

**ADOPTED ORDINANCE 2051**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GLENDORA, CALIFORNIA, ADDING A NEW CHAPTER 9.66 TO THE GLENDORA MUNICIPAL CODE REGULATING STOLEN OR ABANDONED SHOPPING CARTS AND OTHER CARTS, ESTABLISHING AN ABATEMENT AND ENFORCEMENT PROGRAM RELATED THERETO**

**THE CITY COUNCIL  
City of Glendora, California**

**THE CITY COUNCIL OF THE CITY OF GLENDORA DOES HEREBY ORDAIN AS FOLLOWS:**

**WHEREAS**, shopping carts are routinely abandoned on the City of Glendora's (City) streets and rights-of way; and

**WHEREAS**, the presence of abandoned shopping carts is found to be a public nuisance and contributes to a decline in the quality of life; and

**WHEREAS**, the abundance of abandoned shopping carts on the City's rights-of-way encourages crime, tends to reduce property values, and is a blight on the community; and

**WHEREAS**, abandoned shopping carts also obstruct pedestrian access, interfere with pedestrian and vehicular traffic, and emergency services; and

**WHEREAS**, the City Council finds the standards set forth in this ordinance are necessary to protect the public safety and welfare of the residents of the City.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GLENDORA, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:**

**SECTION 1.** A new Chapter 9.66 ("Abandoned Shopping Carts") is hereby added in its entirety to Title 9 ("Public Peace, Safety and Morals") of the Glendora Municipal Code to read as follows:

**"CHAPTER 9.66 ABANDONED SHOPPING CARTS"**

**9.66.010 Findings and Purpose:**

The City of Glendora finds that abandoned shopping carts in the city create potential hazard to the health and safety of the public, and interfere with pedestrian and vehicular traffic and create a public nuisance. The accumulation of abandoned carts on public and private property tends to create conditions that reduce property values, and promote blight and deterioration that result in a public nuisance. This chapter is intended to ensure that measures are taken by the owners of shopping carts to prevent the removal of the shopping carts from the owner's premises, to make

removal of the shopping cart without the owner's approval a violation of this Code, and to facilitate the retrieval of abandoned shopping carts in a manner consistent with State law.

Retail establishments owning any shopping carts are subject to the provisions of this chapter.

**9.66.020 Definitions:**

- A. "Abandoned shopping carts" means any cart that is located outside the premises or parking lot of a retail establishment which owns the cart, except a cart that is in the physical possession of a person who has the express written consent of the cart's owner.
- B. "Business license" means that license for operation of a retail establishment required under Title 5 of this code.
- C. "Cart owner" means every business or person who, in connection with the conduct of a retail establishment owns, rightfully possesses, or makes any cart available to patrons and/or the public. This shall include the owner's agent or authorized representative.
- D. "Code" means the Glendora Municipal Code unless otherwise specified.
- E. "Commencement date" shall mean the date that the implementation, enforcement and applicability of this chapter to cart owners and retail establishments starts. The "commencement date" shall be six (6) months following the day this chapter takes effect following adoption by the city council.
- F. "Contractor" means an authorized independent person approved by the city council for the purpose of effecting the removal of abandoned shopping carts.
- G. "Director" means the city's director of public works or other employee designated by the director of public works or the city manager to enforce or carry out the provisions of this chapter.
- H. "Effective shopping cart nuisance abatement" means the retail establishment's ongoing activities to prevent the theft and abandonment of shopping carts from their parking area, combined with the retail establishment's ongoing activity to retrieve any abandoned shopping cart owned by the retail establishment from public or private property within the city within forty eight (48) hours.
- I. "Effective containment program" means a system selected by the retail establishment that results in no more than five (5) shopping carts being removed without the owner's consent from the business premises or parking area within the twelve (12) month period commencing with the issuance of a business registration or the renewal of the business registration (minimum of 5 carts in a 12 month time period). An effective containment program may include one or more of the following measures:
  - a. 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.

