

Chapter 3.76

SHOPPING CART REGULATIONS.

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3.76.010 Purpose.

Abandoned shopping carts in the city create a potential hazard to the health and safety of the public, interfere with pedestrian and vehicular traffic, and create a public nuisance. The accumulation of abandoned carts, sometimes wrecked and/or dismantled on public and private property, tends to create conditions that reduce property values, and promote blight and deterioration, resulting in a public nuisance. Further, lost, stolen or abandoned carts result in the obstruction of free access to public and private sidewalks, streets, parking lots, and interfere with pedestrian and vehicular traffic on public and private streets, and impede emergency services. This chapter is intended to insure that measures are taken by the owners of shopping carts to prevent the removal of shopping carts from the owner's premises, to make removal of a cart a violation of this Code, and to facilitate the retrieval of abandoned shopping carts in a manner consistent with state law. (Ord. 938 § 2 (part), 2016)

3.76.020 Definitions.

For purposes of this chapter, the following definitions shall apply:

- (a) "Abandoned cart" means any cart that has been removed, without the written consent of the owner, from the owner's business premises or parking area of the retail establishment of which the cart owner's business is located, and is located on either public or private property.
- (b) "Abandoned Cart Prevention Plan" means a document submitted by the owner/retailer that provides a plan for how owner/retailer will prevent carts from becoming abandoned and, if accepted by the Director, an implied promise by the owner/retailer to comply with the plan.
- (c) "Business premises" means the entirety of a commercial or industrial site upon which an establishment conducts business, including, but not limited to, the entire parking area of a multi-store complex or shopping center, and any adjacent walkways, where carts are provided for customer use.
- (d) "Cart" means a basket which is mounted on wheels or a similar device generally used in a retail, laundry, dry cleaning or other establishment by a customer or an attendant for the purpose of transporting goods of any kind.
- (e) "Director" means the Director or Manager of the city's Code Enforcement Department, or his/her designee.
- (f) "Owner/Retailer" means a person or business owning or using carts in connection with its business.
- (g) "Physical containment system" means a device on a cart that prevents it from being removed from the business premises by locking the wheels or otherwise preventing the movement of the cart off the business premises. (Ord. 938 § 2 (part), 2016)

3.76.030 Cart signage.

Every cart owned or provided by a business in the city shall have a sign permanently affixed to it, containing the following information:

- (a) The name of the owner of the cart or retailer, or both.
- (b) The procedure to be utilized for authorized removal of the cart from the business premises.

(c) Notification that unauthorized removal of the cart from the business premises, or unauthorized possession of the cart, is a violation of state law.

(d) A valid telephone number or address for returning the cart removed from the business premises to the owner or retailer. (Ord. 938 § 2 (part), 2016)

3.76.040 Removal, abandonment, alteration, possession prohibited.

It is unlawful to do any of the following if a cart has a permanently affixed sign as set forth in Section 3.76.030:

(a) Remove a cart from the business premises with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart.

(b) To be in possession of any cart that has been removed from the business premises, with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart.

(c) To be in possession of any 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 cart at a location other than the business premises 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 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 cart while that cart is not located on the business premises of a business establishment, with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart. (Ord. 938 § 2 (part), 2016)

3.76.050 Cart owner/retailer requirements.

All owners or retailers shall comply with the requirements of this section.

(a) Cart identification required. Every owner/retailer of carts shall mark or cause each cart to be marked and identified as set forth in Section 3.76.030.

(b) Daily cart retrieval. All owners/retailers shall ensure that all carts are secured from public access after close of business hours.

(c) Abandoned Cart Prevention Plan. Every owner/retailer providing carts to its customers shall develop and implement a specific plan to prevent customers from removing carts from the business premises, and if removed, to retrieve the cart within 48 hours of the removal or notice of removal. The plan shall be submitted to the Director on a renewable annual basis in conjunction with the business license application and shall contain the following elements:

(1) The name of the owner/retailer and the business name, the physical address where the business is conducted and the phone number and email address of the onsite owner/retailer.

(2) A complete list of all carts maintained on the premises by the owner/retailer.

