

Chapter 10.59 SHOPPING CART REGULATIONS

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Article I. General Provisions

10.59.010 Purpose.

A. 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 Pittsburgh. Wrecked, dismantled and/or abandoned shopping carts on public or private property create conditions that reduce property values and promote blight and deterioration within the city's neighborhoods.

B. The purpose of this chapter is to make the removal of shopping carts from the premises of a business establishment a violation of this code. In addition, this chapter ensures that storeowners will take action to reduce the removal of shopping carts from a business establishment's premises. This chapter will require business establishment owners to facilitate in the retrieval of those shopping carts removed from the establishment's premises. [Ord. 1166 § 2, 2000.]

10.59.020 Definitions.

A. "Abandoned shopping cart" means any cart removed from a business establishment's premises without written permission of the owner and located on either public or private property.

B. "Business of shopping cart retrieval" means a business that searches for, gathers and restores possession to the owner, or an agent thereof, for compensation or in expectation of compensation of shopping carts located outside the premises or parking area of a business establishment.

C. "Owner" means any person or entity within a business establishment who owns, possesses, or has the power to make a shopping cart available to customers. For the purpose of this chapter, "owner" includes, but is not limited to, the store owner, manager, on-site manager, on-duty manager or other designated agent of a business establishment providing shopping carts for customer use.

D. "Parking area" means a parking lot or other property provided by a business establishment for use by a customer for parking an automobile or other vehicle.

E. "Premises" means the entire area owned, rented, leased, or utilized by a business establishment that provides shopping carts for customer use, including parking areas.

F. "Shopping cart" means a basket which is mounted on wheels or a similar device generally used in a business establishment by a customer for the purpose of transporting goods of any kind. This

includes, but is not limited to, laundry, grocery or shopping carts. [Ord. 1166 § 2, 2000.]

10.59.030 Enforcement authority.

The city manager, police chief and their designated agents (city official) and designated code enforcement officers shall have the authority and powers necessary to determine whether a violation of this chapter exists and to take appropriate action to gain compliance with the provisions of this chapter and applicable state codes. These powers include the power to issue administrative citations and to inspect public and private property. It also includes the power to impose civil penalties for any violation of this chapter. [Ord. 1166 § 2, 2000.]

10.59.040 Authority to inspect.

The city official is authorized to enter upon any property or premises to ascertain whether the provisions of this chapter or applicable state codes are being obeyed, and to make any examinations as may be necessary in the performance of their enforcement duties. All inspections, entries and examinations shall be done in a reasonable manner. If an owner, tenant, occupant or agent or other responsible party refuses to grant the city permission to enter or inspect, the city may seek a warrant pursuant to applicable law. [Ord. 1166 § 2, 2000.]

10.59.050 Alternative remedies.

Nothing in this chapter shall prevent the city from pursuing criminal, civil, administrative or any other legal remedy to address violations of this chapter. [Ord. 1166 § 2, 2000.]

10.59.060 Additional rules and regulations.

In addition to the provisions and requirements of this chapter, the city council may, from time to time, by resolution, establish additional rules and regulations concerning programs, practices and regulations pertaining to shopping cart retrieval. [Ord. 1166 § 2, 2000.]

10.59.070 Severability.

If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. The city council declares that it would have adopted such section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional. [Ord. 1166 § 2, 2000.]

Article II. Signs on Shopping Carts – Required

10.59.210 Requirements.

Every shopping cart owned or provided by a business establishment in the city must have a sign permanently affixed to it that contains the following information:

- A. Identifies the owner of the shopping cart or the name of the business establishment, or both;
- B. Notifies the public of the procedure to be used for authorized removal of a shopping cart from the establishment's premises;
- C. Notifies the public that the unauthorized removal of a shopping cart from the premises or parking area of a business establishment, or the unauthorized possession of a shopping cart is a

violation of state law;

D. Displays a permanently affixed sticker notifying the public that the unauthorized removal of the shopping cart from the premises of a business establishment, or the unauthorized possession of a shopping cart is a violation of local municipal code; and

E. Lists a valid telephone number or address for returning the shopping cart removed from the premises or parking area to the owner or retailer. [Ord. 1166 § 2, 2000.]

