

CITY OF CITRUS HEIGHTS

ORDINANCE NO. 2022-012

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CITRUS HEIGHTS
ADDING ARTICLE VII TO CHAPTER 50 OF THE CITRUS HEIGHTS
MUNICIPAL CODE RELATING TO THE REGULATION OF SHOPPING
CARTS**

**THE CITY COUNCIL OF THE CITY OF CITRUS HEIGHTS HEREBY
ORDAINS AS FOLLOWS:**

SECTION 1. Declaration of Intent

The purpose of this ordinance is to ensure that measures are taken by cart owners to prevent the removal of shopping carts from store premises and parking lots and to facilitate the retrieval of abandoned carts as permitted by State law.

SECTION 2. Findings

- The proposed amendments will not be detrimental to the public, interest, health, safety, convenience, or welfare of the City.
- The proposed amendments are exempt from the California Environmental Quality Act (CEQA) under Section 15061(b)(3) and 15305 of the Guidelines

SECTION 3. Add Section VII to Chapter 50 to the Citrus Heights Municipal Code

Section VII, Chapter 50, Shopping Carts, is hereby added to the Citrus Heights Municipal Code and shall read as set forth below:

ARTICLE VII. -- SHOPPING CARTS

Section 50-900. - Purpose.

Abandoned shopping carts constitute a nuisance, create potential hazards to the public health and safety and interfere with pedestrian and vehicular traffic within the City. Wrecked, dismantled and/or abandoned shopping carts on public or private property create conditions that reduce property values and promote blight and deterioration within the City's neighborhoods.

The purpose of this section is to ensure that measures are taken by cart owners to prevent the removal of shopping carts from store premises and parking lots and to facilitate the retrieval of abandoned carts as permitted by State law. This section is based in part on California Business and Professions Code Section 22435 and following.

Section 50-901. - Applicability.

This section applies to:

- (a) All businesses within the City of Citrus Heights that provide shopping carts for customer use at any one business location; and
- (b) Any person in possession of an off-site shopping cart.

Section 50-902. - Definitions.

Abandoned shopping cart means any cart removed from a business establishment's premises without the written permission of the owner and located on either public or private property. This does not apply to carts that are removed for purposes of repair or maintenance.

Agent means the person or persons designated by the owner of the shopping cart authorized to perform or provide retrieval services on behalf of the business owner.

Cart means the same as shopping cart.

City means the City of Citrus Heights or its designated representatives.

Identified Shopping Cart means a shopping cart that has a permanently affixed sign that identifies, in accordance with Section 50-904, the owner of the cart or the retailer, or both.

Owner means a person or establishment providing shopping carts for customers' use.

Premises means the entire area owned or under the control of a business owner, including the parking area or other off-street area.

Shopping cart means a basket which is mounted on wheels or a similar device generally used in a retail establishment by a customer for transporting goods.

Shopping cart plan means a document submitted by the owner of the cart pursuant to Section 50-907.

Unidentified Shopping Cart means a shopping cart that is not an identified cart, as defined above.

Section 50-903. - Declaration of Public Nuisance.

The spread of shopping carts deserted on public and private property causes blighted conditions in many areas of the City and results in the obstruction of public and private sidewalks, streets, parking lots, park spaces, and other areas, thereby creating hazards to the health and safety of the public. The Citrus Heights City Council declares abandoned shopping carts to be a public nuisance.

Section 50-904. - Shopping Cart Identification Requirements.

Every business providing shopping carts shall have a sign permanently affixed to each cart that includes all of the following information:

- (a) The identity of the owner or business, or both;
- (b) A valid address, store identity number, telephone number, or some other form of markings that clearly identifies the cart owner;
- (c) Notice to the public that the unauthorized removal of the shopping cart from the premises of the business establishment, or the unauthorized possession of the shopping cart, is a violation of State laws and a violation of City ordinance.

Section 50-905. - Unauthorized Removal Possession of a Shopping Cart.

Without the prior written consent of the owner, it is unlawful for any person to remove, or cause to be removed, any shopping cart which is the property of the business establishment furnishing such carts for its customers' use, from the parking lot or other premises of said business establishment.

Section 50-906. - Exception.

A violation of this section shall not apply to carts that are removed for the purposes of repair or maintenance with written consent of the business owner.

Section 50-907. - Mandatory Shopping Cart Plan.

