I. CALL TO ORDER: Chairman Siva

➢ Pledge of Allegiance: Commissioner Ellis

➢ Roll Call: Chairman Siva, Commissioner Briant, Commissioner Ellis, Commissioner Price and Commissioner Shaw

II. PLANNING COMMISSION ELECTIONS

Outline of procedures for election of officers........................................Page 1

III. PUBLIC COMMENTS:

At this time, the general public is invited to address the Planning Commission concerning any items that are not listed on the agenda, or items which are on the Agenda that are not public hearings or other items under the jurisdiction of the Planning Commission. Comments from the public of any non-agenda items will be limited to Five (5) minutes in accordance with City policy.

IV. CONSENT CALENDAR ITEMS:

Note: All items listed on the Consent Calendar may be enacted by a single motion without separate discussion. If a discussion or a separate vote on any item is desired by a Planning Commissioner, that item may be removed from the Consent Calendar and considered separately. All remaining items not removed from the Consent Calendar by a Planning Commissioner shall be voted on prior to discussion of the item(s) requested to be pulled.

1. Minutes of July 2, 2014 meeting.........................................................Page 2
V. SHOPPING CART STUDY SESSION

Staff Report ............................................................................................................ Page 51

Recommendation: That the Planning Commission provides direction to staff addressing a complaint from the community regarding abandoned shopping carts.

VI. PLANNING COMMISSIONER COMMENTS

VII. COMMUNITY DEVELOPMENT DIRECTOR’S COMMENTS

VIII. ADJOURNMENT

The City of Banning Planning Commission is hereby adjourned to the regular Planning Commission meeting of September 3, 2014 starting at 6:30 p.m. in the City Council Chambers.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Planning Division (951) 922-3125. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting [28 CFR 35.102-35.104 ADA title II].
OUTLINE OF PROCEDURES FOR ELECTION OF OFFICERS

Chairperson: Nominations for the office of Chairperson are now open. A second to the nominations is required.

(Commissioners shall nominate the person of their choice)

Chairperson: Are there any further nominations? If not, I will entertain a motion that the nominations be closed.

(Motion is made)

Is there a second?

All those in favor say aye, those opposed no.

Chairperson I will take a roll call vote. Please signify your choice for Chairperson when your name is called. The roll call will be in alphabetical order.

<table>
<thead>
<tr>
<th>ROLL CALL VOTE</th>
<th>Commissioner Briant</th>
<th>Commissioner Ellis</th>
<th>Commissioner Price</th>
<th>Commissioner Shaw</th>
<th>Commissioner Siva</th>
</tr>
</thead>
</table>

Chairperson: The vote is in favor of Commissioner ________________ who is our newly elected Chairperson.

Chairperson ________________ shall now preside over the election of Vice-chairperson. (Repeat this procedure for Vice-chairperson.)
City of Banning

PLANNING COMMISSION MINUTES

July 2, 2014

A regular meeting of the City of Banning Planning Commission was held on Wednesday, June 4, 2014 at 6:30 p.m., in the Council Chambers, City Hall, 99 East Ramsey Street, Banning, CA, 92220.

Commissioners Present: Chairman Siva
Commissioner Briant
Commissioner Ellis

Commissioners Absent: Commissioner Price
Commissioner Shaw

Staff Present: Community Development Director, Zai Abu Bakar
Assistant City Attorney, Lona Laymon
Recording Secretary, Holly Stuart

I. CALL TO ORDER

II. PUBLIC COMMENTS:

None.

III. CONSENT CALENDAR

1. Minutes of June 4, 2014

   ACTION (ELLIS / BRIANT): A motion was moved, seconded and carried that item 1 be approved as presented.

   (Motion carried 3-0)

THE PLANNING COMMISSION MEETING WAS RECESSED AND THE JOINT MEETING OF THE PLANNING COMMISSION AND PARKS AND RECREATION COMMISSION WAS CALLED TO ORDER

Parks and Recreation Commissioners Present:

Commissioner Dickson
Commissioner Topete
Parks and Recreation Commissioners Absent:
Commissioner Miller
Commissioner Elmore
Commissioner Sanchez

IV. PRESENTATION BY THE ASSISTANT CITY ATTORNEY LONA LAYMON ON GENERAL DUTIES AND RESPONSIBILITIES OF A COMMISSION

The Assistant Attorney Lona Laymon provided training to the Planning Commission and Parks and Recreation Commission regarding the Brown Act, jurisdiction of a commission, parliamentary procedures and general guidelines. The presented PowerPoint is attached hereto by reference.

THE JOINT MEETING WAS ADJOURNED AND THE REGULAR PLANNING COMMISSION MEETING RECONVENED.

V. PLANNING COMMISSIONER COMMENTS

None.

VI. COMMUNITY DEVELOPMENT DIRECTOR'S REPORT

None.

VII. ADJOURNMENT

There being no further business, the meeting was adjourned at 8:26 p.m.

Respectfully submitted,

__________________________
Holly Stuart
Recording Secretary

THE ACTION MINUTES SUMMARIZE ACTIONS TAKEN BY THE PLANNING COMMISSION. A COPY OF THE MEETING IN ITS ENTIRETY IS AVAILABLE IN DVD FORMAT AND CAN BE REQUESTED IN WRITING TO THE CITY CLERK'S OFFICE.
The Brown Act, Civility & Parliamentary Procedure

City of Banning

ALESHIRE & WYNDER, LLP
ATTORNEYS AT LAW
Session Objectives

1. Your Role as a Commissioner & The Brown Act.
2. To help you run a meeting
3. To help you all get along!
NEW PROCEDURES MANUAL

- Adopted in 2012.
- Now Incorporates Most of the City’s Old Civility Rules and Meeting Procedures All Under One Cover.
Part I

YOUR ROLE AS A COMMISSIONER AND THE BROWN ACT
THE BROWN ACT
AKA: The Open Meeting Laws

“All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency.”

(Gov. Code § 54953)
APPLIES TO "LEGISLATIVE BODIES"
AND ADVISORY BODIES

- Commission and committee bodies.
- In short, it applies to both the Planning Commission and the Parks and Recreation Commission.
WHAT IS A MEETING, CONT...

➢ Meetings take place if quorum receives information on, discusses, or deliberates on any item on which the body may legally act.

➢ Serial and rotating meetings or polling prohibited.

➢ Beware Email & Texting!!!!
"WHAT IS A MEETING?"

Means of Communication: A meeting includes any use of direct communication, personal intermediaries, or technological devices which are employed by a majority of the members of the legislative body to develop a collective concurrence on action to be taken by members of the legislative body.

(§ 54952.2)
WHAT IS A MEETING, CONT. . .

Social gatherings are permitted:

- **Conferences**: Quorum may attend conference or similar publicly-open gathering on issues of general public interest. Quorum cannot discuss amongst themselves any City business.

- **Community Meetings**: Like conferences, quorum can attend open and publicized meeting held by another organization on a topic of local community concern. Again, quorum cannot discuss City business amongst themselves.
WHAT IS A MEETING, CONT... 

- Other Legislative Bodies: Quorum can attend an open and **noticed** meeting of: (1) another body of the local agency and (2) a legislative body of another local agency. Again, no talk of City business amongst yourselves!
TYPES OF MEETINGS

Meetings generally must be in City boundaries:

- Regular—Formally established time/place.
- Special—Called by presiding officer/majority.
- Adjourned/Continued Meetings
- Emergency Meetings
  - Actual public threat.
AGENDA REQUIREMENTS

- **Regular Meetings**: Written agenda must be prepared and posted 72 hours prior to each regular or adjourned regular meeting of each legislative body.

- **Special meetings**: Must give 24 hour notice that serves just like an agenda.
  - Cannot adopt ordinances at specials.
Brief description sufficient to inform public of the nature of each item. Which of these is not enough:

- "Consideration of A Report Regarding Traffic on Eighth Street".
- "Consideration of contract with ABC Consulting".
Stay on Point!

