

ORDINANCE NO. 2593

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHICO,
CALIFORNIA, ADDING A NEW CHAPTER 9.27 TO THE CHICO
MUNICIPAL CODE REGULATING STOLEN OR ABANDONED SHOPPING
CARTS AND OTHER CARTS, ESTABLISHING AN ABATEMENT AND
ENFORCEMENT PROGRAM RELATED THERETO**

WHEREAS, the City of Chico is a charter city under California law with a recognized mandate to preserve, protect, and enhance the general health and welfare of its residents; and

WHEREAS, the City Council of the City of Chico finds and declares that the presence of abandoned, stolen, wrecked and/or dismantled shopping carts on public and private property creates a visual blight, is aesthetically detrimental to the community, is injurious to the general welfare of the citizens of the City of Chico, and constitutes a public nuisance; and

WHEREAS, the City Council of the City of Chico further finds and declares that the City's retrieval of abandoned, stolen, wrecked and/or dismantled shopping carts is a drain on the City's resources; and

WHEREAS, the California Business & Professions Code Sections 22435 et seq. set forth procedures for the retrieval and abatement of shopping carts, and cost recovery for such abatement; and

WHEREAS, the City Council of the City of Chico believes that it is in the public interest and welfare to amend Title 9 (Public Peace, Safety and Morals) of the City of Chico Municipal Code; and

WHEREAS, the adoption of the Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15378, because the activity undertaken involves general text amendments that would not cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and does not meet the definition of a "Project" under CEQA. The proposed Ordinance is also exempt from CEQA Guidelines under Section 15061 (b)(3) because it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Chico does hereby adopt the following ordinance amending Title 9, by adding Chapter 9.27 ("Shopping Carts") of the Chico Municipal Code :

SECTION 1. City Code Amendment.

The City Council of the City of Chico hereby amends Title 9, by adding Chapter 9.27 ("Shopping Carts") as follows:

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Chapter 9.27
SHOPPING CARTS

- 1 9.27.010 Purpose.
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- 3 9.27.020 Applicability.
- 4 9.27.030 Declaration of a public nuisance.
- 5 9.27.040 Definitions.
- 6 9.27.050 Required signs on carts.
- 7 9.27.060 Daily cart retrieval.
- 8 9.27.070 Abandoned cart prevention plan required.
- 9 9.27.080 Plan approval or denial and penalties.
- 10 9.27.090 Plan modification.
- 11 9.27.100 Business owner changes.
- 12 9.27.110 Authority to impound.
- 13 9.27.120 Impoundment.
- 14 9.27.130 Option for immediate impoundment.
- 15 9.27.140 Unlawful acts.
- 16 9.27.150 Notice of violation on identified and unidentified carts.
- 17 9.27.160 Final disposition of unclaimed carts.
- 18 9.27.170 Enforcement.

14 **9.27.010 Purpose.**

15 The accumulation of wrecked, dismantled and abandoned shopping carts on public or private property
16 also tends to create conditions that reduce property values, promoting blight and deterioration in the
17 city. The intent of this chapter is to ensure that measures are taken by store owners to prevent the
18 unauthorized removal of shopping carts from store premises and parking lots, to make the removal of
19 carts a violation of this code and to facilitate the retrieval and disposition of abandoned carts found off
20 the premises of retail establishments as permitted by state law. Further, this chapter is intended to
21 supplement existing state law regarding shopping carts as set forth in California Business and
22 Professions Code Section 22435, et seq.

21 **9.27.020 Applicability.**

22 This Chapter applies to all businesses located in the City of Chico that provide carts for customer use
23 and to all carts on and off premises of business within the City of Chico.

