

**MEETING DATE** 12/19/05  
**AGENDA ITEM** Introduction of 1) Ordinance Amending Subchapter 3 04 300, *et seq* of the Culver City Municipal Code, "Disposition of Unclaimed Property," by Adding Section 3 04 320 Relating to Abandoned Property, and 2) Ordinance Repealing and Replacing Section 13 02 015 of the Culver City Municipal Code Relating to Removal of Shopping Carts

**ATTACHMENTS**

|   |                                                   | <u>Pages</u> |
|---|---------------------------------------------------|--------------|
| 1 | Proposed Ordinance relating to abandoned property | 1-2          |
| 2 | Proposed Ordinance relating to shopping carts     | 3-7          |
| 3 | CCMC §§ 3 04 300, et seq (existing provisions)    | 8-9          |
| 4 | CCMC § 13 02 015 (existing provisions)            | 10           |

## ORDINANCE NO 2005-

### AN ORDINANCE OF THE CITY OF CULVER CITY, CALIFORNIA, AMENDING SUBCHAPTER 3 04 300, *et seq* OF THE CULVER CITY MUNICIPAL CODE, "DISPOSITION OF UNCLAIMED PROPERTY," BY ADDING SECTION 3 04 320 RELATING TO ABANDONED PROPERTY

WHEREAS Sections 2080, *et seq* of the California Civil Code set forth  
procedures related to lost and unclaimed property and

WHEREAS, Section 2080 4 of the California Civil Code authorizes local  
agencies to adopt their own procedures related to lost and unclaimed property which are  
not inconsistent with State law, and

WHEREAS, the City of Culver City has adopted such procedures as set forth  
in subchapter 3 04 300, *et seq* of the Culver City Municipal Code, and

WHEREAS, the provisions of subchapter 3 04 300, *et seq* of the Culver City  
Municipal Code do not distinguish between unclaimed and abandoned property, and

WHEREAS, Section 2080 7 of the California Civil Code states that the  
obligations relating to lost and unclaimed property do not apply to property that has been  
intentionally abandoned by its owner, and

WHEREAS, consistent with State law, it is the intent of the City Council of the  
City of Culver City that the provisions of subchapter 3 04 300, *et seq* of the Culver City  
Municipal Code not be applicable to property that has been intentionally abandoned by its  
owner

NOW THEREFORE the City Council of the City of Culver City, California,  
DOES HEREBY ORDAIN as follows

**SECTION 1** Section 3 04 320 of the Culver City Municipal Code is hereby  
added as follows

#### **§ 3 04 320 ABANDONED PROPERTY**

The provisions of this subchapter shall have no application to  
property which has been intentionally abandoned by its owner

1                   **SECTION 2** Pursuant to Section 514 of the City Charter, this Ordinance  
2 shall take effect thirty (30) days after the date of its adoption Pursuant to Sections 512  
3 and 517 of the City Charter, prior to the expiration of fifteen (15) days after the adoption,  
4 the City Clerk shall cause this Ordinance, or a summary thereof, to be published in the  
5 Culver City News and shall post this Ordinance or a summary thereof in at least three  
6 places within the City

7                   **SECTION 3** The City Council hereby declares that if any provision section  
8 subsection, paragraph, sentence, phrase or word of this ordinance is rendered or declared  
9 invalid or unconstitutional by any final action in a court of competent jurisdiction or by  
10 reason of any preemptive legislation, then the City Council would have independently  
11 adopted the remaining provisions, sections, subsections, paragraphs, sentences, phrases  
12 or words of this ordinance and as such they shall remain in full force and effect  
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14                   APPROVED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2005  
15

16                   \_\_\_\_\_  
17 ALBERT M VERA, Mayor  
City of Culver City, California

18  
19 ATTEST

APPROVED AS TO FORM

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21 \_\_\_\_\_  
CHRISTOPHER ARMENTA City Clerk

\_\_\_\_\_  
CAROL A SCHWAB, City Attorney

## ORDINANCE NO 2005-

### **AN ORDINANCE OF THE CITY OF CULVER CITY, CALIFORNIA, REPEALING AND REPLACING SECTION 13 02 015 OF THE CULVER CITY MUNICIPAL CODE RELATING TO REMOVAL OF SHOPPING CARTS**

WHEREAS the City of Culver City has experienced an increase in complaints regarding the removal of shopping carts from retail establishments, the abandonment of shopping carts on public streets and rights-of-way throughout the City, and individuals using shopping carts that belong to City businesses for the storage and transportation of personal property and

