

P L A N N I N G C O M M I S S I O N
R E S O L U T I O N N O . 2 2 - 6 1 1 6

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF
WEST COVINA, CALIFORNIA, RECOMMENDING TO THE CITY
COUNCIL APPROVAL OF CODE AMENDMENT NO. 22-04, CODE
AMENDMENT RELATED TO DEVELOPMENT STANDARDS AND
REQUIREMENTS FOR CART CONTAINMENT**

CODE AMENDMENT NO. 22-04

STATUTORY EXEMPTION

APPLICANT: City of West Covina

LOCATION: Citywide

WHEREAS, on July 12, 2022, the Planning Commission initiated Code Amendment No. 22-04 related to development standards and requirements for cart containment; and

WHEREAS, on October 11, 2022, the Planning Commission conducted a duly noticed public hearing as prescribed by law regarding proposed Code Amendment No. 22-04. At the conclusion of the public hearing, the Planning Commission approved Planning Commission Resolution No. 22-6116, recommending that the City Council approve Code Amendment No. 22-04 and

WHEREAS, studies and investigations made by this Commission and on its behalf reveal the following facts:

1. The City of West Covina does not have cart containment development standards and requirements.
2. The City has observed numerous abandoned and/or misused shopping carts littered within City streets and sidewalks.
3. The Code Amendment is necessary in order to make business owners accountable for maintaining their carts secured within their business site/property.
4. The proposed action is considered to be exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Section 15061(b)(3) of the CEQA

Guidelines, in that the proposed action consists of a code amendment, which does not have the potential for causing a significant effect on the environment.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Commission of the City of West Covina as follows:

SECTION NO. 1: The above recitals are true and correct and are incorporated herein as if set forth herein in full.

SECTION NO. 2: Based on the evidence presented and the findings set forth, Code Amendment No. 22-04 is hereby found to be consistent with the West Covina General Plan and the implementation thereof, and that the public necessity, convenience, general welfare, and good zoning practices require Code Amendment No. 22-04.

SECTION NO. 3: Based on the evidence presented and the findings set forth, the Planning Commission of the City of West Covina hereby recommends to the City Council of the City of West Covina that it approves Code Amendment No. 22-04 to amend Chapter 26 (Zoning) of the West Covina Municipal Code as shown on Exhibit "A."

SECTION NO. 4: The Secretary is instructed to forward a copy of this Resolution to the City Council for their attention in the manner as prescribed by law and this Resolution shall go into force and effect upon its adoption.

[continued on next page]

Resolution No. 2022-6116
Code Amendment No. 22-04
October 11, 2022
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I HEREBY CERTIFY, that the foregoing Resolution was adopted by the Planning Commission of the City of West Covina, at a regular meeting held on the 11th day of October, 2022, by the following vote.

AYES:

NOES:

ABSTAIN:

ABSENT:

DATE:

Nickolas Lewis, Chairperson
Planning Commission

Paulina Morales, Secretary
Planning Commission

EXHIBIT A

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF WEST COVINA, CALIFORNIA, AMENDING PORTIONS OF CHAPTER 26 OF THE MUNICIPAL CODE TO AUTHORIZE DEVELOPMENT STANDARDS AND REQUIREMENTS FOR CART CONTAINMENT

WHEREAS, on July 12, 2022, the Planning Commission initiated Code Amendment No. 22-04 related to development standards and requirements for cart containment; and

WHEREAS, on _____, the Planning Commission conducted a duly noticed public hearing as prescribed by law regarding proposed Code Amendment No. _____. At the conclusion of the public hearing, the Planning Commission approved Planning Commission Resolution No. _____, recommending that the City Council approve Code Amendment No. _____; and

WHEREAS, on _____, the City Council conducted a duly noticed public hearing as prescribed by law regarding this ordinance approving Code Amendment No. _____; and

WHEREAS, the City Council has duly considered all information presented to it, including written staff reports and any testimony provided at the public hearing, with all testimony received being made a part of the public record.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Code Amendment. Article XII (Special Regulations for Unique Uses) of Chapter 26 (Zoning) of the West Covina Municipal Code is hereby amended to read as follows:

DIVISION 31 – CART CONTAINMENT

26-685.14000 – Purpose.

This division sets forth a uniform set of standards for any business establishment that uses carts in its operations, or that provides, or otherwise makes carts available for the use of its customers. Business establishments utilizing carts shall employ and/or install physical containment devices and/or equipment designed to prevent the unauthorized removal of such carts from the premises where they are located.

26-685.14100 – Definition.

Cart. The term "cart" means any basket or other like container of any size, dimension or material construction which is mounted on wheels or a similar device and is typically (but not necessarily exclusively) used by the customers, agents or employees of a business establishment for the purpose of transporting items of any kind.

26-685.14200 – Cart Containment Regulations.

