

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
UNION CITY TO AMEND CHAPTER 7.22 “SHOPPING CARTS”
OF THE UNION CITY MUNICIPAL CODE**

WHEREAS, the California Constitution, Article XI, Section 7, provides cities and counties with the authority to enact ordinances to protect the health, safety, welfare, and morals of their citizens; and

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 removal and subsequent abandonment of shopping carts on both private and public property, including streets and other rights 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 City adopted an ordinance on August 8, 2006 adding Chapter 7.22 “Shopping Carts” to the Union City Municipal Code (the “Shopping Cart Ordinance”) in order to regulate the removal of shopping carts from the premises of retail establishments; and

WHEREAS, despite the Shopping Cart Ordinance, the City currently expends City staff time and resources each year collecting abandoned shopping carts throughout the City; and

WHEREAS, abandoned shopping carts continue to contribute to blight and neighborhood deterioration; and

WHEREAS, California Business and Professions Code Section 22435.8 grants the City the authority to adopt an ordinance regulating and/or prohibiting the removal of shopping carts from the premises of a retail establishment except to the extent any such provision of the ordinance expressly conflicts with any provision of state law; and

WHEREAS, the City Council approved the Union City Municipal Code Update Project (the “Project”) to revise outdated provisions of the Municipal Code and to add new desirable provisions and appointed an ad hoc subcommittee (the “Subcommittee”) to consider potential revisions to the Code; and

WHEREAS, the Subcommittee has reviewed the Shopping Cart Ordinance and recommends revisions to include stronger enforcement mechanisms in order to reduce abandoned shopping carts throughout the City; and

WHEREAS, the City of Union City desires to amend the Municipal Code to include stronger enforcement mechanisms in order to reduce abandoned shopping carts throughout the City; and

WHEREAS, the amendments to the Municipal Code propose to amend Chapter 7.22 as shown in Exhibit A and in red-line in Exhibit B for reference, which exhibits are attached and incorporated herein by reference.

THE CITY COUNCIL OF THE CITY OF UNION CITY DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The above recitals are true and correct and made a part of this Ordinance.

SECTION 2. CEQA. Approval of the amendments is exempt from further environmental review under the general rule in California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3) that CEQA only applies to projects that have the potential for causing a significant effect on the environment. As a series of text amendments and additions, it can be seen with certainty that there is no possibility that the ordinance will have a significant effect on the environment.

SECTION 3. Findings. The City Council makes the following findings in support of approving this Ordinance, based on the whole of the record before it.

1. The City has a substantial interest in revising the Municipal Code to effectively prevent abandoned shopping carts throughout the City.
2. The amendments are consistent with the City's efforts to institute more stringent enforcement mechanisms that will allow the City to prevent the abandonment of shopping carts.

SECTION 4. Approval. The City Council hereby approves the amendments to the Municipal Code, more particularly, amending Chapter 7.22 as shown in attached Exhibit A, which is incorporated herein by reference and available for review in the City Clerk's office during normal business hours.

SECTION 5. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

SECTION 6. Publication and effective date. Within fifteen (15) days from and after adoption, this Ordinance shall be published once in the Tri-City Voice, or other newspaper of general circulation, printed and published in Alameda County and circulated in the City of Union City, in

accordance with California Government Code Section 36933. This Ordinance shall take effect and be enforced thirty (30) days after its adoption.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Union City at a regular meeting held on _____, 2017, by the following vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS

APPROVED:

Carol Dutra-Vernaci, Mayor

ATTEST:

APPROVED AS TO FORM:

Anna M. Brown, City Clerk

Benjamin T. Reyes II, City Attorney