Generally cannot discuss items not on the agenda. Exceptions:

Can add a new item, but body must find: (1) matter arose after agenda was posted, and (2) there must be a 2/3 vote of membership—unanimous vote if less than 2/3 present, and (3) the action needs immediate action!
Agendas. . . More Exceptions

No discussion of any item not on agenda. . . Except:

❖ Brief responses.
❖ Statements or questions.
❖ Questions for clarification.
❖ Reference to staff or other resources for factual information.
❖ Request staff to report at a subsequent meeting.
❖ Request Future Agenda items (but no deliberations).
Public Comment...

- Public has the right to talk about anything they want that’s not on the agenda. We do that at the start of the meeting.
  - Don’t debate with public! You still have to stick to the agenda.
- Members of the public get to speak on each and every item as it comes up before deliberations have been made.
- Optional: Can also give public a chance to speak on non-agenda items at end of meeting.
Brown Act Mandates Public Participation In Meetings.

- Anyone can attend open meetings.
- Cannot require names, questionnaires, or conditions to attendance.
- Public may record proceedings by video, film or audiotape.
- If meeting willfully interrupted or order cannot be restored by removing only the disrupting individuals, body may order room cleared.
The Brown Act

PENALTIES: Failing to Comply

- Injunction, Mandamus & Declaratory Relief—and a violation may cause City to pay attorney fees of the plaintiff.
- Voidability of Decision.
- Challenger **must** demand corrective action within 90 days of action -- or 30 days if agenda issue.
- City has 30 days to correct action before suit.
The Metaphysical QUESTION: Why Are We Here?

- As commissioners, your role is defined by what is known as your "subject matter jurisdiction". Your authority over matters is *limited* by City Ordinance.
- Compare to Council: They have more general jurisdiction over City governance.
- Planning Commission: BMC Chapter 2.28
- Parks & Rec: BMC Chapter 2.40.
For the Planning Commission

The planning commission's scope of responsibility is to:

1. Prepare, review, adopt, and recommend to the city council for its adoption, a long range, comprehensive general plan to guide the future physical development and conservation of the city and its adjoining environs based on geographic, social, economic and political characteristics of the community;

2. Prepare, review, adopt and recommend to the city council for its adoption of special area specific plans for identifiable areas, wherein more detailed guidelines are needed to supplement the objectives of the general plan;

3. Review development applications submitted to the city for consistency with adopted plans and ordinances. Approve or deny applications when final authority is granted to the planning commission by the Municipal Code. Make a recommendation on those actions for which the city council is the final reviewing approval body;

4. Act as the appeal body on decisions made by the community development director.
Planning Commission

New Commissioners are expected to become familiar with the city's general plan, the "Planning Commission Handbook" and relevant Municipal Code sections particularly those relevant to zoning to become familiar with these documents.
For the Parks & Rec. Comm.

The city parks and recreation commission shall serve as an advisory agency to the city council and the director of community services for the purpose of the formulation of rules, regulations and policies for all parks and recreation programs, activities, and fees. Parks and recreation commission members shall be registered voters of the City of Banning.
PART II

PARLIAMENTARY PROCEDURE
(How To Run A Meeting)
Parliamentary Procedures

FOR A PUBLIC HEARING ITEM

- Recusals? Conflict Statements.
- Adequate Notice?
- Staff Presentation
- Ask All Factual Questions
- Open Public Hearing
- Receive Testimony
- Close Hearing
- Ask Any Additional Questions
- Make Decision
- Recused Officers Return for Next Item
Recusals Come First!

- Most often occurs where there’s a conflict under the State Political Reform Act.
- If you have a conflict, you cannot participate in the decision at all—in fact, you cannot even attempt to influence the matter through City staff or official colleagues.
- This is true for all matters on the agenda—not just public hearings.
- Leave the room!
When Do I Have A Conflict?

- Beyond the Scope of this Presentation, but main pointers:
- You must have a FINANCIAL interest in the matter before your legislative body.
  -- Most common example: you own property within 500 feet of an area that is the subject of your commission’s decision.
  -- And this satisfies your AB 1234 training requirement—a state mandated requirement for you officials.

**The FPPC will also help you, for free, with specific conflicts questions at: 1-866-ASK-FPPC (1-866-275-3772).
Final Tips on Conflicts

- Staff cannot predict every possible conflict—the laws put the burden on the official to identify possible conflicts.

- Raise any possible conflict EARLY & WELL BEFORE THE MEETING. A conflict usually entails extremely complex laws that apply differently to every situation.

  -- If you don’t raise a possible conflict issue well in advance of a meeting, expect to be told to abstain.
Parliamentary Procedure

ISSUES INVOLVING HEARING & COMMENTS

- Remember: Non-hearing items subject to comment, too.
- Balance: Everyone gets their say vs. length of meeting.
- Establish rules at beginning of comment time.
  - Chair can adjust for special circumstances
    - Time limit for speaking
    - Alternate sides vs. one side
    - Time limit for hearing
Parliamentary Procedure

- Address Questions Raised by Speakers At the End: Chair note questions, wait until close of hearing, and ask for response by staff to each question.
Parliamentary Procedure

Major Mistakes Made At Hearings & With Public Comment!!

- Member expresses opinion prior to commencement of hearings.
- Debating with speakers.
- After the close of hearing, members raise issues or facts not presented at hearing; citizens readdress Council.
- Not letting public comment before deliberations on each item (including Closed Session).
Other Issues of Due Process

Extra Meeting Contacts with Developers and Citizens:

- Avoid initiation of contact.
- If you are contacted, be polite, avoid stating viewpoint.
- At hearing, enter into record any information which will be relevant to hearing.
Other Issues of Due Process

Extra Meeting Contacts with Developers and Applicants:

- Quasi-judicial proceedings: extra-meeting contacts can give appearance of impropriety.
- Site inspections okay.
  - But, should disclose before hearing. . .
MOTIONS:

When a motion is made and seconded, it shall be stated by the Presiding Officer before debate.

A motion so stated shall not be withdrawn by the mover without the consent of the person seconding it.
MOTIONS:
When a motion is made—that’s the “main motion”. Other motions may be made on “top” of the main motion and they will precede in the following order:

- Adjourn
- Fix hour of adjournment
- Close Debate (needs 2/3 vote)
- Amend/Substitute
- Postpone
MOTIONS... Amending Motions

✓ A motion to amend shall be discussed only as to the amendment.
✓ Amendments shall be voted first, then the main motion as amended—Vote backwards: last motion is voted first.
✓ Alternatively, the original maker of the main motion may agree to revise the original motion and if the second agrees to second the revised motion, the body may vote on the main motion as revised.
MOTIONS... *Substitute Motions*

- A motion to amend seeks to retain the basic motion on the floor, but modify it in some way. A substitute motion seeks to **throw out** the basic motion on the floor, and **substitute** a new and different motion for it.
- The decision as to whether a motion is really a 'motion to amend' or a 'substitute motion' is left to the chair.
- Substitute motions are voted first and, if passed, terminate the original motion.
Robert’s Rules of Order...

- They are the “standard” rules and are even incorporated into our Procedures Manual.
- But, they can be problematic—confusingly written; not really tailored to local government bodies.
- There are other good summaries out there: The Institute for Local Government endorses Rosenberg’s summary of parliamentary rules, which can be found in a short video training course here: http://vimeo.com/25152753
Above All Else—Vote Clearly!

- Remember the prime directive of Robert’s Rules is to ensure the clarity of the vote and what was voted upon.
- There are no real legal ramifications for failing to follow the technical aspects of parliamentary rules—so long as every member had an opportunity to speak and the will of the majority is clear.
VOTING:

- There may be a simple consensus (but need to record the vote), or a vote either electronically or by roll call.
- A member who abstains due to reasons of conflict shall, for purpose of the item under consideration, be considered as if absent.
- One abstaining for reasons other than conflict shall be counted as present for purposes of a quorum and such abstentions are counted with the majority.
VOTING... Tie Votes

Tie Votes shall be lost motions unless an additional motion is made that obtains a majority vote to break the tie.
VOTING... What Majority?

