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NEIGHBORHOOD SERVICES
DEPARTMENT

CITY OF SACRAMENTO
CALIFORNIA

1231 I STREET, SUITE 400
SACRAMENTO, CA
95814

July 2, 2002

Law and Legislation Committee
Sacramento, California

Honorable Members in Session:

SUBJECT: Shopping Cart Ordinance

LOCATION AND COUNCIL DISTRICT: City-wide.

RECOMMENDATION:

Staff is providing a report back from the Law and Legislation Committee meeting of May 28, 2002. Staff has been requested to draft an ordinance regarding the abandonment of shopping carts in the City of Sacramento. It is recommended that the Law and Legislation Committee review and approve the attached shopping cart ordinance to be forwarded to City Council.

CONTACT PERSONS: Max B. Fernandez, Director Area 1, 264-7940
Robert L. Rose, Chief of Code Enforcement, 264-5947

FOR COMMITTEE MEETING OF: July 18, 2002

SUMMARY:

This report is a follow-up to a request by the Code Enforcement Ad Hoc Committee for staff to draft a shopping cart ordinance that will help control the abandonment of shopping carts on public and private properties. Several cities have been surveyed on their courses of action addressing this issue. The California Grocers' Association has also been contacted in a combined effort to find a solution for this continuing problem. The proposed ordinance (Exhibit A) offers remediation for the City of Sacramento as well as the shopping cart owners.

BACKGROUND:

On May 28, 2002 the Law and Legislation Committee approved a letter of support for or Senate Bill 1528. The Code Enforcement Ad Hoc Committee is referring the proposed ordinance regulating shopping carts for approval. Currently the State of California Business and Professions Code § 22435 is the only governing law for carts within the City of Sacramento. The attached proposed ordinance is a follow-up to the Committee's request for a comprehensive City ordinance including definitions and preventative measures.

Code Enforcement has received complaints from the public and inquiries from Council regarding the many carts that are abandoned on the public right-of-way and on private properties. Several meetings have been held with the California Grocers' Association, Council Member Dave Jones, and other City staff to discuss these problems and possible solutions. Members of the retail/grocery industry have attempted to alleviate the problem by various means including creating a non-profit association to assist in shopping cart retrieval. However, the problem of abandoned shopping carts has persisted in the City of Sacramento. Surveys of other cities' abandoned cart recovery plans were conducted which revealed a wide range of approaches to the issue of abandoned shopping carts some of which included: hiring staff specifically for this job; hiring outside contractors; using juvenile detainees from the probation department to collect and deliver carts for storage in a city corporation yard; and other methods of removal and storage.

The attached drafted City ordinance reflects some flexibility for the grocery and retail industries to select a recovery plan that would control their particular shopping cart situation and prevent the removal of carts from their premises. The ordinance includes the following items:

- Definitions of Abandoned Cart, Abandoned Cart Prevention Plan; Cart; Owner; and Premises. (Section 5.82.010)
- The requirement that every cart have a permanent identification sign with the specified information. (Section 5.82.020)
- Declaration of unlawfulness for cart abandonment. (Section 5.82.040)
- Prohibition of cart removal with certain exceptions. (Section 5.82.050)
- The owner shall post a notice according to the prescribed form which states that the removal of shopping carts is prohibited by law and subjects the violator to a minimum fine. (Section 5.82.060)
- The owner shall implement and comply with an abandoned cart prevention plan. The choice of a plan allows flexibility to the shopping cart owner to select and implement a plan that best prevents shopping cart abandonment according to the owner's business needs. (Section 5.82.070)
- The process for approval of an Abandoned Cart Prevention Plan and further requirements of the plan as well as consequences of not having such plan. It is recommended by staff that the first proposed plan be submitted by each owner no later than January 1, 2003. (Section

- 5.82.080)
- Notification for retrieval of abandoned carts. (Section 5.82.090A)
- Administrative costs and fines. (Section 5.82.090B)
- Alternative Provisions Regarding Retrieval of Abandoned Carts. (Section 5.82.090C)
- Disposition of Carts After Thirty Days. (Section 5.82.090D)
- Violation of any provision of this chapter shall constitute an infraction. (Section 5.82.100)

FINANCIAL CONSIDERATIONS:

Under this ordinance, the City will charge a \$50.00 fine to any owner who fails to retrieve an abandoned cart within three (3) days in excess of three (3) times during a specified six (6) month period (Section 5.82.090). In addition, a 20% administrative fee will be charged to recover staff time associated with cases of non-compliance. The fines and fees will contribute to the cost recovery of this project. Administration and enforcement of this ordinance will be incorporated into the existing code enforcement operation and budget.

