

ATTACHMENT A

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ARTICLE X – SHOPPING CARTS

SEC. 39-56 PURPOSE.

THE PURPOSE OF THIS ARTICLE IS TO ADDRESS BLIGHT, NUISANCE, AND PUBLIC HEALTH AND SAFETY HAZARDS ASSOCIATED WITH OFF-SITE SHOPPING CARTS NOT REGULATED UNDER ARIZONA REVISED STATUTES, TITLE 44, CHAPTER 11, ARTICLE 19. TO ACHIEVE THAT PURPOSE, THIS ARTICLE ESTABLISHES A REGULATORY SYSTEM TO ENSURE (1) THE RETURN OF OFF-SITE SHOPPING CARTS TO STORES AND (2) THAT RETAILERS TAKE EFFECTIVE MEASURES TO PREVENT THE OCCURRENCE OF OFF-SITE SHOPPING CARTS.

SEC. 39-57. DEFINITIONS.

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

“AUTHORIZED REPRESENTATIVE” MEANS A NATURAL PERSON DULY AUTHORIZED BY A RETAILER TO (I) RECEIVE NOTICES ON BEHALF OF A RETAILER FOR PURPOSES OF THIS ARTICLE; (II) OBTAIN AND CERTIFY THE INFORMATION CONTAINED IN CERTIFICATIONS; AND (III) DIRECT EMPLOYEES AND CONTRACTORS OF THE RETAILER AND TAKE OTHER ACTION AS REASONABLY NECESSARY TO COMPLY WITH THIS ARTICLE. *“CERTIFICATION”* MEANS THE CERTIFICATION REQUIRED BY SECTION 39-62, AS MAY BE AMENDED.

“CERTIFY” MEANS TO PROVIDE INFORMATION OR MAKE A REPRESENTATION IN ACCORDANCE WITH SECTION 39-62, AS MAY BE AMENDED.

“CITY” MEANS THE CITY OF PHOENIX, ARIZONA.

“DEPARTMENT” MEANS THE CITY’S NEIGHBORHOOD SERVICES DEPARTMENT, ITS DELEGEE, OR AUTHORIZED CONTRACTOR.

“DIRECTOR” MEANS THE DIRECTOR OF THE DEPARTMENT.

“ENHANCED PLAN” MEANS A SHOPPING CART MANAGEMENT PLAN THAT MEETS THE REQUIREMENTS OF SECTION 39-65(B), AS MAY BE AMENDED.

“EVALUATION PERIOD” MEANS THE PERIOD OF TIME BEGINNING (I) INITIALLY, UPON DELIVERY OF A STORE’S FIRST CERTIFICATION AND (II) SUBSEQUENTLY, IMMEDIATELY UPON CONCLUSION OF THE PRIOR EVALUATION PERIOD AND ENDING UPON THE EARLIEST OF (I) 180 DAYS LATER OR (II) THE SATISFACTION OF THE CONDITIONS OF 39-66(D), AS MAY BE AMENDED.

“GPS TRACKER” MEANS A DEVICE WHICH USES A GLOBAL POSITIONING SYSTEM TO ALLOW A RETAILER TO REMOTELY DETERMINE THE LOCATION OF AN OFF-SITE SHOPPING CART.

“IDENTIFIABLE SHOPPING CART” MEANS AN OFF-SITE SHOPPING CART, OTHER THAN A VALUELESS SHOPPING CART, THAT CAN REASONABLY BE ASSOCIATED WITH A PARTICULAR RETAILER OR STORE DUE TO SIGNAGE, BRANDING, DESIGN, OR OTHERWISE.

“LARGE STORE” MEANS A STORE OF AT LEAST 50,000 SQUARE FEET.

“LOCKING WHEEL MECHANISM” MEANS A DEVICE THAT PREVENTS ONE OR MORE OF A SHOPPING CART’S WHEELS FROM OPERATING NORMALLY WHEN THE SHOPPING CART IS OUTSIDE OF A STORE OR ITS PARKING LOT.

“MANDATORY PLAN” MEANS A SHOPPING CART MANAGEMENT PLAN THAT MEETS THE REQUIREMENTS OF SECTION 39-65(C), AS MAY BE AMENDED.

“OFF-SITE SHOPPING CART” MEANS A SHOPPING CART THAT REASONABLY APPEARS TO BE LOST OR ABANDONED OUTSIDE OF A STORE OR ITS PARKING LOT

“PARKING LOT” MEANS AN AREA THAT A RETAILER PROVIDES FOR CUSTOMERS OF A STORE TO PARK MOTOR VEHICLES.

“RETAILER” MEANS ANY SOLE PROPRIETOR, PARTNERSHIP, CORPORATION, LIMITED LIABILITY COMPANY, OR OTHER PERSON THAT OFFERS MERCHANDISE FOR PURCHASE BY CUSTOMERS AT A STORE WITHIN THE CITY.

“RESTRICTIVE DEVICE” MEANS AN ELECTRONIC OR MECHANICAL DEVICE, INCLUDING A LOCKING WHEEL MECHANISM, THAT PROTECTS AGAINST UNAUTHORIZED REMOVAL OF SHOPPING CARTS FROM A STORE OR ITS PARKING LOT OR PREVENTS THE NORMAL OPERATION OF THE SHOPPING CART OUTSIDE OF A STORE OR ITS PARKING LOT.

