

ATTACHMENT 1

ORDINANCE 1317

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS, COUNTY OF LOS ANGELES, CALIFORNIA, ADDING A NEW CHAPTER 8.15 TO THE SAN DIMAS MUNICIPAL CODE TO ESTABLISH STANDARDS FOR THE MANAGEMENT AND RETRIEVAL OF SHOPPING CARTS WITHIN THE CITY

WHEREAS, the City Council of the City of San Dimas recognizes the need to address issues related to abandoned shopping carts in our community; and

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

WHEREAS, the City Council of the City of San Dimas further finds and declares that the City's retrieval of abandoned, stolen, wrecked, and/or dismantled shopping carts is a drain on 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 and the City of San Dimas believes that it is in the public interest and welfare to add a new Chapter 8.15 of the San Dimas Municipal Code to establish standards for the management and retrieval of shopping carts within the City; and

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

A. The establishment of standards for the management and retrieval of shopping carts will not adversely affect adjoining property values or be detrimental to the area. The proposed ordinance will mitigate issues related to abandoned carts and enhance the overall appearance of commercial areas.

B. The proposed ordinance will further the public health, safety, and general welfare. Implementing these standards will reduce the presence of abandoned carts in public spaces and promote a cleaner, safer environment for residents and visitors.

C. The City Council of the City of San Dimas hereby finds and determines that all the above recitals are true and correct and incorporates such recitals into the ordinance.

SECTION 1. ADOPTION. The City Council hereby adopts a new Chapter 8.15 to be added to the San Dimas Municipal Code, as set forth in Exhibit A, attached hereto and incorporated herein, to establish standards for the management and retrieval of shopping carts within the City.

SECTION 2. SEVERABILITY. If any section, subsection, subdivision, sentence, clause, phrase, or portion 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 City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion

thereof, irrespective of the fact that any one or more section, subsection, subdivision, sentence, clause, phrase, or portion thereof be declared invalid or unconstitutional.

SECTION 3. EFFECTIVE DATE AND PUBLICATION. This Ordinance shall take effect 30 days after its final passage. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted at the duly designated posting places within the City and published once within 15 days after passage and adoption as may be required by law in a newspaper of general circulation in the City of San Dimas hereby designated for that purpose; or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance, and a certified copy of the text of this Ordinance shall be posted in the Office of the City Clerk five days prior to the date of adoption of this Ordinance; and, within 15 days after adoption, the City Clerk shall cause to be published the aforementioned summary and shall post a certified copy of this Ordinance, together with the vote for and against the same, in the Office of the City Clerk.

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of San Dimas this 12th day of November, 2024, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Emmett G. Badar, Mayor

ATTEST:

APPROVED AS TO FORM:

Debra Black, City Clerk

Jeff Malawy, City Attorney

I, DEBRA BLACK, CITY CLERK of the City of San Dimas, do hereby certify that Ordinance 1317 was introduced at a regular meeting of said City Council held on the 22nd day of October, 2024, and thereafter passed, approved and adopted at a regular meeting of said City Council held on the 12th day of November, 2024.

Debra Black, City Clerk

Exhibit A

Chapter 8.15

ABANDONMENT OF SHOPPING CARTS

Sections:

- 8.15.010 Purpose**
- 8.15.020 Applicability**
- 8.15.030 Definitions**
- 8.15.040 Declaration of Public Nuisance**
- 8.15.050 Shopping Cart Identification Requirements**
- 8.15.060 Unlawful Removal or Possession of Shopping Carts**
- 8.15.070 Mandatory Shopping Cart Plan**
- 8.15.080 Shopping Cart Plan Timeline and Approval Process**
- 8.15.090 Plan Modification**
- 8.15.100 Revocation of Plan**
- 8.15.110 Penalties for Failing to Submit or Implement a Prevention Plan**
- 8.15.120 Authority to Impound Abandoned Cart**
- 8.15.130 Administrative Costs and Fines**
- 8.15.140 Disposal of Abandoned Shopping Carts**
- 8.15.150 Emergency Services**
- 8.15.160 Enforcement**
- 8.15.170 Records Required for Retrieval Services**
- 8.15.180 Business License Required for Retrieval Services**

