

ORDINANCE NO. 3279

AN ORDINANCE OF THE CITY OF CORONA, CALIFORNIA, AMENDING CHAPTER 8.36 OF THE CORONA MUNICIPAL CODE RELATED TO THE REMOVAL OF SHOPPING AND LAUNDRY CARTS FROM THE OWNER'S PARKING FACILITIES WITHIN THE CITY

WHEREAS, the unauthorized use, accumulation and storage of stray shopping and laundry carts, or parts thereof, on public and private property is found to create a condition tending to reduce property values, to promote blight and deterioration, to constitute an attractive nuisance creating a hazard to the health and safety of the public, to be aesthetically detrimental to the community and to be injurious to the public health, safety and general welfare; and

WHEREAS, the purpose of this chapter is to ensure that measures are taken by store owners to prevent the removal of carts from store premises and parking lots, to prevent the unauthorized use, accumulation and storage of stray carts, or parts thereof, on public and private property by restricting the removal of carts from parking facilities, requiring identification on carts and abating stray carts in accordance with the provisions of this chapter; and

WHEREAS, this chapter is intended to supplement existing State law regarding shopping carts, as set forth in California Business and Professions Code Section 22435, *et seq.*

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF CORONA DOES ORDAIN AS FOLLOWS:

SECTION 1. CEQA Findings. As the decision-making body for this Zone Text Amendment, the City Council has reviewed and considered the entire record for this Zone Text Amendment, including all written and oral evidence provided during the comment period. Based upon the facts and information in the entire record, including all written and oral evidence presented to the City Council, the City Council finds that this action is exempt pursuant to Section 15061(b)(3) of the Guidelines for the California Environmental Quality Act ("CEQA"), which states that a project is exempt from CEQA if the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. This action is strictly a text amendment to Chapter 8.36 of the Corona Municipal Code related to: (1) ensuring that measures are taken by store owners to prevent the removal of carts from store premises and parking lots; (2) preventing the unauthorized use, accumulation and storage of stray carts, or parts thereof, on public and private property by restricting the removal of carts from parking facilities; (3) requiring identification on carts; and (4) abating stray carts. Thus, there is no possibility that adopting this Ordinance will have a significant negative effect on the environment. Therefore, no further environmental analysis is required and staff will file a Notice of Exemption with the County of Riverside.

SECTION 2. The City Council adopts the recitals set forth above as its findings in connection with the adoption of this ordinance.

SECTION 3. Chapter 8.36 (Removal of Shopping and Laundry Carts from the Owner's Parking Facilities within the City) of the Corona Municipal Code is hereby amended in its entirety to read as indicated in Exhibit "A" attached hereto and incorporated herein by reference.

SECTION 4. Effective Date of Ordinance. The Mayor shall sign this Ordinance and the City Clerk shall attest thereto and shall within fifteen (15) days of its adoption cause it, or a summary of it, to be published in a general circulation newspaper published in the City of Corona. This Ordinance shall take effect and be in force on the 30th day after its adoption.

ADOPTED this 20th day of June 2018.

Mayor of the City of Corona, California

ATTEST:

City Clerk of the City of Corona, California

CERTIFICATION

I, SYLVIA EDWARDS, City Clerk of the City of Corona, California, do hereby certify that the foregoing Ordinance was regularly introduced at a regular meeting of the City Council of the City of Corona, California, duly held on the 6th day of June 2018, and thereafter at a regular meeting held on the 20th day of June 2018, it was duly passed and adopted by the following vote of the Council:

AYES:

NOES:

ABSENT:

ABSTAINED:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Corona, California, this 20th day of June 2018.

City Clerk of the City of Corona, California

SUMMARY

On June 20, 2018, the Corona City Council will consider adopting an ordinance amending Chapter 8.36 of the Corona Municipal Code related to the removal of shopping and laundry carts from the owner's parking facilities within the City. A certified copy of the full text of this proposed ordinance is posted in the City Clerk's Office.

The City Council meets at 6:30 p.m. in the Council Chambers in the Corona City Hall, located at 400 South Vicentia Avenue. The City Clerk's office is located in City Hall near the Council Chambers.