“SHOPPING CART” MEANS A BASKET THAT IS MOUNTED ON WHEELS OR A SIMILAR DEVICE THAT IS GENERALLY USED IN A STORE BY A CUSTOMER FOR THE PURPOSE OF TRANSPORTING MERCHANDISE OF ANY KIND THAT DOES NOT MEET THE REQUIREMENTS OF A.R.S. § 44-1799.32(B).

“SHOPPING CART MANAGEMENT PLAN” MEANS A WRITTEN DOCUMENT DESCRIBING SPECIFIC MEASURES A RETAILER TAKES TO MINIMIZE OFF-SITE SHOPPING CARTS AND TO ENSURE THAT ANY OFF-SITE SHOPPING

CARTS ARE PROMPTLY RETURNED TO THE STORE.

“SHOPPING CART RETRIEVAL CONTRACT” MEANS A CURRENTLY EFFECTIVE AND LEGALLY BINDING AGREEMENT BETWEEN A RETAILER AND A THIRD PARTY FOR THE COLLECTION AND RETURN OF OFF-SITE SHOPPING CARTS TO A RETAILER’S STORE.

“STORE” MEANS A FACILITY WITHIN THE CITY WHERE A RETAILER OFFERS MERCHANDISE FOR PURCHASE BY CUSTOMERS AND PROVIDES SHOPPING CARTS FOR CUSTOMER USE.

“UNIDENTIFIABLE SHOPPING CART” MEANS A SHOPPING CART OTHER THAN AN IDENTIFIABLE SHOPPING CART OR A VALUELESS SHOPPING CART.

“UNSUCCESSFUL EVALUATION PERIOD” MEANS AN EVALUATION PERIOD IN WHICH THE DEPARTMENT RETURNS 10 OR MORE SHOPPING CARTS TO A STORE AND WITH RESPECT TO WHICH THE CONDITIONS OF SECTION 39-66(D), AS MAY BE AMENDED, OR SECTION 39-67(D), AS MAY BE AMENDED, HAVE BEEN SATISFIED.

“VALUELESS SHOPPING CART” MEANS A SHOPPING CART IN SUCH DISREPAIR OR HAVING SUCH DAMAGE THAT IT HAS NO APPARENT MONETARY VALUE.

SEC. 39-58. AUTHORITY; DELEGATION.

- A. THE DIRECTOR IS AUTHORIZED TO ENFORCE AND ADMINISTER THIS ARTICLE. WITHOUT LIMITATION, THIS AUTHORITY INCLUDES THE RIGHT TO COLLECT, POSSESS, TRANSPORT, SELL, DESTROY, AND OTHERWISE DISPOSE OF SHOPPING CARTS TO CARRY OUT THE PURPOSES OF THIS ARTICLE.
- B. BY WRITTEN AGREEMENT ON FILE WITH THE CITY CLERK, TO THE EXTENT ALLOWABLE UNDER LAW, THE DIRECTOR IS AUTHORIZED AND EMPOWERED TO DELEGATE TO SPECIFIED CITY DEPARTMENTS OR PRIVATE CONTRACTORS THE RIGHTS AND POWERS AS DIRECTED BY THE DIRECTOR TO ENFORCE AND ADMINISTER THE PROVISIONS OF THIS ARTICLE.

DIVISION I. SHOPPING CART RETRIEVAL.

SEC.39-59 SHOPPING CART RETRIEVAL; PRESUMPTIONS; FEE.

- A. THE DEPARTMENT MAY COLLECT OFF-SITE SHOPPING CARTS WITHIN THE CITY OF PHOENIX FOR RETURN TO RETAILERS OR IMPOUNDMENT AND DISPOSITION IN ACCORDANCE WITH THIS DIVISION.

- B. THE DEPARTMENT SHALL RETURN AN IDENTIFIABLE SHOPPING CART TO THE STORE INDICATED ON THE SHOPPING CART OR, IF NO STORE IS INDICATED, TO THE STORE OF THE ASSOCIATED RETAILER NEAREST TO THE LOCATION WHERE THE SHOPPING CART WAS COLLECTED.
- C. THERE SHALL BE REBUTTABLE PRESUMPTIONS THAT AN IDENTIFIABLE SHOPPING CART WAS REMOVED FROM THE STORE OF THE ASSOCIATED RETAILER NEAREST TO THE LOCATION WHERE THE SHOPPING CART WAS COLLECTED AND THAT THE ASSOCIATED RETAILER IS THE OWNER OF SUCH IDENTIFIABLE SHOPPING CART.
- D. AFTER RETURN OF A SHOPPING CART, THE DEPARTMENT SHALL PROVIDE THE RETAILER WITH A DETAILED INVOICE INCLUDING NOTICE OF THE RETAILER'S RIGHT TO DISPUTE THE INVOICE IN ACCORDANCE WITH THIS ARTICLE.
- E. A RETAILER SHALL PAY TO THE DEPARTMENT A RETRIEVAL FEE OF (I) NO MORE THAN \$25 PER RETURNED SHOPPING CART IF, ON THE DATE THE SHOPPING CART IS RETURNED, THE STORE'S CERTIFICATION INCLUDES A SHOPPING CART RETRIEVAL CONTRACT OR (II) NO MORE THAN \$50 PER RETURNED SHOPPING CART IF, ON THE DATE THE SHOPPING CART IS RETURNED, THE STORE'S CERTIFICATION DOES NOT INCLUDE A SHOPPING CART RETRIEVAL CONTRACT.
- F. THE INVOICE REQUIRED BY SUBSECTION D SHALL BE DELIVERED TO A STORE'S CERTIFIED AUTHORIZED REPRESENTATIVE VIA EMAIL OR CERTIFIED MAIL, OR IF AN AUTHORIZED REPRESENTATIVE HAS NOT BEEN CERTIFIED, THEN BY CERTIFIED MAIL TO THE STORE'S ADDRESS.
- G. WITHIN 14 DAYS AFTER THE EFFECTIVE DATE OF AN INVOICE, A RETAILER MAY DISPUTE OWNERSHIP OF RETURNED SHOPPING CART(S) OR THE AMOUNT OF THE RETRIEVAL FEE IN ACCORDANCE WITH SECTION 39-69, AS MAY BE AMENDED.

