

**CHAPTER 9.85**  
**SHOPPING CARTS**

**9.85.010 Title.**

This chapter shall be known as the “City of Encinitas Shopping Cart Ordinance”.

**9.85.020 Purpose and Intent.**

The purpose of this chapter is to promote the public health, safety, and general welfare of the community by requiring owners to contain shopping carts on their premises and to make it unlawful for a person to remove a shopping cart from a premises.

**9.85.030 Definitions.**

For purposes of this Chapter the terms below have the following meaning:

- A. “City” means the City of Encinitas.
- B. “City manager” means the city manager of the city or designee.
- C. “Owner(s)” means any person, entity, firm, business, corporation, partnership, company, or similar entity who, in connection with the conduct of a business, owns, leases, possesses, uses, or otherwise makes five (5) or more shopping carts available for customer or public use within the boundaries of the business’ premises. Owner shall also include the owner’s onsite or designated agent.
- D. “Person” means any natural person, business, corporation, or event organizer or promoter; public, nonprofit, or private entity, agency, or institution; or partnership, association or other organization or group, however organized.
- E. “Premises” means the entire area owned, maintained, used or managed by the owner, including the building, parking lot, walkways, or other property for customer use or parking.
- F. “Shopping Cart” means a non-motorized basket 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.
- G. “Marked shopping cart” means a shopping cart to which ownership and other required information has been affixed as pursuant to Business and Professions Code section 22435.1.
- H. “Notification” means and includes verbal notice given to an owner and/or an owner’s retrieval service and/or written notice delivered to the address of an owner or retrieval service.

**9.95.040 Unauthorized Removal Prohibited.**

It is unlawful for any person, either temporarily or permanently, to remove a marked shopping cart from a premises or be in possession of a marked shopping cart that has been removed from a premises without the written consent of the owner. This does not apply to shopping carts removed, as authorized by the owner, for purposes of repair, maintenance, or disposal.

**9.85.050 Abandonment Prohibited.**

It is unlawful and a public nuisance for any shopping cart owner to allow one or more of the owner's shopping carts to be abandoned or remain unattended on any private property (except the premises of the shopping cart owner), or any city street, right-of-way, alley, sidewalk, facility, park, beach, open space or other public property for any period of time, and/or fail to recover, retrieve and/or remove a shopping cart or carts therefrom within two (2) business days following notification by the city manager to the owner and/or their retrieval service of the location of the shopping cart.

**9.85.060 Required Shopping Cart Removal and Abandonment Prevention Measures.****A. Shopping Cart Ownership Identification**

1. Each owner must permanently affix ownership information to each shopping cart that includes the owner's name, address, phone number and other information as required by Business and Professions Code section 22435.1.

**B. Shopping Cart Removal Warning Signs**

1. Visible signage that conform to the requirements of Chapter 30.60 shall be placed near all customer entrances and exits and in parking lots, notifying the public that removal of shopping carts off the premises is prohibited by this Chapter.

**9.85.070 Required Physical Shopping Cart Containment Measures or Shopping Cart Retrieval Services**

A. All owners are required to implement physical shopping cart containment measures and/or enter into an agreement with a shopping cart retrieval service consistent with the following provisions.

1. Physical shopping cart containment measures must include at least one (1) of the following:

- a. Physical disabling devices on all shopping carts;
- b. Security deposit requirement for use of shopping carts;
- c. Use of a security guard or security service to prevent removal of shopping carts from the premises;

- d. Installation of bollards, chains, or other physical barriers to prevent removal of shopping carts from the premise; or
  - e. Any combination of the above measures as necessary to effectively prevent the removal of shopping carts from the premises.
- 2. Shopping cart retrieval service agreements must meet the following requirements:
  - a. Each owner that elects to secure a shopping cart retrieval service agreement must continuously maintain an agreement with a shopping cart retrieval service to search for, locate, and return shopping carts removed from the premises. Self-service cart retrieval is not an allowable option.
  - b. Shopping cart retrieval service agreements must require that shopping carts located off premises, regardless of distance, jurisdictional boundary, or reporting party, will be located, and returned no later than two (2) business days after the owner or retrieval service has been notified.

#### **9.85.080 Shopping Cart Security After Hours.**

Any owner must lock or otherwise effectively secure all shopping carts during hours when the premises are not open for business.

#### **9.85.090 Shopping Cart Containment Plan.**

A. All owner's shall submit a Shopping Cart Containment Plan, to the satisfaction of the City, no later than (30) days after the effective date of this Ordinance. The Shopping Cart Containment Plan shall include:

- 1. Identification of the Owner: The name, address, phone number, of the business establishment and the owner.
- 2. Shopping Cart Inventory: The total number of shopping carts maintained on the premises.
- 3. Shopping Cart Ownership Identification and Shopping Cart Removal Warning Signs: A description of required ownership identification and removal warning signs, including a description of the location of sign placement.
- 4. (a) Physical Shopping Cart Containment Measures: A description of physical shopping cart containment measure(s), consistent with Section 9.85.070(1) of this Ordinance.

Or;

(b) Shopping Cart Retrieval Service: Shopping cart retrieval service agreement information including the name of the service provider and all direct contact information including contact name, address, phone number, and e-mail address. Provided that all required information is included, a copy of the current and fully executed service agreement may be submitted to fulfill this requirement.

5. Shopping Cart Security: Verification that shopping carts are locked or otherwise secured during hours when the premises are not open for business.

B. All owner's shall annually certify that all information provided in the shopping cart containment plan is accurate and true. Owners shall provide updated information to the City as needed to ensure accurate information is maintained and current, and to ensure that all related requirements are being satisfied.

#### **9.85.100 Enforcement.**

A. Any violation of this Chapter is a misdemeanor and may also be enforced by Administrative Citation pursuant to section 1.08.080.

B. Each violation of this chapter shall be considered a separate offense.

C. The remedies and penalties provided in this chapter are cumulative and not exclusive and nothing in shall preclude the City from pursuing any other remedy at law or in equity, including, but not limited to those set forth in Chapter 1.08.

#### **9.85.110 No Conflict with Federal or State Law.**

Nothing in this chapter is intended to or shall be interpreted as conflicting with any federal or state law or regulation.