

ORDINANCE NO. 3912

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TORRANCE, CALIFORNIA, ADDING CHAPTER 18 ENTITLED "SHOPPING CART RETRIEVAL AND CONTAINMENT BY OWNERS" TO DIVISION 4 OF THE TORRANCE MUNICIPAL CODE

RECITALS

WHEREAS, the City of Torrance is a charter city under California law with a recognized mandate to preserve, protect, and enhance the general health and welfare of its residents; and

WHEREAS, the City Council of the City of Torrance finds and declares that the presence of abandoned, stolen, wrecked and/or dismantled shopping carts on public and private property creates a visual blight, is aesthetically detrimental to the community, is injurious to the general welfare of the citizens of the City of Torrance, and constitutes a public nuisance; and

WHEREAS, the City Council of the City of Torrance further finds and declares that the City's retrieval of abandoned, stolen, wrecked and/or dismantled shopping carts is a drain on resources; and

WHEREAS, the California Business & Professions Code Sections 22435 et seq. set forth procedures for the retrieval and abatement of shopping carts, and cost recovery for such abatement; and

WHEREAS, the City Council of the City of Torrance believes that it is in the public interest and welfare to amend Division 4 (Public Health and Welfare) of the Torrance Municipal Code; and

WHEREAS, the City Council of the City of Torrance held a public hearing concerning the Proposed Ordinance on January 10, 2023, notice of which was published and provided as required by law; and

WHEREAS, the adoption of the Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15378, because the activity undertaken involves general text amendments that would not cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and does not meet the definition of a "Project" under CEQA. The proposed Ordinance is also exempt from CEQA Guidelines under Section 15061(b) (3) because it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment.

NOW, THEREFORE, the City Council of the City of Torrance does hereby ordain as follows:

SECTION 1

The City Council of the City of Torrance hereby finds and determines that all the above Recitals are true and correct and incorporates such Recitals into this Ordinance.

SECTION 2

Chapter 18 is added to Division 4 of the Torrance Municipal Code to read in its entirety as follows:

“CHAPTER 18”

SHOPPING CART RETRIEVAL AND CONTAINMENT BY OWNERS

418.1.010 PURPOSE.

The purpose of this Chapter is to establish regulations to ensure that reasonable measures are taken by the Owners and operators of businesses that provide shopping carts for the convenience of customers to prevent the removal of shopping carts from business premises and parking lots, and to provide for the prompt retrieval of lost, stolen or abandoned shopping carts, to complement and supplement provisions of state law and to adopt local regulations to the extent not otherwise preempted by state statute.

418.1.020 DECLARATION OF A PUBLIC NUISANCE.

Many retail establishments provide shopping carts for the convenience of customers while shopping on the premises of such businesses. However, shopping carts removed from the premises of such businesses and left abandoned on public or private property throughout the City constitute a public nuisance and a potential hazard to the health and safety of the public. The proliferation of lost, stolen or abandoned shopping carts on public and private property causes blighting conditions in the community, results in the obstruction of free access to public and private sidewalks, streets, parking lots and other ways, interferes with pedestrian and vehicular traffic on public and private streets and impedes emergency services. For the aforesaid reasons, such lost, stolen or abandoned shopping carts are declared a public nuisance, which shall be subject to abatement in the manner set forth in this Chapter or in any other manner provided by law.

418.1.030 DEFINITIONS.

Except as otherwise expressly set forth herein, the following words and terms as used in this Chapter shall have the following meanings:

“Business Day” means any day in which normal business operations are conducted by a retail establishment.

“Calendar Day” means every day on the calendar, i.e. all 365 days of the year (366 if it is a leap year).

"Cart" or "Shopping Cart" means a basket that is mounted on wheels, or a similar device generally used in a retail establishment by a customer for the purpose of transporting goods of any kind. The term "shopping cart" or "cart" includes a laundry cart.

"Cart Retrieval" means the act of retrieving and returning a cart that has been removed from the retail establishment's premises.

"City" means the City of Torrance or its designated representative.

“City Business Day” means any day in which normal business operations are conducted by the City of Torrance.

