

ORDINANCE NUMBER 1033

*AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PERRIS AMENDING CHAPTER 7.02 OF THE PERRIS MUNICIPAL CODE PERTAINING TO THE ESTABLISHMENT OF SHOPPING CARTS AS A PUBLIC NUISANCE, AND ADDING CHAPTER 7.28 REGARDING THE ESTABLISHMENT AND PROCEDURES REGULATING SHOPPING CARTS AS A PUBLIC NUISANCE*

*WHEREAS*, the Perris Municipal Code includes Chapter 7.02 which sets forth the establishment of items declared to be a Public Nuisance; and

*WHEREAS*, the City Council of the City of Perris finds that the accumulation of wrecked, dismantled or abandoned shopping carts, or parts thereof, on public and private property is found to create a condition tending to reduce property values, to promote blight and deterioration, to constitute an attractive nuisance creating a hazard to the health and safety of minors, and to be aesthetically detrimental to the community; and

*WHEREAS*, the presence of wrecked, dismantled or abandoned shopping carts, or parts thereof, on public and private property is declared to constitute a public nuisance.

*NOW, THEREFORE* the City Council for the City of Perris does hereby ordains as follows:

*Section 1.* Section 7.02.010 of the Perris Municipal Code is hereby amended to add as follows:

*"Shopping Carts Chapter 7.28"*

*Section 2.* Chapter 7.28 is hereby added to the Perris Municipal Code as follows:

*"Chapter 7.28 Shopping Carts"*

- 7.28.010 Purpose
- 7.28.020 Declaration of Public Nuisance
- 7.28.030 Definitions
- 7.28.040 Abandoned Shopping Cart
- 7.28.050 Administration and Enforcement
- 7.28.060 Shopping Cart Abatement
- 7.28.070 Appeal Hearings on Shopping Cart Abatement
- 7.28.075 Exemption
- 7.28.080 Disposition of Shopping Carts

7.28.090	Removal and Disposition of Wrecked Shopping Carts
7.28.100	Identification of Shopping Carts
7.28.105	Removal Prohibited
7.28.110	Removal from Premises Prohibited, Exceptions
7.28.120	Abandonment Prohibited
7.28.130	Owner's Responsibility to Prevent Littering
7.28.140	Unlawful Possession
7.28.150	Supplementation of Codes, Statutes, Ordinances

7.28.010 *PURPOSE.* The purpose of this chapter is to facilitate the removal of wrecked, dismantled and abandoned shopping carts, from public and private property, thus alleviating potential problems and hazards posed by wrecked, dismantled and abandoned shopping carts and parts thereof.

7.28.020 *DECLARATION OF PUBLIC NUISANCE.* In accordance with Chapter 7.02, the City Council makes the following finding and declarations: The accumulation of wrecked, dismantled and abandoned shopping carts and parts thereof, on public and private property, is found to create a condition tending to reduce property values, to promote blight and deterioration, and to constitute an attractive nuisance creating a hazard to the health and safety of minors, to be aesthetically detrimental to the community, and to be injurious to the health, safety and general welfare. Therefore, the presence of wrecked, dismantled or abandoned shopping carts, or parts thereof, on public and private property is declared to constitute a public nuisance, which may be abated in accordance with the provision of this chapter.

7.28.030 *DEFINITIONS.* The following definitions shall apply to this chapter:

A. "Abandoned shopping cart" means any shopping cart left on any public or private property.

B. "Abatement of shopping cart" means the removal by the City of an abandoned shopping cart which is visible from any public right-of-way.

C. "City Manager" means City Manager, City Manager's designer, and/or authorized representatives of the City Manager.

D. "Director" means Director of Planning and Community Development for the City, Director's designer, and/or authorized representatives of the Director.

E. "Parkway" means that area between the sidewalks and curb of any street, and where there is no sidewalk, that area between the edge of the roadway and the property line adjacent thereto. Parkway shall also include any area within a roadway which is not open vehicular travel.

F. "Private property" means and includes, but shall not be limited to, any and all property belonging to a particular person(s), firm, company, or corporation, but shall not include any property belonging to any federal government.