☑ Under Banning’s Rules of Procedure Manual all resolutions, orders for the payment of money, and all ordinances require a recorded majority vote of the total membership.

☑ E.g., if 3 Commissioner’s are present, need all 3 votes to pass a resolution.
When to ask for help

* Whenever you have doubts!
* Do NOT wait for the meeting!
Part III

RULES OF CIVILITY
Rules of Civility

✓ Public Meeting: Be civil; honor chair; do not get personal.

✓ Council/Staff: Do not criticize; disrupt; demand:
  ✓ Check with staff on correspondence.
  ✓ Do not get involved with administrative function.
  ✓ Do not attend staff meetings unless requested.
  ✓ Do not solicit political support.
  ✓ Do not participate in code enforcement or other similar investigations.
Rules of Civility

- Make no promises on behalf of Council, Board or Commission.
- No personal comments re your colleague officials.
- Distinguish City from personal interests.
- No lobbying City folks for personal or business interest.
- Be respectful of fellow officials and their opinions.
Best Practices

- Think fairness and merit-based decision-making in your decisions.
- Commissioners as team; respect each other and the public.
- Keep politics separate from relationships with agency staff.
- Avoid committing/commenting before the public hearing.
CITY OF BANNING
Planning Commission
Study Session

DATE: August 6, 2014

TO: Planning Commission

FROM: Zai Abu Bakar, Community Development Director

SUBJECT: SHOPPING CARTS

STAFF RECOMMENDATION:

That the Planning Commission provides direction to staff regarding addressing complaints from the community regarding abandoned shopping carts. Specifically, staff is requesting that the Planning Commission take comments from the public, discuss the options, and provide direction to staff regarding policy.

BACKGROUND AND DESCRIPTION:

The City has received numerous complaints from the business community and residents regarding abandoned shopping carts. Basically, the complaint is that the number of shopping carts abandoned in fields and along roadways does not contribute to a positive view of the City. This issue would seem to counteract the General Plan Economic Development Element Goal of providing:

"A balanced, broadly-based economy that provides a full range of economic and employment opportunities, while maintaining high standards of development and environmental protection".

In particular, the presence of abandoned shopping carts might discourage business development and opportunities due to the perceived negative views and implications.

Adopted Regulations

On September 26, 1995, the City Council adopted Ordinance No. 1185 regulating shopping carts used by local retailers in accordance with Business and Professions Code Section 22435-
22435.8. A copy of the Business and Professions Code is included with this report as Attachment 1. A copy of the current regulations now found in Chapter 5.52 of the Banning Municipal Code is included with this report as Attachment 2.

The City regulations prohibit removal of shopping carts from the retailer's premises and establish that it is a misdemeanor violation of the law to do so. Additionally, the regulations provide for an escalating penalty to the retailer for violations of the rules as stipulated in the municipal code.

The City regulations authorize the recovery of abandoned shopping carts from public property or the public right-of-way after 24-hour notice to the owner that the shopping carts are abandoned. Any recovered shopping carts are then stored at the City yard and the owner may recover them for a small fee.

ISSUES AND OPPORTUNITIES

The City of Banning has a shopping cart ordinance. The ordinance contains provisions for enforcing both the removal of shopping carts from the retailer premises and the recovery of shopping carts, however, only in the public right-of-way, not from private property. In order to improve the current situation, additional provisions for enforcement may be required.

Included with this report as Attachment 3 are similar shopping cart regulations from other cities such as the City of Riverside and the City of San Jacinto. These regulations are provided as examples because they contain provisions for Cart Removal Prevention Plans that incentivize the retailers to prevent shopping carts from be removed from their premises; additionally, once a shopping cart is removed it requires the retailer to provide a regular recovery service.

Other factors that should be considered when discussing these issues include the costs associated with providing a service to recover shopping carts. At this time the City is still in a very tight financial situation leaving staff with limited opportunities. While at the same time it is recognized that adding a requirement on the retailers to recover shopping carts will add expense to their operations. This dilemma needs a balance. It is also noteworthy to recognize that from time to time different organizations within the community sponsor community clean-ups that are appreciated, but do not provide a regular solution to this problem.

Options

Therefore, staff is considering the following options for revising the shopping cart regulations that meets the needs of both the community and the economic interests of those involved in this issue. The options are listed as follows:

Option 1 – Status quo, no changes;

Option 2 – Keep the existing regulations and step up local enforcement through the Code Enforcement Division of the Police Department;
**Option 3** — Amend the existing shopping cart regulations to provide incentives to the retailers to control and recover their own property.

**PUBLIC COMMUNICATION:**

The meeting of the Planning Commission to discuss shopping carts was advertised in the Record Gazette on July 25, 2014. Additionally, notice of this study session was sent to those retailers that may be affected by any proposed policy changes (see Attachment 5 for a list of retailers).

Prepared by:

[Signature]

Brian Guillot
Associate Planner

Approved by:

[Signature]

Zai Abu Bakar
Community Development Director

**Attachments:**

1. Business and Professions Code Section 22435-22435.8
2. Chapter 5.52 of the Banning Municipal Code
3. Copies City of Riverside and City of San Jacinto Regulations
4. Comments from City staff
5. Retailers list
Attachment 1

(Business and Professions Code Section 22435-22435.8)
BUSINESS AND PROFESSIONS CODE
SECTION 22435-22435.8

22435. As used in this article:
(a) "Shopping cart" means 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.
(b) "Laundry cart" means a basket which is mounted on wheels and
used in a coin-operated laundry or drycleaning retail establishment
by a customer or an attendant for the purpose of transporting fabrics
and the supplies necessary to process them.
(c) "Parking area" means a parking lot or other property provided
by a retailer for use by a customer for parking an automobile or
other vehicle.

22435.1. The provisions of Section 22435.2 shall apply when a
shopping cart or a laundry cart has a sign permanently affixed to it
that identifies the owner of the cart or the retailer, or both;
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 or parking area of
the retail establishment, 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 or
parking area to the owner or retailer.

22435.2. It is unlawful to do any of the following acts, if a
shopping cart or laundry cart has a permanently affixed sign as
provided in Section 22435.1:
(a) To remove a shopping cart or laundry cart from the premises or
parking area of a retail establishment with the intent to
temporarily or permanently deprive the owner or retailer of
possession of the cart.
(b) To be in possession of any shopping cart or laundry cart that
has been removed from the premises or the parking area of a retail
establishment, with the intent to temporarily or permanently deprive
the owner or retailer of possession of the cart.
(c) To be in possession of any shopping cart or laundry cart with
serial numbers removed, obliterated, or altered, with the intent to
temporarily or permanently deprive the owner or retailer of
possession of the cart.
(d) To leave or abandon a shopping cart or laundry cart at a
location other than the premises or parking area of the retail
establishment with the intent to temporarily or permanently deprive
the owner or retailer of possession of the cart.
(e) To alter, convert, or tamper with a shopping cart or laundry
cart, or to remove any part or portion thereof or to remove,
obliterate or alter serial numbers on a cart, with the intent to
temporarily or permanently deprive the owner or retailer of
possession of the cart.
(f) To be in possession of any shopping cart or laundry cart while
that cart is not located on the premises or parking lot of a retail
establishment, with the intent to temporarily or permanently deprive
the owner or retailer of possession of the cart.
22435.3. Any person who violates any of the provisions of this article is guilty of a misdemeanor.

The provisions of this section are not intended to preclude the application of any other laws relating to prosecution for theft.