“City Manager” means the City Manager of the City of Torrance, or his or her designee.

"Director" means the Community Development Director of the City.

"Enforcement Officer" means any Police Officer, Code Enforcement Officer, Environmental Quality Officer, or other personnel employed by the City and designated by the City Manager.

"Laundry Cart" means a basket that is mounted on wheels and used in a coin-operated laundry or dry-cleaning retail establishment by a customer or an attendant for the purpose of transporting fabrics and the supplies necessary to process them.

"Lost, Stolen or Abandoned Shopping Cart" means a shopping cart that is either:

- 1) Removed from the premises of a retail establishment by any person without the written permission or consent of the Owner of the shopping cart or the retailer otherwise entitled to possession of such cart, or
- 2) Left unattended, discarded, or abandoned upon any public or private property other than the premises of the retail establishment from which the shopping cart was removed, regardless of whether such shopping cart was removed from the premises with the permission of the Owner. For purposes of this Chapter, any shopping cart located on any public or private property other than the premises of the retail establishment from which such shopping cart was removed shall be presumed lost, stolen or abandoned, even if in the possession of any person, unless such person in possession thereof either (a) is the Owner, or an employee or authorized agent of the Owner, entitled to possession of the shopping cart, (b) is an officer, employee or agent of a cart retrieval service hired by the Owner to retrieve such carts, (c) is an Enforcement Officer retrieving, storing or disposing of said cart pursuant to the provisions of Section 418.1.060(b) of this Chapter, or (d) has written permission or consent to be in possession of the shopping cart from the Owner entitled to possession of the shopping cart.

"Office of Economic Development" means the Economic Development Division of the City.

"Parking Area" means a parking lot or other property provided by a retail establishment for the use of customers for parking of customer vehicles. The parking area of a retail establishment located in a multi-store complex or shopping center shall include the entire parking area used by the multi-store complex or shopping center.

"Planning Division" means the Planning Division of the City.

"Premises" means any building, property or other area upon which any retail establishment business is conducted or operated in the City, including the parking area provided for customers.

"Retail Establishment" means any business that provides shopping carts located in the City, regardless of whether the business is advertised or operated as a retail or wholesale business, and regardless of whether the business is open to the general public, or is a private club or business, or is a membership store.

"Shopping Cart Owner" or "Owner" means any Owner, manager, operator, or designated person of any retail establishment that provides shopping carts.

418.1.040 ADMINISTRATION.

The City Manager is hereby authorized to enforce the provisions of this Chapter, and may designate City employees and/or contractors who are authorized to assist in the enforcement of the provisions of this Chapter (collectively, "Enforcement Officers"). The City Manager shall have the authority to promulgate and/or adopt regulations to implement the provisions of this Chapter.

418.1.050 UNAUTHORIZED REMOVAL OR POSSESSION.

- a) It shall be unlawful for any person to perform any of the following acts with respect to a shopping cart, when such cart has a permanently affixed sign in conformity with this Chapter:
 - 1) To remove a shopping cart from the store premises with the intent to temporarily or permanently deprive the Owner of possession of the cart;
 - 2) To be in possession of any shopping cart that has been removed from the store premises with the intent to temporarily or permanently deprive the Owner of possession of the cart;
 - 3) To be in possession of any shopping cart with serial numbers or identification signage removed, obliterated, or altered, with the intent to temporarily or permanently deprive the Owner of possession of the cart;
 - 4) To leave or abandon a shopping cart at a location other than the store premises with the intent to temporarily or permanently deprive the Owner of possession of the cart;
 - 5) To alter, convert, or tamper with a shopping cart, or to remove any part or portion thereof or to remove, obliterate or alter serial numbers or identification signage on a cart, with the intent to temporarily or permanently deprive the Owner of possession of the cart;
 - 6) To be in possession of any shopping cart while that cart is not located on the store premises, with the intent to temporarily or permanently deprive the Owner of possession of the cart.
- b) This Section shall not apply to an Owner, an Owner's employee, a person or business entity engaged in the business of cart retrieval on behalf of the Owner, or a customer who has written consent, on store letterhead and signed by the Owner, to be in possession of a cart or to remove a cart from the store premises.