(a) Each business establishment shall have a sign permanently affixed to all carts complying with the requirements of the Business and Professions Code Section 22435.1, shall have signage installed on site notifying customers that removal of the carts from the premises is prohibited, and shall be required to employ and/or install one or more of the following physical containment measures:

- (1) Equipping all carts with a wheel locking or stopping mechanism used in conjunction with an electronic or magnetic barrier running along or within the perimeter of the premises. Such wheel locking or stopping mechanism must activate when the cart crosses the electronic or magnetic barrier;
 - (2) Equipping all carts with devices and/or equipment which physically prevents the carts from being removed from the interior of any building or structure in which they are used;
 - (3) Installing physical barriers within all buildings or structures which physically prevent carts from being removed from the interior of any building or structure in which they are used;
 - (4) Installing an alternative cart containment system proposed by the specific business establishment and approved by the Community Development Director.
- (b) The employment and/or installation of any one or more of the options set forth under subsections (a)(1) through (3) of this section shall be required within 6 months of a written determination by the Community Development Director determining that an approved alternative cart containment system option does not reliably prevent the removal of carts from the premises. A containment system shall be deemed not to reliably prevent the removal of carts from the premises if the number of carts removed from the premises or found abandoned exceeds three (3) carts in a 30-day period and/or eight (8) total carts in any calendar year.

26-685.14300 – Cart Containment Approval Process.

Approval by Community Development Director. Commencing upon the effective date of this Division, every new or existing business establishment must either: (i) submit documentation proving, to the reasonable satisfaction of the Community Development Director, that the business establishment has installed any one or more of the measures set forth under Section 26-685.14200 (a)(1) through (3) and that such system is operational and in good working condition; or (ii) submit to the Community Development Director a proposal for the installation of an alternative cart containment system. The Community Development Director shall have thirty (30) calendar days from the date of submission to review any proposal for a barrier system contemplated under Section 26-685.14200 (a)(4) and may thereafter approve the proposal; deny the proposal; approve the proposal subject to modifications and amendments aimed at enhancing its cart containment

reliability and/or its architectural and aesthetic consistency with other on-premises improvements; or forward the proposal to the Planning Commission for review and render the final decision. No new business establishment shall be issued a certificate of occupancy until the requirements of this section are satisfied.

26-685.14400 – Implementation and Amortization.

All existing business establishments which do not have cart containment measures employed in accordance with Section 26-685.14200 (a)(1) through (3) or have an approved alternative containment measure employed per Section 26-685.14200 (a)(4), as of the effective date of the ordinance codified in this section, shall so comply within twelve (12) months after the effective date. A business establishment and/or owner of the premises upon which the business establishment is located may apply for an extension of time from the amortization period no more than 90 days prior to the expiration date or no more than 30 days after the expiration date.

- (a) The extension of time request shall be reviewed by the Community Development Director. The Community Development Director may only consider one extension of time per business establishment. In no case shall an extension of time greater than six (6) months be granted. The Planning Commission upon appeal, shall make the following findings in approving or conditionally approving an application for the extension of time request:
 - (1) That the strict application of the required cart containment measure will create an unreasonable hardship upon the applicant, which was not brought about by an act of the applicant
 - (2) That the extension of time request will not be materially detrimental to the public health, safety, or general welfare, or to the use, enjoyment or valuation of property of other persons located within the vicinity.
 - (3) That sufficient evidence has been submitted to support the need for the extension of time and appropriate amount of time.
- (b) Written notice of time and place of hearings conducted by the planning commission upon appeal relating to such matter shall be given not less than ten (10) consecutive calendar days in advance of such hearing to the applicant and property owner whose property is within a three hundred (300) foot radius of the subject lot. The applicant shall be responsible for providing the City with the required radius map and mailing labels. All persons interested in such matter shall be given reasonable opportunity to present relevant evidence relating to the request.

26-685.24500 – Requirement for Securing Carts

All carts located on the premises of any business (other than business establishments open 24 hours per day) shall be collected at the end of each business day by employees of the establishment and shall be collectively confined in a secure manner until the commencement of the next business day.

26-685.24600 – Cart Retrieval Requirements

The cart owner shall secure and continuously maintain a service to retrieve shopping carts which have been removed from their business premises within 24 hours of the removal or notice of removal.

SECTION 2. Effective Date. This Ordinance shall take effect and be in force thirty (30) days from and after the date of its passage.

SECTION 3. Certification. 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 or posted in the manner required by law.

PASSED, APPROVED AND ADOPTED on the _____ day of _____, 2022.

Dario Castellanos
Mayor

APPROVED AS TO FORM

ATTEST

Thomas P. Duarte
City Attorney

Lisa Sherrick
Assistant City Clerk

I, LISA SHERRICK, ASSISTANT CITY CLERK of the City of West Covina, California, do hereby certify that the foregoing Ordinance No. _____ was introduced at a regular meeting of the City Council held on the ____ day of _____, and adopted at a regular meeting of the City Council held on the ____ day of _____, _____, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Lisa Sherrick
Assistant City Clerk