Article III. Removal, Abandonment, Alteration, Possession – Prohibited

10.59.310 Prohibition.

It is unlawful to do any of the following acts if a shopping cart has a permanently affixed sign as required by PMC 10.59.210:

A. To remove a shopping cart from the premises or parking area of a business 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 with serial numbers removed, obliterated or altered, with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart;

C. 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;

D. 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;

E. To be in possession of any shopping cart while that cart is not located on the premises or parking lot of a business establishment, with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart. [Ord. 1166 § 2, 2000.]

10.59.320 Penalty.

Any person who violates any of the provisions of PMC 10.59.310 is guilty of a misdemeanor. The city may use the administrative enforcement remedies set forth in Chapter 1.16 PMC for violations of this article. [Ord. 1166 § 2, 2000.]

10.59.330 Exceptions.

This article shall not apply to any person who has written consent from the owner of the shopping cart authorizing possession or removal of the cart from the business establishment's premises or authorizing any of the acts specified in PMC 10.59.310. [Ord. 1166 § 2, 2000.]

Article IV. Mandatory Evaluation Report and Plan to Prevent Cart Removal

10.59.410 Plan elements.

Every owner of a business establishment providing shopping carts to its customers (owner) shall develop and implement a specific plan to prevent customers from removing carts from the business premises. The plan must include the following elements:

A. Notice to Customers. The owner shall provide written notification to customers that the removal of carts from the business establishment's premises is prohibited and a violation of state and local law. This notification may be provided in the form of fliers, warnings on shopping bags, or any other written materials that will effectively inform customers of the law.

B. Physical Measures. At least one specific physical measure shall be implemented to prevent cart removal from the business premises. Optional physical measures include, but are not limited to, the following:

1. Installing disabling devices on all carts;
2. Posting a security guard to prevent customers from removing carts from the business premises;
3. Requiring a security deposit for use of all carts.

C. Administrative Hearing. If a dispute arises between the business establishment and city as to the physical measure to be implemented at that establishment, the business establishment may request an administrative hearing in order to resolve this dispute.

1. The request for hearing shall be made in writing to the director of public services. As soon as practicable after receiving the request for hearing, the director shall request the city manager or his or her designee to appoint a hearing officer. The director shall schedule a date, time and place for the hearing. A continuance of the hearing may be granted upon written request to the director.
2. Written notice of the date, time and place of the hearing shall be served at least 10 calendar days prior to the hearing. Notice of the hearing shall be sent to the business establishment by first class mail at the address provided by the business. The hearing shall be set no sooner than 20 days following the request for hearing. [Ord. 1166 § 2, 2000.]

10.59.420 Evaluation report.

An evaluation report must be submitted each year to the public services department or other designated unit of the city. The report shall include, but is not limited to, the inventory of carts owned or used by the business establishment and the number of carts replaced by that establishment due to repair, loss, theft or abandonment. Any owner who fails to submit an evaluation report as outlined in this section by July 1st of each year is guilty of an infraction. If a prevention plan was in place the previous year, the evaluation report shall identify and assess the measures used and approved in the prior year. [Ord. 1166 § 2, 2000.]

10.59.430 Timeliness and approval process for prevention plan or evaluation report.

A. A proposed plan for preventing shopping cart removal or an evaluation report shall be submitted to the city for approval within 60 days after the adoption of the ordinance codified in this chapter and by July 1st of each year thereafter. Those affected business establishments open after the adoption of this chapter shall have 60 days from the filing date on their city business license application to submit a shopping cart removal prevention plan to the neighborhood preservation

unit for approval. The city may reject any proposed plan if it determines that the plan is not reasonably likely to prevent the removal of shopping carts from the premises.

B. A business establishment has 30 days from the date of city approval to implement its cart removal prevention plan. If the proposed plan is the same as the previous year's, the prevention measure shall continue until the city indicates the plan requires modification. Unless otherwise agreed, the owner shall implement modifications to a plan required by the city within 30 days of notification. [Ord. 1166 § 2, 2000.]