418.1.060 ABANDONED SHOPPING CARTS ABATEMENT, REMOVAL AND STORAGE

- a) The City may impound a shopping cart that has a permanently affixed sign, in conformity with this Chapter, provided both of the following conditions have been met:
 - 1) The cart is located outside the store premises, as defined in this Chapter; and
 - 2) Except as provided in subdivision (g), the shopping cart is not retrieved within 3 City business days from the date the Owner of the shopping cart receives actual notice from the City of the shopping cart's discovery and location.

- b) Notwithstanding other provisions of this Section, the City may immediately retrieve a shopping cart from public or private property when the location of such cart will impede emergency services, as determined by the City Manager or a duly designated Enforcement Officer.
- c) A shopping cart that has been impounded by the City pursuant to subsection (a) or (b) of this Section shall be held at a location that is reasonably convenient to the Owner and open for business at least six hours of each City business day.
- d) When the City has impounded a shopping cart pursuant to subsection (a) or (b) of this Section, the City may recover its actual costs for providing such service regardless if the Owner claims the impounded shopping cart. City will mail an itemized bill to the Owner, which must be paid within 30 days from date of mailing. The City at its discretion may pursue any and all legal and equitable remedies for the collection of an unpaid bill (e.g. private collection agencies, Franchise Tax Board (FTB) Interagency Intercept Collection (IIC) Program, etc.).
- e) In accordance with California Business and Professions Code Section 22435.7 (f), the City may fine an Owner of a shopping cart in an amount not to exceed \$50 for each occurrence in excess of three during a specified six-month period for failure to retrieve shopping carts in accordance with this Section. An occurrence includes all shopping carts impounded in accordance with this Section in a one-day period.
- f) The City may sell or dispose of any shopping cart not reclaimed within 30 days following the date of notice of the impound.
- g) Notwithstanding paragraph (2) of subdivision (a), the City may impound a shopping cart that otherwise meets the criteria set forth in paragraph (1) of subdivision (a) without complying with the three-day advance notice requirement provided that:
 - 1) The Owner is provided actual notice within 24 hours following the impound and that notice informs the Owner as to the location where the shopping cart may be claimed.
 - 2) Any shopping cart so impounded shall be held at a location in compliance with subdivision (c).
 - 3) Any shopping cart reclaimed by the Owner within 3 City business days following the date of actual notice as provided pursuant to paragraph (1), shall be released and surrendered to the Owner at no charge whatsoever, including the waiver of any impound and storage fees or fines that would otherwise be applicable pursuant to subdivision (d) or (e). Any cart reclaimed within the 3 City business-day period shall not be deemed an occurrence for purposes of subdivision (e).
 - 4) Any shopping cart not reclaimed by the Owner, within 3 City business days following the date of actual notice as provided pursuant to paragraph (1), shall be subject to any applicable fee or fine imposed pursuant to subdivision (d) or (e) commencing on the fourth City business day following the date of the notice.

- 5) Any shopping cart not reclaimed by the Owner, within 30 days of receipt following the date of actual notice as provided pursuant to paragraph (1), may be sold or disposed of in accordance with subdivision (f).
- h) Notwithstanding other provisions of this Section, the City may immediately impound, sell and/or dispose of a shopping cart that does not contain a permanently affixed sign required pursuant to this Chapter and whose Ownership cannot otherwise be ascertained.
- i) The actions described in this Section may be performed by City personnel or contractor.
- j) An Owner shall be deemed to have been provided any notice required pursuant to this Section when the City notifies the Owner, as set forth in Section 418.1.060, by telephone call, email, or written notice.

