

ORDINANCE NO. 1980

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON,
REGULATING SHOPPING CARTS BY ADDING CHAPTER 8.24 "SHOPPING
CARTS," TO THE MILWAUKIE MUNICIPAL CODE.**

WHEREAS, the City Council finds that the abandonment of shopping carts within the City is a source of visual blight, reduces the aesthetic appearance of the City and constitutes a nuisance; and

WHEREAS, the City Council finds that the abandonment of shopping carts on both private and public property, including streets and other right of way, can lead to the impediment of traffic, including emergency services, and constitutes a threat to the public health, safety and welfare; and

WHEREAS, the City Council finds that local businesses often fail to take reasonable and appropriate steps to either prevent the removal of the carts or retrieve the carts in a timely manner; and

WHEREAS, the City Council finds that requiring local businesses to be more responsible in preventing shopping cart abandonment is necessary in order to reduce the sources of visual blight in the City and to protect the public health, safety and welfare; and

WHEREAS, the legislature of the State of Oregon passed Senate Bill 645 authorizing local governments to regulate unauthorized removal of shopping carts from the premises or parking areas of persons supplying shopping carts for public use at the person's business, and pursuant to Oregon Revised Statute 164.015;

NOW, THEREFORE, THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 8.24, "Shopping Carts", is hereby added to the Milwaukie Municipal Code to read as follows:

**"CHAPTER 8.24"
SHOPPING CARTS**

8.24.010	Definitions.
8.24.020	Cart Identification Required.
8.24.030	Posted Notice.
8.24.040	Toll-free Telephone Line Required.
8.24.050	Retrieval and Disposal of Abandoned Carts, Fines.
8.24.060	Violation.

8.24.010 Definitions.

- A. "Abandoned cart" means any cart that has been removed from the owner's premises without written consent of the owner and is located on either public or private property.
- B. "Cart" means a basket that is mounted on wheels or a similar device that is provided by an owner to a customer for the purpose of transporting goods of any kind.

- C. "Code Compliance Coordinator" means the individual in charge of code compliance activities for the City or his/her designee.
- D. "Owner" means a person or entity who in connection with the conduct of a business, makes carts available to the public.
- E. "Premises" means the entire area owned, occupied or utilized by an owner, including any parking lot or other property provided by or on behalf of an owner for customer parking or use.

8.24.020 Cart Identification Required.

Every cart provided by any owner must have a sign permanently affixed to the cart that contains all of the following information:

- A. The identity of the business that owns the cart;
- B. The address and a toll-free telephone number of the owner or retailer for cart return;
- C. A statement that the unauthorized removal of the cart from the premises is a crime under ORS 164.015 and a violation under Chapter 8.24 of this Code; and

8.24.030 Posted notice.

There shall be posted by the owner, prominently and conspicuously, at all public entrances and exits to the business, a notice in substantially the following form:

REMOVAL OF SHOPPING CARTS IS PROHIBITED BY LAW (ORS 164.015). REPORT ABANDONED SHOPPING CARTS TO TOLL FREE NUMBER. The sign shall include the toll free telephone number for shopping cart retrieval.

8.24.040 Toll-free Telephone Line Required.

- A. Toll-free Telephone Line shall be established, maintained and made available to the public, at the shopping cart owner's expense, for the purpose of reporting abandoned shopping carts.
- B. The operator of the toll-free telephone line shall forward each report concerning an abandoned shopping cart to the owner of the shopping cart and to the City of Milwaukie's Code Compliance Office within one business day. The report may be supplied through electronic mail or by fax.
- C. More than one business may use the same toll-free telephone number to share expenses. The agreement shall comply with the report requirements set forth in this chapter.

8.24.050 Retrieval and Disposal of Abandoned Carts, Fines.

- A. Notification for Retrieval of Abandoned Carts.
1. The City or public reports the location of the abandoned shopping cart by calling the toll-free telephone number provided by the owner of the cart.
 2. The owner shall have 72 hours from the date the report is made to retrieve the carts from the specified locations. A contractor may be hired at the owner's expense for retrieval of shopping carts.
 3. If the City identifies, salvages, or reclaims an abandoned shopping cart it shall use the toll-free telephone line provided to report the existence and location of an abandoned shopping cart to the owner of the shopping cart if the owner is identifiable.
 4. If a cart does not have a sign with the information required by Section 8.24.020, the City shall make a reasonable effort to identify and contact the owner of the cart and report the existence of an abandoned shopping cart. If the City is able to identify the owner of the cart, the owner shall have 72 hours from the date the report is made to retrieve the cart. If the City is unable to identify the owner of the shopping cart after reasonable effort has been made and 72 hours has past, the City may take custody of the cart.
- B. Fine. The City may take custody of an abandoned shopping cart and impose a fine of fifty dollars (\$50.00) on the owner of the shopping cart if the owner does not retrieve the shopping cart within 72 hours after the City makes a report under subsection A or after the owner receives a report under section 8.24.040. The City may release the cart into the custody of the owner after the fine is paid.
- C. Disposition of Carts After Thirty Days. For any cart not reclaimed from the City within thirty (30) days after notification to the owner, or if the City is unable to identify the owner of the cart after reasonable efforts and the cart has been in the City's custody for thirty (30) days, the City may take title to the shopping cart in its custody and the cart may be sold or otherwise disposed of by the City.

8.24.060 Violation.

- A. Any owner violating any of the provisions of this chapter shall, upon conviction thereof, be punished by a fine not to exceed five hundred dollars, unless otherwise stipulated.
- B. When the violation is a continuous one, each day the violation continues to exist shall be deemed a separate violation, excluding 8.24.050 provisions.

Section 2. Severability

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

Section 3. Effective Date and Publication

This Ordinance shall take effect and be enforced thirty (30) days after its adoption.

Read the first time on 3/18, and moved to second reading by 5-0 vote of the City Council.

Read the second time and adopted by the City Council on 3/18/08.

Signed by the Mayor on 3/18/08



Jim Bernard, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Schrader Ramis P.C.



Pat DuVal, City Recorder



City Attorney