

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY ADDING CHAPTER 8.61 RELATING TO SHOPPING CART CONTAINMENT

WHEREAS, the City Council of the City of Long Beach finds that shopping carts are an eyesore, a potential hazard, and a nuisance; and

WHEREAS, the City Council of the City of Long Beach intends that the owners of shopping carts should be held responsible for containing their shopping carts on their respective business premises;

NOW THEREFORE, the City Council of the City of Long Beach ordains as follows:

Section 1. The Long Beach Municipal Code is amended by adding Chapter 8.61 entitled "Shopping Carts" to read as follows:

8.61

Shopping Carts

8.61.010 Definitions.

For purposes of this chapter only, and unless the context clearly requires a different meaning, the words, terms and phrases set forth in this Section are defined as follows:

A. "Business premises" means the interior of a cart owner's commercial establishment, adjacent walkways, any loading area, and the parking area, as defined herein.

B. "Cart owner" means the owner or operator of a commercial establishment which provides carts for use by its customers for the purpose of transporting goods of any kind. Cart owner includes the on-

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site manager or designated agent of the actual cart owner.

C. "Cart identification sign" means a sign or engraved surface which is permanently affixed to a shopping cart containing all of the information specified in section 8.61.050 of this chapter.

D. "Cart removal warning" means a placard, sign or painted text which meets the requirements of section 8.61.030 of this chapter.

E. "Individual cart identification number" means a number unique to each cart owned or provided by a cart owner.

F. "On-site cart containment program" means one or more of the following measures:

1. Disabling devices on all shopping carts which prevent them from being removed from the business premises by locking the wheels or otherwise preventing the movement of the carts.
2. An on-site security guard to deter customers who attempt to remove carts from the business premises.
3. Bollards and chains around the business premises to prevent cart removal, if permitted by the Fire Marshal.
4. Obtaining a security deposit from customers for the on-site use of shopping carts.
5. The rental or sale of utility carts that can be temporarily or permanently used for the transport of goods
6. Any other measure approved by the Director of Planning and Building as a means to contain carts on premises.

G. "Parking area" means a parking lot or other property provided by a commercial 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.

1 H. "Physical containment system" means one of the following, as
2 approved by the Director of Planning and Building:

3 1. Disabling devices on all shopping carts which prevent
4 them from being removed from the business premises by locking the
5 wheels or otherwise preventing the movement of the carts.

6 2. Any other system of equipment approved by the Director
7 of Planning and Building which physically contains shopping carts on
8 premises.

9 I. "Qualified cart retrieval service" means a commercial service,
10 operated by a third party and paid by a cart owner to retrieve and return
11 shopping carts. The Director of Planning and Building shall develop
12 minimal service standards by which a cart retrieval service may be
13 designated as a qualified cart retrieval service and maintain a list of all
14 such services.

15 J. "Shopping cart" means a basket which is mounted on wheels or
16 a similar device provided by the operator of a commercial establishment
17 for the use of customers for the purpose of transporting goods of any
18 kind. A cart sold by a commercial establishment to a retail customer for
19 that customer's personal use is not a shopping cart for the purposes of
20 this chapter.

21 8.61.020 Cart containment system-required; exception.

22 A. Every cart owner shall operate and maintain an on-site cart
23 containment program. A cart owner may be exempted from this
24 requirement if he or she provides proof of contracting with a qualified cart
25 retrieval service and submits an operations plan which demonstrates to
26 the satisfaction of the Director of Planning and Building that the qualified
27 cart retrieval service will both actively locate shopping carts within a one-
28 mile radius of the cart owner's business premises and respond to

1 complaints from the public in a manner which results in the retrieval of
2 shopping carts within twenty-four (24) hours after receiving notice.

3 B. Each cart owner must contain all shopping carts on the
4 business premises at all times.

5 C. Any instance in which a shopping cart owned or provided by a
6 cart owner is found off of the business premises shall be considered a
7 violation of subsection (B) of this section by the cart owner. A cart owner
8 who, after receiving notice of the violation, fails to cure such violation
9 within twenty-four (24) hours is subject to administrative citation. Each
10 twenty-four (24)-hour period thereafter that the cart remains off premises
11 shall be considered a separate violation. Following the issuance of more
12 than ten administrative citations to the same cart owner within a thirty
13 (30)-day period, subsequent violations by that cart owner may be
14 prosecuted by the city prosecutor pursuant to section 1.32.010 (E) of the
15 municipal code.