24 **9.27.030 Declaration of a public nuisance.**

25 The City Council finds and determines that any cart outside of the immediate business property or
26 premises and control of the business owner is a public nuisance. Carts may contain trash/waste and
27 other debris that can be potential hazards to the health and safety of the public. When wrecked,
28 dismantled or abandoned, carts accumulate on public or private property, creates conditions that are
dangerous, environmentally harmful, and contribute to the deterioration of property values. Carts are
generally known to promote blight and deterioration, can obstruct free access to public and private

1 sidewalks, streets, parking lots, and interfere with pedestrian and vehicular traffic as well as emergency
2 services. These conditions, in addition to the removal from an owners' premises, constitute a public
3 nuisance.

3 **9.27.040 Definitions.**

4 Except as otherwise expressly set forth herein, the following words and terms used in this Chapter shall
5 have the following meanings:

6 "Abandoned shopping cart" shall mean any cart that has been removed without written permission of
7 the owner or on-duty manager from the premises of the business establishment, regardless of whether
8 it has been left on either private or public property. Written permission shall be valid for a period not
9 to exceed 72 hours. This definition shall not apply to carts that are removed for purposes of repair or
10 maintenance.

11 "Abandoned Cart Prevention Plan" shall mean a document required to be submitted by the responsible
12 business owner, pursuant to this chapter.

13 "Agent" shall mean the person or persons designated by the owner authorized to perform or provide
14 retrieval services on behalf of the owner. The agent may be the owner, store manager or employee of
15 owner, or a private cart retrieval company.

16 "Business license" shall mean that license for operation of a retail establishment required under Title
17 5 of this code.

18 "Cart" or "shopping cart" shall mean a basket which is mounted on wheels or a similar device provided
19 by a retail or commercial establishment for the use by a customer for the purpose of transporting goods
20 of any kind.

21 "City" shall mean the City of Chico.

22 "Code" shall mean the City of Chico Municipal Code.

23 "Day" shall mean calendar day unless otherwise specified.

24 "Director" shall mean the city's director of community development or other employee designated by
25 the director of community development or the city manager to enforce or carry out the provisions of
26 this chapter.

27 "Identified Cart" shall mean a shopping cart that has a permanently affixed sign that identifies, in
28 accordance with California Business and Professions Code section 22435.1, the owner of the cart or
the retailer, or both; notifies the public of the procedure to be utilized for authorized removal of the cart
from the owner's premises; notifies the public that the unauthorized removal of the cart from the cart
owner's premises or owner's parking lot or the unauthorized possession of the cart, is a violation of
State law; and lists a valid telephone number or address for returning the cart to the owner or retailer.
If the owner operates more than one store, the sign shall identify the location of the store where the cart
is used.

1 “Owner” shall mean any person or entity, who in connection with the conduct of a retail establishment,
2 owns, leases, possesses, uses, or otherwise makes any cart available to customers or the public. For
3 purposes of this chapter, “owner” shall also include the owner's on-site or designated agent that
4 provides the carts for use by its customers.

4 “Parking lot” shall mean property provided by a retail establishment for use by a customer for parking
5 an automobile or other vehicle. In a multi-store complex or shopping center, "parking lot" includes the
6 entire parking area used by or controlled by the complex or center.

6 “Person” shall mean a natural person, firm, association, organization, partnership, business, trust,
7 corporation, limited liability company, or other entity.

8 “Premises” shall mean the entire area owned or leased and utilized by the retail establishment that
9 provides carts for use by customers, including any parking lot or other property provided by the owner
10 for customer parking.

10 “Retail establishment” shall mean, with regard to carts, any business located in the City of Chico which
11 offers or provides carts for use by customers of such business, regardless of whether such business is
12 advertised or operated as a retail or wholesale business, and regardless of whether such business is
13 open to the general public, is a private club or business, or is a membership store.

13 “Unidentified cart” shall mean a cart that is not an identified cart, as defined above.

