

ORDINANCE NO. 725

**AN ORDINANCE OF THE CITY OF LAKEWOOD, WASHINGTON,
RELATING TO SHOPPING CART REGULATION; AMENDING
LAKEWOOD MUNICIPAL CODE 8.16.010 AND CREATING
CHAPTER 8.16.90 ABANDONED SHOPPING CARTS.**

WHEREAS, the City Council has enacted the City's ordinances, some of which are set forth in the Lakewood Municipal Code including Chapter 8, which identifies public nuisances; and

WHEREAS, retail businesses provide shopping carts for the convenience of customers shopping on the premises of the businesses; and

WHEREAS, a shopping cart that has been removed from the premises of the business and left abandoned on public or private property throughout the City constitutes a potential hazard to the health and safety of the public; and

WHEREAS, shopping carts abandoned on public or private property tends to reduce property values and contributes to conditions of blight in the community; and

WHEREAS, shopping carts abandoned on public or private property can obstruct free access to sidewalks, streets and other rights-of-way, interfere with pedestrian and vehicular traffic on pathways, driveways, public and private streets, and impede emergency services.

WHEREAS, it is appropriate that the City institute measures to facilitate the retrieval of abandoned shopping carts to alleviate their impacts on City neighborhoods and public spaces.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Findings. The foregoing recitals are adopted as findings of the City Council.

Section 2. Section 8.16.10 of the Lakewood Municipal Code is hereby revised to read as follows:

8.16.010 Nuisances affecting public health.

The following specific acts, omissions, places, conditions and things are declared to be nuisances: the erecting, maintaining, using, placing, depositing, causing, allowing, leaving, or permitting to be or remain in or upon any private lot, building, structure, or premises, or in or upon any street, avenue, alley, park, parkway, or other public or private place in the City, any one or more of the following places, conditions, things or acts to the prejudice, danger, or annoyance of others:

- A. Privies, vaults, cesspools, sumps, pits, wells or cisterns or like places which are not

- securely protected from flies or rats;
- B. Filthy, littered or trash-covered premises, including all buildings and structures thereon and areas adjacent thereto;
 - C. Tin cans, bottles, glass, cans, ashes, small pieces of scrap iron, wire, metal, articles, bric-a-brac, broken stone or cement, broken crockery, broken glass, broken plaster and all other trash or abandoned material unless the same are kept in covered bins or metal receptacles approved by the City; provided, that any such receptacles approved by the Pierce County Health Officer or designee shall be deemed approved by the City;
 - D. Trash, litter, rags, debris, accumulations of empty barrels, boxes, crates, packing cases, mattresses, bedding, excelsior, packing hay, straw, or other packing material, lumber not neatly piled, scrap iron, tin and other metal not neatly piled which provides harborage for rodents, or other pests;
 - E. Any unsightly and dangerous building, billboard or structure;
 - F. All places used or maintained as junkyards or dumping grounds, or for the wrecking, disassembling, repair or rebuilding of automobiles, trucks, tractors or machinery of any kind, or for the storing or leaving of worn out wrecked or abandoned automobiles, trucks, tractors or machinery of any kind or of any of the parts thereof, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, which places are kept or maintained so as to provide harborage for rodents excluding properly zoned and licensed wrecking yards, junkyards or machinery being used;
 - G. Garbage disposed of in any manner other than provided in the Sanitary Code;
 - H. Garbage cans which are not impervious to rodent gnawing or do not have tight-fitting lids;
 - I. Any putrid, unsound or unwholesome bones, meat, hides, skins or the whole or any part of any dead animal, fish or fowl, butchers' trimmings and offal, or any waste vegetable or animal matter in any quantity, garbage human excreta or other offensive substance; provided, nothing in this subsection shall prevent the temporary retention of waste in a manner approved by the City Manager;
 - J. Blackberry vines or any tall grass or weeds over two feet in height which is rodent infested;
 - K. Grass clippings, cut brush or cut weeds which may create a fly or rodent harborage;
 - L. Nests, colonies, hives or apiaries of bees, Africanized honey bees, yellow jacket, hornets or wasps which are not in full compliance with Chapter 15.60 RCW or Chapter 16-602 WAC; and

- M. Any accumulation of combustible, explosive or flammable substances which are stored in a way that poses a threat or danger to life or property; and
- N. Causing or allowing any shopping cart to be abandoned on either public or private property.