418.1.070 CART RETRIEVAL AND CONTAINMENT PLAN "PLAN".

- a) Except as otherwise provided in this Chapter, every Owner who provides shopping carts to customers for use on the premises of any retail establishment shall develop, implement and comply with the provisions of a written Cart Retrieval and Containment Plan "Plan" approved by the City to provide for the retrieval of lost, stolen or abandoned shopping carts that have been removed from the premises of the retail establishment, and to prevent customers from removing shopping carts from the premises of such business without authorization of the Owner. The Plan, at a minimum, shall include the following elements:
 - 1) Owner/Business Information. The name of the business establishment; the name of the Owner; the physical address of the store premises; the name, address, telephone number and email address of each on-site and off-site manager, if applicable; and designation of the person to whom the City should give notices related to shopping carts, as set forth in Section 418.1.060, and such person's telephone number and email address.
 - 2) Cart Inventory. A complete inventory of all shopping carts maintained on or in the store premises.
 - 3) Signs Affixed to Carts. Every shopping cart made available for use by customers shall have a sign permanently affixed to it that identifies the Owner of the cart or the retailer or both, including store name, store address and phone number; notifies the public of the procedure to be utilized for authorized removal of the cart from the premises; notifies the public that the unauthorized removal of the cart from the premises of the business, 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 removed from the premises to the Owner or retailer.
 - 4) Premises Signage
 - A. It shall be the responsibility of a shopping cart Owner to maintain signage concerning cart removal posted on the store premises. Installed signage shall, at a minimum, meet the following requirements:

1. Each sign shall be not less than 18 inches in width and 24 inches in height with block lettering not less than one-half inch in width and two inches in height;
 2. A sign shall be posted in a conspicuous place within two feet of each customer entrance and exit;
 3. Signs shall be posted within parking lot(s);
 4. Each sign shall state, at a minimum, as follows: "REMOVAL OF SHOPPING CARTS FROM THE PREMISES IS PROHIBITED BY STATE AND MUNICIPAL LAW (B&P §22435.2; TMC §418.1.050)"; and
 5. Each sign shall be in English, Japanese, and Korean.
- B. Shopping cart Owners engaging in business in the City on the effective date of this Chapter shall post signage on the store premises, in accordance with this Section, within 60 days of the effective date of this Chapter. If the Owner subsequently makes a change to the store premises signage in the City-approved Plan, the new store premises signage shall be installed or erected within 30 days of City approval of the Plan.
- 5) Notice to Customers. Written notice shall be provided to customers that removal of shopping carts from the premises is prohibited by state law. Such notice may be provided in the form of flyers distributed on the premises, warnings printed on shopping bags, direct mail, and website notices, or any other means demonstrated to be effective. The Plan shall identify the specific measures to be implemented to comply with this notice requirement. In addition, conspicuous signs shall be placed and maintained on the premises near all customer entrances and exits and throughout the premises, including the parking area, warning customers that removal of shopping carts from the premises is prohibited by state law.
 - 6) Retrieval Personnel. The Owner shall provide personnel for purposes of the retrieval of lost, stolen or abandoned shopping carts. Such personnel may be either employees of the business or one or more independent contractors hired by the Owner to provide shopping cart retrieval services, or a combination of both. The Plan shall either:
 - A. Identify the number of employees who will be assigned such cart retrieval duties, the number of total hours per week that each assigned employee will perform such services (in addition to any on-premises retrieval duties to which such employee may be assigned), and the training each of such personnel has received or will receive concerning the retrieval of lost, stolen or abandoned shopping carts, or
 - B. Include a copy of each contract with a cart retrieval service (other than confidential financial information, which may be redacted from the contract). For purposes of Section 418.1.070, those persons identified in the Plan as providing cart retrieval services, whether employees of the business or independent contract services, shall be referred to as "Retrieval Personnel."

The Owner shall provide written authorization to all Retrieval Personnel which authorization shall be carried by each such person while performing cart retrieval services on behalf of the Owner and shall be provided to any City Enforcement Officer

upon request. Each vehicle used by Retrieval Personnel shall bear conspicuous signs on the vehicle identifying either the name of the retail establishment for which such retrieval service is being performed or, if applicable, the name of the cart retrieval service with which the retail establishment has contracted for such services.