EXHIBIT “A”

CHAPTER 8.36

REMOVAL OF SHOPPING AND LAUNDRY CARTS FROM THE OWNER’S PARKING FACILITIES WITHIN THE CITY

Sections

- 8.36.010 Findings and purpose.
- 8.36.020 Public nuisance - Declaration.
- 8.36.030 Construction.
- 8.36.040 Definitions - Generally.
- 8.36.050 Administration and enforcement.
- 8.36.060 Unauthorized removal or possession – Prohibited.
- 8.36.070 Required signage on carts.
- 8.36.080 Removal from parking facilities - Posting of notice.
- 8.36.090 Mandatory plan to prevent cart removal and evaluation report.
- 8.36.100 Prevention plan timelines and approval process.
- 8.36.110 Penalties for failing to submit a prevention plan or evaluation report or to implement prevention measures.
- 8.36.120 Maintenance requirements for cart disabling devices.
- 8.36.130 Stray carts - Abatement and storage.
- 8.36.140 Notification for retrieval of stray carts.
- 8.36.150 Removal and storage - Assessment of costs.
- 8.36.160 Unclaimed carts - Disposal.
- 8.36.170 Violation and Penalty.

8.36.010 Findings and purpose.

The unauthorized use, accumulation and storage of stray shopping and laundry carts, or parts thereof, on public and private property is found to create a condition tending to reduce property values, to promote blight and deterioration, to constitute an attractive nuisance creating a hazard to the health and safety of the public, to be aesthetically detrimental to the community and to be injurious to the public health, safety and general welfare. The purpose of this chapter is to ensure that measures are taken by store owners to prevent the removal of carts from store premises and parking lots, to prevent the unauthorized use, accumulation and storage of stray carts, or parts thereof, on public and private property by restricting the removal of carts from parking facilities, requiring identification on carts and abating stray carts in accordance with the provisions of this chapter. This chapter is intended to supplement existing State law regarding shopping carts, as set forth in California Business and Professions Code Section 22435, *et seq.*

8.36.020 Public nuisance - Declaration.

The City Council finds and determines that the unauthorized use, accumulation and storage of stray carts outside of the owner’s parking facility constitutes a public nuisance, as it is injurious to the public health, safety and welfare for the reasons provided further in this chapter, including, but not limited to, Section 8.36.010 above.

8.36.030 Construction.

For the purpose of this chapter, words and phrases not expressly defined in § 8.36.040 shall be given their customary and usual meanings and shall be interpreted and construed accordingly.

8.36.040 Definitions - Generally.

Whenever the following terms are used in this chapter, they shall mean the following.

- (A) **“Cart”** means a shopping cart or laundry cart as defined in this section.
- (B) **“Enforcement officer”** means individual employed or otherwise charged by the city to enforce codes, ordinances, mandates, regulations, resolutions, rules or other laws adopted by the city.
- (C) **“Laundry cart”** means a plastic or metal basket or container mounted on wheels or a similar device, intended for transporting clothing or other fabrics and cleaning supplies within a laundry or cleaning establishment or the owner’s parking facility.
- (D) **“Owner”** means the owner of the shopping cart or laundry cart, his or her agent or the business establishment which furnishes the cart for use.
- (E) **“Owner’s parking facility”** means an area intended for the parking of vehicles by customers, clients or patrons of a business establishment which owns or controls carts and makes them available for use by its customers. The parking facility of a business establishment located in a multistoried complex or shopping center shall include the entire parking area used by the complex or center.
- (F) **“Prevention plan”** means a specific plan to prevent customers from removing carts from the business premises or owner’s parking facility.
- (G) **“Private property”** means any property not owned or maintained by the city.
- (H) **“Public property”** means property owned or maintained by the city.
- (I) **“Shopping cart”** means a plastic or metal basket or container mounted on wheels, or a similar device, intended for transporting goods of any kind within a business establishment or the owner’s parking facility.
- (J) **“Stray cart”** means a shopping cart or laundry cart located outside of its owner’s parking facility without the written consent of the owner.

8.36.050 Administration and enforcement.

For purposes of enforcing this chapter, an enforcement officer may enter public or private property with the consent of the property owner or by warrant to examine a cart or cause the removal of a stray cart if authorized pursuant to this chapter.

