

ORDINANCE NO. 797

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PATTERSON, ADDING CHAPTER 9.26, SHOPPING CART REGULATION, TO TITLE 9, PUBLIC PEACE, MORALS AND WELFARE, OF THE PATTERSON MUNICIPAL CODE

WHEREAS, shopping carts are routinely abandoned within the City of Patterson; and

WHEREAS, the City Council of the City of Patterson finds that abandoned shopping carts are a potential hazard and a nuisance; and

WHEREAS, abandon shopping carts can obstruct pedestrian access and interfere with vehicular traffic and emergency services; and

WHEREAS, the City Council intends that the owners of shopping carts be held responsible for containing their shopping carts on their respective business premises; and

WHEREAS, the adoption and implementation of an administrative citation program and the establishment of appropriate fines are intended to act as a reasonable deterrent in preventing the abandonment of shopping carts throughout the City.

THE CITY COUNCIL OF THE CITY OF PATTERSON, CALIFORNIA DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 9.26, Shopping Cart Regulation, of Title 9, Public Peace, Morals and Welfare, of the Patterson Municipal Code is added to read as follows:

9.26.010 Definitions.

- A. “Abandoned cart” shall mean any cart that has been removed without written permission of the owner or on-duty manager from the premises of the business establishment, regardless of whether it has been left on either private or public property.
- B. “Business premises” shall mean the entire area owned and utilized by the business establishment that provides carts for use by customers, including any parking lot or other property provided by the owner for customer parking.
- C. “Cart owner” shall mean any person or entity, who in connection with the conduct of a business, owns, leases, possesses, uses, or otherwise makes any cart available to customers or the public. For purposes of this chapter, owner shall also include the owner's onsite or designated agent that provides the carts for use by its customers.
- D. “Enforcement official” shall mean the City Manager or other enforcement official as designated by the City Manager.
- E. “Qualified cart retrieval service” shall mean a City approved commercial service operated by a third party and paid by a cart owner to retrieve and return shopping carts.

- F. “Shopping cart” shall mean a basket which is mounted on wheels or a similar device provided by a business establishment for use by a customer for the purpose of transporting goods of any kind, including, but not limited to grocery store shopping carts. This definition shall exclude from enforcement under this Chapter those devices which do not have a basket mounted on wheels in which goods can be placed for transport.

9.26.020 Cart Retrieval and Penalties.

- A. Upon notification by an enforcement official, a cart owner shall retrieve an abandoned shopping cart or carts within twenty-four (24) hours of receiving such notice. The notification shall be documented and provided either by telephone or written notice.
- B. Failing to retrieve a shopping cart within twenty-four (24) hours of receiving notice shall constitute a violation of this section.
 - 1. A violation of this section shall result in a civil fine assessed by means of an administrative citation issued by an enforcement official to the cart owner and shall be payable directly to the City of Patterson.
 - 2. Administrative citations issued pursuant to this Chapter shall assess a fifty dollar (\$50) fine for each abandoned shopping cart remaining unretrieved twenty-four (24) hours after receiving notice.

9.26.030 Cart Impound.

- A. If a cart owner fails to retrieve an abandoned shopping cart within twenty-four (24) hours of receiving notice, the City shall retrieve and impound the shopping cart.
 - 1. The City shall provide written notice of the impounded cart, or carts, to the cart owner.
 - 2. Shopping carts impounded by the City that are held for more than thirty (30) days may be disposed of or sold.
 - 3. The City may immediately dispose of or sell any impounded shopping cart when the shopping cart owner cannot be readily identified.
- B. The enforcement officer shall impose an impound fee on each cart owner seeking to retrieve an impounded shopping cart. The amount of the impound fee shall be set forth in a resolution adopted by the City Council that shall be reviewed biennially.
- C. Notwithstanding section 9.26.040, the City shall not release an impounded shopping cart to the cart owner unless the owner pays all applicable administrative citation and impound fees.