SEC. 39-60 IMPOUNDMENT OF UNIDENTIFIABLE SHOPPING CARTS; NOTICE.

- A. FOR A PERIOD OF AT LEAST 10 DAYS BEFORE SERVICE OF THE NOTICE OF DISPOSITION AS PROVIDED IN SUBSECTION D, THE DEPARTMENT SHALL HOLD AN UNIDENTIFIABLE SHOPPING CART AT A LOCATION WITHIN THE CITY. THIS LOCATION SHALL BE OPEN FOR BUSINESS AT LEAST SIX HOURS PER DAY, EVERY MONDAY THROUGH FRIDAY, EXCEPT ON HOLIDAYS OBSERVED BY THE CITY.
- B. THE OWNER MAY CLAIM AN UNIDENTIFIABLE SHOPPING CART FROM THE LOCATION AND DURING THE PERIOD PROVIDED FOR IN SUBSECTION A.
- C. AFTER THE EXPIRATION OF THE PERIOD PROVIDED FOR IN SUBSECTION A,

AND BEFORE AN UNIDENTIFIABLE SHOPPING CART IS DISPOSED OF, THE DEPARTMENT SHALL PREPARE A NOTICE OF DISPOSITION PROVIDING THE FOLLOWING:

1. DESCRIPTION OR PHOTOGRAPH OF THE SHOPPING CART;
 2. THE NAME AND ADDRESS OF THE OWNER, IF KNOWN;
 3. THE DATE BY WHICH THE OWNER MUST CLAIM AND TAKE POSSESSION OF THE SHOPPING CART; AND
 4. THE METHOD FOR CLAIMING THE SHOPPING CART.
- D. THE DEPARTMENT SHALL SERVE NOTICE OF DISPOSITION TO THE OWNER, IF KNOWN, BY CERTIFIED MAIL TO THE OWNER'S ADDRESS, IF KNOWN. IF THE NAME OR ADDRESS OF THE OWNER IS NOT KNOWN, THE DEPARTMENT SHALL SERVE THE NOTICE OF DISPOSITION BY PUBLICATION IN THE OFFICIAL NEWSPAPER OF THE CITY OR BY POSTING ON A CITY WEBSITE AVAILABLE TO THE GENERAL PUBLIC.
- E. THE OWNER SHALL HAVE 20 DAYS AFTER SERVICE OF THE NOTICE OF DISPOSITION TO CLAIM THE SHOPPING CART.
- F. IN THE EVENT OWNERSHIP OF A SHOPPING CART IS SUBJECT TO DISPUTE, THE SHOPPING CART MAY BE DISPOSED OF BY LEGAL ACTION.

SEC. 39-61 DISPOSITION OF SHOPPING CARTS.

- A. THE DEPARTMENT MAY DISPOSE OF VALUELESS SHOPPING CARTS AT ANY TIME AFTER COLLECTION BY DESTRUCTION OR ANY OTHER LAWFUL MANNER.
- B. AFTER THE EXPIRATION OF THE PERIOD PROVIDED IN SECTION 39-60(E), AS MAY BE AMENDED, THE DEPARTMENT SHALL DISPOSE OF A SHOPPING CART OTHER THAN A VALUELESS SHOPPING CART BY SALE AT PUBLIC AUCTION, WHICH MAY BE CONDUCTED VIA THE INTERNET, TO THE HIGHEST BIDDER FOR CASH. IF ANY SHOPPING CARTS ARE SOLD SUBJECT TO A MINIMUM BID, THEN THIS SHALL BE MADE KNOWN IN ADVANCE OF BIDDING.
- C. THE DEPARTMENT MAY DISPOSE OF ANY SHOPPING CARTS OFFERED FOR SALE AT PUBLIC AUCTION AND NOT PURCHASED BY DESTRUCTION OR ANY OTHER LAWFUL MANNER.
- D. ALL MONIES RECEIVED FROM SALE OF SHOPPING CARTS SHALL BE PAID TO THE CITY TREASURER AND DEPOSITED INTO THE GENERAL FUND OF THE CITY.
- E. ON DELIVERY TO ANY PURCHASER OF ANY SHOPPING CART SOLD UNDER SUBSECTION B, THE DEPARTMENT SHALL EXECUTE TO THE PURCHASER A RECEIPT OF SALE OF PERSONAL PROPERTY.