14 **9.27.050 Required signs on cart.**

15 Every cart owned or provided by any retail establishment in the city shall have a sign prominently and
16 permanently affixed to it containing the following information:

17 A. The name of the owner of the cart or the name of the retail establishment, or both;

18 B. Notification that the unauthorized removal of the cart from the premises or parking lot of the
19 retail establishment is a violation of State and city law;

20 C. Notification to the public of the procedure to be utilized for authorized removal of the cart from
21 the premises;

21 D. A local or toll-free telephone number to contact for cart retrieval; and

22 E. An address for returning the cart to the owner or business establishment.

23 **9.27.060 Daily cart retrieval.**

24 All owners, regardless of the number of carts owned, shall ensure that all of owner’s carts are secured
25 from public access after close of business.

26 **9.27.070 Abandoned cart prevention plan required.**

27 Every cart owner shall develop, implement and comply with the terms and conditions of an abandoned
28 cart prevention plan or “ACPP,” as defined in this chapter, to prevent the unauthorized removal by any
29 person of any cart from the owner’s premises. The ACPP shall be submitted to the director within sixty

1 (60) calendar days of written notification by the director that such plan is required. A new owner of a
2 business is required to submit an application to the director with either a new plan, or adoption of the
3 plan submitted by the previous owner.

4 The ACPP shall include the following elements and a detailed description of how they will be
5 implemented:

6 A. Name of Business/Owner. The name of the owner and the business name, the physical address
7 where the business is conducted, name, address and phone number(s) of the on-site and offsite owner
8 if different.

9 B. Community Outreach. A description of a community outreach process under which the owner
10 shall cause notice to be provided to customers that the removal of carts from the premises is prohibited
11 and is a violation of state and local law. This notice may include, but is not limited to, flyers distributed
12 at the premises, warnings on shopping bags, signs posted in prominent places near doors on the
13 premises and parking lot exits, or other means demonstrated to effectively inform customers of the law.
14 Any and all posting of signs shall comply with the provisions of the code.

15 C. Cart Identification. Signs and cart identification information which conform to this ordinance
16 and state law.

17 D. Loss Prevention Measures. A description of the physical containment system(s) that the owner
18 shall implement to prevent cart removal from the premises. These measures may include, but are not
19 limited to, electronic or other disabling devices on the carts so they cannot be removed from the
20 premises, use of security personnel to prevent removal, use of staff to collect carts from the premises
21 on an hourly basis, requiring a security deposit for use of cart, or other demonstrable measures
22 acceptable to the director that are likely to prevent cart removal from the premises.

23 E. Employee Training. The owner of the retail establishment shall implement and maintain a
24 periodic training program for its new and existing employees designed to educate such employees
25 concerning the requirements of the ACPP and the provision of law prohibiting the unauthorized
26 removal of shopping carts from the premises of the retail establishment.

27 F. Mandatory Cart Retrieval Plan. The procedure by which the owner or qualified cart retrieval
28 service will search, find and return carts removed from the premises. The cart retrieval operation must
demonstrate that the cart retrieval service shall actively locate abandoned carts within a one-mile radius
of the business premises at least once per week. The qualified cart retrieval service shall not place any
limits on daily loads or days per week to retrieve carts within the City, and that the cart retrieval service
or cart owner will respond to complaints from the public or notifications from an enforcement officer
in a manner which results in the retrieval of carts within three business days of receiving the
notification. Whomever is identified by the owner of a retail establishment as the party responsible for
retrieval of the carts shall be made available for cart retrieval six days a week, eight hours a day or
during the owner's business hours, whichever is shorter.

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1 **9.27.080 Plan approval or denial and penalties.**

2 A. Cart owners shall submit a proposed ACPP that complies with Section 9.27.070 to the city
3 within 90 days from the effective date of this chapter, and annually with the business license application
4 thereafter. In the event the owner business license expires prior to 90 days from the effective date of
5 this chapter, the owner shall submit the plan with its business license renewal application. Those
6 affected retail establishments opening after the effective date of this chapter shall submit the plan
7 concurrently with the business license application.

