

1 [Declaring unattended empty shopping carts to be a nuisance and authorizing the Department
2 of Public Works to seize such carts and impose storage charges when the carts are not
3 retrieved within ~~three~~ two business days.]

4 **Ordinance amending the San Francisco Public Works Code by adding a new Article 24,**
5 **consisting of Sections 1400 through 1409 to declare unattended empty shopping carts**
6 **on either public property or on private property without the owner's consent to be a**
7 **nuisance, and authorizing the Department of Public Works to seize such shopping**
8 **carts and charge impound and storage costs where the shopping carts are not**
9 **retrieved by their owner within ~~three~~ two days from the receipt of notice of the seizure;**
10 **requiring a report from the Department of Public Works evaluating the success of its**
11 **implementation of this ordinance.**

12 Note: Additions are *single-underline italics Times New Roman*;
13 deletions are *strikethrough italics Times New Roman*.
14 Board amendment additions are double underlined.
15 Board amendment deletions are ~~strikethrough normal~~.

16 Be it ordained by the People of the City and County of San Francisco:

17 Section 1. The San Francisco Public Works Code is hereby amended by adding a new
18 Article 24, consisting of Sections 1400 through 1409, to read as follows:

19 **Article 24**

20 **Shopping Carts**

21 **Sec. 1400. Findings. The Board of Supervisors finds as follows:**

22 **(a) The City and County of San Francisco has a substantial interest in promoting the public**
23 **health, safety, welfare and convenience of its citizens and visitors by ensuring that public streets,**
24 **sidewalks and rights-of-way not be obstructed by unattended empty shopping carts left on either public**
25 **property or on private property without the owner's consent.**

(b) The proliferation of unattended empty shopping carts on City streets and public and

1 private property has contributed to congestion of City sidewalks, impeded the flow of pedestrian and
2 vehicular traffic, interfered with the use of streets, sidewalks and public rights-of-way, presented
3 hazards to persons and property, contributed to litters problems and resulted in visual blight.

4 (c) The purpose of this ordinance is to promote the public health, safety and welfare and the
5 aesthetic qualities of the City by promoting removal of unattended empty shopping carts on public
6 property or on private property without the owner's consent so as to:

7 (1) Provide for pedestrian and vehicular safety and convenience;

8 (2) Ensure that there is no unreasonable interference in the flow of pedestrian or vehicular
9 traffic including ingress into, or egress from, any residence, place of business or public facility, or any
10 legally parked or stopped vehicle; and

11 (3) Reduce visual blight and clutter and litter problems associated with empty shopping carts.

12 **Section 1401. Definitions** (a) "Director" means the Director of the Department of Public
13 Works, or his or her designee.

14 (b) "Empty shopping cart" means a shopping cart that does not contain personal property
15 or merchandise purchased from a retail establishment. A shopping cart containing only litter or trash
16 shall be considered an empty shopping cart for purposes of this definition.

17 (c) "Parking area" means a parking lot or other property provided by a retailer for use by
18 a customer for parking an automobile or other vehicle.

19 (d) "Personal property" shall mean property that consists of readily identifiable personal
20 effects in usable condition or that appear to be temporarily stored for later retrieval including, but not
21 limited to, blankets, clothing, radios, TVs, sleeping bags, ground covers, toiletries, eye glasses, jewelry,
22 medications, personal papers, recyclables, shoes, tarpaulins, bags, backpacks, tents or luggage and
23 other items of significant value.

24 (f) "Property owner" means the owner of real property or his or her designated agent."
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1 (g) “Shopping Cart” means a basket that is mounted on wheels or a similar device
2 generally used in a retail establishment by a customer for the purpose of transporting goods of any
3 kind.

4 **Section 1402. Scope; Declaration of nuisance.** The requirements of this Article shall apply
5 only to unattended empty shopping carts. Unattended empty shopping carts located on either public
6 property or on private property without the owner’s consent are hereby declared a nuisance.

7 **Section 1403. Impoundment. (a)** The Director may immediately impound an empty
8 shopping cart located on either (1) public property outside the premises or parking area of a retail
9 establishment, or (2) private property where the property owner has requested that the shopping cart
10 be removed. Upon removal pursuant to this section, the Director shall give the owner of the shopping
11 cart or his or her agent notice within 24 hours following the impound. That notice shall inform the
12 owner or his or her agent as to the location where the shopping cart may be claimed. For purposes of
13 this section, the parking area of a retail establishment located in a multistore complex or shopping
14 center shall include the entire parking area used by the complex or center.

15 (b) Any shopping cart impounded pursuant to paragraph (a) shall be held at a location that
16 is both reasonably convenient to the owner of the shopping cart, and which is open at least six hours of
17 each business day.