DIVISION II. SHOPPING CART MANAGEMENT.

SEC. 39-62. SHOPPING CART CERTIFICATION.

- A. **NEW STORES.** A RETAILER SHALL DELIVER THE CERTIFICATION DESCRIBED IN SUBSECTION C PRIOR TO OPENING A STORE TO THE GENERAL PUBLIC WITH A CERTIFICATE OF OCCUPANCY ISSUED ON OR AFTER THE EFFECTIVE DATE OF THIS ORDINANCE AND WITHIN 30 DAYS AFTER THE ANNIVERSARY OF THE MOST RECENT CERTIFICATION ANNUALLY THEREAFTER, EXCEPT AS REQUIRED BY SUBSECTION D.
- B. **EXISTING STORES.** A RETAILER SHALL DELIVER THE CERTIFICATION(S) DESCRIBED IN SUBSECTION C FOR EACH STORE FIRST OPEN TO THE GENERAL PUBLIC ON OR BEFORE THE EFFECTIVE DATE OF THIS ORDINANCE NO LATER THAN JANUARY 15, 2026 AND WITHIN 30 DAYS AFTER THE ANNIVERSARY OF THE MOST RECENT CERTIFICATION ANNUALLY THEREAFTER, EXCEPT AS REQUIRED BY SUBSECTION D.
- C. ALL RETAILERS SHALL TIMELY DELIVER AND CERTIFY IN WRITING, IN THE MANNER PRESCRIBED BY THE DIRECTOR, THE FOLLOWING FOR EACH STORE:
1. STORE INFORMATION, INCLUDING:
 - I. ADDRESS;
 - II. NAME, PHONE NUMBER, AND MAILING AND EMAIL ADDRESSES FOR THE AUTHORIZED REPRESENTATIVE(S);
 - III. DATE OF ISSUANCE OF CERTIFICATE OF OCCUPANCY; AND
 - IV. SQUARE FOOTAGE.
 2. SHOPPING CART INFORMATION, INCLUDING:
 - I. MAXIMUM NUMBER OF SHOPPING CARTS THAT WILL BE PROVIDED FOR CUSTOMER USE DURING THE CERTIFICATION PERIOD;
 - II. IF APPLICABLE, SERIAL NUMBER OR OTHER IDENTIFIER FOR EACH SHOPPING CART;
 - III. IF APPLICABLE, NUMBER OF SHOPPING CARTS EQUIPPED WITH A RESTRICTIVE DEVICE;
 - IV. IF APPLICABLE, A DESCRIPTION OF THE RESTRICTIVE DEVICE(S); AND
 - V. IF APPLICABLE, NUMBER OF RESTRICTIVE DEVICES THAT ARE MALFUNCTIONING AS OF THE DATE OF THE CERTIFICATION;

3. SHOPPING CART RETRIEVAL INFORMATION, INCLUDING:
- I. WHETHER THE STORE'S OFF-SITE SHOPPING CARTS ARE COLLECTED UNDER A SHOPPING CART RETRIEVAL CONTRACT;
 - II. IF APPLICABLE, THE TERM OF THE SHOPPING CART RETRIEVAL CONTRACT;
 - III. IF APPLICABLE, A COPY OF THE SHOPPING CART RETRIEVAL CONTRACT; AND
 - IV. A CERTIFICATION THAT THE RETAILER IS AND WILL, FOR THE DURATION OF THE CERTIFICATION PERIOD, REMAIN CURRENT ON ANY FEES OWED UNDER SECTION 39-59, AS MAY BE AMENDED, FOR SHOPPING CARTS RETURNED TO THE STORE.

4. SHOPPING CART MANAGEMENT PLAN INFORMATION, AS APPLICABLE, INCLUDING:
- I. A COPY OF THE CURRENT SHOPPING CART MANAGEMENT PLAN;
 - II. THAT THE SHOPPING CART MANAGEMENT PLAN WILL BE IMPLEMENTED FOR THE ENTIRE CERTIFICATION PERIOD, UNLESS A NEW PLAN BECOMES REQUIRED DURING THE CERTIFICATION PERIOD PURSUANT TO THIS DIVISION; AND
 - III. THAT THE SHOPPING CART MANAGEMENT PLAN COMPLIES WITH THE REQUIREMENTS OF THIS DIVISION TO THE BEST OF THE CERTIFIER'S KNOWLEDGE.

5. AUTHORIZED REPRESENTATIVE CERTIFICATIONS, INCLUDING:
- I. THAT THE NATURAL PERSON EXECUTING THE CERTIFICATION HAS AUTHORITY TO RECEIVE NOTICES ISSUED UNDER THIS ARTICLE ON BEHALF OF THE RETAILER VIA THE MAILING AND EMAIL ADDRESSES PROVIDED;
 - II. THAT THE NATURAL PERSON EXECUTING THE CERTIFICATION IS AN AUTHORIZED REPRESENTATIVE AS DEFINED IN THIS ARTICLE; AND
 - III. THAT THE NATURAL PERSON EXECUTING THE CERTIFICATION HAS AUTHORITY TO DO SO ON BEHALF OF THE RETAILER.

