

Chapter 9.58

LOST, STOLEN, OR ABANDONED SHOPPING CARTS

Sections:

9.58.010	Findings And Purpose.
9.58.020	Definitions.
9.58.030	Enforcement of Chapter.
9.58.040	Required Signs On Carts.
9.58.050	Prohibiting Removal Or Possession Of Abandoned Cart.
9.58.060	Mandatory Plan To Prevent Cart Removal/Evaluation Report.
9.58.070	Prevention Plan Timelines And Approval Process.
9.58.080	Penalties For Failing To Submit A Prevention Plan or Evaluation Report Or To Implement Prevention Measures.
9.58.090	Notification For Retrieval Of Abandoned Carts.
9.58.100	Administrative Costs And Fines.
9.58.110	Disposition Of Carts After Thirty Days.
9.58.120	Exemption.
9.58.130	Businesses Without Carts.
9.58.140	Severability And Validity.

Section 9.58.010 Findings And Purpose.

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 Riverside. The accumulation of wrecked, dismantled and abandoned shopping carts on public or private property also tends to create conditions that reduce property values, promoting blight and deterioration in the City. The intent of this Chapter is to insure that measures are taken by store owners to prevent the removal of shopping carts from store premises and parking lots, to make the removal of shopping carts a violation of this Code, and to facilitate the retrieval of abandoned carts as permitted by State law. Further, this Chapter is intended to supplement existing State law regarding shopping carts as set forth in California Business & Professions Code, section 22435, et seq. (Ord. 6820 § 1, 2005; Ord. 6502 § 1, 1999)

Section 9.58.020 Definitions.

a. Cart. Cart shall mean a basket which is mounted on wheels or a similar device provided by a business establishment for use by a customer for the purpose of transporting goods of any kind, including, but not limited to grocery store shopping carts. This definition shall exclude from enforcement under this Chapter those devices which do not have a "basket" mounted on wheels in which goods can be placed for transport.

b. Owner. Owner shall mean any person or entity, who in connection with the conduct of a business, owns, leases, possesses, uses, or otherwise makes any cart available to customers or the public. For purposes of this chapter, owner shall also include the owner's on-site or designated agent that provides the carts for use by its customers.

c. Premises. Premises shall mean the entire area owned and utilized by the business establishment that provides carts for use by customers, including any parking lot or other property provided by the owner for customer parking.

d. Abandoned cart. Any cart that has been removed without written permission of the owner or on-duty manager from the premises of the business establishment, regardless of

whether it has been left on either private or public property. Written permission shall be valid for a period not to exceed 72 hours. This provision shall not apply to carts that are removed for purposes of repair or maintenance.

e. Enforcement personnel. This means any police officer, code compliance officer, or other designated City of Riverside employee designated by the Public Works Department. (Ord. 6820 § 1, 2005; Ord. 6502 § 1, 1999)

Section 9.58.030 Enforcement of Chapter.

The provisions of this Chapter shall be enforced by any enforcement personnel. To the extent otherwise permitted by law, said enforcement personnel may enter onto any public or private property in the City to retrieve, remove, store, and dispose of any lost, stolen, or abandoned shopping cart, or any part thereof. Any act authorized to be performed by the City of Riverside pursuant to any provision of this Chapter may be performed by any enforcement personnel. Any enforcement personnel are authorized to issue an administrative citation upon any owner whom they have reasonable cause to believe has violated any provision of this Chapter. (Ord. 7192 § 1, 2012; Ord. 6820 § 1, 2005; Ord. 6502 § 1, 1999)

Section 9.58.040 Required Signs On Carts.

a. Every cart owned or provided by any business establishment in the City of Riverside must have a sign permanently affixed to it that contains the following information:

- 1.) Identifies the owner of the cart or the name of the business establishment, or both;
- 2.) Notifies the public of the procedure to be utilized for authorized removal of the cart from the business premises;
- 3.) Notifies the public that the unauthorized removal of the cart from the premises or parking area of the business establishment is a violation of State and City of Riverside law;
- 4.) Lists a telephone number to contact to report the location of the abandoned cart; and
- 5.) Lists an address for returning the cart to the owner or business establishment.

b. Failure to comply may subject the violator to any civil, criminal, or administrative remedies as provided by law. (Ord. 6820 § 1, 2005; Ord. 6502 § 1, 1999)

Section 9.58.050 Prohibiting Removal Or Possession Of Abandoned Cart.

a. It shall be unlawful to either temporarily or permanently remove a cart from the premises or parking area of a business establishment without the express prior written approval of the owner or on-duty manager of the business establishment. Written permission shall be valid for a period not to exceed 72 hours.

b. It shall be unlawful to be in possession of a cart that has been removed from the premises or parking area of a business establishment unless it is in the process of being immediately returned to the owner or business establishment.

c. This section shall not apply to carts that are removed for the purposes of repair or maintenance.

d. Failure to comply may subject the violator of the cart to any civil, criminal, or administrative remedies as provided by law. (Ord. 6820 § 1, 2005; Ord. 6502 § 1, 1999)

Section 9.58.060 Mandatory Plan To Prevent Cart Removal/Evaluation Report.