Section 2. A new chapter of the Lakewood Municipal Code is hereby created, Chapter 8.90, to read as follows:

ABANDONED SHOPPING CARTS

8.90.010 Purpose.

It is the primary purpose of this Chapter to provide for the prompt retrieval of lost, stolen or abandoned shopping carts in order to promote public safety and improve the image and appearance of the City. It is a purpose of this Chapter to have the owners and operators of businesses providing shopping carts use the means available to them to deter, prevent or mitigate the removal of shopping carts from their business premises, and to retrieve any carts that may be removed despite these efforts. It is a further purpose of this Chapter to prevent the illegal removal of shopping carts from the business premises, to prevent the continued possession of illegally removed carts, and to prevent the accumulation of illegally removed carts on public or private properties

8.90.020 Declaration of Nuisance:

Retail establishments provide shopping carts for the convenience of customers shopping on the premises of the businesses. A shopping cart that has been removed from the premises of the business and left abandoned on public or private property throughout the City constitutes a public nuisance and a potential hazard to the health and safety of the public; each lost, stolen or abandoned cart shall constitute a separate violation. Shopping carts abandoned on public and private property can create conditions of blight in the community, obstruct free access to sidewalks, streets and other rights-of-way, interfere with pedestrian and vehicular traffic on pathways, driveways, public and private streets, and impede emergency services. It is for these reasons that such lost, stolen, or abandoned shopping carts are hereby declared to be 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.

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 is:

- A. An authorized agent; or

- B. Retail Establishment personnel; or
- C. Enforcement personnel; or
- D. An authorized customer.

8.90.030 Definitions:

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

- A. City Manager: The City Manager means the City Manager or his or her designee.
- B. Authorized Agent: The owner, or an employee or authorized agent of the owner, entitled to possession of the shopping cart.
- C. Authorized Customer: A customer of the owner of the shopping cart, having the written permission of the owner or owner's agent to remove the shopping cart from the owner's premises.
- D. Cart Patrol and Retrieval Company: A contracted agent or designee of the authorized agent who recovers shopping carts on behalf of retail establishments within a one (1) mile radius of the contracting retail establishment(s) no fewer than two (2) times per week.
- E. Enforcement Personnel: Any City law enforcement officers, code enforcement officers, or designated staff employed by the City of Lakewood.
- F. Identification Sign or Cart Sign: A clearly visible sign fastened to each cart that provides ownership information required by this Chapter.
- G. Impounded Cart: Any shopping cart collected by authorized City personnel, regardless of whether or not the shopping cart is being transported to or is stored within City facilities.
- H. Lost, Stolen, or Abandoned Shopping Cart: 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 permission of the owner;
 - 3. 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 is either:

- a. The owner, or an employee or authorized agent of the owner, entitled to possession of said shopping cart; or
 - b. An officer, employee or agent of a cart retrieval service hired by the owner to retrieve such carts; or
 - c. City enforcement personnel retrieving, storing or disposing of said cart pursuant to the provisions of this code;
 - d. A customer with written permission from the owner or agent of the owner to take the cart off premises.
- I. Owner: Any person or entity that owns, leases, possesses, or makes more than ten (10) shopping carts available to customers or the public in connection with the conduct of a business.
- J. Parking Area: A parking lot or other property provided by a retail establishment for the use of customers of said retail establishment for the parking of customer vehicles. The parking area of a retail establishment located in a multi-store complex or a shopping center shall include the entire parking area used by the multi-store complex or shopping center.
- K. Premises: Any building, property, or other area upon which any retail establishment business is conducted or operated in the City of Lakewood, including the parking area provided for customers in such retail establishment.
- L. Retail Establishment: Any business located in the City of Lakewood which offers or provides shopping carts for the use of the customers of such business regardless of whether such business is advertised or operated as a retail or wholesale business, and regardless of whether such business is open to the general public, is a private club or business, or is a membership store.
- M. Security Measures: Physical impediments or methods to prevent removal of shopping carts from the premises of the retail establishment including, but not limited to:
1. Electronically-activated self-braking wheels;
 2. Poles mounted to shopping carts, which prevent their removal from the interior of the retail establishment;
 3. Utilization of a cart patrol and retrieval company;
 4. Dedicated security personnel; and

5. Other measures deemed appropriate and effective by the City Manager.
- N. 'Shopping Cart' or 'Cart': A basket which 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.