Every owner of a business that maintains more than five (5) shopping carts shall implement a shopping cart plan in accordance with this section and shall submit to the City within sixty (60) days of adoption of this section and any time the plan is proposed to be amended. Such plan shall include all the following elements:

- (a) *Identifying Information.* Name, address and telephone number of the business, and the name and telephone number of the on-site manager or designated agent;
- (b) *Shopping Cart Information.* The number of on-site shopping carts held by the business, and a signed affidavit stating all carts will be in compliance with the shopping cart identification requirements listed in Section 50-904;
- (c) *Employee Training.* A description of employee-training program to educate existing and new employees about the shopping cart plan;
- (d) *Notice to Customers:* A description of the notification method(s) used to communicate to the public that unauthorized removal of a cart from the business premise is a violation of state law and Citrus Heights City Code. The method(s) used may include, but are not limited to, prominently displayed signage posted at each customer exit, printed on store shopping bags, printed on sales receipt, or other method approved by the City.

- (e) *Loss Prevention Measures.* A description of the measures that the owner will implement to prevent the removal of shopping carts from the premises. These measures may include, but are not limited to, devices on shopping carts that automatically disable them if they are removed from the premises, designation of certain employees tasked to prevent the removal of shopping carts from the premises by assisting patrons with transporting groceries or merchandise to patrons' vehicles and then returning shopping carts to the location where the retail establishment keeps the shopping carts, installation of obstacles to prevent the removal of shopping carts, prohibiting carts outside the building of the business unless accompanied by an employee, bollards and chains around the premises to prevent cart removal, collection of security deposits for use of all carts, or the rental or sale of utility carts that can be temporarily or permanently used to transport purchases;
- (f) *Retrieval Measures.* Specific measures for the retrieval of abandoned carts by its employees, or proof that the owner has entered into a contract for cart retrieval services.
- (g) *Collaboration allowed:* Two or more businesses may collaborate and submit a single-plan.

Section 50-908. – Shopping Cart Plan Timeline and Approval Process.

A proposed plan for preventing shopping cart removal shall be submitted to the City's Community Development Department within sixty (60) days following the adoption of this ordinance. Any establishments that opens after the adoption of the ordinance codified in this section will have thirty (30) days from the filing date on their City business license application to submit a shopping cart removal prevention plan to the City for approval.

If a plan is rejected as incomplete or inadequate, or if additional information is needed, the City shall notify the owner within thirty (30) days from the date of the plan submission. The owner has thirty (30) days to submit the additional information or a complete or adequate plan. The City may reject or deny a plan on any of the following grounds:

- (a) The plan fails to include the information required under this section or fails to adequately address the required elements.
- (b) The plan fails to address any special or unique conditions due to the geographical location of the premises as they relate to cart retention and prevention efforts.
- (c) Implementation of the plan violates this section, or State or Federal law.
- (d) The owner knowingly makes a false statement or omits relevant facts in the plan, or in any amendment or attachment or report.

Upon notice to the owner that the City has approved the prevention plan, the owner has thirty (30) days to implement the prevention plan at their establishment.

Any owner who fails to implement approved plan measures or fails to comply with the approved plan measures will be subject to enforcement of these requirements through any lawful means available to the City.

Section 50-909. - Plan Modification.

The owner shall submit a plan modification of any previously approved shopping cart plan to address changed circumstances. The City may require a business to submit a plan modification due to repeat impoundments or to modify ineffective provisions. The City shall review and consider the modification in the same manner set forth in Section 50-907 and 50-908.

Section 50-910. - Revocation of Plan.

The City may revoke an approved plan on any of the following grounds:

- (a) A shopping cart has been found on off-premise on three or more occasions within the past six-month period where the City has had to notify business owner to pick up impounded cart(s).
- (b) The plan fails to address any changed circumstances related to cart retention and prevention efforts.
- (c) The owner has failed to comply with a provision of this section.
- (d) The owner has knowingly made a false statement or fails to disclose relevant information in an application, an amendment or in a report to the City.

Business owners whose plans have been revoked are subject to penalties as provided in Section 50-911.

Section 50-911. - Penalties for Failing to Submit or Implement a Prevention Plan.

In addition to the penalties set forth in this chapter, any owner who fails to submit a prevention plan, implement the prevention plan or implement any required modifications to the plan as required by the City, within the time frames as specified in this section, shall be required to place disabling devices on all shopping carts owned, leased or used by the business establishment to prevent removal of shopping carts within sixty days of the date of service of the notice of violation from the City. Failure to install disabling devices as required is subject to an administrative citation for each day the disabling devices remain uninstalled.

Section 50-912. - Authority to Immediately Impound Abandoned Cart

The City shall have the authority to remove and impound any off-premise cart on public or private property under the following conditions:

- (a) The cart owner is notified within twenty-four (24) hours following the impoundment. Notification to the cart owner may be provided in person, by phone or by mail and the

City shall document the notification used for each impounded cart.