8.36.060 Unauthorized removal or possession - Prohibited.

It is unlawful for any person to do any of the following acts:

- (A) To remove or cause to be removed any cart from an owner's parking facility without prior written consent of the owner of such cart;
- (B) To possess any stray cart with the intent to temporarily or permanently deprive the owner of possession.

8.36.070 Required signage on carts.

Every cart provided by any business establishment in the city for use by its customers must have a sign permanently affixed to it that contains the following information:

- (A) Identifies the owner of the cart or the name of the business establishment, or both;
- (B) Notifies the public that the unauthorized removal of the cart from the premises or owner's parking facility is a violation of State and City law;
- (C) Lists a telephone number to contact to report the location of the stray cart; and
- (D) Lists an address for returning the cart to the owner or business establishment.

Failure to comply may subject the violator to any civil, criminal, or administrative remedies as provided by law. Any stray cart that does not have the identification and information required by this section may be removed from the property and disposed of by the city immediately.

8.36.080 Removal from parking facilities - Posting of notice.

All business establishments furnishing a cart shall post a sign not less than 18 inches in width and 24 inches in height with block lettering not less than one-half inch in width and two inches in height in a conspicuous place within ten feet of all customer entrances and exits stating, in substantial form, the following: REMOVAL OF SHOPPING CARTS (or laundry carts, if applicable) FROM THE PARKING FACILITIES WITHOUT THE WRITTEN CONSENT OF THE MANAGER IS PROHIBITED BY LAW.

8.36.090 Mandatory Plan to Prevent Cart Removal and Evaluation Report

Every owner shall develop and implement a plan for the prevention of cart removal from the owner's parking facility. The prevention plan must include the following elements and a detailed description of how they will be implemented.

(A) Notice to Customers. Written notification shall be provided to customers that removal of carts from the owner's parking facility is prohibited and a violation of state and local law. This notice may be provided in the form of flyers, warnings on shopping bags, or any other form of written notification that will effectively notify customers of the prohibition.

(B) Signs. Signs shall be placed in pertinent places near door exits and near parking lot exits that warn customers that cart removal is prohibited and constitute a violation of State and local law.

(C) Physical Measures. One or more specific physical measures shall be implemented to prevent cart removal from the owner's parking facility. The measure(s) shall be reviewed and approved by the Maintenance Services Department and may include, but are not limited to, the following (i) a disabling device on one or more wheels of all carts which is activated when the cart crosses a barrier at the perimeter of the owner's parking facility; (ii) posting of a security guard to deter and stop customers who attempt to remove carts from the owner's parking facility; (iii) bollards, chains or other physical barriers installed or placed at doors, around loading areas or around the owner's parking facility to prevent cart removal; (iv) a physical barrier placed on the carts themselves so that the carts cannot pass through door openings or other defined perimeters; or (v) any other measures approved by the Maintenance Services Department which physically prevents shopping carts from crossing the perimeter of the owner's parking facility. All carts shall be securely locked and stored at all times while the business is closed.

(D) Cart Retrieval Operations. The procedure by which the owner or qualified cart retrieval service will search, find and return carts removed from the owner's parking facility. The cart retrieval operation must demonstrate that carts will be actively located within one mile of the business premises and respond to complaints from the public or notifications from city enforcement officer in a manner which results in the retrieval of carts within twenty-four (24) hours of receiving the notification. An owner may contract with a vendor for cart retrieval services. If an owner contracts with a cart retrieval service, the contractor shall not place limits on daily loads or days per week to retrieve carts within the city. The owner shall provide written authorization to all retrieval personnel, which authorization shall be carried by each person while performing cart retrieval services on behalf of the owner and shall be provided to any enforcement officer upon request.

(E) Employee Training. The owner of the business establishment shall implement and maintain a periodic training program for its new and existing employees designed to educate such employees concerning the requirements of the prevention plan and the provision of state law prohibiting the unauthorized removal of shopping carts from the premises of the retail establishment.

(F) Evaluation Report. If a prevention plan was in place the previous year and if the owner has twenty (20) or more carts and twenty (20%) percent or more of the owner's carts are retrieved by the city within the previous year, a report shall be submitted to the city evaluating the measures that were used and approved in the prior calendar year and providing information on the changes that will be made to improve the prevention plan performance. The report shall include, but not be limited to, the inventory of carts owned/used by the business establishment and the

number of carts that had to be replaced due to loss, theft or abandonment. An evaluation report shall be submitted within (30) days of notification by the city.