ENVIRONMENTAL CONSIDERATIONS:

This report is not considered a project and therefore has no potential for an effect on the environment as stated by the provisions of the California Environmental Quality Act (Section 15061 (b) (3)).

POLICY CONSIDERATIONS:

This report is consistent with the City of Sacramento's efforts to maintain healthy neighborhoods and enhance the quality of life in the City of Sacramento.

E/SBD EFFORTS:

Not applicable.

RECOMMENDATION APPROVED:


KEN NISHIMOTO
Deputy City Manager

Attachment: Exhibit A

Respectfully submitted,


MAX B. FERNANDEZ
Director, Area 1
Neighborhood Services Department

ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

**AN ORDINANCE ENACTING CHAPTER 5.82 OF THE
SACRAMENTO CITY CODE, RELATING TO SHOPPING
CARTS**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Chapter 5.82 of the Sacramento City Code is hereby added as follows:

Section 5.82.010. Definitions.

"Abandoned Cart" means any cart that has been removed from the owner's premises without written consent of the owner and is located on either public or private property.

"Abandoned Cart Prevention Plan" or "Plan" means a plan that meets the requirements of Section 5.82.060 and has been approved by the Code Enforcement Manager as required by Section 5.82.070.

"Cart" means a basket that is mounted on wheels or a similar device that is provided by an owner to a customer for the purpose of transporting goods of any kind.

"Owner" means a person or entity who, in connection with the conduct of a business, makes fifty (50) or more carts available to the public.

"Premises" means the entire area owned, occupied or utilized by an owner, including any parking lot or other property provided by or on behalf of an owner for customer parking or use.

Section 5.82.020. Cart Identification Required. Every cart provided by any owner must have a sign permanently affixed to the cart that contains all of the following information:

- A. The identity of the owner.
- B. The address and phone number of the owner for cart return.
- C. A statement that the removal of the cart from the premises is a violation of state law and Sacramento City Code Chapter 5.82.
- D. The procedure for authorized removal of the cart from the premises.

Section 5.82.030. Abandonment Prohibited. It shall be unlawful for any person to cause or permit any cart to be abandoned on or upon any sidewalk, street or other public area, or any private property, other than the premises of the owner of such cart.

Section 5.82.040. Removal Prohibited. It shall be unlawful for any person, either temporarily or permanently, to remove a cart from the premises of the owner of such cart, or to be in possession of a cart that has been removed from the premises of the owner of such cart, which is properly marked in conformity with this Chapter, without the written consent of the owner. This section shall not apply to carts removed from the premises, with the consent of the owner, for the purposes of repair, maintenance or disposal.

Section 5.82.050. Posted Notice. There shall be posted by the owner, prominently and conspicuously, at all public entrances and exits to the business, a notice in substantially the following form: REMOVAL OF SHOPPING CARTS (or Laundry Carts, or other types of carts, if applicable) IS PROHIBITED BY LAW AND SHALL SUBJECT THE VIOLATOR TO A MINIMUM FINE OF \$ 100.00.

Section 5.82.060. Abandoned Cart Prevention Plan. Every owner who allows or intends to allow the use of carts outside a building or enclosed area of a business shall develop, implement and comply with an abandoned cart prevention plan.

- A. The plan must include, at a minimum, the following information:
 - 1. The name of the business, address and phone number of the premises where the business is conducted, and the address and phone number of the cart owner, if different.
 - 2. A procedure for providing notification to customers that removal of carts from the premises is prohibited and a violation of state and local law in

addition to the notice required under Section 5.82.020 and 5.82.050. This notice may be provided in the form of flyers, warnings on shopping bags, or any form of written notification that will effectively notify customers of the prohibition.

3. A description of the physical measures that will be implemented to prevent the removal of carts from the premises. Physical measures may include, but are not limited to: devices on carts that prevent their removal from the premises; posting of a security guard to deter and stop customers from removing carts from the premises; prohibiting carts outside the building of the business unless accompanied by an employee; bollards and chains around the premises to prevent cart removal; security deposits required for use of carts; or the rental or sale of carts that can be temporarily or permanently used for transport of purchases off of the premises.

4. A procedure for the retrieval of abandoned carts by its employees, or proof that the owner has entered into a contract for cart retrieval services that has been approved by the Code Enforcement Manager.

B. Two or more businesses may collaborate and submit a single plan.

Section 5.82.070. Abandoned Cart Prevention Plan Approval.