Adding New Chapter 8.15 Establishing Standards for the Management and Retrieval of Shopping Carts

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8.15.010 Purpose

Abandoned shopping carts constitute a nuisance, create potential hazards to the public health and safety and interfere with pedestrian and vehicular traffic within the City. Wrecked, dismantled and/or abandoned shopping carts on public or private property create conditions that reduce property values and promote blight and deterioration within the City's neighborhoods.

The purpose of this Chapter is to ensure that measures are taken by cart owners to prevent the removal of shopping carts from store premises and parking lots and to facilitate the retrieval of abandoned carts as permitted by State law.

8.15.020 Applicability

This section applies to:

- a) Any business within the City that provides or maintains 10 or more shopping carts for customer use on the premises of a business establishment at any one location; and
- b) Any person in possession of an abandoned shopping cart off premises.

8.15.030 Definitions

The following definitions shall apply to this Chapter:

A. "Abandoned Shopping Cart" means any cart removed from a business establishment's premises without the written permission of the owner and located on either public or private property. This does not apply to carts that are removed for purposes of repair or maintenance.

B. "Cart" means the same as shopping cart.

C. "City" means the City of San Dimas or its designated representatives.

D. "Identified Shopping Cart" means a shopping cart that has permanently affixed sign that identifies, in accordance to section 8.15.050, the owner of the cart or the retailer or both.

E. "Owner" means a person or establishment providing shopping carts for customers to use.

F. "Parking Area" means a parking lot or other property provided by a retail establishment for use by a customer for parking an automobile or other vehicle. In a multi-store complex or shopping center, "parking area" includes the entire parking area used by or controlled by the complex or center.

G. "Parkway" means that area between the sidewalks and the curb of any street, and where there is no sidewalk, that area between the edge of the roadway and the property line adjacent thereto. Parkway shall also include any area within a roadway which is not open to vehicular travel.

H. "Premises" means the entire area owned under the control of the business owner, including the parking area or other off-street parking.

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I. "Public Property" means and includes, but is not limited to, all areas dedicated to public use for public facilities, parks, schools, public streets, roadways, parkways, alleys, sidewalks, flood control channels and any public right-of-way.

J. "Retail Establishment" or "Business Establishment" means any trade establishment selling goods, articles, commodities, services, or any type of merchandise where shopping carts are made available for and used by patrons and/or the public.

K. "Shopping Cart" means a basket which is mounted on wheels or a similar device generally used in a retail establishment by a customer for transporting goods of any kind from the display area to the register, then to the customer's vehicle on the premises; not for off-premises transportation of merchandise.

L. "Shopping Cart Plan" means a document submitted by the owner of the cart to the City pursuant to Section 8.15.070.

8.15.040 Declaration of Public Nuisance

The spread of abandoned shopping carts on public and private property causes blighted conditions in many areas of the City and results in the obstruction of public and private sidewalks, streets, parking lots, park spaces, and other areas, thereby creating hazards to the health and safety of the public. The City declares abandoned shopping carts to be a public nuisance.

8.15.050 Identified Shopping Cart Requirements

All shopping carts provided by a business are subject to the requirements of this Chapter and shall be properly identified by the owner thereof in accordance with Section 22435.1 of the California Business and Professions Code and include at minimum the following:

- a) A permanently affixed sign that identifies the owner of the cart or the retailer, or both.
- b) A valid address or telephone number that clearly identifies the cart owner for returning the cart removed to the owner or retailer.
- c) Notice to the public that unauthorized removal of the shopping cart from the premises of the business establishment, or unauthorized possession of the shopping cart, is a violation of State laws and a violation of City ordinance.
- d) Provides notice to the public of the procedure to be utilized for authorized removal of the shopping cart from the premises.