8.36.100 Prevention Plan Timelines and Approval Process.

(A) Existing Owners. The proposed prevention plan for preventing cart removal shall be submitted for approval to the Maintenance Services Division within thirty (30) days of receiving notice from the city that such a plan is required pursuant to this chapter.

(B) New Businesses, New Construction, and Change in Ownership. All new construction projects that will accommodate businesses providing more than ten (10) carts shall install disabling device equipment on all carts. If a new business begins conducting business in the city and provides carts to its customers, the new owner shall notify the Maintenance Service Division within thirty (30) days of opening the business to the public and submit a new prevention plan. If an existing business changes ownership, the new owner shall notify the Maintenance Services Division within thirty (30) days of the change and submit a new prevention plan or agree to adopt the existing prevention plan on file with the city for that business. All businesses subject to this paragraph shall submit a proposed prevention plan and obtain city approval prior to providing any shopping carts to its customers. For prevention plans which include contracting for retrieval services as a component of the plan, the contract for such service must be in place prior to approval of the plan.

(C) Approval. Within thirty (30) days of receipt of the prevention plan, the city shall notify the owner whether the prevention plan is approved or not. If the plan is not approved, the notice shall state the reason(s) for denial and provide recommendations to the owner to ensure plan approval. The owner shall submit a new prevention plan within fifteen (15) days of receiving the notice. Once a prevention plan is approved, the proposed measures shall be implemented no later than thirty (30) days after city approval is given. If an evaluation report is submitted, the prevention measures shall be continued unless and until the city indicates that one or more measures need to be modified. Unless otherwise agreed, any modifications to the prevention plan imposed by the city shall be implemented within thirty (30) days after the city notifies the owner of the needed modifications.

(D) Revocation. If an owner has more than twenty (20) carts and if more than twenty-five (25%) percent of an owner's carts are retrieved by the city within a six (6) month period, the owner's prevention plan may be revoked upon notification by the city and the owner will be required to submit a new prevention plan to the Maintenance Services Division within fifteen (15) days of receiving notice of the revocation. Any owner failing to implement the new prevention plan within thirty (30) days of approval, shall be subject to penalties under this chapter.

(E) Multiple Revocations. In the event that an owner's prevention plan is revoked three (3) times within a four (4) year period, the owner shall be required to place disabling devices on all carts used by the business to prevent removal of carts from the owner's parking facilities, if such disabling devices are not already in use. If disabling devices are already in use, owner shall be required to show proof of proper maintenance and repairs ensuring the disabling devices on all

carts are in proper working order. Any subsequent prevention plans submitted shall include the implementation of a maintenance plan for all disabling devices.

8.36.110 Penalties for failing to submit a prevention plan or evaluation report or to implement prevention measures

Any owner that fails to submit a prevention plan, implement the proposed plan measures, or implement any required modifications to the plan imposed by the city within the time frames specified in this chapter shall be required to place disabling devices on all carts used by the business to prevent removal of carts from the owner's parking facility. Any owner that fails to submit an evaluation report or prevention plan, as required by this chapter, or fails to adequately implement and/or maintain its required physical measures to prevent cart removal from the owner's parking facility, as required by this chapter, shall be subject to enforcement pursuant to Section 8.36.170.

8.36.120 Maintenance requirements for cart disabling devices.

If an owner has equipped carts with disabling devices, either voluntarily or by order from the city, the owner shall conduct regular maintenance to ensure the disabling devices are working properly. If at any time, the owner determines the disabling device installed on a cart is not working properly, the cart shall be pulled from circulation until it is repaired. The owner shall inspect, test, and repair all stray carts returned to the owner prior to making the returned carts available for use.

8.36.130 Stray carts - Abatement and storage.

(A) If the stray cart is affixed with the identification required under § 8.36.070, removal may occur three business days after an enforcement officer gives the owner of the cart actual notice of the cart's discovery and location. An owner is deemed to have actual notice three days after the deposit of written notice in the United States mail, posted first-class to the address indicated on the cart or the owner's last known address. If actual notice is provided by telephone, the enforcement officer shall maintain a record of the time, date and name of the person notified.