(3) Evidence that written notification is provided to customers that removal of carts from the business premises is prohibited and is a violation of state and local law. This notification may be provided in the form of fliers, warnings on shopping bags, or any other signage that will effectively inform customers of the law.

(4) At least one physical containment system, including but not limited to, a disabling device on all carts, posting a security guard to prevent customers from removing carts from the business premises, or requiring a security deposit for use of all carts.

(5) A plan for retrieval of abandoned carts, and plans for recovery of all abandoned carts within 48 hours.

(d) At the time of submission of the Abandoned Cart Prevention Plan, the owner/retailer shall pay a fee for the review. The Director shall approve or deny the plan within 45 days of its submission. The plan may be denied on the grounds that it fails to include the elements required under this section or the plan is inadequate or insufficient to fulfill those required elements. Any decision of the Director may be appealed in accordance with Chapter 1.12 of the city's Code.

(e) The Abandoned Cart Prevention Plan shall be submitted to the city within 90 days of the effective date of this chapter, and annually with the business license application thereafter. In the event the owner/retailer's business license expires prior to 90 days from the effective date of this chapter, the owner/retailer shall submit the plan with its business license renewal application. Those affected business establishments opening after the effective date of this chapter shall submit the plan concurrently with the business license application. (Ord. 938 § 2 (part), 2016)

3.76.060 Shopping cart retrieval.

The city may retrieve an abandoned cart from public property (or private property with the consent of the property owner) in the following circumstances:

(a) When the location of the cart will impede emergency services.

(b) When the cart does not identify the owner/retailer as required by Section 3.76.050(a).

(c) When the city has contacted via telephone, email, or other written correspondence, the owner or retailer and actually notified them about the abandoned cart and the cart has not been retrieved within three business days. (Ord. 938 § 2 (part), 2016)

3.76.070 Impoundment, retrieval, payment of costs.

(a) If the city retrieves a cart, the city shall hold the cart at a location that is reasonably convenient to the owner/retailer and is open for business at least six hours of each business day.

(b) If the cart is not retrieved by the owner/retailer within 30 days after the owner has received notice via telephone or email, or other written correspondence, of the cart being impounded, or if the cart's owner cannot be determined within 30 days after the cart has been impounded, the cart may be sold or destroyed by the city.

(c) The city may impose an administrative penalty in an amount not to exceed \$50.00 for each occurrence in excess of three during a specified six month period, in which a city retrieves a cart under the circumstances set forth in Section 3.76.060. An occurrence includes all shopping carts impounded in a one day period. No cart shall be released to the owner/retailer unless the owner/retailer pays a fee for the city's actual costs to retrieve and store the cart. (Ord. 938 § 2 (part), 2016)

3.76.080 Immediate cart retrieval.

Notwithstanding any other section, the city may immediately retrieve a cart that has the identification set forth in Section 3.76.050, provided the city actually notifies the owner/retailer within 24 hours via telephone or email, or other written correspondence, that the city has impounded the cart, and provides the owner with information on where and how the cart may be retrieved. The city may not collect a fee or impose a fine, nor count a retrieval for purposes of fine under Section 3.76.070, if the cart is retrieved within three business days of the actual notice to the owner/retailer by the city. If the cart is not retrieved within three business days, the city may collect its actual costs and impose a fine and dispose of the cart consistent with Section 3.76.070. (Ord. 938 § 2 (part), 2016)

3.76.090 Penalty.

Any person who violates any of the provisions of this Chapter is guilty of a misdemeanor. The city may use administrative enforcement remedies, and any other remedy available at law or in equity, for violations of this chapter. (Ord. 938 § 2 (part), 2016)

3.76.100 Exceptions.

This chapter shall not apply to cart owners, and/or retailers, or to their agents or employees, or to a consumer who has written consent from the owner of a cart or retailer, to be in possession of the cart or to remove the cart from the business premises, or to do any of the acts set forth in Section 3.76.040. (Ord. 938 § 2 (part), 2016)

3.76.110 Enforcement.

The Director or his/her designee shall oversee the implementation, administration and enforcement of this chapter. (Ord. 938 § 2 (part), 2016)