- b. An on-site security guard to deter customers who attempt to remove carts from the business premises.
  - c. Bollards and chains around the business premises to prevent cart removal, if permitted by the fire marshal.
  - d. Any other measure approved by the director in writing as a means to contain carts on the premises.
- J. "Effective retrieval program" means no more than five (5) abandoned shopping carts are collected by the city or its contractor within the city limits and returned to the retail establishment within the twelve (12) month period commencing with the issuance of a business registration or the renewal of the business registration (minimum of 5 carts in a 12 month time period). There is a rebuttable presumption that a cart found abandoned somewhere off the premises of the cart's owner was removed from the premises without the owner's consent and that if the city or its contractor removes it and returns it to the retail establishment, the cart was abandoned for more than forty eight (48) hours.
- K. "Identified cart" means a shopping cart that has a permanently affixed sign that identifies, in accordance with California Business and Professions Code section 22435.1, the owner of the cart or the retailer, or both; notifies the public of the procedure to be utilized for authorized removal of the cart from the owner's premises; notifies the public that the unauthorized removal of the cart from the cart owner's premises or cart owner's parking area or the unauthorized possession of the cart, is a violation of State law; and lists a valid telephone number or address for returning the cart to the owner or retailer. If the cart owner operates more than one store, the sign shall identify the location of the store where the cart is used.
- L. "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.
- M. "Person" means a natural person, firm, association, organization, partnership, business, trust, corporation, limited liability company, or other entity.
- N. "Private property" means any property not owned by the city, its successor agency, library, or other such sub-agencies or boards acting under the authority of the City of Glendora.
- O. "Public property" means property owned by the city, its successor agency, library, or other such sub-agencies or boards acting under the authority of the City of Glendora.
- P. "Retail establishment" means any trade establishment selling articles, commodities, services, or any line of merchandise where shopping carts are made available for and used by patrons and/or the public.
- Q. "Shopping cart" or "cart" means a basket that is mounted on wheels or a similar device generally used in retail establishments by a patron and/or the public for the purpose of

transporting goods of any kind. Shopping cart also includes a cart used in a coin-operated laundry or dry-cleaning retail establishment for purposes of transporting clothes and necessary cleaning materials.

- R. "City" means the City of Glendora or its designated representatives.
- S. "Unidentified cart" means a shopping cart that is not an identified cart, as defined above.
- T. For the purpose of this chapter, words and phrases not expressly defined in Section 9.66.020 shall be given their customary and usual meanings and shall be interpreted and construed accordingly.

**9.66.030 Declaration of a Public Nuisance:**

The city council finds and determines that any abandoned shopping cart is declared to constitute a public nuisance that could impede emergency services, interfere with pedestrian and vehicular traffic, reduce property values, promote blight and deterioration, comprise an attractive nuisance and create other hazards to the health, safety, and general welfare of the community by having a tendency to degrade the appearance of the community and thereby decrease property values.

**9.66.040 Mandatory Cart Markings and Signage:**

As of the commencement date, all carts shall be maintained as identified carts, including:

- A. The cart owner shall provide signage on their premises in a conspicuous location notifying cart users that removal of carts from the premises or parking area is prohibited without the written consent of the retail establishment.
- B. The owner of a retail establishment shall mark all carts used in its business by its customers as required by California Business and Professions Code section 22435.1. The owner shall permanently affix a sign to each cart that identifies the owner of the cart or the retailer, or both; notifies the public of the procedure to be utilized for authorized removal of the cart from the cart owner's premises; notifies the public that the unauthorized removal of the cart from the cart owner's premises or cart owner's parking area or the unauthorized possession of the cart is a violation of State law; lists a valid telephone number, or address for returning the cart to the cart owner.

**9.66.050 Unlawful Possession of Carts Prohibited; Power to Contract:**

- A. *Unlawful Possession.* It is unlawful for any person other than a cart owner or its authorized representative to do any of the following acts:
  - a. To remove or cause to be removed any cart from a retail establishment or a parking area without the prior written consent of the owner.
  - b. To possess any cart that has been removed from a parking area without the prior written consent of the cart owner or retail establishment, with the intent to temporarily or permanently deprive the owner of possession of the cart.

- c. To alter, convert, or tamper with any cart, or remove any part or portion thereof, or to 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.
  - d. 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.
  - e. For purposes of all provisions in this chapter, any person removing a cart from the retail business or parking area with consent of the cart owner shall carry a copy of such written consent on their person.
- B. *Engagement of Contractor.* The city may, in accordance with the applicable city policies and as approved by city Council, cause the city to engage a contractor to retrieve abandoned carts and such contractor shall comply with the provisions of this chapter and applicable state law including, but not limited to, Business & Professions Code Section 22435.10 *et seq.*

**9.66.060 Effective Cart Nuisance Abatement Program:**

As of the commencement date, it is unlawful for any person owning a retail establishment located in the city where carts are available for customer use not to implement and maintain an effective cart nuisance abatement program. Effectiveness is measured by the performance of the retail establishment's effective cart nuisance abatement program in compliance with this Section. Any cart owner shall implement and use any reasonable means in any combination to: (i) prevent the removal or theft of their carts from their premises and parking area and subsequent abandonment of their carts within the city limits; and (ii) if such prevention measures are not one hundred percent (100%) effective, cart owners shall retrieve any and all their abandoned shopping carts from within the city boundaries within forty-eight (48) hours.