(B) As authorized by Business and Professions Code § 22435.7, an enforcement officer shall also have the authority to immediately remove any stray cart on public or private property, if the owner, or his or her agent, is provided notice within 24 hours following the impound and that notice informs the owner, or his or her agent, as to the location where the shopping cart may be claimed. Further, in instances where the location of a shopping cart will impede emergency services, an enforcement officer shall have authority to immediately retrieve a shopping cart from public or private property. As to each shopping cart immediately removed, the enforcement officer shall provide notice to the cart owner as provided by § 8.36.140(B).

8.36.140 Notification for retrieval of stray carts.

(A) Within ten days of the removal of a stray cart pursuant to § 8.36.130(A) or (B), the enforcement officer shall provide notice to any known owner of the cart by first-class mail at the address indicated on the cart or the owner's last known address.

(B) Pursuant to Business and Professions Code § 22435.7, if a stray cart has been removed immediately in accordance with § 8.36.130(B), the city shall notify the owner of the shopping cart, or his or her agent, within 24 hours following the removal of the cart, and shall inform the owner, or his or her agent, as to the location where the shopping cart may be claimed. If notice is provided by telephone, the enforcement officer shall maintain a record of the time, date, and name of the person notified. The owner shall have three business days from the date the notification is given to retrieve carts from the city, without incurring any costs or fines outlined in § 8.36.150 of this chapter. Any cart(s) claimed within three business days shall not be considered an "occurrence" for purposes of § 8.36.150(D) of this chapter.

(C) All notices under this section shall include the following information:

- (1) Date and location of removal of the cart from public or private property;
- (2) Procedure for recovering such cart; and
- (3) Last possible date such cart may be recovered.

(D) If the owner of the stray cart is not clearly identified on the cart or otherwise ascertainable by the enforcement officer, the cart shall be designated "unidentified" and may be immediately removed and impounded. Upon removal of an unidentified cart, an enforcement officer shall prepare and maintain a record for each unidentified cart containing the information in subsection (C) above and a brief description of the cart.

8.36.150 Removal and storage - Assessment of costs.

(A) Pursuant to Business and Professions Code § 22435.7, any owner that fails to retrieve its stray cart(s) within three business days after receiving notice from the city shall pay the city's redemption fees established pursuant to subsection (C) below.

(B) Any stray cart removed from public or private property and stored pursuant to § 8.36.130 shall be released to the lawful owner of the cart if claimed within 30 days after the removal and upon payment of the redemption fees established pursuant to subsection (C) below.

(C) The redemption fees for the removal and storage of any stray cart shall be established by City Council resolution and shall cover all costs of removal, storage and related administrative procedures.

(D) Any owner that fails to retrieve its stray cart(s) in accordance with this chapter in excess of three (3) times during a six-month period, shall be subject to enforcement pursuant to Section 8.36.170. An occurrence constitutes all stray carts impounded by the city pursuant to this chapter in a one-day period.

8.36.160 Unclaimed carts - Disposal.

Any cart not claimed from the city within thirty (30) days after notification to the owner shall be sold or otherwise disposed of by the city. Any unidentified cart, as described in § 8.36.140(D), may be sold or otherwise immediately disposed of at the discretion of the city. Any proceeds derived from the auction or disposal shall be used to pay the costs of removal, storage and related administrative procedures. Surplus proceeds derived from the auction or disposal shall be deposited in the General Fund of the city.

8.36.170 Violation and Penalty.

- (A) Any person violating § 8.36.060 shall be guilty of a misdemeanor.
- (B) Any person violating any other provision of this chapter shall be guilty of an infraction.
- (C) Violations of this chapter may be prosecuted or cited in accordance with Chapter 1.08. For purposes of the administrative penalties provisions of Chapter 1.08, notwithstanding anything provided for in Section 1.08.140 or any resolution adopted pursuant thereto, any violation of this chapter shall be subject to an initial fine of \$1,000 plus \$50 for each additional consecutive occurrence of the same violation within a one-year period thereafter. Each day that a violation continues shall be regarded as an additional occurrence.