- 7) Prompt Retrieval of Carts. The Owner shall provide Retrieval Personnel in sufficient number to assure that all public streets within a minimum two mile radius of the premises of the retail establishment are patrolled no less often than every twenty-four (24) hours, and all bus stops within a minimum one mile radius of the retail establishment are patrolled no less often than every twenty-four (24) hours or twice every twenty-four (24) hours where required by the Planning Division, and each lost, stolen or abandoned shopping cart owned or provided by the retail establishment which is found as a result of such patrols is immediately retrieved and removed from any public or private property upon which the cart is found. The Plan shall identify:
 - A. The streets and bus stops that will be patrolled, as required by this subsection;
 - B. The manner, frequency, and times of such patrols; and
 - C. The procedures to be employed by the retail establishment to identify and retrieve any lost, stolen, or abandoned shopping carts. The Plan shall identify the number of trucks, hours of operation of the Retrieval Personnel, and such other information as reasonably required by the City to assure that the Owner is devoting sufficient resources to cart retrieval operations to comply with the provisions of Section 418.1.070 and the approved cart retrieval plan.
- 8) Monthly Reports. The Owner shall provide, or cause to be provided by each cart retrieval service under contract with the Owner, on or before the twentieth day of each month, a written report to both the City's Planning Division at CDDinfo@TorranceCA.gov and the Office of Economic Development at EconomicDevelopment@TorranceCA.Gov specifying the number of lost, stolen, or abandoned shopping carts retrieved by Retrieval Personnel during the preceding calendar month period.
- 9) Physical Measures. Specific physical measures shall be implemented and maintained by the Owner to prevent, deter, or impede the removal of shopping carts from the premises. Such physical measures shall be specifically identified in the Plan and may include, but are not limited to, the following: disabling devices installed and maintained on carts, maintaining one or more designated employees assigned the responsibility to deter or stop customers from removing shopping carts from the premises, preventing any shopping carts from being taken outside the confines of building exits unless accompanied by an employee of the business, physical barriers, including devices placed on the carts themselves, which effectively prevent transporting shopping carts into the parking area or off the premises while maintaining accessible paths of travel compliant with state Title 24, Part 2, California Building Code and federal Americans with Disabilities Act, requiring security deposits by customers for cart use, or rental or sale of carts to customers. Written approval of the property Owner shall be provided to the City for any physical measures required by the plan to be installed on the property of the retail shopping center or multi-store complex in which the retail establishment is located.

10) "Daily Cart Confinement." All shopping carts located on the premises of the retail establishment (other than an establishment open for business twenty-four (24) hours per day) shall be collected at the end of each business day by employees of the retail establishment and shall be collectively confined in a secure manner at the cart containment area on the premises as designated in the Plan until the commencement of the next business day. All shopping carts located on the premises of any retail establishment open for business twenty-four hours per day, other than carts then currently in use by a customer or patron, shall be collected by employees of the retail establishment and returned to the cart confinement area on the premises as designated in the Plan at least once per calendar day between the hours of 9:00 p.m. and 11:59 on each day the retail establishment is open for business. The provisions of this subsection shall not apply to any shopping carts located within an enclosed building.

11) Employee Training. The Owner of the retail establishment shall implement and maintain a periodic training program for its new and existing employees designed to educate such employees concerning the requirements of the Plan and the provisions of state law prohibiting the unauthorized removal of shopping carts from the premises of the retail establishment. The Cart Retrieval and Containment program shall expressly describe the employee training program.

b) Collaboration with Other Businesses. Two or more retail establishments located within the same shopping or retail center or sharing a common parking area may collaborate and submit a single Plan.

c) Exemptions. The requirements of Section 418.1.070 shall not apply to any retail establishment that provides a total of ten or less shopping carts for use by customers of such business or has physical measures included to ensure that shopping carts do not exit the building.

418.1.080 INCENTIVES FOR PLAN EXISTING RETAIL ESTABLISHMENTS COMPLIANCE.

Notwithstanding any other provision of the Torrance Municipal Code to the contrary, any existing retail establishment which (a) provides a total of more than ten shopping carts for use by customers of such business, and (b) submits and obtains the approval of a Plan within the time specified in Section 418.1.090 of this Chapter, shall be exempt from the payment of any plan processing fee otherwise required by Section 418.1.090 of this Chapter to implement such Cart Retrieval and Containment Plan.