D. A RETAILER SHALL DELIVER A NEW CERTIFICATION WITHIN 30 DAYS AFTER ANY CHANGE TO ANY OF THE INFORMATION PROVIDED.

E. THE CERTIFICATION SHALL BE EXECUTED BY AN AUTHORIZED REPRESENTATIVE AND MADE UNDER PENALTY OF PERJURY.

SEC. 39-63. REVOCATION OF CERTIFICATION; NOTICE.

A. AFTER DISCOVERY THAT A CERTIFICATION IS INACCURATE, INCOMPLETE, OR OTHERWISE FAILS TO COMPLY WITH THIS DIVISION, THE DEPARTMENT MAY PROVIDE WRITTEN NOTICE OF ALL OF THE FOLLOWING:

1. THE PORTION OF THE CERTIFICATION THAT IS INACCURATE, THE SPECIFIC REQUIRED INFORMATION THAT WAS NOT INCLUDED, OR THE MANNER IN WHICH THE CERTIFICATION FAILS TO OTHERWISE COMPLY WITH THIS DIVISION;
2. THE EFFECTIVE DATE OF THE NOTICE;
3. THAT THE DEPARTMENT WILL REVOKE THE STORE'S CERTIFICATION IF A CERTIFICATION WHICH COMPLIES WITH THE REQUIREMENTS OF THIS DIVISION IS NOT DELIVERED WITHIN 30 DAYS AFTER THE EFFECTIVE DATE OF THE NOTICE;
4. THAT WITHIN 30 DAYS AFTER THE EFFECTIVE DATE OF THE NOTICE, A RETAILER MAY APPEAL THE REVOCATION IN ACCORDANCE WITH SECTION 39-69, AS MAY BE AMENDED; AND
5. THE MANNER IN WHICH AN APPEAL MAY BE FILED.

B. THE NOTICE SHALL BE DELIVERED TO A STORE'S CERTIFIED AUTHORIZED REPRESENTATIVE VIA EMAIL OR CERTIFIED MAIL, OR IF AN AUTHORIZED REPRESENTATIVE HAS NOT BEEN CERTIFIED, THEN BY CERTIFIED MAIL TO THE STORE'S ADDRESS. THE NOTICE SHALL BE EFFECTIVE ON THE DATE OF MAILING OR EMAILING.

C. FOLLOWING EXPIRATION OF THE 30-DAY PERIOD PROVIDED FOR IN SUBSECTION D, IF NO APPEAL IS TAKEN, OR, IF APPEAL IS TAKEN, FOLLOWING RESOLUTION OF THE APPEAL AGAINST THE RETAILER, THE DEPARTMENT SHALL REVOKE THE STORE'S CERTIFICATION.

D. WITHIN 30 DAYS AFTER THE EFFECTIVE DATE OF THE NOTICE, A RETAILER MAY DISPUTE THE REVOCATION OF A STORE'S CERTIFICATION IN ACCORDANCE WITH SECTION 39-69, AS MAY BE AMENDED.

SEC. 39-64. SHOPPING CART MANAGEMENT REQUIREMENTS.

A. TO ADDRESS BLIGHT, NUISANCE, AND PUBLIC HEALTH AND SAFETY HAZARDS ASSOCIATED WITH OFF-SITE SHOPPING CARTS, FOR ALL LARGE STORES, UNLESS REQUIRED OTHERWISE BY THIS DIVISION, RETAILERS SHALL EITHER

1. EQUIP AND MAINTAIN ALL SHOPPING CARTS OFFERED FOR CUSTOMER USE WITH LOCKING WHEEL MECHANISMS, OR
2. CERTIFY, IMPLEMENT, AND MAINTAIN A SHOPPING CART MANAGEMENT

PLAN FOR THE STORE THAT MEETS THE REQUIREMENTS OF SECTION 39-65(A), AS MAY BE AMENDED.

B. WITHIN 30 DAYS AFTER THE CONCLUSION OF AN UNSUCCESSFUL EVALUATION PERIOD:

1. FOR STORES WHICH HAVE NOT PREVIOUSLY BEEN REQUIRED TO CERTIFY A SHOPPING CART MANAGEMENT PLAN, AN AUTHORIZED REPRESENTATIVE OF THE STORE SHALL CERTIFY, IMPLEMENT, AND, UNTIL REQUIRED OTHERWISE BY THIS SECTION, MAINTAIN A SHOPPING CART MANAGEMENT PLAN THAT MEETS THE REQUIREMENTS OF SECTION 39-65(A), AS MAY BE AMENDED.
2. EXCEPT AS PROVIDED IN SUBSECTION C, FOR STORES WHICH HAVE PREVIOUSLY BEEN REQUIRED TO CERTIFY A SHOPPING CART MANAGEMENT PLAN, AN AUTHORIZED REPRESENTATIVE OF THE STORE SHALL CERTIFY, IMPLEMENT, AND MAINTAIN IN PRACTICE AN ENHANCED PLAN THAT MEETS THE REQUIREMENTS OF SECTION 39-65(B), AS MAY BE AMENDED.

