

# **EXHIBIT B**

## **Chapter 7.22**

### **SHOPPING CARTS**

#### 7.22.010 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. “Abandoned cart prevention plan” or “plan” means a plan that meets the requirements of Section 7.22.060 and has been approved by the City in accordance with Section 7.22.070.
- C. “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.
- D. “Owner” means a person or entity that, 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.
- F. “Public Works Director” means the Public Works Director or his or her designee.

#### 7.22.020 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 owner of the cart;
- B. The address and phone number of the owner or retailer for cart return;
- C. A statement that the removal of the cart from the premises is a violation of state law and Chapter 7.22 of this Code; and
- D. The procedure for authorized removal of the cart from the premises.

#### 7.22.030 Abandonment prohibited.

It is unlawful for any person to cause or permit any cart to be abandoned on or upon any sidewalk, street or other public area, or any private property, other than the premises of the owner of such cart.

#### 7.22.040 Removal prohibited.

It is unlawful for any person, either temporarily or permanently, to remove a cart from the premises of the owner of such cart, or to be in possession of a cart that has been removed from the premises of the owner of such cart, which is properly marked in conformity with this chapter, without the written consent of the owner. This section shall not apply to carts removed from the premises, with the consent of the owner, for the purposes of repair, maintenance or disposal.

#### 7.22.050 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 (or Laundry Carts, or other types of carts, if applicable) IS PROHIBITED BY LAW AND SHALL SUBJECT THE VIOLATOR TO A MINIMUM FINE OF \$100.00.

7.22.060 Abandoned cart prevention plan.

Every owner who allows or intends to allow the use of carts outside a building or enclosed area of a business shall develop, implement and comply with an abandoned cart prevention plan.

A. The plan must include, at a minimum, the following information:

1. The name of the business, address and phone number of the premises where the business is conducted, and the address and phone number of the cart owner, if different;

2. A procedure for providing notification to customers that removal of carts from the premises is prohibited and a violation of state and local law in addition to the notice required under Sections 7.22.020 and 7.22.050. This notice may be provided in the form of flyers, warnings on shopping bags, or any form of written notification that will effectively notify customers of the prohibition;

3. A description of the physical measures or other cart removal deterrents that will be implemented to prevent the removal of carts from the premises. Physical measures may include, but are not limited to: devices on carts that prevent their removal from the premises, posting of a designated employee or security guard to deter and stop customers from removing carts from the premises, prohibiting carts outside the building of the business unless accompanied by an employee, installation of obstacles to prevent cart removal, security deposits required for the use of all carts, or the rental or sale of utility carts that can be temporarily or permanently used to transport purchases; and

4. A procedure for the retrieval of abandoned carts by its employees, or proof that the owner has entered into a contract for cart retrieval services that has been approved by the Public Works Director.

B. Two or more businesses may collaborate and submit a single plan.

7.22.070 Abandoned cart prevention plan approval.

A. Each owner shall submit a proposed abandoned cart prevention plan to the Public Works Director within sixty days of the effective date of the ordinance codified in this chapter, and by July 1st of each year thereafter. Proposed businesses shall have an approved abandoned cart prevention plan prior to commencing business. After initial submission and approval of an abandoned cart prevention plan, an owner submitting the same plan to comply with the requirement of submitting a plan by July 1st of each subsequent year, may do so by submitting a letter of intent stating that the owner is submitting the plan currently in operation.

B. The Public Works Director shall approve or reject the proposed abandoned cart prevention plan within thirty days of the plan's submission. The Public Works Director may deny a plan based upon any of the following grounds:

1. Implementation of the plan violates any provision of the building, zoning, health, safety, fire, police or other provision of this Code or any county, state or federal law which substantially affects public health, welfare, or safety;