418.1.090 PLAN SUBMISSION AND APPROVAL.

a) New or Relocated Retail Establishments. Unless otherwise expressly exempt hereunder, each new retail establishment, and any existing retail establishment relocating to a different location within the City, shall submit a proposed Plan complying with the requirements of Section 418.1.070 of this Chapter to the Planning Division, and obtain approval thereof by the City, prior to providing any shopping carts to customers of the retail establishment. Each proposed Plan must be accompanied by a processing fee in an amount as set by resolution of the City Council. No proposed Plan shall be accepted for filing and processing by the Planning Division unless accompanied by the processing fee established by the City Council.

- b) Existing Retail Establishments. Unless otherwise expressly exempt hereunder, each existing retail establishment shall submit a proposed Plan complying with the requirements of Section 418.1.070 of this Chapter to the Planning Division within one hundred and 180 calendar days following the date of adoption of this Chapter. No such retail establishment existing on the date this Chapter is adopted shall provide or continue to provide shopping carts for the use of its customers after the 181st calendar day following the date of adoption of this Chapter without a Plan approved by the City and determined to conform to the requirements of Section 418.1.070 of this Chapter; provided, however, such date shall be extended for the period, if any, during which an appeal of the denial of such Plan is pending pursuant to the provisions of this Chapter. Each proposed Plan must be accompanied by a processing fee in an amount as set by resolution of the City Council. No proposed Plan shall be accepted for filing and processing by the Planning Division unless accompanied by the processing fee as established by the City Council.
- c) Plan Review and Approval. Upon the filing of any proposed Plan, pursuant to Section 418.1.070 of this Chapter and receipt of the required processing fee, the Planning Division shall review said proposed Plan and either approve or deny said proposed Plan in a timely manner. If the proposed Plan complies with each of the applicable requirements of this Chapter, the Planning Division shall approve the plan, otherwise the proposed Plan shall be denied. The decision of the Planning Division shall be made in writing and notice thereof shall be transmitted to the Owner of the retail establishment by the United States Postal Service, first-class mail, postage prepaid, or by personal delivery or email transmission. The notice of decision of the Planning Division shall be deemed given to the Owner on the date of personal delivery or on the date of the email transmission to the Owner; notices given by the United States Postal Service, first-class mail, postage prepaid, shall be deemed given to the Owner on the third day following the date of deposit in the course of transmission with the United States Postal Service, first-class mail, postage prepaid. If the proposed Plan is denied, the notice of decision given to the Owner shall state the grounds upon which the proposed Plan was denied. A decision of the Planning Division may be appealed by the Owner in the time and manner provided in Section 418.1.100 of this Chapter.
- d) Amendments by Owner. The Owner of any retail establishment, which has an approved Plan conforming to the requirements of this Chapter, may, at any time, submit a proposed amendment to the approved Plan which amendment shall be processed in accordance with the procedure provided for a proposed Plan as set forth in subsection (c) of Section 418.1.090. Each proposed amendment must be accompanied by a processing fee in an amount as set by resolution of the City Council. No proposed amendment shall be accepted for filing and processing by the Planning Division unless accompanied by the processing fee as established by the City Council.
- e) Revocation or Amendment by City.
 - 1) Grounds. An approved Plan may be revoked by the City based on its sole determination in which any of the following grounds exist:
 - A. The Owner of any retail establishment is operating, or is permitting operation of, the retail establishment in violation of one or more of the provisions of said approved Plan and has failed to correct said violation(s) for a period of at least 30 calendar days following the date of receipt of written notice of such violation(s) from the City; or