WHEREAS, these issues relating to shopping carts have caused the City and the community concerns regarding visual blight and safety including the potential for carts to roll into traffic causing injury and property damage, and

WHEREAS the current provisions of Section 13 02 015 of the Culver City Municipal Code, which prohibit the removal of shopping carts from retail establishments, provide the City with limited enforcement capabilities, and

WHEREAS, current State law, as set forth in Sections 22435 through 22435.5 of the California Business and Professions Code, provides for a more comprehensive regulatory scheme relating to the removal and possession of shopping carts and

WHEREAS, violations of the California Business and Professions Code are prosecuted by the Los Angeles County District Attorney's Office, and

WHEREAS, the City's adoption of these State regulations would allow for City prosecution and provide the City with additional options and flexibility when pursuing these types of violations

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1 NOW THEREFORE the City Council of the City of Culver City California  
2 DOES HEREBY ORDAIN as follows

3 **SECTION 1** Section 13 02 015 of the Culver City Municipal Code is hereby  
4 repealed and replaced with the following new Section 13 02 015

5 A *Definitions* For purposes of this Section, the following  
6 definitions shall apply

7 1 *Shopping cart* means a basket which is mounted on  
8 wheels or a similar device generally used in a retail establishment by a customer for  
9 the purpose of transporting goods of any kind

10 2 *Laundry cart* means a basket which is mounted on  
11 wheels and used in a coin-operated laundry or dry cleaning retail establishment by a  
12 customer or an attendant for the purpose of transporting fabrics and the supplies  
13 necessary to process them

14 3 *Parking area* means a parking lot or other property  
15 provided by a retailer for use by a customer for parking an automobile or other  
16 vehicle

17 B *Application* The provisions of this section shall apply when a  
18 shopping cart or a laundry cart has a sign permanently affixed to it that identifies the  
19 owner of the cart or the retailer or both notifies the public of the procedure to be  
20 utilized for authorized removal of the cart from the premises, notifies the public that  
21 the unauthorized removal of the cart from the premises or parking area of the retail  
22 establishment or the unauthorized possession of the cart is a violation of state law  
23 and lists a valid telephone number or address for returning the cart removed from  
24 the premises or parking area to the owner or retailer

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1                   C     *Prohibitions* It is unlawful to do any of the following acts, if a  
2 shopping cart or laundry cart has a permanently affixed sign as provided in Section  
3 13 02 015 (B)

4                   1     To remove a shopping cart or laundry cart from the  
5 premises or parking area of a retail establishment with the intent to temporarily or  
6 permanently deprive the owner or retailer of possession of the cart

7                   2     To be in possession of any shopping cart or laundry cart  
8 that has been removed from the premises or the parking area of a retail  
9 establishment, with the intent to temporarily or permanently deprive the owner or  
10 retailer of possession of the cart

11                  3     To be in possession of any shopping cart or laundry cart  
12 with serial numbers removed, obliterated, or altered, with the intent to temporarily or  
13 permanently deprive the owner or retailer of possession of the cart

14                  4     To leave or abandon a shopping cart or laundry cart at a  
15 location other than the premises or parking area of the retail establishment with the  
16 intent to temporarily or permanently deprive the owner or retailer of possession of  
17 the cart

18                  5     To alter, convert, or tamper with a shopping cart or  
19 laundry cart, or to remove any part or portion thereof or to remove, obliterate or alter  
20 serial numbers on a cart, with the intent to temporarily or permanently deprive the  
21 owner or retailer of possession of the cart

22                  6     To be in possession of any shopping cart or laundry cart  
23 while that cart is not located on the premises or parking lot of a retail establishment,  
24 with the intent to temporarily or permanently deprive the owner or retailer of  
25 possession of the cart

26                  D     *Consent* The provisions of this Section shall not apply to the  
27 owner of a shopping cart or laundry cart or to a retailer, or their agents or  
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1 employees, or to a customer of a retail establishment who has written consent from  
2 the owner of a shopping cart or laundry cart or a retailer to be in possession of the  
3 shopping cart or laundry cart, or to remove the shopping cart or laundry cart from  
4 the premises or the parking area of the retail establishment, or to do any of the acts  
5 specified in Section 13 02 015 (C)

6 E *Cart ownership* In any criminal proceeding it may be inferred  
7 that any shopping cart or laundry cart which has a sign affixed to it pursuant to  
8 Section 13 02 015 (B) is the property of the person or business named in the sign  
9 and has not been abandoned by the person or business named in the sign