22435.4. This article shall not apply to the owner of a shopping cart or laundry cart or to a retailer, or to their agents or employees, or to a customer of a retail establishment who has written consent from the owner of a shopping cart or laundry cart or a retailer to be in possession of the shopping cart or laundry cart or to remove the shopping cart or laundry cart from the premises or the parking area of the retail establishment, or to do any of the acts specified in Section 22435.2.

22435.5. (a) In any civil proceeding, any shopping cart or laundry cart which has a sign affixed to it pursuant to Section 22435.1 shall establish a rebuttable presumption affecting the burden of producing evidence that the property is that of the person or business named in the sign and not abandoned by the person or business named in the sign.

(b) In any criminal proceeding, it may be inferred that any shopping cart or laundry cart which has a sign affixed to it pursuant to Section 22435.1 is the property of the person or business named in the sign and has not been abandoned by the person or business named in the sign.

22435.7. (a) The Legislature hereby finds that the retrieval by local government agencies of shopping carts specified in this section is in need of uniform statewide regulation and constitutes a matter of statewide concern that shall be governed solely by this section.

(b) A shopping cart that has a sign affixed to it in accordance with Section 22435.1 may be impounded by a city, county, or city and county, provided both of the following conditions have been satisfied:

(1) The shopping cart is located outside the premises or parking area of a retail establishment. The parking area of a retail establishment located in a multistore complex or shopping center shall include the entire parking area used by the complex or center.

(2) Except as provided in subdivision (1), the shopping cart is not retrieved within three business days from the date the owner of the shopping cart, or his or her agent, receives actual notice from the city, county, or city and county of the shopping cart’s discovery and location.

(c) In instances where the location of a shopping cart will impede emergency services, a city, county, or city and county is authorized to immediately retrieve the shopping cart from public or private property.

(d) Any city, county, or city and county that impounds a shopping cart under the authority provided in subdivisions (b) and (c) is authorized to recover its actual costs for providing this service.

(e) Any shopping cart that is impounded by a city, county, or city and county pursuant to subdivisions (b) and (c) shall be held at a location that is both:

(1) Reasonably convenient to the owner of the shopping cart.
(2) Open for business at least six hours of each business day.
(f) A city, county, or city and county may fine the owner of a shopping cart in an amount not to exceed fifty dollars ($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.
(g) Any shopping cart not reclaimed from the city, county, or city and county within 30 days of receipt of a notice of violation by the owner of the shopping cart may be sold or otherwise disposed of by the entity in possession of the shopping cart.
(h) This section shall not invalidate any contract entered into prior to June 30, 1996, between a city, county, or city and county and a person or business entity for the purpose of retrieving or impounding shopping carts.
(i) Notwithstanding paragraph (2) of subdivision (b), a city, county, or city and county may impound a shopping cart that otherwise meets the criteria set forth in paragraph (1) of subdivision (b) without complying with the three-day advance notice requirement provided that:
1. The owner of the shopping cart, or his or her agent, is provided actual notice within 24 hours following the impound and that notice informs the owner, or his or her agent, 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 (e).
3. Any shopping cart reclaimed by the owner or his or her agent, within three business days following the date of actual notice as provided pursuant to paragraph (1), shall be released and surrendered to the owner or agent 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 (f). Any cart reclaimed within the three-business-day period shall not be deemed an occurrence for purposes of subdivision (f).
4. Any shopping cart not reclaimed by the owner or his or her agent, within three 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 (f) commencing on the fourth business day following the date of the notice.
5. Any shopping cart not reclaimed by the owner or his or her agent, 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 (g).

22435.8. This article shall not invalidate an ordinance of, or be construed to prohibit the adoption of an ordinance by, a city, county, or city and county, which ordinance regulates or prohibits the removal of shopping carts or laundry carts from the premises or parking area of a retail establishment except to the extent any provision of such an ordinance expressly conflicts with any provision of this article.
Attachment 2

(Chapter 5.52 of the Banning Municipal Code)
Chapter 5.52 SHOPPING CARTS

Sections:
5.52.010 Identification of shopping carts.
5.52.020 Recovery of shopping carts by city forces.
5.52.030 Penalty.

5.52.010 Identification of shopping carts.

A. On and after the effective date of this section each owner of a retail establishment providing three or more shopping carts for use by the patrons of the retail establishment, and the manager or person in charge of any retail establishment which provides three or more shopping carts for use by the patrons of the retail establishment, shall permanently affix to all shopping carts under the ownership and control of such owner, manager or person in charge the notification required under California Business and Professions Code Section 22435.1 to facilitate the enforcement of the provisions of California Business and Professions Code Section 22435 et seq.

B. The applicable provisions of California Business and Professions Code Section 22435 et seq. are as follows:

§ 22435 Definitions
As used in this chapter:
(a) "Shopping cart" means 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.
(b) (Omitted)
(c) "Parking area" means a parking lot or other property provided by a retailer for use by a customer for parking an automobile or other vehicle.

§ 22435.1 Application; permanently affixed sign required; contents
The provisions of Section 22435.2 shall apply when a shopping cart...has a sign permanently affixed to it that identifies the owner of the cart or the retailer, or both; 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 or parking area of the retail establishment, or the unauthorized possession of the cart, is a violation of state law; and lists a telephone number or address for returning the cart removed from the premises or parking area to the owner or retailer.

§ 22435.2 Unlawful acts
It is unlawful to do any of the following acts if a shopping cart...has a permanently affixed sign as provided in Section 22435.1:
(a) To remove a shopping cart from the premises or parking area of a retail establishment with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart.
(b) To be in possession of any shopping cart that has been removed from the premises or the parking area of a retail establishment, with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart.
(c) To be in possession of any shopping cart with serial numbers removed, obliterated, or altered, with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart.
(d) To leave or abandon a shopping cart at a location other than the premises or parking area of the retail establishment with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart.

(e) 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 on a cart, with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart.

(f) To be in possession of any shopping cart while that cart is not located on the premises or parking lot of a retail establishment, with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart.

§ 22435.3 Violations; misdemeanor; application of other laws

Any person who violates any of the provisions of this chapter is guilty of a misdemeanor. The provisions of this section are not intended to preclude the application of any other laws relating to prosecution for theft.

§ 22435.4 Consent from owner

This chapter shall not apply to the owner of a shopping cart, or to a retailer, or to their agents or employees, or to a customer of a retail establishment who has written consent from the owner of a shopping cart or laundry cart or a retailer to be in possession of the shopping cart or laundry cart or to remove the shopping cart or laundry cart from the premises or the parking area of the retail establishment, or to do any of the acts specified in Section 22435.2.

§ 22435.5 Presumption and interference; ownership of carts

(a) (Omitted)

(b) In any criminal proceeding, it may be inferred that any shopping cart which has a sign affixed to it pursuant to Section 22435.1 is the property of the person or business named in the sign and has not been abandoned by the person or business named in the sign.

(Code 1965, § 11C-60.)

5.52.020 Recovery of shopping carts by city forces.

A. On and after the effective date hereof, any shopping cart, as defined herein, may be removed from the public right-of-way or public property of the city by any employee of the City of Banning upon actual or constructive notice to the owner that the shopping cart has been in such right-of-way for a period of twenty-four hours. Any shopping cart so removed shall be taken by the employee to the city yard. Such shopping cart shall remain there until claimed by the owner or the owner's authorized agent. Any cart remaining in the city yard for ninety-one days or more shall be disposed of as lost property.

B. Before return of the shopping cart to the owner or the owner's agent, such person shall pay to the City of Banning a fee for the recovery and storage of each such shopping cart. The fee shall be in an amount set by resolution of the city council.

(Code 1965, § 11C-62.)