- A. *Elements of an Effective Cart Nuisance Abatement Program.* Within the timeframes set forth in Section 9.66.060(B) below, all retail establishments/cart owners must (i) notify the director that they own carts for the use of their customers on their premises, and (ii) submit a written plan for the implementation of an effective cart nuisance abatement program. The program shall include, but is not limited to, the following:
- a. A customer outreach process under which the cart owner shall cause additional notice to be provided to customers in addition to the standard signage and marking of the shopping cart as per subsections (a) and (b) of this subsection that the removal of carts from the premises is prohibited and is a violation of State and local law. This customer outreach notification may include, but is not limited to: flyers distributed at the premises, warnings on shopping bags, direct mail, announcements using intercom systems at the premises, website communication, and other available information tools. It may also include marketing to customers their own personal cart for use in lieu of the retail establishment's shopping cart. The exact

means and frequency of this outreach is to be determined by the retail establishment.

- b. Either an “effective containment program” or an “effective retrieval program” as each is defined in Section 9.66.020, or both.
  - c. If a retail establishment has a valid and operational contract with a contractor recognized by the city to retrieve abandoned shopping carts and return them to the retail establishment on an ongoing and regular basis of at least three (3) times per week, then the owner is presumptively deemed to have an effective cart nuisance abatement program, which presumption may be rebutted if the cart retrieval contractor fails to meet the standards for "effectiveness" set forth in this Section 9.66.060. Nothing in this subparagraph waives or limits compliance with the signage and cart marking mandates in Section 9.66.040.
- B. *Submission of Plans for Implementing Effective Cart Nuisance Abatement Program; Annual Renewal.* As of the commencement date: (i) any new retail establishments shall submit their initial plans for implementing an effective cart nuisance abatement program at least thirty (30) days prior to the retail establishment's original business license application, or (ii) for retail establishments operating as of the commencement date, the initial plan for implementing an effective cart nuisance abatement program shall be submitted with their first business license renewal application due following the commencement date. Once an initial plan implementing an effective cart nuisance abatement program is approved, such plan shall be re-submitted for renewal every two years at least (30) days prior to the retail establishment's business license renewal application. for The proposed plan for an effective cart nuisance abatement program shall contain the following information:
- a. That the retail establishment owns carts for the use of their customers on their premises and parking areas;
  - b. The address of the retail establishment and identity of associated parking areas utilized directly for its carts;
  - c. A contact phone number at the retail establishment in Glendora for the person or persons, or job title of the person, who will be responsible for accepting all carts retrieved by the city and returned to the retail establishment during its normal hours of business;
  - d. The type, color and number of carts owned;
  - e. Whether the retail establishment is subject to a valid and operational contract with a contractor recognized by the city to retrieve abandoned shopping carts and return them to the retail establishment on an ongoing and regular basis of at least three (3) times per week, and if so a copy of such contract;
  - f. Photographic proof of compliance with the signage and cart marking mandates in Section 9.66.040; and

- g. A narrative description, and any plans, photographs or other evidence demonstrating the implementation of an effective cart nuisance abatement program as defined in Section 9.66.020 and in compliance with this Section 9.66.060.

Approved plans for an effective cart nuisance abatement program shall be updated annually and resubmitted to the director for renewal, based on the same findings for issuance, every two years at least thirty (30) days prior to the retail establishment's business license renewal in that year.

C. *Director Review and Approval; Timeframes for Compliance.* The director shall review the plan for the proposed effective cart nuisance abatement program and approve or deny the plan within thirty (30) days of its receipt. If the program plan is approved, the cart owner/retail establishment shall implement the approved effective cart nuisance abatement program within thirty (30) days from the date of approval. If the plan is incomplete, the director shall notify the cart owner in writing to revise the plan and resubmit it within fifteen (15) days of director's notice. The director may deny a plan for a proposed effective cart nuisance abatement program based upon one or more of the following grounds:

- a. Implementation of the plan would violate one or more provisions of this code or of any county, state, or federal law or regulation;
- b. The proposed program fails to include all of the information required by this chapter;
- c. The proposed plan is insufficient or inadequate to qualify as an effective cart nuisance abatement program as defined in Section 9.66.020 and in compliance with Section 9.66.060;
- d. The proposed program fails to address any special or unique conditions to the geographical location of the business establishment or parking facility as such conditions relate to cart removal prevention; or
- e. Implementation of the proposed program would violate a term or condition of any agreement between the city on the one hand, and the retail establishment, or owner of the parking area, or cart owner, on the other hand.