10 F *Violations* Any person who violates any of the provisions of this  
11 section is guilty of a misdemeanor

12 G *Application of other laws* The provisions of this section are not  
13 intended to preclude the application of any other laws relating to prosecution for  
14 theft

15 **SECTION 2** Pursuant to Section 514 of the City Charter, this Ordinance  
16 shall take effect thirty (30) days after the date of its adoption Pursuant to Sections 512  
17 and 517 of the City Charter, prior to the expiration of fifteen (15) days after the adoption  
18 the City Clerk shall cause this Ordinance, or a summary thereof, to be published in the  
19 Culver City News and shall post this Ordinance or a summary thereof in at least three  
20 places within the City

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**SECTION 3** The City Council hereby declares that, if any provision, section, subsection paragraph sentence phrase or word of this ordinance is rendered or declared invalid or unconstitutional by any final action in a court of competent jurisdiction or by reason of any preemptive legislation, then the City Council would have independently adopted the remaining provisions sections, subsections paragraphs sentences, phrases or words of this ordinance and as such they shall remain in full force and effect

APPROVED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2005

ALBERT M VERA, Mayor  
City of Culver City, California

ATTEST

APPROVED AS TO FORM

CHRISTOPHER ARMENTA, City Clerk

CAROL A SCHWAB, City Attorney

## ***DISPOSITION OF UNCLAIMED PROPERTY***

### **§ 3 04 300 UNCLAIMED PROPERTY, DISPOSITION PROCEDURE**

A Unclaimed property in the possession of the Police Department shall be held by the Police Department for a period of at least four (4) months, except that bicycles shall be held for a period of at least three (3) months

B Thereafter, unless otherwise provided by law, the Police Department shall

1 Sell such property at public auction to the highest bidder, with notice of the sale being given by the Chief of Police at least five days before the time fixed therefor by publication once in a newspaper of general circulation, circulated within the City and published in the County, or

2 Transfer such property to the Purchasing Officer for sale to the public at public auction, or

3 Transfer to the Chief of Police any such bicycle which is needed for use in a program designed to prevent juvenile delinquency, a record of such use or disposition shall be kept by the Chief

('65 Code, § 28-21) (Ord No CS-94 § 1, Ord No CS-970 § 1)

### **§ 3 04 305 RECORDS**

The Chief of Police shall keep a complete record showing when such property came into the possession of the Police Department, a description thereof, a record of where the same was found or from whom taken, and when claimed, the person making such claim, or when advertised and sold, the date of such sale, the name and address of the purchaser and the sale price thereof

('65 Code, § 28-22)

### **§ 3 04 310 DISPOSITION OF FUNDS**

All monies received as a result of such sales shall be paid to the City Treasurer and by him deposited in the General Fund of the City

('65 Code, § 28-23) (Ord No CS-94 § 2)

### **§ 3 04 315 CONVERSION OF UNCLAIMED PROPERTY BY CITY**

Any property not exceeding Ten Thousand Dollars (\$10,000 00) in value or cash not exceeding Ten Thousand Dollars (\$10,000 00) coming into the possession of the Police Department which is determined by the Chief Administrative Officer to be unclaimed and needed for City use shall be converted for City use, provided, however, that nothing shall be construed herein to limit or modify the provisions of the Penal Code pertaining to the disposition of weapons or contraband Property valued in excess of Ten Thousand Dollars (\$10,000 00) or cash exceeding Ten Thousand Dollars (\$10,000 00) shall be submitted to the City Council for review before conversion

('65 Code, § 28-25) (Ord No CS-538, Ord No 95-019 § 1)

## **§ 13 02 015 REMOVAL OF SHOPPING CARTS PROHIBITED, EXCEPTIONS**

A *Removal of prohibited* It shall be unlawful for any person to remove any shopping cart, shopping basket or other similar device from the premises or parking area of any business establishment if such shopping cart, basket or device has permanently affixed to it a sign identifying it as belonging to such business establishment and containing the words "Removal from these premises without written consent is prohibited" and if there is also conspicuously posted on said premises a sign containing the words "Removal of shopping carts from these premises without written permission is unlawful " ('65 Code, § 23-33)

B *Exceptions* The provisions of Subsection A shall not apply to a temporary removal by an employee of the establishment in the normal course and scope of his employment, nor to a temporary removal by a customer of such establishment possessing the written consent of the owner, manager or authorized agent of the establishment ('65 Code, § 23-34) (Ord No CS-422)