5.52.030 Penalty.

Any owner of a retail establishment providing three or more shopping carts for use by the patrons of the retail establishment, and each manager or person in charge of any retail establishment which provides three or more shopping carts for use by the patrons of the retail establishment, who does not affix and maintain on each shopping cart under their ownership and control the notification specified in California Business and Professions Code Section 22435.1 as set forth herein or as it may be subsequently amended, shall be guilty of a violation hereof. The punishment for such violation shall be as follows:

A. A first violation shall constitute an infraction punishable by a fine not to exceed fifty dollars.

B. A second violation shall constitute an infraction punishable by a fine not to exceed one hundred dollars.
C. A third violation shall constitute an infraction punishable by a fine not to exceed two hundred fifty dollars.

D. A fourth violation shall constitute a misdemeanor punishable by a fine, not to exceed one thousand dollars or six months in jail or both.

E. Each day that each shopping cart shall remain without the notice described in Section 5.52.010 shall constitute a separate violation.

(Codes 1965, § 11C-61.)
Attachment 3

(Copies City of Riverside and City of San Jacinto Regulations)
Chapter 9.58

LOST, STOLEN, OR ABANDONED SHOPPING CARTS

Sections:

9.58.010  Findings And Purpose.
9.58.020  Definitions.
9.58.030  Enforcement of Chapter.
9.58.040  Required Signs On Carts.
9.58.050  Prohibiting Removal Or Possession Of Abandoned Cart.
9.58.080  Penalties For Failing To Submit A Prevention Plan or Evaluation Report Or To Implement Prevention Measures.
9.58.090  Notification For Retrieval Of Abandoned Carts.
9.58.100  Administrative Costs And Fines.
9.58.110  Disposition Of Carts After Thirty Days.
9.58.120  Exemption.
9.58.130  Businesses Without Carts.
9.58.140  Severability And Validity.

Section 9.58.010  Findings And Purpose.

Abandoned shopping carts constitute a nuisance, create potential hazards to the health and safety of the public, and interfere with pedestrian and vehicular traffic within the City of Riverside. The accumulation of wrecked, dismantled and abandoned shopping carts on public or private property also tends to create conditions that reduce property values, promoting blight and deterioration in the City. The intent of this Chapter is to insure that measures are taken by store owners to prevent the removal of shopping carts from store premises and parking lots, to make the removal of shopping carts a violation of this Code, and to facilitate the retrieval of abandoned carts as permitted by State law. Further, this Chapter is intended to supplement existing State law regarding shopping carts as set forth in California Business & Professions Code, section 22435, et seq. (Ord. 6820 § 1, 2005; Ord. 6502 § 1, 1999)

Section 9.58.020  Definitions.

a. Cart. Cart shall mean a basket which is mounted on wheels or a similar device provided by a business establishment for use by a customer for the purpose of transporting goods of any kind, including, but not limited to grocery store shopping carts. This definition shall exclude from enforcement under this Chapter those devices which do not have a "basket" mounted on wheels in which goods can be placed for transport.

b. Owner. Owner shall mean any person or entity, who in connection with the conduct of a business, owns, leases, possesses, uses, or otherwise makes any cart available to customers or the public. For purposes of this chapter, owner shall also include the owner's on-site or designated agent that provides the carts for use by its customers.

c. Premises. Premises shall mean the entire area owned and utilized by the business establishment that provides carts for use by customers, including any parking lot or other property provided by the owner for customer parking.

d. Abandoned cart. Any cart that has been removed without written permission of the owner or on-duty manager from the premises of the business establishment, regardless of whether it has been left on either private or public property. Written permission shall be valid for
a period not to exceed 72 hours. This provision shall not apply to carts that are removed for purposes of repair or maintenance.

   e. Enforcement personnel. This means any police officer, code compliance officer, or other designated City of Riverside employee designated by the Public Works Department. (Ord. 6820 § 1, 2005; Ord. 6502 § 1, 1999)

Section 9.58.030 Enforcement of Chapter.
The provisions of this Chapter shall be enforced by any enforcement personnel. To the extent otherwise permitted by law, said enforcement personnel may enter onto any public or private property in the City to retrieve, remove, store, and dispose of any lost, stolen, or abandoned shopping cart, or any part thereof. Any act authorized to be performed by the City of Riverside pursuant to any provision of this Chapter may be performed by any enforcement personnel. Any enforcement personnel are authorized to issue an administrative citation upon any owner whom they have reasonable cause to believe has violated any provision of this Chapter. (Ord. 7192 § 1, 2012; Ord. 6820 § 1, 2005; Ord. 6502 § 1, 1999)

Section 9.58.040 Required Signs On Carts.
a. Every cart owned or provided by any business establishment in the City of Riverside must have a sign permanently affixed to it that contains the following information:

   1.) Identifies the owner of the 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 business premises;

   3.) Notifies the public that the unauthorized removal of the cart from the premises or parking area of the business establishment is a violation of State and City of Riverside law;

   4.) Lists a telephone number to contact to report the location of the abandoned cart; and

   5.) Lists an address for returning the cart to the owner or business establishment.

b. Failure to comply may subject the violator to any civil, criminal, or administrative remedies as provided by law. (Ord. 6820 § 1, 2005; Ord. 6502 § 1, 1999)

Section 9.58.050 Prohibiting Removal Or Possession Of Abandoned Cart.
a. It shall be unlawful to either temporarily or permanently remove a cart from the premises or parking area of a business establishment without the express prior written approval of the owner or on-duty manager of the business establishment. Written permission shall be valid for a period not to exceed 72 hours.

b. It shall be unlawful to be in possession of a cart that has been removed from the premises or parking area of a business establishment unless it is in the process of being immediately returned to the owner or business establishment.

c. This section shall not apply to carts that are removed for the purposes of repair or maintenance.

d. Failure to comply may subject the violator of the cart to any civil, criminal, or administrative remedies as provided by law. (Ord. 6820 § 1, 2005; Ord. 6502 § 1, 1999)

Every owner shall develop and implement a specific plan to prevent customers from removing carts from the business premises ("prevention plan"). The prevention plan must
include the following elements and a detailed description of how they will be implemented:

a. Notice to Customers. Written notification shall be provided to customers that removal of carts from the premises and parking lots are prohibited and a violation of state and local law. This notice may be provided in the form of flyers, warnings on shopping bags, or any other form of written notification that will effectively notify customers of the prohibition.

b. Signs. Signs shall be placed in pertinent places near door exits and near parking lot exits that warn customers that cart removal is prohibited and constitute a violation of state and local law.

c. Physical Measures. Specific physical measures shall be implemented to prevent cart removal from the business premises. These measures may include, but are not limited to, disabling devices on all carts, posting of a security guard to deter and stop customers who attempt to remove carts from the business premises, bollards and chains around business premises to prevent cart removal, security deposits required for use of all carts, or the rental or sale of carts that can be temporarily or permanently used for transport of purchases.

d. Evaluation Report. If a prevention plan was in place the previous year, a report shall be submitted to the City evaluating the measures that were used and approved in the prior calendar year. The report shall include, but not be limited to, the inventory of carts owned/used by the business establishment and the number of carts that had to be replaced due to loss, theft, or abandonment. (Ord. 7192 § 2, 2012; Ord. 6820 § 1, 2005; Ord. 6502 § 1, 1999)


(a) Existing Owners. The proposed prevention plan for preventing cart removal shall be submitted for approval to the Public Works Director or his/her designee within thirty (30) days of receiving notice from the City that such a plan is required pursuant to this Chapter. An evaluation report shall be submitted by January 1 of each year thereafter.

(b) New Businesses and Change in Ownership. If a new business begins conducting business in the City and provides carts to its customers, the new owner shall notify the Public Works Director or his/her designee within thirty (30) days of opening the business to the public and submit a new prevention plan or contract with the City pursuant to Section 9.58.120 for cart retrieval services. If an existing business changes ownership, the new owner shall notify the Public Works Director or his/her designee within thirty (30) days of the change and submit a new prevention plan, agree to adopt the existing prevention plan on file with the City for that business or contract with the City pursuant to Section 9.58.120 for cart retrieval services. An evaluation report shall be submitted by January 1 of each year thereafter.