2. The plan fails to include all of the information required by this chapter;

3. The plan is insufficient or inadequate to prevent removal of carts from the premises;
  4. 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;
  5. Implementation of the plan violates a term or condition of a plan or other requirement of this chapter; and/or
  6. The owner knowingly makes a false statement of fact or omits a fact required to be revealed in an application for the plan, or in any amendment or report or other information required to be made.
- C. If the plan is rejected as incomplete or inadequate, the Public Works Director shall indicate areas that are incomplete or inadequate, and the owner shall have an additional thirty days within which to resubmit a complete and adequate plan. The Public Works Director shall approve or reject the resubmitted plan within thirty days of the date of resubmission of the plan.
- D. Once approved, the measures included in the plan shall be implemented no later than thirty days of the plan's approval. If an owner is proposing new measures, the measures from the approved plan in the previous year shall be continued until the new measures are implemented.
- E. Any owner that fails to submit a plan, implement the plan measures, or implement any required modifications to the plan within the time frames specified in this chapter shall be required to keep all carts inside the building or enclosed areas of the business.
- F. Any owner who is required to, but fails to keep all carts inside the building or enclosed area of the premises in violation of subsection E of this section, shall be subject to an administrative civil penalty in accordance with Section 1.18.040 of the Union City Municipal Code.
- G. The Public Works Director's decision to deny a plan may be appealed to the City Manager, or the City Manager's designee. A written notice of appeal must be submitted to the Public Works Director within ten days of the denial of the plan and accompanied by a copy of the plan. The City Manager or designee shall review the plan under the grounds for denial set forth in subsection B of this section and provide a decision approving or denying the plan within thirty days of receipt of the notice of appeal.
- H. Even though approved, a plan may be reevaluated at any time by the Public Works Director if operation of the plan demonstrates the plan's insufficiency or inadequacy in preventing removal of carts from the premises.

#### 7.22.080 Revocation of prevention plan.

- A. The Public Works Director may revoke an existing plan if:
1. A cart or carts from the same retailer have been found on public property and impounded by the City on eight or more occasions within a six-month period. An occasion includes all carts found in a one day period;
  2. The owner has failed to comply with a provision of this chapter; or
  3. The owner has knowingly made a false statement or fails to disclose relevant information in an application, an amendment or in a report to the City.
- B. An owner can reapply for a plan after six months following revocation.
- C. An owner may appeal the Public Works Director's decision to revoke an existing plan pursuant to the procedures in Section 7.22.070(G) to the City Manager, or the City

Manager's designee, and the City Manager or designee shall review the grounds for revocation set forth in subsection A of this section.

7.22.090 Failure to submit a prevention plan or receive prevention plan approval and prevention plan revocation.

Any owner that fails to submit a prevention plan, implement the proposed plan measures, or implement any required modifications to the plan by the City within the time frames specified in this Chapter, or any owner that has his or her prevention plan revoked, shall be required to place disabling devices on all carts used by the business to prevent removal of carts from the premises.

7.22.~~080~~100 Abandoned carts.

A. Notification for Retrieval of Abandoned Carts.

1. The City shall notify the owner of any abandoned carts located within the City.
2. The notice shall contain:
  - a. The street address or other description of the location of the abandoned carts; and
  - b. The date and approximate time that the abandoned carts were found.
3. The notice may be served by personal service on the owner, manager or other designated responsible parties of the business or by fax transmission, or by email transmission if an email address has been provided by the owner, manager or other designated responsible parties.
4. The City may include multiple locations of abandoned carts on one notice.
5. The owner shall have three days from the date the notification is given to retrieve the carts from the specified locations.

B. Administrative Costs and Fines.

1. Any owner that fails to retrieve any abandoned cart after receiving the notice by the City shall pay the City's administrative costs for providing notice to the owner and for retrieving and storing the cart.
2. Any owner that fails to retrieve an abandoned cart within three days in accordance with this section in excess of three times during a specified six-month period, shall be subject to a fifty 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. This fine shall be in addition to any other fees or costs that are due.

C. Alternative Provisions Regarding Retrieval of Abandoned Carts. Notwithstanding subsection A of this section, the City may impound an abandoned cart so long as the owner is given notice within twenty-four hours following the impound, and the notice informs the owner as to the location where the cart may be claimed. Any cart reclaimed by the owner within three business days following the date of notice shall be released to the owner without charge. Any cart not reclaimed by the owner within three business days following actual notice shall be subject to the fees and penalties set forth in subsection B of this section.

D. Disposition of Carts After Thirty Days. Any cart not reclaimed from the City within thirty days after notification to the owner shall be sold or otherwise disposed of by the City.

7.22.~~090~~110 Violation.

Any person violating any provision of this chapter shall be guilty of an infraction in accordance with Section 1.16.010 of the Union City Municipal Code.

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