8.15.060 Unlawful Removal or Possession of Carts

A. It is unlawful for any person other than a shopping cart owner or its authorized representative to do any of the following acts, if a shopping cart is an identified shopping cart:

- 1) To remove or cause to be removed any shopping cart from a retail establishment or a parking area without the prior written consent of the owner.

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- 2) To possess any shopping cart that has been removed from a parking area without the prior written consent of the shopping cart owner or retail establishment, with the intent to temporarily or permanently deprive the owner of possession of the cart.
- 3) To alter, convert, or tamper with any shopping cart, or remove any part or portion thereof, or remove, obliterate or alter any identification, including but not limited to any serial numbers, or to possess any cart that has been altered, converted, or tampered with or whose identification has been removed, obliterated, or altered, with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart without the prior written consent of the cart owner.
- 4) To abandon or leave any cart, which has been removed from a business establishment or a parking facility, upon any public property or upon any private property that is not the premises of the retail establishment or the parking facility.
- 5) For purposes of all provisions in this Chapter, any person removing a cart from the retail establishment or parking area with consent of the cart owner shall carry a copy of such written consent on their person.

B. The possession of a shopping cart by a licensed shopping cart retrieval service, including a contractor or agent of the city, for purposes of retrieving a shopping cart shall not be a violation of this Section.

8.15.070 Mandatory Shopping Cart Plan

Every owner of a business subject to the requirements of this Chapter shall develop and implement a shopping cart plan in accordance with this Section and Section 8.15.080. Two or more businesses may collaborate and submit a single plan. The shopping cart plan shall be provided to the Director of Community Development upon request for review and approval and at a minimum include the following elements:

- A. Shopping Cart Identification. Name, address, and telephone number of the business, and the name, email address, and telephone number of the on-site manager or designated agent.
- B. Shopping Cart Inventory. The number of on-site shopping carts held by the business, and a signed affidavit stating all carts will be in compliance with the shopping cart identification requirements listed in Section 8.15.050.
- C. Employee Training. A description of employee-training program to educate existing and new employees about the shopping cart plan.
- D. Notice to Customers. A description of the notification method(s) used to communicate to the public that unauthorized removal of a cart from the business premise is a violation of state law and the San Dimas Municipal Code. The method(s) used may include, but are not limited to, prominently displayed signage posted at each customer exit, printed on store shopping bags, printed on sales receipt, or other method approved by the City.
- E. Loss Prevention Measures. A description of the measures that the owner will implement to prevent the removal of shopping carts from the premises. These measures may include, but are not limited to, devices on shopping carts that automatically disable them if they are removed from the premises, designation of certain employees tasked to prevent the removal of shopping carts from the premises by assisting patrons with transporting groceries or merchandise to

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patrons' vehicles and then returning shopping carts to the location where the retail establishment keeps the shopping carts, installation of obstacles to prevent the removal of shopping carts, prohibiting shopping carts outside the building of the business unless accompanied by an employee, and bollards around the premises to prevent cart removal, collection of security deposits for use of all shopping carts, or the rental or sale of utility carts that can be temporarily or permanently used to transport purchases.

F. Retrieval Measures. Specific measures for the retrieval of abandoned carts by its employees, or proof that the owner has entered into a contract for shopping cart retrieval services.

8.15.080 Shopping Cart Plan Timeline and Approval Process

A proposed shopping cart plan shall be submitted to the City's Community Development Department within ninety (90) days following the effective date of this Chapter. Any establishment that opens after the effective date of this Chapter will have thirty (30) days from the issuance of their City business license application to submit a shopping cart plan to the Community Development Department for approval.