(c) Approval. Within thirty (30) days of receipt of the prevention plan, the owner shall be notified whether the prevention plan is approved. If the plan is not approved, the notice shall state its reasons and provide recommendations to the owner to ensure plan approval. Owner shall submit a new prevention plan within fifteen (15) days of receiving this notice. Once a prevention plan is approved, the proposed measures shall be implemented by no later than thirty (30) days after City approval is given. If an evaluation report is submitted, the prevention measures shall be continued until and unless the City indicates that a measure(s) needs to be modified. Unless otherwise agreed, any modifications to the plan imposed by the City shall be implemented within thirty (30) days after the City notifies the owner of the needed modifications.

(d) Revocation. If more than sixty (60) carts are retrieved by the City within a six (6) month period, the owner's prevention plan will be revoked upon notification by the City and the owner will be required to submit a new prevention plan to the Public Works Director. Any owner failing to implement the new prevention plan within thirty (30) days of approval, shall be subject to penalties under this Chapter. (Ord. 7192 § 3, 2012; Ord. 6820 § 1, 2005; Ord. 6502
§ 1, 1999)

Section 9.58.080 Penalty For Failing To Submit A Prevention Plan or Evaluation Report Or To Implement Prevention Measures.

Any owner that fails to submit a prevention plan, implement the proposed plan measures, or implement any required modifications to the plan by the City within the time frames specified in this Chapter shall be required to place disabling devices on all carts owned/leased/used by the business to prevent removal of carts from the business premises and parking lots. Any owner that fails to submit an evaluation report or prevention plan as outlined in Section 9.58.000(d) and Section 9.58.070 by January 1 of each year or fails to place a disabling device on all carts, if applicable, shall be subject to a $1,000.00 civil penalty, plus an additional penalty of $50.00 for each day of non-compliance. (Ord. 7192 § 4, 2012; Ord. 6820 § 1, 2005; Ord. 6205 § 1, 1999)

Section 9.58.090 Notification For Retrieval Of Abandoned Carts.

Pursuant to Business and Professions Code Section 22435.7, the City shall notify the owner of any abandoned carts owned or used by the business establishment that have been located within the City of Riverside, if the City intends to impound the cart(s) pursuant to Section 22435.7. The owner shall have three (3) days from the date the notification is given, to retrieve the carts from the City. (Ord. 6820 § 1, 2005)

Section 9.58.100 Administrative Costs and Fines.

Pursuant to Business and Professions Code Section 22435.7, any owner that fails to retrieve its abandoned cart(s) within three (3) days of receiving actual notice from the City, shall pay the City's administrative costs for retrieving the cart(s) and providing the notification to the owner as may be established by resolution of the City Council. Any owner who fails to retrieve abandoned carts in accordance with this Chapter in excess of three times during a specified six-month period, shall be subject to a $50.00 fine for each occurrence. An occurrence includes all carts owned by the owner that are impounded by the City in a one-day period. (Ord. 7192 § 5, 2012; Ord. 6820 § 1, 2005)

Section 9.58.110 Disposition of Carts After Thirty Days.

According to State Law, any cart not reclaimed from the City within thirty (30) days after notification to the owner shall be sold or otherwise disposed of by the City. Any cart that fails to have the identification required by State Law or this Chapter may be sold or otherwise immediately disposed of at the discretion of the City. (Ord. 6620 § 1, 2005)

Section 9.58.120 Exemption.

Any owner may contract with the City for the retrieval of abandoned carts by entering into a written contract to pay the City's fees for such service. Any owner that has a contract with the City to provide for retrieval of abandoned carts, shall be exempt from the Sections 9.58.080 through 9.58.060 of this Chapter. This exemption is valid only if the other provisions of this Chapter are complied with by owner. (Ord. 7192 § 6, 2012; Ord. 6820 § 1, 2005)

Section 9.58.130 Businesses Without Carts.

A business which does not own, rent, lease, or otherwise possess its own carts, but which receives a benefit by the use of carts owned by other businesses, merchants, grocers, or other similar establishments, shall provide a location upon its premises for the storage of carts and shall immediately contact the City's cart retrieval service to retrieve any carts that are left on
the premises. This section specifically applies to recycling centers. (Ord. 6820 § 1, 2005)

Section 9.58.140 Severability And Validity.

If any section, subsection paragraph or sentence of this ordinance, or any part thereof, is for any reason found to be unconstitutional, invalid or beyond the authority of the City of Riverside by a court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance. (Ord. 6820 § 1, 2005)
San Jacinto Municipal Code

Chapter 8.48
SHOPPING CARTS

Sections:

8.48.010 Short title.
8.48.020 Findings, declaration of public nuisance, and purposes.
8.48.030 Definitions.
8.48.040 Duties of business owners.
8.48.050 Cart removal prevention plan.
8.48.060 Plan review and determination.
8.48.070 Plan modification.
8.48.080 Cart retrieval.
8.48.090 Cart impoundment by city.
8.48.100 Emergency impoundment by city.
8.48.110 Cost recovery.
8.48.120 Disposal of Impounded carts.
8.48.130 Unlawful acts by persons.
8.48.140 Unlawful acts by business owners.

8.48.010 Short title.

This chapter shall be known as the shopping cart control ordinance of the city. (Ord. 09-11 § 1 (part); Ord. 1027 § 1, 1996)

8.48.020 Findings, declaration of public nuisance, and purposes.

The city council finds that laundry carts and shopping carts are being removed from retail businesses and abandoned throughout the city on public and private property, which blight the city, create safety hazards for pedestrians, create potential safety hazards for motor vehicle operators, increase the operating costs of retail businesses and cause the city to expend resources unnecessarily by deploying its employees to retrieve and remove such carts from public and private property. The city council also finds that the accumulation of such carts on public and private property diminishes property values and promotes blight throughout the entire city.
The city council also finds and declares that the conditions created by the removal of laundry carts and shopping carts from retail business premises and the abandonment of such carts throughout the city, on public or private property, constitute a public nuisance which may be abated as such in accordance with the provisions of this chapter.

The purposes of this chapter are to require business owners that provide laundry carts and shopping carts to their customers to maintain such carts on their business premises, to require business owners to prevent persons from removing such carts from their business premises, to make it unlawful for any person to remove such carts from any business premises, to make it unlawful for any person to abandon such carts onto any public or private property, and to reduce the cost of retrieving such carts from public and private property to business owners and the city of San Jacinto. (Ord. 09-11 § 1 (part); Ord. 1027 § 2, 1996)

8.48.030 Definitions.

For the purposes of this chapter, unless it is plainly evident from the context that a different meaning is intended, certain terms used herein are defined as follows:

"Business owner" means any person, any partner, employee or agent of a partnership, any officer, director, employee or agent of any corporation who conducts, directs, manages, supervises, operates, oversees or owns any retail business within the city that uses or locates carts on the business premises.

"Business premises" means the entire area of any structure or parking lot utilized by a business owner to conduct its retail business within the city.

"Cart" means a vehicle containing wheels and a basket or other device to carry goods provided by a business owner to its customers to transport goods upon the business premises.

"Cart identification plaque" means a plate mounted on a cart that contains the name and address of the business owner owning or using any such cart upon a business premises, the name, address and phone number of the agent or employee of the business owner pertaining to the cart and an identifying number of the cart distinct from any other cart so owned or used.

"Cart removal prevention plan" or "plan" means the plan required by Section 8.48.050.

"City manager" means the city manager of the city, his or her designee and/or authorized representatives of the city manager.
"Containment system" means a device on a cart that prevents it from being removed from a business premises by locking the wheels of the cart or otherwise prevents the cart’s movement, or any other device or system approved by the city manager that physically contains carts on a business premises. (Ord. 09-11 § 1 (part); Ord. 1027 § 3, 1986)

8.48.040 Duties of business owners.

A. It is the duty of a business owner to contain carts solely upon the business premises.

B. It is the duty of a business owner to prevent any person from removing any cart from the business premises except for those persons authorized to remove such carts from the business premises, such as those authorized to repair the carts.