C. WITHIN 30 DAYS AFTER THE CONCLUSION OF THE THIRD UNSUCCESSFUL EVALUATION PERIOD WITHIN THE PAST SIX EVALUATION PERIODS, AN AUTHORIZED REPRESENTATIVE OF THE STORE SHALL CERTIFY, IMPLEMENT, AND THEREAFTER MAINTAIN A MANDATORY PLAN THAT MEETS THE REQUIREMENTS OF SECTION 39-65(C), AS MAY BE AMENDED.

D. ANY SHOPPING CART RETURNED TO A STORE BY THE CITY DURING THE 30-DAY TIME-PERIODS REFERENCED IN SUBSECTIONS B OR C SHALL NOT BE COUNTED TOWARD THE NUMBER OF SHOPPING CARTS RETURNED TO A STORE FOR EVALUATION PURPOSES.

SEC. 39-65. SHOPPING CART MANAGEMENT PLAN REQUIREMENTS.

A. **INITIAL PLAN.** ANY SHOPPING CART MANAGEMENT PLAN SHALL INCLUDE, AT A MINIMUM, THE FOLLOWING:

1. THAT THE RETAILER WILL MAINTAIN IN EFFECT A SHOPPING CART RETRIEVAL CONTRACT THAT REQUIRES THE CONTRACTOR TO SEARCH FOR AND RETURN OFF-SITE SHOPPING CARTS TO THE STORE ON AT LEAST A WEEKLY BASIS; AND
2. AT LEAST ONE OTHER SPECIFIC MEASURE REASONABLY CALCULATED TO PREVENT THE OCCURRENCE OF OFF-SITE SHOPPING CARTS FOR THE STORE.

B. **ENHANCED PLAN.** AN ENHANCED PLAN SHALL EITHER MEET THE REQUIREMENTS OF A MANDATORY PLAN OR INCLUDE, AT A MINIMUM, THE FOLLOWING:

1. THAT THE RETAILER WILL MAINTAIN IN EFFECT A SHOPPING CART RETRIEVAL CONTRACT THAT REQUIRES THE CONTRACTOR TO SEARCH FOR AND RETURN OFF-SITE SHOPPING CARTS TO THE STORE ON AT LEAST A TWICE-WEEKLY BASIS; AND
 2. OTHER SPECIFIC MEASURES REASONABLY CALCULATED TO PREVENT THE OCCURRENCE OF OFF-SITE SHOPPING CARTS FOR THE STORE. SUCH MEASURES SHALL INCLUDE:
 - I. ADDITIONAL MEASURES, NOT INCLUDED IN THE PREVIOUS SHOPPING CART MANAGEMENT PLAN, WHILE MAINTAINING AT LEAST ONE MEASURE INCLUDED IN THE PREVIOUS SHOPPING CART MANAGEMENT PLAN OR SIMILAR MEASURE(S); AND/OR
 - II. THE SAME OR SIMILAR MEASURE(S) INCLUDED IN THE PREVIOUS SHOPPING CART MANAGEMENT PLAN BUT IMPLEMENTED WITH GREATER INTENSITY OR FREQUENCY.
- C. **MANDATORY PLAN.** A MANDATORY PLAN SHALL INCLUDE, AT A MINIMUM, THE FOLLOWING:
1. THAT THE RETAILER WILL MAINTAIN IN EFFECT A SHOPPING CART RETRIEVAL CONTRACT WHICH REQUIRES THE CONTRACTOR TO SEARCH FOR AND RETURN OFF-SITE SHOPPING CARTS TO THE STORE ON AT LEAST A DAILY BASIS;
 2. ALL SHOPPING CARTS OFFERED FOR CUSTOMER USE AT THE STORE WILL BE EQUIPPED WITH RESTRICTIVE DEVICES;
 3. ALL SHOPPING CARTS OFFERED FOR CUSTOMER USE AT THE STORE WILL BE EQUIPPED WITH GPS TRACKERS; AND
 4. ALL SHOPPING CARTS KEPT AT THE STORE WILL BE SECURED AGAINST THEFT AND VANDALISM WHEN THE STORE IS NOT OPEN TO THE GENERAL PUBLIC.

SEC. 39-66. EARLY TERMINATION AND FINDING OF UNSUCCESSFUL EVALUATION PERIOD; NOTICE.