G. "Public property" means and includes, but shall not be limited to, all areas dedicated to public use, public streets, roadways, parkways, alleys, sidewalks, flood control channels, public parks and any other public right-of-way.

H. "Shopping cart" means a basket which is mounted on wheels or a similar device generally used in retail establishments by a customer for the purpose of transporting goods of any kind.

7.28.040 *ABANDONED SHOPPING CART.* Any shopping cart left on any public or private property shall be deemed to be abandoned and therefore a public nuisance pursuant to this chapter. The provisions of this chapter shall not apply to shopping carts left on the owner's private property, including the common areas of the shopping centers adjacent thereto.

In the event that a shopping cart is left on any public or private property, the owner of the shopping cart shall be responsible and liable for the removal and disposition of the abandoned shopping cart as provided by this chapter.

7.28.050 *ADMINISTRATION AND ENFORCEMENT.* Except as otherwise provided in this chapter, the provision of this chapter shall be administered and enforced by the City Manager. In the enforcement of this chapter, the City Manager may enter onto public or private property to examine a shopping cart or parts thereof, or to obtain information as to the identity of the owner of a shopping cart and to order, pursuant to this chapter, the abatement and removal of a shopping cart, or parts thereof, declared to be a nuisance. Notwithstanding the foregoing, the Director shall perform the day-to-day administration of this chapter.

7.28.060 *SHOPPING CART ABATEMENT*

A. Upon discovering the existence of a wrecked, dismantled or abandoned shopping cart, or parts thereof, on public or private property within the City, the Director shall have the authority to order abatement and removal thereof in accordance with the procedure described in this chapter.

B. Upon the abatement and removal of any shopping cart located on public or private property within the City, the Director shall notify the owners thereof, if name can be ascertained, by mailing an abatement notice to the owner and/or store manager's last known address. Such notice shall state the date the shopping cart was removed, the procedure for retrieving the shopping cart, and a statement that the owner may request a hearing to appeal the abatement order by submitting a written request within ten (10) days of the date appearing on the notice.

7.28.070 *APPEAL HEARINGS ON SHOPPING CART ABATEMENT.*

A. Any shopping cart removed and stored pursuant to these provisions shall be released to the owner thereof if claimed within thirty (30) days of the date appearing on the abatement notice and upon payment of reasonable administrative fees. Such administrative fees shall be waived if, after a hearing to appeal has been requested, a determination is made at such hearing that the fees shall be waived. The administrative fees for the removal and storage of any shopping cart shall be established or modified by resolution of the City Council and shall include the actual cost of removal and storage of any shopping cart, or parts thereof, plus the proportional share of administrative costs in connection therein.

B. Any hearing to appeal an abatement order which is requested shall be conducted within five (5) days of the receipt of the request, excluding weekends and holidays, by the City Manager, who shall be designated as the hearing officer. The failure of either the owner or his agent to request a hearing shall waive the right to a hearing. At the hearing, the hearing officer shall determine whether good cause was shown for the abatement and removal of the shopping cart. The decision of the hearing officer shall be deemed the final administrative determination. If good cause is shown for the abatement and removal of the shopping cart, the owner or his agent shall have thirty (30) days from the hearing date to retrieve his shopping cart upon payment of the administrative fee. If good cause is not shown for the abatement and removal of the shopping cart, the administrative fee shall be waived and the owner or his agent shall have thirty (30) days from the hearing date to retrieve his shopping cart.

7.28.075 *EXEMPTION*

The City Manager may exempt five (5) shopping carts, per shopping cart owner (establishment) per calendar year from the provisions of Section 7.38.070 regarding the payment of reasonable administrative fees. For any carts abated thereafter all provisions of this chapter shall apply.

7.28.080 *DISPOSITION OF SHOPPING CARTS*

A. Any shopping cart not retrieved by its owner within thirty (30) days of the date appearing on the abatement notice when such owner has not requested a hearing to appeal in accordance with this chapter, or within thirty (30) days of the hearing date, when such owner has requested a hearing to appeal, shall be deemed to be permanently abandoned and may be sold at public auction or otherwise disposed.