C. It is the duty of a business owner to affix a cart identification plaque in a secure manner on each cart used or located upon a business premises.

D. It is the duty of a business owner to submit a cart removal prevention plan and to comply with all of its provisions including those of any revised, prepared or modified plan authorized by the city manager.

E. It is the duty of a business owner to permit the city manager to inspect the carts used or located on the business premises in order to ascertain whether each cart contains a cart identification plaque as required by this chapter.

F. It is the duty of every business owner that uses or locates any cart on its business premises to post signs, in the size specified by the city manager, at all entrances and exits to the business premises and parking lots containing the following language:

REMOVAL OF ANY CART FROM THESE PREMISES IS A MISDEMEANOR.

S.J.M.C. Section 6.48.130.

(Ord. 09-11 § 1 (part))

8.48.050 Cart removal prevention plan.

A. Each business owner who uses or locates any cart on a business premises shall submit a cart removal prevention plan ("plan") that contains the policies and procedures by which the business owner intends to comply with the purposes and provisions of this chapter.
B. A business owner who intends to commence a business that will use or locate any cart on the business premises shall submit a plan prior to commencing such a business. A business owner shall not commence business unless and until the plan has been approved by the city manager. A business owner shall submit a cart removal prevention plan together with an application for a business license. No business license shall be issued to the business owner unless and until the plan has been submitted and approved.

C. A business owner operating on the effective date of this chapter shall submit a cart removal prevention plan to the city manager no later than sixty (60) days from the effective date of the ordinance codified in this chapter. The city manager shall notify each business owner operating a business on the effective date of ordinance codified in this chapter to submit such a plan and the final date by which the plan must be submitted.

D. A cart removal prevention plan shall describe how the business owner shall comply with the purpose and provisions of this chapter. In addition, the plan shall include, at a minimum, the following elements:

1. Name of Business Owner. The name of the business owner; the physical address where the business is conducted; and the name, address, and telephone number(s) of the business owner and all on-site managers including any changes of such persons.

2. Cart Inventory. A list that contains each cart to be used or located on the business premises and the distinct identification number of each cart.

3. Customer Outreach. A description of the customer outreach process through which the business owner shall notify its customers that removal of any cart from the business premises is prohibited. The outreach shall include, but is not limited to, flyers distributed on the business premises, signs posted in prominent places near doors and parking lot exits, shopping bags, announcements using intercom systems on the premises, website direct mail, and other means demonstrated to be effective that inform the customers that carts may not be removed from the business premises. Any posting of signs shall comply with applicable provisions of this city’s municipal code or any other city ordinance in effect at the time of their construction and erection.

4. Cart Identification Plaque. A sample of the cart identification plaque described in Section 9.46.030 that will be mounted on each cart that will be used or located on the business premises.

5. Prevention Measures. A description of the specific measures that the business owner will implement to prevent removal of any cart from the business premises. Such measures may
include, but are not limited to, electronic or other disabling devices on any cart so they cannot
be removed from the business premises; management practices; use of courtesy clerks to
accompany customers and return carts to the inside of the business premises; use of security
personnel to prevent removal; security deposits for cart usage; other demonstrably effective
measures acceptable to the city manager that are likely to prevent removal of carts from the
business premises.

6. Employee Training. A description of the employee training program to be implemented by
the business owner that is designed to educate new and existing employees about the cart
removal prevention plan; and the date during each quarter of each year that the training
program will be administered.

7. Mandatory Cart Retrieval. The procedure by which the business owner will search, find and
return carts removed from the business premises. The procedure by which the business owner
will retrieve abandoned carts from public or private property when demanded by the city
manager within the periods required by Section 8.46.080.

E. Each business owner submitting a cart removal prevention plan shall pay the fee established by the city
council, which shall be based on the city’s cost to review, to monitor the cart removal prevention plan and to
implement this chapter.

F. Each business owner shall comply with the cart removal prevention plan that it submits to the city manager
commencing on the date of its submission, unless amended as set forth in this chapter. (Ord. 09-11 § 1 (part))

8.46.060 Plan review and determination.

A. Within ten (10) days of submission of a plan, the city manager shall determine whether the plan contains
the information required by this chapter. If the city manager determines that the plan is insufficient, the city
manager shall return the plan to the business owner together with a written notice of the plan’s insufficiency.
The business owner shall submit a corrected plan within ten (10) days of the notice of insufficiency. The city
manager shall provide written notice to the business owner to submit a corrected plan within ten (10) days and
the penalties for failing to do so.

B. If the city manager deems the plan to contain sufficient information, the city manager may approve, revise
or reject the plan; and the city manager shall notify the business owner of such decision within thirty (30) days
from the date that the plan was submitted. If the city manager approves or revises the plan, the business owner
shall comply with the cart removal prevention plan as approved or revised commencing on the date of the city manager's notice thereof.

C. The city manager may reject a plan on any of the following grounds:

1. The plan fails to include any material information required by this chapter;

2. The plan would fail to achieve the purposes of this chapter;

3. The plan fails to address any special or unique conditions about the business premises;

4. The plan violates other provisions of the city code or policies of the city;

5. Implementation of the plan would violate provisions of the building, zoning, health and safety, fire or other municipal codes, or any county, state, or federal law which substantially affects public health, welfare or safety; or

6. The business owner has made a false statement of fact, omitted information required for the plan, or omitted any information required by the plan in any addendum or report to the plan.

D. Upon the rejection of a plan, the city manager also may:

1. Order the business owner to submit another plan within ten (10) days; or

2. Prepare a plan and order the business owner to comply with such prepared plan.

E. The city manager shall notify the business owner in writing of the plan rejection, the basis of the plan rejection and any action taken under subsection D of this section. The notice of rejection also shall advise the business owner of the right to appeal the city manager's actions to the city manager and that the notice of appeal must be filed in writing within ten (10) days and states the basis of the appeal.

F. If the city manager prepares a plan, the business owner shall comply with such prepared plan commencing on the date of the city manager's notice thereof. (Ord. 09-11 § 1 (part))

8.48.070 Plan modification.

Any time subsequent to the city manager's approval, revision or preparation of a cart removal prevention plan, the business owner may request a modification of such a plan to address a change in circumstances, an unanticipated adverse physical or economic impact of the plan, or a need to modernize the plan to be more
effective or efficient. The city manager also shall have authority to require modifications to a plan when he or she determines that the plan has failed to achieve the purposes and requirements of this chapter or if a business owner fails to implement an approved, revised or prepared plan. (Ord. 09-11 § 1 (part))

8.48.080 Cart retrieval.

A. The city manager may notify a business owner that a cart belonging to the business owner has been discovered on public or private property other than the business premises and request the business owner to retrieve the cart. Whenever the city manager requests a business owner to retrieve a cart prior to one p.m. of any day, the business owner shall retrieve the cart by five p.m. on the same day. Whenever the city manager requests a business owner to retrieve a cart after one p.m. of any day, the business owner shall retrieve the cart by ten a.m. of the next day. If the city manager requests a business officer to retrieve a cart on a day that the retail business is closed for business, then the business owner shall retrieve the cart by ten a.m. of the next business day.

B. Notification by telephone to the business owner's telephone number contained on the cart identification plaque shall be deemed sufficient notice to the business owner in the event that no one answers the telephone call placed to the phone number on the cart identification plaque from eight a.m. to five p.m. on any day that the business is open.

C. It is unlawful for a business owner to fail to assign an operator to answer all calls to the telephone number on the cart identification plaque made by the city manager from eight a.m. to five p.m. on any day that the business is open.

D. The city manager is authorized to require a business owner who is requested to retrieve more than three carts within a ninety (90) day period to install a cart containment system.