10.59.440 Penalties for failing to submit a prevention plan or to implement prevention measures.

Any owner who fails to submit a plan, implement the proposed plan or implement any required modifications to the plan as required by the city, within the time frames as specified in this article, shall be required to place disabling devices on all carts owned, leased or used by the business establishment to prevent removal of carts from the business premises and parking lots. Any owner who fails to place a disabling device on all carts, if applicable, is guilty of a misdemeanor. [Ord. 1166 § 2, 2000.]

10.59.450 Exceptions.

Any business establishment that has contracted for daily retrieval of abandoned shopping carts with a licensed shopping cart retrieval business, and provides quarterly reports to the city on the effectiveness of the retrieval program, shall be exempt from the prevention plan requirements as set forth in PMC 10.59.410(B), 10.59.430 and 10.59.440. [Ord. 1166 § 2, 2000.]

Article V. Retrieval of Shopping Carts by City

10.59.510 Authority to impound.

A. The city of Pittsburg may impound a shopping cart when all of the following conditions are satisfied:

1. The shopping cart has a sign affixed to it as required by PMC 10.59.210;
2. The shopping cart is located outside the premises or parking area of a business establishment. The parking area of a business establishment located in a multi-store complex or shopping center shall include the entire parking area used by the complex or center; and
3. Except as provided in PMC 10.59.610, the shopping cart is not retrieved within three days from the date the owner of the shopping cart, or his or her agent, receives actual notice from the city of the shopping cart's discovery and location.

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

C. Any shopping cart that is impounded by the city pursuant to this section shall be held at a location that is both:

1. Reasonably convenient to the owner of the shopping cart; and
2. Open for business at least six hours of each business day.

D. Any shopping cart not reclaimed from the city 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 city.

E. The city may impose an administrative penalty on the owner of a shopping cart in an amount not to exceed \$50.00 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. The owner's right of appeal shall be as set forth in Chapter 1.08 PMC.

F. The city is authorized to recover actual costs incurred for impounding a shopping cart under the authority provided in subsections (A) and (B) of this section. [Ord. 1166 § 2, 2000.]

Article VI. Authority to Impound Without Three-Day Notice to Owner

10.59.610 Requirements.

Notwithstanding PMC 10.59.510(A)(3), the city may impound a shopping cart that otherwise meets the criteria set forth in PMC 10.59.510(A)(1) and (A)(2) without complying with the three-day advance notice requirement; provided, that:

A. The owner of the shopping cart, or his or her agent, is provided actual notice within 24 hours following the impound and that the notice informs the owner, or his or her agent, as to the location where the shopping cart may be claimed.

B. Any shopping cart so impounded shall be held at a location in compliance with PMC 10.59.510.

C. Any shopping cart reclaimed by the owner, or his or her agent, within three business days following the date of actual notice 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 PMC 10.59.510(E) and (F). Any cart reclaimed within the three-business-day period shall not be deemed an occurrence for purposes of PMC 10.59.510(E).

D. Any shopping cart not reclaimed by the owner, or his or her agent, within three business days following the date of actual notice shall be subject to any applicable fee or penalty imposed pursuant to PMC 10.59.510(E) and (F) commencing on the fourth business day following the date of the notice.

E. Any shopping cart not reclaimed by the owner, or his or her agent, within 30 days of receipt following the date of actual notice may be sold or disposed of as provided for in PMC 10.59.510(D). [Ord. 1166 § 2, 2000.]

Article VII. Shopping Cart Retrieval Businesses

10.59.710 Records required.

Any person who engages in the business of shopping cart retrieval shall have a city business license, and shall retain records showing written authorization from the shopping cart owner, or any agent thereof, to retrieve the cart or carts and to be in possession of the cart or carts retrieved.

A copy of the record showing written authorization shall be maintained in each vehicle used for shopping cart retrieval. [Ord. 1166 § 2, 2000.]

10.59.720 Sign required.

Each vehicle employed for the retrieval of shopping carts shall display a sign that clearly identifies the retrieval service. [Ord. 1166 § 2, 2000.]

10.59.730 Violations.

Any person who violates the provisions of this article is guilty of a misdemeanor. In addition, the city may use the administrative enforcement remedies set forth in Chapter 1.16 PMC for violations of this article. [Ord. 1166 § 2, 2000.]