If a proposed shopping cart plan is rejected as incomplete or inadequate, or if additional information is needed, the City will notify the owner within thirty (30) days from the date of the plan submission. The owner has thirty (30) days to submit the additional information or a complete or adequate plan. The Director of Community Development may reject or deny a plan on any of the following grounds:

- a) The plan fails to include the information required under this Section or fails to adequately address the required elements.
- b) The plan fails to address any special or unique conditions due to the geographical location of the premises as they relate to cart retention and prevention efforts.
- c) Implementation of the plan violates this Chapter, or State or Federal law.
- d) The owner knowingly makes a false statement or omits relevant facts in the plan, or in any amendment or attachment or report.

The Director of Community Development's denial of a proposed shopping cart plan shall be final, unless appealed to the City Manager within fourteen (14) days. The City Manager shall review the director's determination and render a written decision within thirty (30) days, which shall be the final administrative decision. Upon notice to the owner that the City has approved the prevention plan, the owner has thirty (30) days to implement the shopping cart plan at their establishment.

8.15.090 Plan Modification

Proposed amendments or modifications to a previously approved shopping cart plan shall be submitted to the City's Community Development Department by the owner for approval prior to implementation of any proposed changes to a previously approved shopping cart plan. The City may require a business to submit a plan modification due to repeat impoundments or to modify ineffective provisions. The City shall review and consider the modification in the same manner set forth in Sections 8.115.070 and 8.15.080, and all modifications shall comply, at minimum, with the shopping cart plan requirements specified in Section 8-15-070.

8.15.100 Revocation of Plan

The Director of Community Development may revoke an approved shopping cart plan on any of the following grounds:

- a) The plan fails to address any changed circumstances related to cart retention and prevention efforts.
- b) The owner has failed to comply with a provision of this Chapter.
- c) The owner knowingly made a false statement or fails to disclose relevant information in an application, an amendment or in a report to the City.

The Director of Community Development's revocation of a shopping cart plan shall be final, unless appealed to the City Manager within fourteen (14) days. The City Manager shall review the director's determination and render a written decision within thirty (30) days, which shall be the final administrative decision.

Business owners whose plans have been revoked are subject to penalties as provided in Section 8.15.110.

8.15.110 Penalties for Failing to Submit or Implement a Prevention Plan

In addition to the penalties set forth in this Chapter, any owner who fails to submit a shopping cart plan, implement the shopping cart plan or implement any required modifications to the shopping cart plan as required by the City, within the time frames as specified in this Chapter, may be subject to enforcement of these requirements as set forth in Section 8.15.160. Each day during which an owner does not have an approved shopping cart plan consistent with the requirements of this Chapter shall constitute a separate violation.

Additionally, any owner who fails to submit a shopping cart plan, implement the shopping cart plan or implement any modifications to the shopping cart plan as required by the City, within the time frames as specified in this Chapter, may be required by the City to place disabling devices on all shopping carts owned, leased or used by the business establishment to prevent removal of shopping carts. Installation of disabling devices shall take place within sixty (60) days of the date of service of a notice of violation from the City. Any owner who fails to install disabling devices as required by the City shall be subject to the enforcement procedures as specified in Section 8.15.160, including but not limited to criminal infraction or misdemeanor prosecution.

8.15.120 Authority to Impound Abandoned Cart

A. When a shopping cart is left standing for any time frame on any public or private property, the shopping cart shall be deemed to be abandoned and therefore a public nuisance pursuant to this Chapter.