- A. FOLLOWING THE RETURN OF THE TENTH SHOPPING CART TO A STORE BY THE CITY DURING AN EVALUATION PERIOD, AFTER EXPIRATION OF THE 14-DAY PERIOD PROVIDED IN SECTION 39-59(G), AS MAY BE AMENDED, IF NO APPEAL IS TAKEN, OR IF APPEAL IS TAKEN, THEN AFTER RESOLUTION OF THE APPEAL AGAINST THE RETAILER, THE DEPARTMENT MAY PROVIDE WRITTEN NOTICE OF ALL OF THE FOLLOWING:
1. THE EFFECTIVE DATE OF THE NOTICE;
 2. THAT THE STORE'S CURRENT EVALUATION PERIOD WILL BE TERMINATED

AND CONCLUSIVELY DETERMINED TO BE AN UNSUCCESSFUL EVALUATION PERIOD 14 DAYS AFTER THE EFFECTIVE DATE OF THE NOTICE;

3. WHETHER THE RETAILER WILL BE REQUIRED TO CERTIFY, IMPLEMENT, AND MAINTAIN IN PRACTICE A SHOPPING CART MANAGEMENT PLAN, AN ENHANCED PLAN, OR A MANDATORY PLAN AND THE DEADLINE FOR DOING SO;
4. THAT WITHIN 14 DAYS AFTER THE EFFECTIVE DATE OF THE NOTICE, A RETAILER MAY APPEAL THE EARLY TERMINATION OF THE EVALUATION PERIOD OR THE DETERMINATION OF AN UNSUCCESSFUL EVALUATION PERIOD IN ACCORDANCE WITH SECTION 39-69, AS MAY BE AMENDED; AND
5. THE MANNER IN WHICH AN APPEAL MAY BE FILED.

B. THE NOTICE SHALL BE DELIVERED TO A STORE'S CERTIFIED AUTHORIZED REPRESENTATIVE VIA EMAIL OR CERTIFIED MAIL, OR IF AN AUTHORIZED REPRESENTATIVE HAS NOT BEEN CERTIFIED, THEN BY CERTIFIED MAIL TO THE STORE'S ADDRESS. THE NOTICE SHALL BE EFFECTIVE ON THE DATE OF MAILING OR EMAILING.

C. WITHIN 14 DAYS AFTER THE EFFECTIVE DATE OF THE NOTICE, A RETAILER MAY APPEAL THE EARLY TERMINATION OF THE EVALUATION PERIOD AND/OR THE DETERMINATION OF AN UNSUCCESSFUL EVALUATION PERIOD IN ACCORDANCE WITH SECTION 39-69, AS MAY BE AMENDED.

D. UPON EXPIRATION OF THE 14-DAY PERIOD PROVIDED IN SUBSECTION C, IF NO APPEAL IS TAKEN, OR, IF APPEAL IS TAKEN, THEN UPON RESOLUTION OF THE APPEAL AGAINST THE RETAILER, THE EVALUATION PERIOD SHALL TERMINATE AND SHALL BE CONCLUSIVELY DETERMINED TO BE AN UNSUCCESSFUL EVALUATION PERIOD.

SEC. 39-67. REGULAR CONCLUSION OF EVALUATION PERIOD.

A. WITHIN 60 DAYS AFTER THE CONCLUSION OF AN EVALUATION PERIOD, THE DEPARTMENT MAY PROVIDE WRITTEN NOTICE OF ALL OF THE FOLLOWING WITH RESPECT TO ANY STORE TO WHICH THE DEPARTMENT RETURNED AT LEAST 10 SHOPPING CARTS DURING THE EVALUATION PERIOD:

1. THE EFFECTIVE DATE OF THE NOTICE;
2. THAT THE STORE'S PRIOR EVALUATION PERIOD WILL BE CONCLUSIVELY DETERMINED TO BE AN UNSUCCESSFUL EVALUATION PERIOD 14 DAYS AFTER THE EFFECTIVE DATE OF THE NOTICE;
3. WHETHER THE RETAILER WILL BE REQUIRED TO CERTIFY, IMPLEMENT, AND MAINTAIN IN PRACTICE A SHOPPING CART MANAGEMENT PLAN, AN

ENHANCED PLAN, OR A MANDATORY PLAN AND THE DEADLINE FOR DOING SO;

4. THAT WITHIN 14 DAYS AFTER THE EFFECTIVE DATE OF THE NOTICE, A RETAILER MAY APPEAL THE DETERMINATION OF AN UNSUCCESSFUL EVALUATION PERIOD IN ACCORDANCE WITH SECTION 39-69, AS MAY BE AMENDED; AND

5. THE MANNER IN WHICH AN APPEAL MAY BE FILED.

B. THE NOTICE SHALL BE DELIVERED TO A STORE'S CERTIFIED AUTHORIZED REPRESENTATIVE VIA EMAIL OR CERTIFIED MAIL, OR IF AN AUTHORIZED REPRESENTATIVE HAS NOT BEEN CERTIFIED, THEN BY CERTIFIED MAIL TO THE STORE'S ADDRESS. THE NOTICE SHALL BE EFFECTIVE ON THE DATE OF MAILING OR EMAILING.

C. WITHIN 14 DAYS AFTER THE EFFECTIVE DATE OF THE NOTICE, A RETAILER MAY APPEAL THE DETERMINATION OF AN UNSUCCESSFUL EVALUATION PERIOD IN ACCORDANCE WITH SECTION 39- 69, AS MAY BE AMENDED.

D. UPON EXPIRATION OF THE 14-DAY PERIOD PROVIDED IN SUBSECTION C, IF NO APPEAL IS TAKEN, OR, IF APPEAL IS TAKEN, UPON RESOLUTION OF THE APPEAL AGAINST THE RETAILER, THE EVALUATION PERIOD SHALL BE CONCLUSIVELY DETERMINED TO BE AN UNSUCCESSFUL EVALUATION PERIOD.

