

ORDINANCE NO. \_\_\_\_\_

**ADOPT AN ORDINANCE AMENDING TITLE 8, CHAPTER 8.40, SECTIONS 8.40.050, 8.40.080, 8.40.090, AND 8.40.150 REGARDING SHOPPING CART ENFORCEMENT**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

**SECTION I. AMENDMENT OF CODE**

Title 8, Chapter 8.40, section 8.40.050 of the Stockton Municipal Code is amended to read as follows:

**8.40.050 Penalty for failure to affix required signs.**

Maintaining or permitting ~~Any owner who maintains or permits~~ the use of shopping carts in violation of the provisions of Section 8.40.040 shall be a violation of this chapter. ~~guilty of an infraction. (Prior code § 5-914)~~

**SECTION II. AMENDMENT OF CODE**

Title 8, Chapter 8.40, section 8.40.080 of the Stockton Municipal Code is amended to read as follows:

**8.40.080 Mandatory plan.**

A. Every owner shall prepare, and implement, ~~and submit by March 1, 2002,~~ a specific written plan to prevent their respective customers from removing shopping carts from each owner's premises and to retrieve shopping carts that have been removed therefrom. Said plan shall~~may~~ include the following elements and shall be subject to review and enforcement~~the hereinafter specified approval:~~

1. Notice to Customers. Written notice shall~~may~~ be provided to customers that removal of shopping carts from the premises is prohibited and a violation of law. The notice may be provided in the form of flyers, warnings on shopping bags, or any other form of written notification that will provide effective notice to customers of the prohibition;

OR

2. Signs. Signs of a conspicuous nature shall~~may~~ be placed in appropriate places near customer exits and near parking area exits to

inform customers that shopping cart removal is prohibited and constitutes a violation of law;

AND

~~3. Preventive Measures. Specific physical measures may be implemented to prevent the removal of shopping carts from the owner's premises. These measures may include, but are not limited to, devices on shopping carts that automatically disable them if they are removed from the premises, employment of personnel to advise and deter customers from removing shopping carts, installation of obstacles to prevent the removal of shopping carts, collection of security deposits for use of shopping carts, provision for rental or sale of shopping carts to customers and similar or like measures.~~

4.3. Retrieval Measures. Specific measures ~~shall~~ may be implemented to retrieve shopping carts that are removed from the owner's premises. Such measures ~~shall~~ may include one or more of the following; ~~but are not limited to,~~ the employment of personnel for the purpose of retrieving shopping carts removed from the premises, or the hiring of third-party contractors to retrieve shopping carts removed from the premises, or an alternative measure to ensure retrieval of shopping carts removed from the premises.

B. Every plan ~~submitted~~ shall be subject to the Director's reasonable approval and subject to periodic review by the Director to assess its effectiveness. Every plan shall be located at the premises where the shopping carts are located and be readily available for review by the Director when requested. In the event there becomes a problem with the owner's plan, the Director shall notify the owner to revise the plan ~~submit a revised plan to the Director~~ within 30 days. The Director may also require an evaluation report detailing the measures used during the prior year to ~~prevent removal of shopping carts from the owner's premises and measures used to~~ retrieve ~~the~~ shopping carts removed from the owner's premises. The report may also include an inventory of shopping carts owned or used by the owner, the number of shopping carts which were retrieved after removal from the owner's premises during the previous 12 months, and the number of shopping carts which were replaced due to loss, theft or abandonment during the previous 12 months.

- C. ~~Whenever an owner makes revisions to a plan, the revised plan shall be submitted to the Director for approval. (Prior code § 5-917)~~ Every Owner shall submit to the Director, and update as needed, the name of the business, the address of the business, the name and telephone number of the person to contact regarding inquiries related to the business' Mandatory Plan, and the name and telephone number of the person or entity to contact regarding retrieval of shopping carts. For each business that has multiple retail locations, the above information shall be submitted for each location.

### SECTION III. AMENDMENT OF CODE

Title 8, Chapter 8.40, section 8.40.090 of the Stockton Municipal Code is amended to read as follows:

#### 8.40.090 Penalty for failure to comply with ~~prepare and implement~~ written plan requirements.

- A. ~~Failure. Any owner who fails to produce a copy of the plan when requested pursuant to Section 8.40.080 (B), to revise the plan upon being notified pursuant to Section 8.40.080 (B), submit to the Director for approval the plan required under Section 8.40.080 within 60 days of the effective date of the ordinance enacting this chapter, or within 60 days of the commencement of the owner's business, whichever is later, or who fails to implement the measures established in the an approved plan, shall be a violation of this chapter. guilty of an infraction.~~
- B. In addition to the penalties hereinabove provided, and as an administrative remedy upon a finding of repeated or excess violations of subsection A of this section, as determined by the Director, the Director is hereby authorized to require installation of wheel disabling devices on all shopping carts which prevent their removal from an owner's premises and any required ancillary system or equipment to facilitate proper wheel disablement; employment of personnel to advise and deter customers from removing shopping carts; installation of obstacles to prevent the removal of shopping carts; collection of security deposits for use of shopping carts; provision for rental or sale of shopping carts to customers; or an alternative measure to prevent removal of shopping carts from the premises. ~~with respect to any owner who violates the provisions of subsection A of this section. (Prior code § 5-918)~~

- C. In the event a business owner has been issued a notice to install wheel locking devices and the associated systems or equipment required for the proper functioning of the devices, and the property owner on which the business is located will not voluntarily allow the business owner to install such equipment on the premises, the property owner may be issued a notice of violation.

#### **SECTION IV. AMENDMENT OF CODE**

Title 8, Chapter 8.40, section 8.40.150 of the Stockton Municipal Code is amended to read as follows:

##### **8.40.150 Cumulative effect.**

The provisions of this chapter are cumulative and in addition to any and all other procedures or remedies provided in ordinances of the City or by State law for the abatement of, or prosecutions for, nuisances, and proceedings for abatement pursuant to this chapter shall not prejudice nor affect any other action, whether civil, criminal, equitable or administrative, for the abatement or other remedy of such conditions. Without limitation upon the foregoing, violations of the provisions of this chapter shall be, and are, enforceable under the provisions of Chapters ~~1.241-20~~, 1.28, and 1.32 ~~Administrative Enforcement and Remedies~~, of this code. Nothing contained herein shall be deemed to invalidate, supersede, or render ineffective any other provision of this code or any ordinance of this City. Neither the inclusion, nor the failure to include, under the terms of this chapter, any act or condition otherwise in violation of any provision of this code or other ordinance of this City, unlawful or constituting a nuisance, shall be deemed to render such act or condition lawful. (Prior code § 5-924)

#### **SECTION V. SEVERABILITY.**

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions, or applications of the fact which can be given without the invalid provision or application, and to this end the provisions of this act are severable.

#### **SECTION VI. EFFECTIVE DATE.**

This ordinance shall take effect and be in full force sixty (60) days after its passage.

ADOPTED: \_\_\_\_\_

EFFECTIVE: \_\_\_\_\_

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KEVIN J. LINCOLN  
Mayor of the City of Stockton

ATTEST:

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ELIZA R. GARZA, CMC  
City Clerk  
City of Stockton