9.26.040 Exemptions.

No administrative citation fine shall be levied against:

- A. A cart owner who provides proof of contracting with a qualified cart retrieval service that actively locates shopping carts within a one-mile radius of the cart owner's business premises and responds to abandoned cart reports in a manner which results in the retrieval of shopping carts within twenty-four (24) hours after receiving reports.
- B. A cart owner who installs a security system that causes a wheel of the shopping cart to lock when the conveyance is moved across an antenna located at the perimeter of the establishment's parking area.
- C. A business that owns or maintains fifteen (15) or less shopping carts for use by customers.
- D. Nothing in this section shall preclude the City from imposing and collecting an impound fee prior to releasing any impounded shopping cart.

9.26.050 Public Reporting.

Any member of the public may report an abandoned shopping cart by calling Patterson Code Enforcement. Each report shall identify the cart owner and location. Upon receiving a report of an abandoned shopping cart, an enforcement official shall notify the cart owner of the abandoned cart within three (3) days.

9.26.060 Cart Removal Warnings and Cart Identification.

- A. Each cart owner shall post and maintain cart removal warnings which meet all of the following minimum specifications:
 - 1. Meet or exceed eighteen (18) inches in width and twenty-four (24) inches in height.
 - 2. Using block lettering not less than one-half (1/2) inch width and two (2) inches in height, contain a statement to the effect that unauthorized removal of a shopping cart from the business premises, or possession of a shopping cart in a location other than on the business premises, is a violation of state law and City ordinance.
 - 3. Be affixed to an interior wall of the building or otherwise permanently and prominently displayed within ten (10) feet of all customer entrances and exits.
 - 4. Cart removal warning signs shall not constitute "signs" for the purpose of calculating maximum allowable signage under Chapter 18.82 of Title 18 of the Patterson Municipal Code
 - 5. Cart removal warning signs shall be deemed "special purpose signs" under section 15.32.190.

- B. Each cart owner shall include clearly legible information on each shopping cart readily identifying its owner.

9.26.070 Prohibiting Removal or Possession of Abandoned Cart.

- A. No person shall either temporarily or permanently remove a shopping cart from a business premises without the express prior written approval of the owner or on-duty manager of the business establishment.
- B. No person shall be in possession of a cart that has been removed from the premises of a business unless it is in the process of being immediately returned to the owner or business establishment, or the City impound.
- C. This section shall not apply to shopping carts that are removed for the purposes of repair or maintenance.
- D. Any person violating this section may be subject to any civil, criminal, or administrative remedies as provided by law. The enforcement official may issue to any person violating this section a fifty dollar (\$50) administrative citation.

9.26.080 Administrative Citation.

Administrative citations issued pursuant to this Chapter shall be subject to the procedures set forth in Chapter 1.44 of Title 1 of the Patterson Municipal Code.

9.26.090 Appeal of Administrative Citation.

Any recipient of an administrative citation issued pursuant to this Chapter may appeal the citation pursuant to the procedures of section 1.36.060. An appeal of any administrative citations issued pursuant to this Chapter shall be subject to the enforcement hearing procedures of section 1.36.020.

SECTION 2: If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Council declares that it would have adopted this ordinance, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 3: This Ordinance shall be published by one insertion in The Patterson Irrigator, a newspaper of general circulation, printed and published in the City of Patterson, within fifteen (15) days after its final passage and shall take effect, and be in force, thirty (30) days after its final passage.

Introduced at a regular meeting of the City Council of the City of Patterson, held on the 7th day of February, 2017, and given its first reading and introduction at said meeting. Said Ordinance was given a second reading and adopted at a meeting of the City Council held on the 21st, day of February, 2017, and after such reading, _____, who moved its adoption, seconded by _____, and said ordinance was thereupon adopted by the following roll call vote:

AYES:
NOES:
EXCUSED:

APPROVED:

Deborah M. Novelli
Mayor of the City of Patterson

ATTEST:

Maricela L. Vela
City Clerk of the City of Patterson