- (a) Every owner shall develop and implement a specific plan to prevent customers

from removing carts from the business premises ("prevention plan"). The prevention plan must include the following elements and a detailed description of how they will be implemented:

1. Notice to Customers. Written notification shall be provided to customers that removal of carts from the premises and parking lots are prohibited and a violation of state and local law. This notice may be provided in the form of flyers, warnings on shopping bags, or any other form of written notification that will effectively notify customers of the prohibition.

2. Signs. Signs shall be placed in pertinent places near door exits and near parking lot exits that warn customers that cart removal is prohibited and constitute a violation of state and local law.

3. Physical Measures. Specific physical measures shall be implemented to prevent cart removal from the business premises. These measures may include, but are not limited to, disabling devices on all carts, posting of a security guard to deter and stop customers who attempt to remove carts from the business premises, bollards and chains around business premises to prevent cart removal, security deposits required for use of all carts, or the rental or sale of carts that can be temporarily or permanently used for transport of purchases. All carts shall be securely locked and stored at all times while the business is closed.

4. Cart Retrieval Operations. The procedure by which the owner or qualified cart retrieval service will search, find and return carts removed from the business premises. The cart retrieval operation must demonstrate that carts will be actively located within one mile of the business premises and respond to complaints from the public or notifications from city enforcement personnel in a manner which results in the retrieval of carts within twenty-four (24) hours of receiving the notification. If an owner contracts with a cart retrieval service, the retrieval service must be a City approved service, and shall not place limits on daily loads or days per week to retrieve carts within the City. The owner shall provide written authorization to all retrieval personnel, which authorization shall be carried by each person while performing cart retrieval services on behalf of the owner and shall be provided to any enforcement personnel upon request.

5. Employee Training. The owner of the retail establishment shall implement and maintain a periodic training program for its new and existing employees designed to educate such employees concerning the requirements of the prevention plan and the provision of state law prohibiting the unauthorized removal of shopping carts from the premises of the retail establishment.

(b) Evaluation Report. If a prevention plan was in place the previous year and if the owner has twenty (20) or more carts and twenty (20) percent or more of the owned carts are retrieved within the previous year, a report shall be submitted to the City evaluating the measures that were used and approved in the prior calendar year and providing information on the changes that will be made to improve the prevention plan performance. The report shall include, but not be limited to, the inventory of carts owned/used by the business establishment and the number of carts that had to be replaced due to loss, theft or abandonment. An evaluation report shall be submitted by within thirty (30) days of notification by the City.

(Ord. 7192 § 2, 2012; Ord. 6820 § 1, 2005; Ord. 6502 § 1, 1999)

Section 9.58.070 Prevention Plan Timelines And Approval Process.

(a) Existing Owners. The proposed prevention plan for preventing cart removal shall be submitted for approval to the Public Works Director or his/her designee within thirty (30) days of receiving notice from the City that such a plan is required pursuant to this Chapter.

(b) New Businesses and Change in Ownership. All new construction projects that will accommodate businesses providing carts shall install disabling device equipment. If a new businesses begins conducting business in the City and provides carts to its customers, the new owner shall notify the Public Works Director or his/her designee within thirty (30) days of opening the business to the public and submit a new prevention plan. If an existing business changes ownership, the new owner shall notify the Public Works Director or his/her designee within thirty

(30) days of the change and submit a new prevention plan or agree to adopt the existing prevention plan on file with the City for that business. All businesses subject to this paragraph shall submit a proposed prevention plan and obtain City approval prior to providing any shopping carts to customers of the retail establishment.

(c) Approval. Within thirty (30) days of receipt of the prevention plan, the owner shall be notified whether the prevention plan is approved. If the plan is not approved, the notice shall state its reasons and provide recommendations to the owner to ensure plan approval. The owner shall submit a new prevention plan within fifteen (15) days of receiving this notice. Once a prevention plan is approved, the proposed measures shall be implemented by no later than thirty (30) days after City approval is given. If an evaluation report is submitted, the prevention measures shall be continued until and unless the City indicates that a measure(s) needs to be modified. Unless otherwise agreed, any modifications to the plan imposed by the City shall be implemented within thirty (30) days after the City notifies the owner of the needed modifications.