8 B. The director shall review the proposed ACPP and approve or deny the plan within thirty (30)
9 days of its receipt. If the ACPP is approved, the cart owner/retail establishment shall implement the
10 approved effective ACPP within thirty (30) days from the date of approval. If the plan is incomplete,
11 the director shall notify the cart owner in writing to revise the plan and resubmit it within fifteen (15)
12 days of director's notice. The director may deny a plan for a proposed ACPP based upon one or more
13 of the following grounds:

14 1. Implementation of the plan violates any provision of this code or any county, state or federal
15 law or regulation;

16 2. The plan fails to include all of the information required by this chapter;

17 3. The plan is insufficient or inadequate to prevent removal of shopping carts from the
18 premises;

19 4. The plan fails to address any special or unique conditions due to the geographical location
20 of the premises as they relate to cart removal prevention;

21 5. Implementation of the plan violates a term or condition of any agreement between the city
22 on the one hand, and the retail establishment, or owner of the parking lot, or cart owner, on the other
23 hand;

24 6. The owner knowingly makes a false statement of fact or omits a fact required to be revealed
25 in an application for the plan, or in any amendment or report or other information required to be made.

26 C. The director's denial of a plan shall be the final administrative decision.

27 D. An owner who fails to submit a proposed ACPP, or whose proposal is denied, or whose proposal
28 is approved but who then does not comply with the terms of the approved ACPP, shall be subject to
enforcement of these requirements as set forth in Section 9.27.170. Each day during which a retail
establishment/cart owner has not complied with the provisions of this chapter shall constitute a separate
violation.

9.27.090 Plan modification.

At any time after the director's approval of any ACPP, the owner may submit to the director an
application for a modification of the previously approved plan to address a change in circumstances,
address an unanticipated physical or economic impact of the plan, or modify an inadequate or
ineffective plan.

1 **9.27.100 Business owner changes.**

2 In the event that the ownership of a business changes, the new owner will be subject to the terms of
3 this chapter and will be required to comply with any and all provisions of this chapter.

4 **9.27.110 Authority to impound.**

5 Pursuant to California Business and Professions Code Section 22435.7, the city may impound any
6 abandoned cart when the cart has a sign affixed as required by Code Section 9.27.050. The requirements
7 for notice, impoundment and recovery of the cart shall be governed by California Business and
8 Professions Code sections 22435 through 22435.7, as set forth in Code Section 9.27.120. The city may
9 retrieve and immediately dispose of any abandoned unidentified carts.

10 **9.27.120 Impoundment.**

11 A. The city may impound an abandoned shopping cart located on public property outside the
12 premises or parking lot of a retail establishment (or private property at the request and with the consent
13 of the property owner) under the following conditions:

- 14 1. Where the location of the cart will impede emergency services.
- 15 2. When the shopping cart does not identify the owner of the cart as required by Code Section
16 9.27.050.
- 17 3. When the city has contacted either the owner, the owner's agent, or the entity contracted by
18 the owner under the abandoned cart prevention plan and notified it of the abandoned cart's location.
- 19 4. When the city has notified the above entities of the abandoned cart, its location and/or the cart
20 has not been retrieved within the three (3) business days of receipt of the notice.
- 21 5. When the cart is in a public right-of-way.

22 B. Any cart removed from public or private property by the director shall be stored for thirty (30)
23 days at a location designated by the director which is reasonably convenient for the owner of the cart
24 and is open for at least six (6) hours of each business day.

25 C. In cases where a cart does not provide adequate identification or markings to determine its owner,
26 the city shall only be required to notify the cart owner when that owner has been identified.

27 D. A cart owner has thirty (30) days to retrieve any cart that has been impounded by the city. If the
28 cart has not been retrieved by its owner/representative within thirty (30) days of receiving a notice, or
if the cart's owner cannot be determined within thirty (30) days of being impounded, the cart may be
sold or destroyed by the city, its agents and/or contractors.