B. At a time convenient to the City, the City shall advertise the sale of permanently abandoned shopping carts. Notice of such sale, including the time and place, shall be posted in three (3) conspicuous places within the City. Ten (10) days after posting such notice, such shopping carts may be sold to the highest bidder free and clear of any claims of the owner thereof.

- C. Proceeds of such sale shall be disbursed to the City.

7.28.090 *REMOVAL AND DISPOSITION OF WRECKED SHOPPING CARTS.*

The Director may determine that a wrecked shopping cart is in such poor conditions that it may be immediately disposed of. This action will be a discretionary decision of the Director and shall be based upon the Director's determination that the shopping cart is inoperable, unsafe, or that the cost to repair exceeds the value of the shopping cart. In such case, the shopping cart or parts thereof may be destroyed without providing appeal hearing, but the Director shall give notice of his actions to the owner, if the same can be determined. The owner shall not be liable for any cost for removal and abatement in such case.

7.28.100 *IDENTIFICATION OF SHOPPING CARTS.* Every owner of a shopping cart, as defined in this chapter, shall have permanently affixed a sign to such shopping cart conspicuously identifying the owner thereof.

7.28.105 *REMOVAL PROHIBITED*

A. No person shall remove from the immediate parking premises of any establishment providing shopping carts for its customers.

B. *Notice of posting.* There shall be posted by the owner of any establishment furnishing a parking area and shopping carts for its customers, prominently and conspicuously at all public entrances and exits of the establishment, the following form: "REMOVAL OF SHOPPING CARTS FROM THESE PREMISES PROHIBITED BY LAW. PMC CHAPTER 7.28"

7.28.110 *REMOVAL FROM PREMISES PROHIBITED - EXCEPTIONS.* No person shall remove any shopping cart from the premises or parking area of any business establishment if such shopping cart has permanently affixed to it a sign identifying it as belonging to the owner or operator of such business establishment, and a notification to the effect that the shopping cart is not to be removed from the owner's premises. This section shall not apply to the removal by the owner or his agent or an employee of the business, nor to the removal by a customer with the consent of the owner, or owner's authorized agent.

7.28.120 *ABANDONMENT PROHIBITED.* No person shall abandon or leave any shopping cart which has been removed from the owner's premises upon any public street, alley, sidewalk, parkway or other public place, nor upon any private property except that of the owner of the shopping cart.

7.28.130 *OWNER'S RESPONSIBILITY TO PREVENT LITTERING.* The action of an owner of owner's agent or employee to permit any shopping cart to be removed from the owner's premises shall be considered littering by the owner.

7.28.140 UNLAWFUL POSSESSION. No person shall have in his possession any shopping cart which has been removed from the owner's premises without authorization or which has been abandoned or left on public or private property unless such person has notified the Police Department of the presence and location of such shopping cart.

7.28.150 SUPPLEMENTATION OF CODES, STATUTES, ORDINANCES, ETC.

This chapter is not to be construed as the exclusive regulation of wrecked, dismantled or abandoned shopping carts within the City. It shall supplement and be in addition to other regulatory codes, statutes and ordinance heretofore or hereafter enacted by the City, State or legal entity or agency having jurisdiction."

Section 3. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published and posted pursuant to the provisions of law in this regard, and this Ordinance shall take effect thirty (30) days after its passage.

ADOPTED, SIGNED and APPROVED this 28th day of May, 1995.

MAYOR OF THE CITY OF PERRIS

Attest:

Deputy City Clerk

STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE ) ss  
CITY OF PERRIS )

I, Melissa Morales, Deputy City Clerk of the City of Perris, California, do hereby certify that the foregoing Ordinance Number 1033 was introduced at a regular meeting thereof held on May 13, 1996 and adopted by the City Council of the City of Perris at a regular meeting thereof held on the 28th day of May, 1996 by the following called vote:

Ayes: Landers, Yarbrough, Torres, Denney and Long  
Noes: None  
Absent: None

DEPUTY CITY CLERK