The director's denial of a plan for an effective cart nuisance abatement program shall be the final administrative decision unless such denial is appealed to the city manager in writing within five business days. The city manager shall review the director's decision and render a decision, which shall be the final administrative decision.

D. *Noncompliance.* A cart owner who fails to submit an effective cart nuisance abatement program, or whose program is denied, or whose program is approved but who then does not comply with the terms of the approved program, shall be subject to enforcement of these requirements as set forth in Section 9.66.120. Each day during which a retail establishment/cart owner has not complied with the provisions of this chapter shall constitute a separate violation.

**9.66.070 Right of Entry:**

For purpose of enforcing this chapter, the director may enter public or private property as allowed by law, or with the consent of the property owner, or by warrant, to examine a cart or to cause the removal of such cart if authorized pursuant to this chapter.

**9.66.080 Abandoned carts - Abatement and Storage:**

- A. *Removal.* The director shall have the authority to remove any abandoned cart on public or private property, other than from the property of the cart owner, under the following conditions:
- a. *Identified Carts.* If the abandoned cart is an identified cart, removal may occur three (3) business days after the director gives the cart owner actual notice of the cart's discovery and location. A cart owner is deemed to have actual notice three (3) days after the deposit of written notice in the United States mail, posted first-class to the address indicated on the cart or the cart owner's last known address. If actual notice is provided by telephone, the director shall maintain a record of the time, date, and name of the person notified.
  - b. *Unidentified Carts.* If the abandoned cart is an unidentified cart, but other information on the cart provides sufficient information as to the identification of the cart owner, removal may occur either after the director notifies the owner by telephone of the cart's discovery and location and grants a reasonable period of time, not to exceed twenty-four (24) hours, for the cart owner to retrieve such cart, or immediately after reasonable efforts by the director to notify the owner by telephone have failed. The director shall maintain a record of the time, date, and name of the person notified or attempted to be notified. If the owner cannot be determined from information on the cart, the cart shall be deemed an "unidentified cart" subject to Section 9.66.090.
- B. *Storage.* Any abandoned cart removed from public or private property by the director shall be stored for thirty (30) days at the department of public works in the city, or at a location designated by the director, which is reasonably convenient to the cart owner and open for business at least six (6) hours of each business day.
- C. *Fees for Actual Costs Payable to City.* Any abandoned cart removed from public or private property and stored pursuant to this section shall be released to the lawful cart owner if claimed within thirty (30) days after such removal and upon payment of a redemption fee. The redemption fee for the removal and storage of any abandoned cart under this section shall be established by city council resolution and shall cover the actual costs of removal, storage, and related administrative procedures. The schedule for such fees shall remain on file and be available in the office of the director and the office of the city clerk.
- D. *Fines.* In addition to any redemption fee for which a cart owner is liable, owner shall also be liable for a fine in an amount established by resolution of the city council for each occurrence in excess of three during any six (6) month period for failure to retrieve a cart



in accordance with Section 9.66.090(A)(d). As used herein, an "occurrence" includes all of owner's carts impounded in accordance with this chapter in a one-day period.

**9.66.090 Option for Immediate Impoundment:**

- A. Notwithstanding Section 9.66.080(A), the city may impound an abandoned cart that otherwise meets the criteria set forth in Section 9.66.080(A) without complying with the three (3) business day advance-notice requirement provided that each of the following is met:
  - a. The cart owner of the abandoned cart is provided actual notice within twenty-four (24) hours following the impound and that notice informs the cart owner as to the location where the cart may be claimed.
  - b. Any cart so impounded shall be held at a location in compliance with 9.66.080(B).
  - c. Any cart reclaimed by the cart owner within three (3) business days following the date of actual notice as provided pursuant to this section, shall be released and surrendered to the owner at no charge whatsoever, including the waiver of any redemption fees that would otherwise be applicable pursuant to Section 9.66.080(C).
  - d. Any cart not reclaimed by the cart owner within three (3) business days following the date of actual notice as provided pursuant to this section, shall be subject to any applicable fee imposed pursuant to Section 9.66.080(C) commencing on the fourth (4<sup>th</sup>) business day following the date of notice but accruing from the date of retrieval and storage, and any applicable fine imposed pursuant to Section 9.66.080(D). Any cart reclaimed by the owner within three (3) business days following the date of actual notice as provided pursuant to this section, shall not be deemed an "occurrence" under Section 9.66.080(D).
- B. Any shopping cart involved in a violation of Section 9.66.050(A) is subject to immediate impoundment, and such impoundment shall follow the procedures provided in Section 9.66.090(A).
- C. *Sale; Final Disposition.* Any cart not reclaimed by the cart owner within thirty (30) days of receipt following the date of actual notice as provided pursuant to this section, may be sold or disposed of in accordance with Section 9.66.110.