B. The City shall have the authority to immediately remove and impound any shopping cart on public or private property located outside the premises or parking area of a retail establishment and that is an identified shopping cart under the following conditions:

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- 1) The cart owner, or its agent or manager, is provided actual notice within twenty-four (24) hours following the impound. Notification may be provided in person, by phone, or by email, and the City shall document the notification used for each impounded cart.
- 2) The notification shall inform the cart owner, or its agent or manager, as to the location where the cart may be claimed.
- 3) Impounded carts shall be held at a location designated by the City which is reasonably convenient to the cart owner and open for at least six (6) hours of each business day.
- 4) Any cart reclaimed by the cart owner within three (3) City business days following the date of actual notification as provided pursuant to this Section, shall be released and surrendered to the owner or its agent at no charge whatsoever, including the waiver of any redemption fees that would otherwise be applicable pursuant to Section 8.15.130. Any cart reclaimed by the owner or its agent within three (3) City business days following the date of actual notice as provided pursuant to this Section, shall not be deemed an "occurrence" under Section 8.15.130.
- 5) Any cart not reclaimed by the cart owner or its agent within three (3) City business days following the date of actual notice as provided pursuant to this Subsection B, shall be subject to the collection of costs under Section 8.15.130 commencing on the fourth business day following the date of notice.

C. As an alternative to the procedure described in Subsection B of this Section, the City may remove and impound any shopping cart on public or private property located outside the premises or parking area of a retail establishment and that is an identified shopping cart under the following conditions:

- 1) The shopping cart is not retrieved within 3 business days from the date the cart owner receives actual notification of the shopping cart's discovery and location. Notification to the cart owner, or its agent or manager, may be provided in person, by phone, or by email, and the City shall document the notification used for each impounded cart.
- 2) Impounded shopping carts shall be held at a location designated by the City which is reasonably convenient to the cart owner and open for at least 6 hours of each business day.
- 3) Any shopping cart impounded by the City pursuant to this Subsection C shall be subject to the collection of costs under Section 8.15.130.

8.15.130 Administrative Costs and Fines

Pursuant to Business and Professions Code Section 22435.7, any owner that fails to retrieve its abandoned cart(s) within 3 business days after receiving notice from the City shall pay the City's

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actual costs for retrieving the cart(s) and providing the notification to the owner. Additionally, where a shopping cart is impounded because its location impedes emergency services pursuant to Section 8.15.150, the owner shall pay the City's actual costs for retrieving the cart(s) and providing the notification to the owner. The administrative costs shall be set forth in the City's Master Fee Schedule.

Any owner who fails to retrieve abandoned carts in accordance with this Chapter in excess of three (3) times during a specified six-month period shall be subject to an additional fifty (\$50.00) dollar fine for each occurrence. An occurrence includes all carts owned by the owner that are impounded by the City in a one-day period. The "specified six-month period" shall be the six-month periods ending on June 30th and December 31st of each calendar year.

8.15.140 Disposal of Abandoned Shopping Carts

Pursuant to State law, any shopping cart that is an identified shopping cart and that has been impounded by the City pursuant to Section 8.15.120 and not reclaimed from the City within thirty (30) days after notification to the owner may be sold or otherwise disposed of by the City or its agents as it sees fit.

If the shopping cart does not have a sign affixed to it in accordance with Section 8.15.050 and the owner cannot be reasonably ascertained, the shopping cart may be designated as "unidentified" and immediately impounded, sold, or disposed of by the City or its agents as it sees fit.

8.15.150 Emergency Services

Pursuant to Business and Professions Code Section 22435.7(c), any City officer, employee, or agent may immediately retrieve any shopping cart from public or private property if its location impedes emergency services.

8.15.160 Enforcement

Any person or business who violates the provisions of this Chapter is subject to any enforcement procedures permitted by law, including but not limited to: prosecution of a misdemeanor or an infraction, civil action for injunction, administrative enforcement procedures, including administrative citation, and revocation of a use permit if applicable.

8.15.170 Records Required for Retrieval Services

Any person or business who engages in the business of shopping cart retrieval shall retain records showing written authorization from the owners to retrieve abandoned shopping carts and to be in possession of the shopping carts retrieved. A copy of the records showing written authorization shall be maintained in each vehicle used for abandoned shopping cart retrieval.

8.15.180 Business License Required for Retrieval Services

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Any person or business intending to operate a shopping cart retrieval service for the purposes described in this Chapter shall first obtain a business license from the City.

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