- (b) The notification shall inform the cart owner as to the location where the cart may be claimed.
- (c) Impounded carts shall be held at a location designated by the City which is reasonably convenient to the cart owner and open for business at least six (6) hours a day.
- (d) Any cart reclaimed by the cart owner within seventy-two (72) hours following the date of actual notification as provided pursuant to this section, shall be released and surrendered to the owner at no charge whatsoever, including the waiver of any redemption fees that would otherwise be applicable pursuant to Section 50-914.
- (e) Any cart not reclaimed by the cart owner within seventy-two (72) hours following the date of actual notice as provided pursuant to this section, shall be subject to the collection of administrative costs under Section 50-914 commencing of the fourth day following the date of notice. Any cart reclaimed by the owner within seventy-two (72) hours following the date of actual notice as provided pursuant to this section, shall not be deemed an "occurrence" under Section 50-913.

Section 50-913. - Repeat Impoundments.

Should the City impound, pursuant to California Business and Professions Code 22435.7, more than ten (10) carts of any owner within a thirty-day (30) period, the City reserves the right to require the business to do one or more of the following:

- (a) Require the owner to equip each shopping cart with wheel locking or stopping mechanism that is used in conjunction with an electronic or magnetic barrier along the premises of the retail establishment. The wheel locking or stopping mechanism must activate when the shopping cart crosses the electronic or magnetic barrier.
- (b) Prohibit the owner from possessing shopping carts on its premises.

It shall be unlawful for an owner to fail to comply with either requirement when so ordered by the City in writing. Any such order is subject to an appeal to the City Manager within 21 days of service of the order.

Section 50-914. - Administrative Costs.

Pursuant to Business and Professions Code Section 22435.7, any owner that fails to retrieve its abandoned cart(s) within seventy-two (72) hours after receiving notice from the City shall pay the City's actual costs for retrieving the cart(s) and providing the notification to the owner. The administrative costs shall be set forth in the City's Master Fee Schedule.

Any owner who fails to retrieve abandoned carts in accordance with this section in excess of three (3) times during a specified six-month period shall be subject to an

additional fifty (\$50.00) dollar fine for each occurrence. An occurrence includes all carts owned by the owner that are impounded by the City in a one-day period.

The “specified six-month period” shall be the six-month periods ending on June 30th and December 31st of each calendar year.

Section 50-915. - Disposal of Abandoned Shopping Carts.

Any marked cart not reclaimed from the City within ten (10) business days after notification to the owner shall be sold or otherwise disposed of by the City or its agents as it sees fit.

If the cart owner is unknown and not clearly identified on the cart, the cart shall be designated as “unidentified” and disposed of by the City or its agents as it sees fit.

Section 50-916. - Emergency Services.

Pursuant to subdivision (c) of Business and Professions Code, Section 22435.7, any City officer, employee, or agent may immediately retrieve any shopping cart from public or private property if its location impedes emergency services.

Section 50-917. - Enforcement.

Any person who violates the provisions of this section is subject to any enforcement procedures permitted by law, including but not limited to: prosecution of a misdemeanor or an infraction, civil action for injunction, administrative enforcement procedures, including administrative citation, and revocation of a use permit if applicable.

Section 50-918. - Records Required for Retrieval Services.

Any person who engages in the business of shopping cart retrieval shall retain records showing written authorization from the owners to retrieve abandoned shopping carts and to be in possession of the shopping carts retrieved. A copy of the records showing written authorization shall be maintained in each vehicle used for abandoned shopping cart retrieval.

Section 50-919. – Business License Required for Retrieval Services.

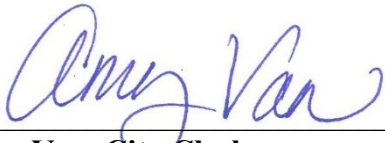
Any person intending to operate a shopping cart retrieval service for the purposes described in this chapter shall first obtain a business license from the City.

SECTION 4. Severability. If any section, subdivision, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 5. Effective Date and Notice. This ordinance shall take effect thirty (30) days after its adoption, provided it is published in full or in summary within fifteen (15) days of its adoption, in a newspaper of general circulation published and circulated in the City of Citrus Heights.

PASSED AND ADOPTED by the City Council of the City of Citrus Heights this 10th day of November, 2022, by the following vote:

AYES: Council Members: **Bruins, Daniels, Miller, Middleton**
NOES: Council Members: **None**
ABSENT: Council Members: **Schaefer**
ABSTAIN: Council Members: **None**



Amy Van, City Clerk



Porsche Middleton, Mayor