18 (c) The Director shall provide notice of each impounded shopping cart as follows: if the
19 shopping cart contains information identifying a specific entity or person as the owner or contact, the
20 Director shall give notice to that person. Otherwise, the Director shall give notice to the entity or
21 person that the Director has reason to believe is the owner. Where an empty shopping cart contains
22 indicia that it belongs to a particular company or retailer with more than one location in the City, but
23 the cart contains no indication as to which location it belongs to, the Director shall make reasonable
24 efforts to locate and notify the owner or agent. In the case of a retailer with multiple locations in the
25 City, the Director may satisfy this requirement by providing notice to the retailer’s headquarters office.

1 if located in San Francisco, or to the retailer's area or regional office. Retailers may submit to the
2 Director the name of one contact person or office to be the designated agent for notice by mail or
3 telephone under this Article. Where an empty shopping cart lacks sufficient markings to enable the
4 Director to determine the owner or owner's agent, the Director may treat the empty shopping cart as
5 abandoned property.

6 (d) The Director can comply with the notice requirements imposed by this section by
7 placing a telephone call during regular business hours to the owner or owner's representative
8 designated pursuant to paragraph (c) of this section, or on the shopping cart. Where no such person is
9 designated, the Director shall call the owner at a number listed in the San Francisco telephone book.
10 In addition, the Director shall give mailed notice to the address designated by the owner pursuant to
11 paragraph (c) of this section, or in the absence of such a designation, to the address indicated on the
12 shopping cart, or in the absence of such an address, to the address listed for the owner in the San
13 Francisco telephone book.

14 (e) Any impounded shopping cart that is reclaimed by the owner or his or her agent within
15 three ~~two~~ business days of the notice provided pursuant to paragraph (a) shall be released to the
16 owner or agent at no cost, including waiver of any impound or storage fees.

17 (f) Any impounded shopping cart that is not reclaimed by the owner or his or her agent
18 within three ~~two~~ business days following the date of notice pursuant to paragraph (a) shall be subject
19 to payment of the actual costs incurred by the City in impounding and storing the shopping cart. The
20 City shall have a lien on the shopping cart, and shall not release the shopping cart until such costs are
21 paid in full.

22 (g) Any impounded shopping cart that is not reclaimed by the owner or his or her agent
23 within 30 days following the receipt of notice pursuant to paragraph (a) may be sold or otherwise
24 disposed of by the Director.

25 **Section 1404. Emergency Impoundment.** Notwithstanding any other provision of this Article,

1 the Director may immediately impound any shopping cart that is located in such manner as to create a
2 public hazard or an impediment to emergency services. In such cases, the Director shall notify the
3 owner in accordance with Section 1403.

4 **Section 1405. Hearing.** The owner, or his or her agent, of a shopping cart that has been
5 impounded pursuant to this Article may request a hearing before the Director to contest the validity of
6 the impoundment. The hearing request shall be made in writing to the Director within five business
7 days from the date of the actual notice given to the owner pursuant to this Article. The hearing shall be
8 conducted within five business days of the date the Director receives the request, and shall be
9 conducted in accordance with procedures established by the Director. In the hearing, the City shall
10 bear the burden of demonstrating the factual basis for the removal and impound. If the Director
11 determines that the shopping cart was wrongfully impounded, the shopping cart shall be returned to the
12 owner or his or her agent, and any costs or charges otherwise due shall be waived.

13 **Section 1406. Carts Bearing Identification Signs.** Where the Director seeks to impound a
14 shopping cart that bears the identification required by California Business and Professions Code
15 Section 22435.1, the requirements for notice, impoundment and recovery of the shopping cart shall be
16 governed by Business and Professions Code Sections 22435 through 22435.7.

17 **Section 1407. Nature of Director's Duties.** It is the intent of the Board of Supervisors that the
18 duties imposed upon the Director by this Article be directory in nature, and that as a result, the
19 Director's failure to comply with a particular procedural step shall not invalidate any subsequent
20 action by the Director to which the procedural requirement relates.

21 **Section 1408. Limitation of Liability.** By adopting this Article, the City and County of San
22 Francisco is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it
23 imposing on its officers and employees, an obligation for breach of which it is liable in money damages
24 to any person who claims that such breach proximately caused injury.

25 **Section 1409. Severability.** If any subsection, sentence, clause phrase or word of this Article

1 is for any reason declared invalid or unconstitutional or ineffective by any court of competent
2 jurisdiction, such decision shall not affect the validity of the remaining portions of this Article or any
3 part thereof. The Board of Supervisors hereby declares that it would have adopted this Article
4 notwithstanding the unconstitutionality, invalidity, or ineffectiveness of any one or more of its sections,
5 subsections, clauses, phrases or words.

6 Section 2. The Department of Public Works shall submit, within 6 months of the
7 effective date of this ordinance, a written report to an appropriate Committee of the Board of
8 Supervisors evaluating the success of the Department's implementation of this ordinance.

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10 APPROVED AS TO FORM:
11 LOUISE H. RENNE, City Attorney

12 By: THEODORE R. LAKEY
13 Deputy City Attorney

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