8.90.040 Shopping cart signage:

- A. Identification Signs on Carts Required: Each shopping cart made available for use by customers shall have an Identification Sign permanently affixed to it that includes the following information in accordance with RCW 9A.56.270, as now enacted or hereafter amended:
 1. Identifies the owner of the shopping cart or the name of the business establishment, or both;
 2. Notifies the public of the procedure to be utilized for authorized removal of the cart from the premises;
 3. Notifies the public that the unauthorized removal of the cart from the premises of the business or parking area of the retail establishment, or the unauthorized possession of the cart, is unlawful; and
 4. Lists a current telephone number or address for returning carts removed from the premises or parking area to the owner or retailer.
- B. Notice to customers: Owners shall provide written notice to customers that the removal of shopping carts from the premises is prohibited. Such notice may be provided in the form of flyers distributed on the premises, notice printed on shopping bags, direct mail, notices on business websites, or any other means demonstrated to be effective. Additionally, all owners shall display and maintain conspicuous signs 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 and City law.

8.90.050 Impoundment and Fines:

- A. Impoundment of Shopping Carts: The City may immediately impound any lost, stolen or abandoned shopping cart within the City, or any cart within the City to which the required Identification Sign is not affixed.
- B. Impounded Carts: Owners identified on Cart Signs will be informed that they have fourteen (14) days in which to retrieve the cart(s) from the City.
- C. Notification of Impounded Cart: The City shall utilize the required Cart Sign to notify the owner of each impounded cart; absence of the required Cart Sign shall relieve the City

from this responsibility.

- D. Fines: The City shall issue a one hundred dollar (\$100) fine to the owner of each lost, stolen, or abandoned cart impounded by the City, unless the fine is eligible for deferral; however, the City shall issue a two hundred dollar (\$200) fine to any owner who has twelve (12) or more lost, stolen, or abandoned carts impounded by the City within a calendar month. Each cart impounded by the City shall constitute a separate violation.
- E. Fine Deferrals: Within any calendar month the City shall defer fines for the first eight (8) impounded carts owned by any business that, prior to the impoundment, has implemented the following criteria. If nine (9) or more shopping carts under common ownership are impounded within a calendar month no fines shall be deferred by the City.
1. Affixed the required identification sign to each impounded cart; and
 2. Implemented security measures, as defined in this Chapter, to prevent removal of shopping carts from the business' property.

8.90.60 Disposition of carts:

- A. Disposition of Carts: Carts impounded by the City which are either held for more than fourteen (14) days following the date of notification, or carts without an Identification Sign, may be disposed of or sold by the City.
- B. Appeals:
1. Filing of Appeal: Any owner aggrieved by any adverse decision of the City pursuant to this Chapter may appeal such decision within fourteen (14) calendar days following the date of such decision by filing with the Hearing Examiner or City Clerk a written notice of appeal briefly stating the grounds for such appeal. The notice of decision shall be deemed filed on the date the appeal Hearing Examiner deposit fee has been paid as determined by the City's adopted Fee Schedule. No appeal shall be accepted for filing and processing by the City unless accompanied by the appeal Hearing Examiner deposit fee.
 2. Notice of Hearing: If the appeal is timely filed, the Hearing Examiner shall cause the matter to be set for hearing. The appellant shall be provided not less than ten (10) calendar days written notice of the date, time and place of the hearing. The Hearing Examiner shall conduct the hearing pursuant to the provisions of LMC 1.36.

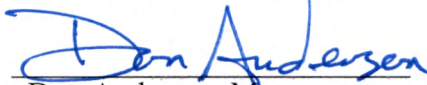
Section 3: Severability. If any section, sentence, clause, or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause, or phrase of this ordinance.

Section 4: Effective Date. This ordinance shall take place thirty (30) days after its

publication or publication of a summary of its intent and contents.

ADOPTED by the City Council this 16th day of December, 2019.

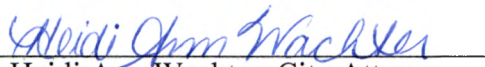
CITY OF LAKEWOOD


Don Anderson, Mayor

Attest:


Briana Schumacher, City Clerk

Approved as to Form:


Heidi Ann Wachter, City Attorney