16 8.61.030 Cart removal warnings.

17 A. Every cart owner shall post and maintain cart removal warnings
18 which meet all of the following minimum specifications:

19 1. Meet or exceed 18 inches in width and 24 inches in
20 height.

21 2. Using block lettering not less than one-half inch in width
22 and two (2) inches in height, contain a statement in two or more
23 languages to the effect that unauthorized removal of a shopping cart
24 from the business premises, or possession of a shopping cart in a
25 location other than on the business premises, is a violation of state law
26 and City ordinance.

27 3. List a local or toll-free telephone number for cart
28 retrieval.

1 4. Be affixed to an interior wall of the building or otherwise
2 permanently and prominently displayed within two (2) feet of all customer
3 entrances and exits.

4 B. Cart removal warnings on the exterior of the building are not
5 considered "signs" for the purpose of calculating maximum allowable
6 signage under title 21 of the municipal code.

7 8.61.040 Employee training - cart removal prevention.

8 Each cart owner shall conduct ongoing employee training to
9 educate new and existing employees about procedures to prevent cart
10 removal, including the operation of the cart containment system.

11 8.61.050 Cart identification signs for shopping carts.

12 A. Each shopping cart owned or used within the City shall have,
13 permanently affixed and easily visible, a cart identification sign or
14 engraved surface which includes all of the following information: the
15 name, the site-specific street address and telephone number of the cart
16 owner or commercial establishment to which the cart belongs or both, the
17 individual cart identification number, a valid toll-free phone number for
18 cart retrieval, the procedure (if any) to be followed to obtain permission to
19 remove the cart from the business premises, and a notice to the public
20 that unauthorized removal of the cart from the business premises is a
21 violation of state law and City ordinance.

22 B. It shall be the responsibility of each cart owner to comply with
23 subsection (A) of this section, and to continuously maintain, or cause to
24 be maintained, the cart identification sign so that all of the required
25 information is accurate and clearly legible.

26 8.61.060 Cart removal from business premises – written permission
27 required.

28 No person shall be deemed to be authorized to remove a cart

1 unless he or she possesses written authorization from the cart owner.
2 This section shall not apply the possession of a shopping cart removed
3 from the business premises at the direction of the cart owner for the
4 purposes of repair or maintenance.

5 8.61.070 Physical containment system.

6 A. A cart owner shall be required to install a physical containment
7 system to the satisfaction of the Director of Planning and Building when
8 the cart owner establishes a facility consisting of more than five thousand
9 square feet of new construction.

10 B. A cart owner may be required to install a physical containment
11 system to the satisfaction of the Director of Planning and Building and the
12 city prosecutor following the issuance of more than ten administrative
13 citations in a thirty (30)-day period.

14 8.61.080 Regulatory fee authorized.

15 A regulatory fee shall be established to enforce this regulation and
16 to fairly apportion the cost of mitigating the negative effects of off-site
17 shopping carts. A business which installs a physical containment system
18 to the satisfaction of the Director of Planning and Building, or which does
19 not provide any shopping carts to its customers, shall be exempted from
20 this fee.

21 8.61.090 City powers not limited by this chapter.

22 Nothing in this section is intended to limit the ability of the city to
23 remove or dispose of any cart to which a cart identification sign is not
24 attached, or to remove or dispose of any cart which impedes the
25 provision of emergency services, or which is an immediate threat to
26 public health and safety, to the full extent permitted by state law.

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Sec. 2. Enforcement of this ordinance shall be stayed until one hundred eighty (180) days after its effective date.

Sec. 3. The City Clerk shall certify to the passage of this ordinance by the City Council of the City of Long Beach and cause it to be posted in three conspicuous places in the City of Long Beach, and it shall take effect on the thirty-first day after it is approved by the Mayor.

I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of _____, 2006, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

City Clerk

Approved: _____
(Date)

Mayor