A. Each owner shall submit a proposed abandoned cart prevention plan to the Code Enforcement Manager or designee within ninety (90) days of the effective date of these provisions, and by July 1st of each year thereafter. Proposed businesses shall have an approved abandoned cart prevention plan prior to commencing business.

B. The Code Enforcement Manager or designee shall approve or reject the proposed abandoned cart prevention plan within thirty (30) days of the plans submission and by August 1 of each year thereafter. The Code Enforcement Manager or designee may deny a plan based upon any of the following grounds:

1. Implementation of the plan violates any provision of the building, zoning, health, safety, fire, police or other provision of this code or any county, state or federal law which substantially affects public health, welfare, or safety;

2. The plan fails to include all of the information required by this chapter;

3. The plan is insufficient or inadequate to prevent removal of carts from the premises;

4. The plan fails to address any special or unique conditions due to the geographical location of the premises as they relate to cart retention and prevention efforts;

5. Implementation of the plan violates a term or condition of a plan or other requirement of this chapter;

6. The owner knowingly makes a false statement of fact or omits a fact required to be revealed in an application for the plan, or in any amendment or report or other information required to be made.

C. If the plan is rejected as incomplete or inadequate, the Code Enforcement Manager or designee shall indicate areas that are incomplete or inadequate, and the owner shall have an additional thirty (30) days within which to resubmit a complete and adequate plan. The Code Enforcement Manager or designee shall approve or reject the resubmitted plan within thirty (30) days of the date of resubmission of the plan.

D. Once approved, the measures included in the plan shall be implemented no later than September 1 of that year. If an owner is proposing new measures, the measures from the approved plan in the previous year shall be continued until the new measures are implemented.

E. Any owner that fails to submit a plan, implement the plan measures, or implement any required modifications to the plan within the time frames specified in this chapter shall be required to keep all carts inside the building or enclosed areas of the business.

F. Any owner that fails to keep all carts inside the building or enclosed area of the premises, if applicable, may be subject to administrative penalties imposed pursuant to Chapter 1.28 of the Sacramento City Code.

G. The Code Enforcement Manager or designee's decision to deny a plan shall be final.

H. After an approved plan is in operation for three months, the plan shall be reevaluated to determine if it is effective. If the plan is ineffective, the owner must submit an amended plan to the Code Enforcement Manager or designee. Any amended plan must be submitted within one month after notice of the plan's ineffectiveness. The Code Enforcement Manager or designee shall approve or reject the amended plan within thirty (30) days of its submission.

Section 5.82.080. Abandoned Carts.

A. Notification for Retrieval of Abandoned Carts.

1. The City shall notify the owner of any abandoned carts located within the City.
2. The notice shall contain:
 - a. The street address or other description of the location of the abandoned carts;
 - b. The number of carts at that location;
 - c. The date and approximate time that the abandoned carts were found.
3. The notice may be served by personal service on the owner or by fax transmission.
4. The City may include multiple locations of abandoned carts on one notice.
5. The owner shall have three (3) days from the date the notification is given to retrieve the carts from the specified locations.

B. Administrative Costs and Fines.

1. Any owner that fails to retrieve any abandoned cart after receiving the three (3) day notice by the City, shall pay the City's administrative costs for providing notice to the owner and for retrieving the cart.

2. Any owner that fails to retrieve an abandoned cart within three (3) days in accordance with this chapter in excess of three (3) times during a specified six (6) month period, shall be subject to a Fifty Dollar (\$50.00) fine for each occurrence. An occurrence includes all carts owned by the owner that are impounded by the City in a one (1) day period. This fine shall be in addition to any other fees or costs that are due.

C. Alternative Provisions Regarding Retrieval of Abandoned Carts. Notwithstanding subsection A, above, the City may impound an abandoned cart so long as the owner is given notice within twenty-four (24) hours following the impound and the notice informs the owner as to the location where the cart may be claimed. Any cart reclaimed by the owner within three (3) business days following the date of notice shall be released to the owner without charge. Any cart not reclaimed by the owner within three (3) business days following actual notice shall be subject to the fees and penalties set forth in Subsection B, above.

D. Disposition of Carts After Thirty Days. 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.

Section 5.82.090. Violation. Any person violating any provision of this chapter shall be guilty of an infraction.

DATE PASSED FOR PUBLICATION:
DATE ENACTED:
DATE EFFECTIVE:

MAYOR

ATTEST:

CITY CLERK

- 6 -

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FOR CITY CLERK USE ONLY

ORDINANCE NO. _____

DATE ADOPTED: _____