**9.66.100 Notice of Violation on Unidentified Carts:**

Within ten (10) days of the removal of an abandoned cart pursuant to this chapter, the director shall provide notice to any known owner of the cart by first-class mail at the address indicated on the cart or the cart owner's last known address. The notice shall include the following information: (i) date and location of removal of the cart from public or private property; (ii) procedure for recovering such cart; and (iii) last possible date such cart may be recovered. If the cart owner is unknown and not clearly identified on the cart, the cart shall be designated "unidentified." The director, for each unidentified cart, shall maintain a record containing the information above and

a brief description of the cart.

**9.66.110 Final Disposition of Unclaimed Carts:**

Thirty (30) days after notice is given to the owner, or after the cart is designated "unidentified" pursuant to Section 9.66.100, any abandoned cart not claimed may be sold at public auction or otherwise disposed of. Any proceeds derived from such auction or disposal shall be used to pay the costs of removal, storage, and related administrative procedures. Surplus proceeds derived from such auction or disposal shall be deposited in the general fund of the city.

**9.66.120 Enforcement:**

- A. Every cart owner who violates any provision of such owner's effective cart nuisance abatement program, and every person who violates any provision of this chapter, shall be subject to enforcement procedures for each violation by any lawful means available to the city, including, but not limited to, those set forth in California Business and Professions Code Sections 22435.3 and 22435.5, Section 1.01.110 of this code, and chapters 1.18, and 9.36 of this code.”

**SECTION 2.** If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person or circumstances, is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any other provision or application, and to this end the provisions of this ordinance are declared to be severable. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, parts or portions thereof be declared invalid or unconstitutional.

**SECTION 3.** This Ordinance shall be in full force and effect thirty (30) days after its adoption.

**SECTION 4.** The City Clerk shall certify to the adoption of this Ordinance and shall cause the same to be posted and codified in the manner required by law.

**SECTION 5.** The Mayor shall sign this Ordinance and the City Clerk shall attest and certify to the passage and adoption thereof and cause same to be published at least once in the San Gabriel Valley Examiner, a weekly newspaper of general circulation, published in the City of Glendora, which newspaper is hereby designated for that purpose (GC § 40806); and thereupon, and thirty (30) days after its passage, this ordinance shall take effect and be in force. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this Ordinance shall nonetheless remain in full force and effect. The people of the City of Glendora hereby declare that they would have adopted each section, subsection, sentence, clause, phrase, or portion of this Ordinance, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable.

**PASSED, APPROVED and ADOPTED** this 10<sup>th</sup> day of March, 2020.

City Council of Glendora, California  
BY: JUDY M. NELSON, Mayor

APPROVED AS TO FORM:

Aleshire & Wynder, LLP

WILLIAM W. WYNDER, City Attorney

**CERTIFICATION**

I, Kathleen R. Sessman, City Clerk/Communications Director of the City of Glendora, do hereby certify that the foregoing Ordinance was introduced for first reading on the 25<sup>th</sup> day of February, 2020. Thereafter, said Ordinance was duly approved and adopted at a regular meeting of the City Council on the 10<sup>th</sup> day of March, 2020, by the following roll call vote:

AYES:	COUNCIL MEMBERS:	Boyer, Davis, Thompson, Allawos, and Nelson.
NOES:	COUNCIL MEMBERS:	None.
ABSENT:	COUNCIL MEMBERS:	None.
ABSTAIN:	COUNCIL MEMBERS:	None.

I further certify that said Ordinance was published as required by law in a newspaper of general circulation in the City of Glendora, California on the 19<sup>th</sup> day of March, 2020.

Dated: March 11, 2020

KATHLEEN R. SESSMAN,  
City Clerk/Communications Director