SEC. 39-68. VIOLATION; PENALTIES.

A. FAILURE BY A RETAILER TO TIMELY DELIVER OR MAINTAIN A CERTIFICATION IN COMPLIANCE WITH THIS ARTICLE SHALL BE A VIOLATION.

B. ANY RETAILER WHO CAUSES, PERMITS, FACILITATES, OR AIDS OR ABETS ANY VIOLATION OF THIS SECTION OR WHO FAILS TO PERFORM ANY ACT OR DUTY REQUIRED BY THIS SECTION IS SUBJECT TO A CIVIL SANCTION OF NOT LESS THAN \$500.00. ANY RETAILER WHO COMMITS A SECOND VIOLATION OF THIS SECTION WITHIN 36 MONTHS OF THE COMMISSION OF A PRIOR VIOLATION OF THIS SECTION SHALL BE SUBJECT TO A CIVIL SANCTION OF NOT LESS THAN \$750.00. ANY RETAILER WHO COMMITS A THIRD OR SUBSEQUENT VIOLATION OF THIS SECTION WITHIN 36 MONTHS OF THE COMMISSION OF A VIOLATION OF THIS SECTION SHALL BE SUBJECT TO A CIVIL SANCTION OF NOT LESS THAN \$1,000.00.

C. THE 36-MONTH PERIOD PROVISION OF SUBSECTION B SHALL BE CALCULATED BY THE DATES THE VIOLATIONS WERE COMMITTED.

D. EACH DAY ANY VIOLATION OF THIS SECTION OR THE FAILURE TO PERFORM

ANY ACT OR DUTY REQUIRED BY THIS SECTION EXISTS SHALL CONSTITUTE A SEPARATE VIOLATION.

SEC. 39-69. ADMINISTRATIVE APPEAL.

- A. APPEALS OR DISPUTES AS AUTHORIZED UNDER THIS ARTICLE SHALL BE MADE TO THE DIRECTOR OR HER OR HIS DELEGEE AS A REQUEST FOR AN ADMINISTRATIVE CONFERENCE IN THE MANNER PROVIDED IN THE NOTICE. A REQUEST FOR AN ADMINISTRATIVE CONFERENCE SHALL ACT AS AN AUTOMATIC STAY OF ENFORCEMENT UNTIL THE APPEAL OR DISPUTE IS RESOLVED.
- B. THE DIRECTOR SHALL HOLD AN ADMINISTRATIVE CONFERENCE WITHIN 60 DAYS OF RECEIPT OF A REQUEST, WITH NOTICE OF THE DATE, TIME, AND LOCATION OF THE CONFERENCE DELIVERED TO THE STORE'S CERTIFIED AUTHORIZED REPRESENTATIVE VIA EMAIL OR CERTIFIED MAIL, OR IF AN AUTHORIZED REPRESENTATIVE HAS NOT BEEN CERTIFIED, THEN BY CERTIFIED MAIL TO THE STORE'S ADDRESS.
- C. THE DIRECTOR SHALL ISSUE A WRITTEN DECISION ON THE APPEAL OR DISPUTE WITHIN 30 DAYS OF THE ADMINISTRATIVE CONFERENCE AND PROVIDE NOTICE OF THE SAME TO THE STORE'S CERTIFIED AUTHORIZED REPRESENTATIVE VIA EMAIL OR CERTIFIED MAIL, OR IF AN AUTHORIZED REPRESENTATIVE HAS NOT BEEN CERTIFIED, THEN BY CERTIFIED MAIL TO THE STORE'S ADDRESS.
- D. THE RETAILER MAY FURTHER APPEAL THE DECISION OF THE DIRECTOR WITHIN 14 DAYS OF THE DECISION BY WRITTEN NOTICE SETTING FORTH THE REASONS FOR THE APPEAL TO THE CITY MANAGER OR DELEGEE, WHO, WITHIN 60 DAYS OF RECEIPT OF THE WRITTEN NOTICE, SHALL ISSUE A WRITTEN DECISION TO THE STORE'S CERTIFIED AUTHORIZED REPRESENTATIVE VIA EMAIL OR CERTIFIED MAIL, OR IF AN AUTHORIZED REPRESENTATIVE HAS NOT BEEN CERTIFIED, THEN BY CERTIFIED MAIL TO THE STORE'S ADDRESS.
- E. ANY RETAILER AGGRIEVED BY THE DECISION OF THE CITY MANAGER MAY SEEK JUDICIAL REVIEW IN A COURT OF COMPETENT JURISDICTION.

SEC. 39-70. SEVERABILITY.

IF A COURT INVALIDATES ANY PROVISION OF THIS ARTICLE OR ITS APPLICATION TO ANY PERSON OR CIRCUMSTANCE, THE REMAINDER OF THE ARTICLE AND ITS APPLICATION TO OTHER PERSONS AND CIRCUMSTANCES, OTHER THAN THAT WHICH HAS BEEN HELD INVALID, SHALL NOT BE AFFECTED. TO THIS EXTENT, THE PROVISIONS OF THIS ARTICLE ARE DECLARED SEVERABLE.