E. Any cart found on any public or private property on which no cart identification plaque is affixed shall constitute a nuisance and may be retrieved and discarded by the city immediately. (Ord. 09-11 § 1 (part))

8.48.090 Cart impoundment by city.

Any cart found on any public or private property may be impounded by the city manager, provided both of the following conditions have been satisfied:

A. The cart is located outside the business premises of the business owner to which the cart belongs.
B. The cart is not retrieved within three business days from the date the business owner receives notice from the city as set forth in this chapter of the cart’s discovery and location. (Ord. 09-11 § 1 (part); Ord. 1027 § 5, 1996. Formerly 8.48.050)

8.48.100 Emergency impoundment by city.

In instances where the location of a cart will impede emergency services, the city manager is authorized to immediately retrieve the cart from public or private property. (Ord. 09-11 § 1 (part); Ord. 1027 § 6, 1996. Formerly 8.49.060)

8.48.110 Cost recovery.

The city is authorized to recover its actual costs, as determined by the city manager, for providing the impoundment service. Also, the city may fine the business owner of an Impounded cart in an amount as shown in the schedule of fines resolution as adopted by the city council, for each occurrence in excess of three during a specified six-month period for failure to retrieve carts in accordance with this section. An occurrence includes all carts impounded in accordance with this section in a one-day period. (Ord. 09-11 § 1 (part); Ord. 1027 § 7, 1996. Formerly 8.48.070)

8.48.120 Disposal of impounded carts.

Any cart not reclaimed from the city within thirty (30) days receipt of a notice of violation by the business owner of an impounded cart may be sold or otherwise disposed of by the city manager. (Ord. 09-11 § 1 (part); Ord. 1027 § 8, 1996. Formerly 8.48.080)

8.48.130 Unlawful acts by persons.

It is unlawful for any person to do any of the following acts:

A. To remove a cart from a business premises;

B. To abandon a cart at a location other than a business premises;

C. To be in possession of a cart that has been removed from a business premises or that is not located on a business premises;

D. To be in possession of a cart that does not have a cart identification plaque;

E. To be in possession of a cart on which the information on the cart identification plaque has been altered, defaced or obliterated;
F. To alter, convert, or tamper with a cart, or to remove any part or portion of a cart, or to alter, obliterate, or remove the cart identification plaque. (Ord. 09-11 § 1 (part))

8.48.140 Unlawful acts by business owners.

It is unlawful for a business owner to do any of the following acts:

A. To fail to comply with any duty under Section 8.48.040;

B. To fail to submit a cart removal prevention plan required by Section 8.46.050;

C. To fail to comply with the cart removal prevention plan under Section 8.46.050(F);

D. To fail to submit a corrected cart removal prevention plan within the ten (10) day period required by Section 8.48.060(A);

E. To fail to comply with any cart removal prevention plan required by Section 8.46.060;

F. To fail to comply with a request to retrieve a cart required by Section 8.48.080. (Ord. 09-11 § 1 (part))
Attachment 4

(Comments from City staff)
Brian Guillot

From: Carl Szoyka
Sent: Thursday, June 26, 2014 5:53 AM
To: Brian Guillot
Subject: RE: Abandoned Shopping Carts

We usually pick up the shopping carts with city crews. We need the stores to monitor their shopping carts better. They need to have a cart retrieval company pick them up. We don’t have the means to pick them up.

From: Brian Guillot
Sent: Wednesday, June 25, 2014 11:18 AM
To: Carl Szoyka
Cc: Zal Abu Bakar; Duane Burk
Subject: Abandoned Shopping Carts

Carl,

I am working on amending our shopping cart recovery regulations. Can you give me a little background?

What have we done in the past:

What are we doing now:

What suggestions do you have for improving this situation:

Regards,

Brian Guillot
Associate Planner

To: Zal Abu Bakar
Community Development Director
City of Banning
99 E. Ramney Street
Banning, CA 92220
Office: (951) 922-3152
Facsimile: (951) 922-3128
Email: bguillot@ci.banning.ca.us
Website: www.ci.banning.ca.us

The City of Banning promotes and supports a high quality of life that ensures a safe and friendly environment, fosters new opportunities and provides responsive, fair treatment to all and is the pride of its citizens.
Brian Guillot

From: Zai Abu Bakar
Sent: Tuesday, July 01, 2014 11:48 AM
To: Brian Guillot
Subject: FW: Shopping Carts

Brian,

Please see the e-mail from Lieutenant West below.

Zai Abu Bakar
Community Development Director
City of Banning
89 E. Ramsey Street
Banning, CA 92220
P (951) 922-3131
F (951) 922-3128
Email: zabubakar@ci.banning.ca.us
Website: www.ci.banning.ca.us

The City of Banning promotes and supports a high quality of life that ensures a safe and friendly environment, fosters new opportunities and provides responsive, fair treatment to all and is the pride of its citizens.

From: Mike West
Sent: Tuesday, July 01, 2014 11:46 AM
To: Zai Abu Bakar
Subject: RE: Shopping Carts

My suggestion is to write into the ordinance to require all businesses in town that utilize shopping carts to install the anti-theft wheel lock device. I am enclosing a link to Gatekeeper Systems. This is the vendor used by Walgreens on Highland Springs.

http://www.gatekeepersystems.com/sol_cc_cartcontrol.php

Lieutenant Mike West
mwest@ci.banning.ca.us
desk - (951) 922-1100
cell - (951) 232-4142
cell - (951) 922-0839
www.banningpolice.org
Attachment 5

(Retailers list)
<table>
<thead>
<tr>
<th>Store Name</th>
<th>Address</th>
<th>City</th>
<th>State</th>
<th>Zip Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Albertson's</td>
<td>300 S. Highland Springs Ave. Suite #7</td>
<td>Banning</td>
<td>CA</td>
<td>92220</td>
</tr>
<tr>
<td>Rite Aid</td>
<td>300 S. Highland Springs Ave. Suite #9</td>
<td>Banning</td>
<td>CA</td>
<td>92220</td>
</tr>
<tr>
<td>Walgreen's</td>
<td>60 N. Highland Springs Ave.</td>
<td>Banning</td>
<td>CA</td>
<td>92220</td>
</tr>
<tr>
<td>Rio Ranch Market</td>
<td>3317 W. Ramsey Street</td>
<td>Banning</td>
<td>CA</td>
<td>92220</td>
</tr>
<tr>
<td>Dollar Tree</td>
<td>3403 W. Ramsey Street Suite A</td>
<td>Banning</td>
<td>CA</td>
<td>92220</td>
</tr>
<tr>
<td>Big Lots</td>
<td>3403 W. Ramsey Street</td>
<td>Banning</td>
<td>CA</td>
<td>92220</td>
</tr>
<tr>
<td>Smart and Final</td>
<td>2971 W. Ramsey Street</td>
<td>Banning</td>
<td>CA</td>
<td>92220</td>
</tr>
<tr>
<td>Banning Village Market</td>
<td>266 N. San Gorgonio Ave.</td>
<td>Banning</td>
<td>CA</td>
<td>92220</td>
</tr>
<tr>
<td>Family Dollar</td>
<td>1481 W. Ramsey Street</td>
<td>Banning</td>
<td>CA</td>
<td>92220</td>
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<tr>
<td>Dollar General</td>
<td>1323 W. Ramsey Street</td>
<td>Banning</td>
<td>CA</td>
<td>92220</td>
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<tr>
<td>Rite Aid</td>
<td>806 W. Ramsey Street</td>
<td>Banning</td>
<td>CA</td>
<td>92220</td>
</tr>
<tr>
<td>San Gorgonio Hospital Thrift</td>
<td>3453 W. Ramsey Street</td>
<td>Banning</td>
<td>CA</td>
<td>92220</td>
</tr>
<tr>
<td>99 Cent Mart</td>
<td>3333 W. Ramsey Street</td>
<td>Banning</td>
<td>CA</td>
<td>92220</td>
</tr>
</tbody>
</table>