E. The city shall provide notice of each impounded shopping cart as follows:

1. If the cart contains information identifying a specific entity or person as the owner or contact,
the city shall give notice to that person. Otherwise, the city shall give notice to the entity or person that
the city has reason to believe is the owner.

2. Where an empty shopping cart lacks sufficient markings to enable the city to determine the
owner or owner's agent, the city may treat the empty shopping cart as abandoned property.

1 3. The city will follow the approved notice requirements imposed by this section by placing a
2 telephone call during regular business hours to the owner or owner's designated representative.

3 F. Any cart removed from public or private property and stored pursuant to this section shall be
4 released to the lawful cart owner if claimed within thirty (30) days after such removal and upon
5 payment of a redemption fee. The redemption fee for the removal and storage of any abandoned cart
6 under this section shall be established by City Council resolution and shall cover the actual costs of
7 removal, storage, and related administrative procedures. The schedule for such fees shall remain on file
8 and be available in the office of the City Clerk.

9 G. In addition to any redemption fee for which a cart owner is liable, owner shall also be liable for
10 a fine in an amount not to exceed the amount set forth in Business and Profession Code section 22435.7
11 and established by resolution of the city council for each occurrence in excess of three (3) during any
12 six (6) month period for failure to retrieve a cart in accordance with Section 9.27.120(A)(d). As used
13 herein, an "occurrence" includes all of owner's carts impounded in accordance with this chapter in a
14 one-day period.

15 **9.27.130 Option for immediate impoundment.**

16 A. Notwithstanding Section 9.27.120(A), the city may impound a cart that otherwise meets the
17 criteria set forth in Section 9.27.120(A) without complying with the three (3) business day advance-
18 notice requirement provided that each of the following is met:

19 1. The cart owner is provided actual notice within twenty-four (24) hours following the impound
20 and that notice informs the cart owner as to the location where the cart may be claimed.

21 2. Any cart so impounded shall be held at a location in compliance with 9.27.120(B).

22 3. Any cart reclaimed by the cart owner within three (3) business days following the date of
23 actual notice as provided pursuant to this section, shall be released and surrendered to the owner at no
24 charge whatsoever, including the waiver of any redemption fees that would otherwise be applicable
25 pursuant to Section 9.27.120(F).

26 4. Any cart not reclaimed by the cart owner within three (3) business days following the date of
27 actual notice as provided pursuant to this section, shall be subject to any applicable fee imposed
28 pursuant to Section 9.27.120(F) commencing on the fourth (4th) business day following the date of
notice but accruing from the date of retrieval and storage, and any applicable fine imposed pursuant to
Section 9.27.120(G). Any cart reclaimed by the owner within three (3) business days following the
date of actual notice as provided pursuant to this section, shall not be deemed an "occurrence" under
Section 9.27.120(G).

B. Any cart not reclaimed by the cart owner within thirty (30) days of receipt following the date of
actual notice as provided pursuant to this section, may be sold or disposed of in accordance with Section
9.27.170.

9.27.140 Unlawful acts.

A. Except as otherwise expressly provided in this Section, it shall be unlawful and a misdemeanor
offense for any cart owner to provide or offer, or permit to be provided or offered, any cart to a customer

1 without a current and valid abandoned cart prevention plan approved by the city as required by and in
2 accordance with the provisions of this chapter.

3 B. It shall be unlawful for any person other than the cart owner or its authorized representative to do
4 any of the following acts:

5 1. To temporarily or permanently remove a cart from the premises or parking lot of a retail
6 establishment without the express prior written approval of the owner or on-duty manager of the retail
7 establishment. Written permission shall be valid for a period not to exceed seventy-two (72) hours.

8 2. To leave or abandon a cart upon any public or private property other than the premises of the
9 retail establishment or its parking lot.

10 3. To be in possession of a cart that has been removed from the premises or parking lot area of
11 a retail establishment unless it is in the process of being immediately returned to the owner or retail
12 establishment.