- B. The Owner of any retail establishment with an approved Plan is operating, or is permitting the operation of, the retail establishment in violation of one or more of the requirements of this Chapter and has failed to correct said violation(s) for a period of at least 30 calendar days following the date of receipt of written notice of such violation(s) from the City; or
 - C. The Plan, as approved, is inadequate to reasonably prevent the removal of shopping carts from the premises of the retail establishment; or
 - D. The cart retrieval plan, as approved, is inadequate to ensure the prompt retrieval of lost, stolen or abandoned shopping carts removed from the retail establishment.
- 2) Order to Show Cause. If at any time following the approval of a plan, the Planning Division obtains information or evidence that any of the grounds set forth in paragraph (e) 1 above may exist, the Planning Division shall issue a written order to show cause as to why the approved Plan should not be revoked and schedule a hearing thereon which hearing shall not be less than 15 calendar days, nor more than 45 calendar days following the date such order to show cause is given to the Owner of the retail establishment. The order shall state the grounds upon which it is proposed to revoke the approved Plan and shall include the information and evidence, or a summary thereof, upon which such order was issued.
 - 3) Notice of Hearing. Notice of the hearing on any order to show cause issued pursuant to Section 418.1.090 shall be given at the same time and manner provided in subsection (c) of this Section for notice of decisions.
 - 4) Conduct of Hearing. The hearing shall be conducted informally, and the legal rules of evidence shall not be applicable. The Owner and the City shall each have the opportunity to present evidence and witnesses. The parties may each be represented by legal counsel or other representatives of their choice. The City shall bear the burden of proof to establish, by a preponderance of the evidence that grounds exist to revoke the plan. The Community Development Director, at his or her discretion, and as an alternative to revocation, may consider amendment of the plan if the grounds for the order to show cause are solely the inadequacy of the approved Plan.
 - 5) Decision of Community Development Director. Within 15 calendar days following conclusion of the hearing, the Community Development Director shall render his or her decision in writing either dismissing the proceedings or revoking or amending the plan. If the plan is revoked or amended, the decision shall specify the findings of fact and the reasons for such action. If the plan is amended, the decision shall also specify the amendment(s) to the plan.
 - 6) Notice of Decision. Notice of the decision of the Community Development Director shall be given in the time and manner specified in subsection (c) above.
 - 7) Appeal of Decision. The decision of the Community Development Director shall be subject to appeal by the Owner within the time and manner specified in Section 418.1.100 of this Chapter. In the absence of a timely appeal, the decision of the Community Development Director shall be final and conclusive.

418.1.100 APPEALS.

- a) Right of Appeal. Within 15 calendar days from the date of a notice of decision by the Community Development Director pursuant to this Chapter, any Owner affected by any adverse decision of the Community Development Director pursuant to this Chapter may appeal such decision to the Planning Commission; such appeal shall be in writing and shall state the objections and the name and address of the person filing the appeal. The notice of decision shall be deemed given on the date as provided in Section 418.1.090 (c) of this Chapter. The appeal shall be filed with the City Clerk.
- b) Procedure After Filing. Upon receipt of the notice of appeal, and the payment of a non-refundable appeal fee, in an amount set by resolution of the City Council, the City Clerk shall notify the concerned City officials, bodies or departments that an appeal has been filed and shall transmit a copy of the appeal documents to such officials, bodies or departments.
 - 1) Hearings shall be held by the Planning Commission and notice provided in the same manner as prescribed in Article 5, Chapter 1, Division 1 of the Torrance Municipal Code, commencing at Section 11.5.1.
 - 2) Upon the hearing of the appeal, the Planning Commission shall consider all objections or protests, if any, to the decision of the Community Development Director and may continue the hearing. Upon conclusion of the hearing, the Planning Commission, by resolution, may determine whether to affirm, revise or modify the decision of the Community Development Director.
- c) Hearing Before City Council. Any decision of the Planning Commission may be appealed to the City Council and follows the same procedures pursuant to subsection (a) and (b) of this Section.
 - 1) Upon the hearing of the appeal, the City Council shall consider all objections or protests, if any, to the decision of the Planning Commission and may continue the hearing. Upon conclusion of the hearing, the City Council by resolution may determine whether to affirm, revise or modify the decision of the Planning Commission.
 - 2) The decision of the City Council on the appeal shall be final and subject to judicial review in accordance with California Code of Civil Procedure Section 1094.6.

418.1.110 VIOLATIONS AND ENFORCEMENT.

- a) Except as otherwise expressly provided in this Chapter, it shall be unlawful for the Owner of any retail establishment to provide or offer, or permit to be provided or offered, any shopping carts to customers of said retail establishment without an approved Plan as required by Section 418.1.070 of this Chapter; provided, however, this prohibition shall not apply to any retail establishment, or the Owner thereof, which provides a total of ten or less shopping carts for the use of customers of said retail establishment.