(d) Revocation. If an owner has more than twenty (20) carts and if more than 25 percent of an owner's carts are retrieved by the City within a six (6) month period, the owner's prevention plan will be revoked upon notification by the City and the owner will be required to submit a new prevention plan to the Public Works Director within (15) days of receiving notice of the revocation. Any owner failing to implement the new prevention plan within thirty (30) days of approval, shall be subject to penalties under this Chapter.

(e) Multiple Revocations. Upon the third prevention plan revocation within a (4) four year time period, the owner shall be required to place disabling devices on all carts owned/leased/used by the business to prevent removal of carts from the business premises and parking lots, if such disabling devices are not already in use. If disabling devices are already in use, owner shall be required to show proof of proper maintenance and repairs ensuring the disabling devices on all carts are in proper working order. Any subsequent prevention plans submitted shall include the implementation of a maintenance plan for all disabling devices. (Ord. 7192 § 3, 2012; Ord. 6820 § 1, 2005; Ord. 6502 § 1, 1999)

Section 9.58.080 Penalties For Failing To Submit A Prevention Plan or Evaluation Report Or To Implement Prevention Measures.

Any owner that fails to submit a prevention plan, implement the proposed plan measures, or implement any required modifications to the plan by the City within the time frames specified in this Chapter shall be required to place disabling devices on all carts owned/leased/used by the business to prevent removal of carts from the business premises and parking lots. Any owner that fails to submit an evaluation report or prevention plan as required by this Chapter or fails to place a disabling device on all carts, if applicable, shall be subject to a \$1,000.00 civil penalty, plus an additional penalty of \$50.00 for each day of non-compliance. (Ord. 7192 § 4, 2012; Ord. 6820 § 1, 2005; Ord. 6205 § 1, 1999)

Section 9.58.085 Maintenance Requirements for Cart Disabling Devices

If an owner has equipped carts with disabling devices, either voluntarily or by order from the City, the owner shall conduct regular maintenance to ensure the disabling devices are working properly. If at any time, the owner determines the disabling device installed on a cart is not working properly, the cart shall be pulled from circulation until it is repaired. The owner shall inspect, test, and repair all abandoned carts returned to the owner prior to making the returned carts available for use.

Section 9.58.090 Notification For Retrieval Of Abandoned Carts.

Pursuant to Business and Professions Code Section 22435.7, the City shall notify the owner of any abandoned carts owned or used by the business establishment that have been

located within the City of Riverside, if the City intends to impound the cart(s) pursuant to Section 22435.7. The owner shall have three (3) days from the date the notification is given, to retrieve the carts from the City. (Ord. 6820 § 1, 2005)

Section 9.58.100 Administrative Costs and Fines.

Pursuant to Business and Professions Code Section 22435.7, any owner that fails to retrieve its abandoned cart(s) within three (3) days of receiving actual notice from the City, shall pay the City's administrative costs for retrieving the cart(s) and providing the notification to the owner as may be established by resolution of the City Council. Any owner who fails to retrieve abandoned carts in accordance with this Chapter in excess of three times during a specified six-month period, shall be subject to a \$50.00 fine for each occurrence. An occurrence includes all carts owned by the owner that are impounded by the City in a one-day period. (Ord. 7192 § 5, 2012; Ord. 6820 § 1, 2005)

Section 9.58.110 Disposition of Carts After Thirty Days.

According to State Law, any cart not reclaimed from the City within thirty (30) days after notification to the owner shall be sold or otherwise disposed of by the City. Any cart that fails to have the identification required by State Law or this Chapter may be sold or otherwise immediately disposed of at the discretion of the City. (Ord. 6820 § 1, 2005)

Section 9.58.120 Exemption.

Any owner may contract with the City for the retrieval of abandoned carts by entering into a written contract to pay the City's fees for such service. Any owner that has a contract with the City to provide for retrieval of abandoned carts, shall be exempt from the Cart Retrieval Operations requirement in section 9.58.060(a)(4) of this Chapter. This exemption is valid only if the other provisions of this Chapter are complied with by owner. (Ord. 7192 § 6, 2012; Ord. 6820 § 1, 2005)

Section 9.58.130 Businesses Without Carts.

A business which does not own, rent, lease, or otherwise possess its own carts, but which receives a benefit by the use of carts owned by other businesses, merchants, grocers, or other similar establishments, shall provide a location upon its premises for the storage of carts and shall immediately contact the City's cart retrieval service to retrieve any carts that are left on the premises. This section specifically applies to recycling centers. (Ord. 6820 § 1, 2005)

Section 9.58.140 Severability And Validity.

If any section, subsection paragraph or sentence of this ordinance, or any part thereof, is for any reason found to be unconstitutional, invalid or beyond the authority of the City of Riverside by a court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance. (Ord. 6820 § 1, 2005)