13 4. To tamper with any cart, or remove any part or portion thereof, or to remove, obliterate, or
14 alter any identification, including but not limited to any serial numbers, or to possess any cart that has
15 been altered, converted, or tampered with or whose identification has been removed, obliterated, or
16 altered, with the intent to temporarily or permanently deprive the owner or retailer of possession of the
17 cart without the prior written consent of the cart owner.

18 This section shall not apply to carts that are removed for the purposes of repair or maintenance which
19 has been authorized by the owner.

20 **9.27.150 Notice of violation on identified and unidentified carts.**

21 The director shall provide notice to any known owner of an abandoned cart by email, first-class mail
22 at the address indicated on the cart or the cart owner's last known address, and/or telephone. The notice
23 shall include the following information: (i) date and location of removal of the cart from public or
24 private property; (ii) procedure for recovering such cart; and (iii) last possible date such cart may be
25 recovered. If the cart owner is unknown and not clearly identified on the cart, the cart shall be
26 designated "unidentified." The director, for each unidentified cart, shall maintain a record containing
27 the information above and a brief description of the cart.

28 **9.27.160 Final disposition of unclaimed carts.**

Thirty (30) days after notice is given to the owner, or after the cart is designated "unidentified" pursuant
to Section 9.27.150, any abandoned cart not claimed may be sold at public auction or otherwise
disposed of. Any proceeds derived from such auction or disposal shall be used to pay the costs of
removal, storage, and related administrative procedures. Surplus proceeds derived from such auction
or disposal shall be deposited in the general fund of the city.

9.27.170 Enforcement.

Every cart owner who violates any provision of such owner's ACPP, and every person who violates
any provision of this chapter, shall be subject to enforcement procedures for each violation by any
lawful means available to the city, including, but not limited to, those set forth in California Business

1 and Professions Code Sections 22435.3 and 22435.5, Section 1.04.120 of this code, and chapters 1.14
2 and 1.15 of this code.

3 SECTION 2. CEQA. The City Council, on the basis of the whole record and exercising independent
4 judgment, finds that this Ordinance is exempt from the provision of the California Environmental
5 Quality Act pursuant to CEQA Guidelines Section 16061(b)(3) because it can be seen with certainty
6 that there is no possibility that the Ordinance may have a significant effect on the environment.

7 SECTION 3. Severability. If any section, subsection, line, sentence, clause, phrase, or word of this
8 Ordinance is for any reason held to be invalid or unconstitutional, either facially or as applied, by a
9 decision of any court of competent jurisdiction, such decision shall not affect the validity of the
10 remaining portions of this Ordinance. The City Council of the City of Chico hereby declares that it
11 would have passed this Ordinance, and each and every individual section, subsection, line, sentence,
12 clause, phrase, or word without regard to any such decision.

13 SECTION 4. Effective Date. The Ordinance shall be effective 30 days after adoption by the City
14 Council.

15 SECTION 5. Certification. The City Clerk shall certify to the passage and adoption of this Ordinance
16 and shall cause the same to be published or posted in the manner required by law.

17 THE FOREGOING ORDINANCE was adopted by the City Council of the City of Chico at its duly
18 noticed meeting held on September 19, 2023, by the following vote:

19 AYES: **Bennett, Morgan, Tandon, van Overbeek, Reynolds, Coolidge**

20 NOES: **Winslow**


21 ABSENT: **None**

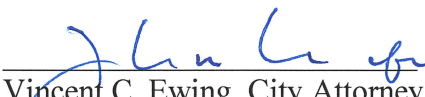
22 ABSTAINED: **None**

23 DISQUALIFIED: **None**

24 ATTEST:

25 APPROVED AS TO FORM:

26 
27 Deborah R. Presson, City Clerk

28 
Vincent C. Ewing, City Attorney*
*Pursuant to The Charter of the City of Chico,
Section 906(E)