY:

This ordinance adds Chapter 8.26 – (*Abandoned Shopping*) *Carts* to Title 8 – (*Health and Safety*) of the Fortuna Municipal Code. Chapter 8.26 is set forth in Exhibit “A,” attached hereto and incorporated herein by reference.

The addition of Chapter 8.26 identifies the fact that the presence of abandoned or unattended shopping carts, or parts thereof, on private or public property creates a condition that reduces the value of private property. Abandoned or unattended carts or parts thereof also create blight and deterioration, interfere with pedestrian and vehicular traffic, are injurious to health, safety, and general welfare, and contributes to landfill waste.

The presence of abandoned or unattended carts, or parts thereof, on private or public property, except as expressly hereinafter permitted, is declared a public nuisance, which may be abated as such in accordance with the provision of the Fortuna Municipal Code.

This ordinance establishes the following prohibitions and requirements, and makes the following additions to the Fortuna Municipal Code.

- It prohibits the unauthorized removal of shopping carts from a business premises without the written consent of the owner.
- It requires any shopping cart taken off premises to be returned to the owner’s premises within seventy-two (72) hours.
- It requires mandatory secure containment of shopping carts on the business premises after hours.

- It requires on premises collection schedules for businesses open 24 hours.
- It requires a mandatory retrieval of shopping carts by businesses within 24 hours of notification by the City.
- It requires businesses to submit an abandoned shopping cart prevention and retrieval plan within sixty (60) days after the ordinance that implements this chapter becomes effective or within thirty (30) days of opening any new business utilizing shopping carts.

This ordinance also establishes the following nuisance remedies and makes the following additions to the Fortuna Municipal Code.

- Impoundment with Notice - After 72 hours, any shopping cart located outside the business premises shall be impounded by the City if the cart is not retrieved by the business after proper notice.
- Impoundment without 72 hour Notice – Failure of business to collect the shopping cart, free of charge, after 72 hours upon receiving a 24 hour notice following impound.
- Immediate Retrieval and Impoundment by City for Impeding Emergency Services.

This ordinance also establishes the following punitive fines for recovery and non-compliance and makes the following additions to the Fortuna Municipal Code.

- \$100 fine per each calendar month an Abandoned Shopping Cart Prevention and Retrieval Plan is delinquent.
- \$50 fine per cart, per three-day period in which a business fails to retrieve a shopping cart from impound.

This ordinance also establishes the following authorities and makes the following additions to the Fortuna Municipal Code.

- City may sell or otherwise dispose of any shopping cart not reclaimed within thirty (30) days of notice, or if the owner cannot be determined, or if the cart is rendered unusable.

DISCUSSION:

Over the past few months, the Chief of Police has facilitated in-person meetings with the majority of Fortuna retailers utilizing shopping carts. The purpose of these meetings were to involve Fortuna businesses in a collaborative process and to encourage input from store managers. The majority of retailers attended these meetings and a few declined based on corporate policy. Overall there was a mutual understanding that this ordinance will enhance the quality of life in Fortuna, reduce costs associated with property loss, protect the environment and improve store operations.

The addition of *Ordinance No. 2023-763*, will mutually benefit both the community and businesses by promoting an orderly City, enhancing pedestrian safety, preserving business integrity, encouraging responsible consumer behavior, reducing costs for businesses and taxpayers, strengthening the cooperation between businesses and local government, by minimizing environmental impacts, and by enhancing the community image.

FINANCIAL IMPACT:

No fiscal impact.

RECOMMENDED COUNCIL ACTION:

1. Receive staff presentation and review Council questions with staff
2. Open Public Comment
3. Close Public Comment
4. Motion to hold the first reading of *Ordinance No. 2023-763*, read by title only and continue the Public Hearing to Monday, August 21, 2023 for the second reading and adoption. Roll call vote.

ATTACHMENTS:

- *Ordinance No. 2023-763, An Ordinance Of The City Council Of The City Of Fortuna, California Amending Title 8 – Health And Safety Of The Fortuna Municipal Code By Chapter 8.26 – Abandoned Shopping Carts And Determining The Ordinance To Be Exempt From CEQA*