- b) It shall be unlawful for the Owner of any retail establishment to provide or offer, or permit to be provided or offered, to customers of said retail establishment any shopping cart that does not have a sign permanently affixed thereto containing all the information specified in Section 22435.1 of the Business and Professions Code of the State of California.
- c) In enforcing the provisions of Section 418.1.110, the City Manager or person designated by the City Manager, and the City's Enforcement Officers charged with the enforcement of the law, may enter onto private property as allowed by law, or with the consent of the property Owner, or by warrant, to survey or examine a shopping cart or parts thereof, or to obtain information as to the identity of a shopping cart Owner, and to remove, or cause the removal of, a shopping cart, or parts thereof consistent with state law.
- d) Any Owner, operator, manager, employee and/or independent contractor of a shopping cart Owner violating or permitting, counseling, or assisting the violation of any of these provisions regulating shopping carts, may be issued an administrative citation by an Enforcement Officer as prescribed in Section 12.8.050 of the Torrance Municipal Code."

SECTION 3

Any provisions of the Municipal Code or its appendices, or any other ordinances of the City of Torrance inconsistent with this ordinance to the extent of the inconsistencies and no further, are repealed.

SECTION 4

If any Section, Subsection, sentence, clause, phrase or portion of this ordinance is for any reason deemed or held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council of the City of Torrance hereby declares that it would have adopted this ordinance and each Section, Subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more Sections, Subsections, sentences, clauses, phrases or other portions might subsequently be declared invalid or unconstitutional.

SECTION 5


This ordinance was reviewed pursuant to the California Environmental Quality Act (Public Resources Code §§ 21000, et seq., "CEQA") and the regulations promulgated there under (14 Cal. Code of Regulations §§15000, et seq., the "CEQA Guidelines"). This ordinance is exempt pursuant to CEQA Guidelines 15378, because the activity undertaken involves general text amendments that would not cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and does not meet the definition of a "Project" under CEQA. The proposed Ordinance is also exempt from CEQA Guidelines under Section 15061(b) (3) because it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment. The ordinance consists only of bolstering public nuisance regulations. Adoption of this ordinance will not have the effect of deleting or substantially changing any regulatory standards or required findings.

SECTION 6 EFFECTIVE DATE

This ordinance will take effect thirty days after the date of its adoption. Within fifteen days following adoption, this ordinance or a summary of this ordinance, if authorized by the City Council, will be published at least once in the Daily Breeze, a newspaper of general circulation, published and circulated in the City of Torrance.

INTRODUCED and **APPROVED** this 10th day of January 2023.

ADOPTED and **PASSED** this 24th day of January 2023.



Mayor George K. Chen

APPROVED AS TO FORM:
PATRICK Q. SULLIVAN, City Attorney

by 

Tatia Y. Strader, Assistant City Attorney

ATTEST:


Rebecca Poirier, City Clerk

TORRANCE CITY COUNCIL ORDINANCE NO. 3912

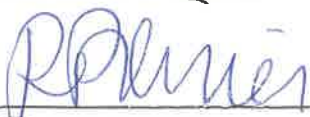
STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss
CITY OF TORRANCE)

I, Rebecca Poirier, City Clerk of the City of Torrance, California, do hereby certify that the foregoing Ordinance was duly introduced and approved by the City Council of the City of Torrance at a regular meeting held on the 10th day of January 2023 and adopted and passed by said Council at a regular meeting held on the 24th day of January 2023 by the following roll call vote:

- AYES: COUNCILMEMBERS Griffiths, Kalani, Lewis, Mattucci, Sheikh, and Mayor Chen.
- NOES: COUNCILMEMBERS None.
- ABSTAIN: COUNCILMEMBERS None.
- ABSENT: COUNCILMEMBERS Kaji.

This ordinance was duly published in accordance with State law (GC 40806).

Date: 1/20/23



Rebecca Poirier, MMC
City Clerk of the City of Torrance