



AGENCY:	City Council
MEETING DATE:	September 10, 2018
DEPARTMENT:	City Manager
PRESENTED BY:	T. Miller
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AGENDA ITEM SUMMARY

TITLE:

Receive Report and Consider Introducing by Title Only and Waiving the First Reading of Ordinance No. 942-2018 Adding Chapter 9.61 [Shopping Carts] to Title 9 [Public Peace, Safety, and Morals] of the Fort Bragg Municipal Code Regarding the Regulation of Shopping Carts

ISSUE:

Over 150 cities and counties in California have some version of a Shopping Cart Ordinance in order to manage shopping cart containment and retrieval. Some simply incorporate State law which provides a means to enforce theft against a person in possession of a cart off premises, so long as the cart is identified with a permanently affixed sign that also explicitly states that removal, possession and alteration are a violation of state and local law.

Other Ordinances, such as the one recently adopted in Ukiah, go so far as to require local businesses with more than five shopping carts to prepare and comply with an approved shopping cart containment plan. The Fort Bragg proposed Ordinance does not require that vendors prepare or comply with a shopping cart containment plan, but it does require vendors to promptly retrieve off premise carts and comply with State law requiring permanently affixed signs on the carts.

The City's goals are to reduce the number of carts stolen from local businesses, provide a mechanism for prompt return/retrieval, discourage the gifting of old carts to other organizations or individuals, provide more tools for the police department to cite individuals in possession of a stolen cart and clean up the City's streets, parks, waterways and empty lots in town of abandoned shopping carts.

ANALYSIS:

The concept of a Shopping Cart Ordinance was originally raised at the Public Safety Committee meeting on June 20, 2018. Some local businesses that provide shopping carts to their customers were represented and were generally in support of an Ordinance, particularly if it reduced theft of carts from their businesses, assisted in their return, and did not require elaborate containment plans to be developed, implemented and maintained. A separate meeting with representatives from Safeway, Harvest Market, the Dollar Store, Purity, the Fort Bragg Food Bank and the Mendocino Coast Hospitality Center was held on July 18, 2018.

At that second meeting, the potential requirements of an Ordinance were discussed. In general, there was support by the businesses because a single shopping cart costs between \$180 and \$400 and the annual loss of carts is valued in the thousands for an individual business. The businesses expressed a willingness to invest in permanently affixed signs that would provide the information necessary for law enforcement to cite for theft and encourage both individual residents and City officials to call the business in order to retrieve a missing or abandoned cart. Safeway was the only vendor present that had components of a containment plan already in place. Their carts have locking wheels that disable the cart if it is moved beyond the store premises.

The representative from the Food Bank was a little hesitant to commit to the permanently affixed signage because of the cost. They receive their carts as donations from the other vendors when they replace worn shopping carts. The representative from the Hospitality House voiced some concerns with the needs of the homeless population in storing and transporting belongings and patrons of the businesses that might use the carts to transport goods to their homes. Several businesses reminded the group that even using the cart without permission to transport purchases home was theft, particularly if there was no plan to return the cart to the store. Portable carts are available for purchase at near \$20.

An update on this meeting was presented to the Public Safety Committee on August 15, 2018 and the Committee recommended the Ordinance be presented to the City Council for possible adoption.

Proposed Ordinance

The proposed Ordinance would provide the Police Department with the option of enforcing both State and local law against those illegally in possession of a shopping cart. The ordinance also places responsibility on the vendors to clearly identify their property and assist in educating customers and employees that removal of the shopping cart is illegal. The permanently affixed sign not only provides warning that removal of the cart from the premises is illegal, but it also provides anyone who encounters an abandoned cart off premises with information on how to call the vendor, report the cart's location, and ask for retrieval.

Prompt retrieval of shopping carts is a primary goal of the Ordinance. The vendors appear to be willing and able to retrieve their shopping carts when called by a resident, another business or City staff. If the cart is causing a safety issue, City staff can move it immediately. The Ordinance provides for retrieval by the owner within 48 hours of notice by the City. If a cart remains abandoned, and if it is on private property and the property owner provides permission, the City may collect the cart and return it to the vendor or impound the cart. As a practical matter, it is not staff's intent to impound carts if not necessary. The City lacks adequate storage facilities and is required by State law to store the carts for 30 days. However, the Ordinance does provide for such action when necessary.

Penalties against the cart owners require at least three incidents of failure to comply in a six-month period. Enforcement against an individual in possession of an illegal cart is easier because the City would now makes it illegal and the required permanently affixed sign on the cart complies with the State law.

RECOMMENDED ACTION:

Introduce by title only and waive the first reading of Ordinance No. 942-2018 adding Chapter 9.42 to Title 9 of the Fort Bragg Municipal Code.

ALTERNATIVE ACTION(S):

1. Take no action and do not pursue the addition of a Shopping Cart Ordinance.
2. Provide direction to staff on changes to the proposed Ordinance and bring it back for first reading at a future Council meeting.

FISCAL IMPACT:

Aside from the cost of staff and City Attorney time to develop and present the Ordinance for possible adoption, there is little anticipated fiscal impact from the shopping cart ordinance. There is the possibility of additional fines, when citations are issued and the hope is that less City staff time will be needed to pick up abandoned shopping carts around town.

CONSISTENCY:

On July 9, 2018, the City Council endorsed and adopted in concept the Homeless Needs Assessment and Action Steps for Mendocino County by Marbut Consulting. Recommended action step No. 21 is *Address the Issue of Stolen Shopping Carts*. Marbut states, "There are many incidences within Mendocino County where stolen shopping carts have become encampments on wheels." Recommended action step No. 20 is *Have a Zero Tolerance Approach to Encampments*. The carts have all of the negative health and safety issues of encampments including disease transmission and vector control issues.

The Marbut Report also reminds us that a stolen shopping cart is an actual theft of property and should not be tolerated.

IMPLEMENTATION/TIMEFRAMES:

If the Ordinance is introduced on September 10, 2018, and adopted at the regular City Council meeting on September 24, 2018, the ordinance will be effective October 24, 2018.

ATTACHMENTS:

1. Proposed Ordinance No. 942-2018

NOTIFICATION:

Shopping Cart Ordinance Notify Me List
Fort Bragg Downtown Businesses Notify Me List
Homeless Notify Me List