



Legislation Text

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060341
SUBSTITUTE 2

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A substitute ordinance relating to abandonment of shopping carts.

81-105.5 cr

81-105.6 cr

110-36 rc

This ordinance requires business establishments utilizing shopping carts or similar devices and having more than 25 shopping carts on-site to install and maintain a system of retaining the shopping carts within the property boundaries of the business establishments. The ordinance also requires business establishments utilizing shopping carts or similar devices that have had a total of 150 or more shopping carts collected by the department public works in the preceding 6 or 12 months to install and maintain a wheel locking system of retaining the shopping carts within the property boundaries of the business establishments. The ordinance also establishes fees related to the retrieval, storage and disposal of abandoned shopping carts. This ordinance takes effect January 1, 2008.

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 81-105.5 of the code is created to read:

81-105.5. Shopping Cart Retrieval Fee. 1. The fee for retrieval of shopping carts from the designated holding location shall be \$25 for each of the first 3 carts and \$40 for each additional cart thereafter. The fee shall be effective within 5 working days following the mailing of the notice by first class mail to the owner's last known address.

Part 2. Section 81-105.5 of the code is created to read:

81-105.6. Shopping Cart Storage Fee. 1. The fee for the storage of each cart at the designated holding location shall be in the amount \$5 per cart per day.

Part 3. Section 110-36 of the code is repealed and recreated to read:

110-36. Shopping Carts Retention. 1. DEFINITIONS. In this section:

- a. Business establishment means a grocery store, supermarket, drugstore, pharmacy, dry goods store, department store, discount store, variety store, or other retail establishment which supplies 25 or more shopping carts for the use of its customers.
- b. Commissioner means the commissioner of public works or a designated representative.
- c. Owner means the owner of a business establishment that is owner-operated or the manager of a business establishment if the business establishment is not owner-operated.

d. Parking Lot means any parcel of land owned, leased or otherwise under the direction and control of the owner and used for parking motor vehicles related to the daily operations of the business establishment, and shall include the areas of ingress and egress.

e. Shopping Cart includes, but is not limited to, that type of mobile vehicle used for transportation and portage by human propulsion of goods or merchandise in and about markets, stores, shops, shopping centers, malls and other business establishments.

f. Permanent Identity Tag means a tag, label, plate or other form of identification that is affixed to a shopping cart and is designed to be removed only by the business establishment. The permanent identity tag shall state the name of the business establishment, the address of the business establishment, and the telephone number of the business establishment. The name, address, and telephone number on the permanent identity tag shall be of the neighborhood business establishment rather than a state, regional or national headquarters, except that business establishments using a total of more than 350 shopping carts at more than 2 locations within the city may place central telephone numbers on the permanent identity tags as long as the telephone numbers are within the 414 or 262 area code.

2. PERMANENT IDENTITY TAG. Each and every shopping cart utilized by a business establishment shall have affixed thereto a permanent identity tag.

3. REMOVAL OF SHOPPING CARTS a. No person shall abandon or leave unattended any shopping cart upon any public street, sidewalk, public or private way within the city other than the premises where said cart was originally obtained.

b. No person shall remove or cause to be removed any shopping cart from the premises and parking lot of the establishment which furnished said cart without express permission of the management of such establishment.

c. No person shall be in possession of any shopping cart beyond the boundaries of the premises which furnished said cart without express written permission of the management of such establishment.

4. POSTING OF ORDINANCE. The owner or operator of every place of business or establishment which provides shopping carts for the use of its customers or patrons shall post or cause to be posted a copy of this section, or a summary thereof, relating to removal of shopping carts, in a conspicuous place within said place of business or establishment and upon any parking lot of said place of business or establishment.

5. ON-SITE RETENTION. a. Each business establishment shall implement and maintain a method to retain all shopping carts within property boundaries of the business establishment including its parking lot. Each method included in this subsection shall be considered to be an example of an on-site retention method complying with this subsection. If the business establishment has a method for retention that is not delineated as an example herein, an owner may submit a plan to the commissioner that satisfies the intent of this subsection to retain shopping carts on the premises of the business establishment or its parking lot or to ensure the immediate retrieval of shopping carts outside of the business establishment or its parking lot. No plan submitted by an owner to the commissioner shall be valid until approved in writing by the commissioner. Examples of methods or plans shall be:

a. A physical barrier, such as bollards, restricting shopping carts to a portion of the exterior of the business establishment, but these barriers shall not interfere with fire lanes, handicap access or similar building features.

b. A system, which may be mechanical in nature, requiring the shopping cart user to remit collateral, including but not limited to a returnable monetary deposit to use a shopping cart; the collateral shall be reasonable in scope and shall not unreasonably deter the use of the cart but

- instead encourages the user's return of the shopping cart; the collateral shall be returned.
- c. A wheel-locking mechanism installed on the shopping cart that is commonly used in conjunction with an electronic barrier along the perimeter of a business establishment and which mechanism is activated upon the shopping cart's approach or passing through the electronic barrier.
 - d. An attendant or attendants for managing or returning the business establishment's shopping carts from the exterior premises of the business establishment and areas immediately adjacent thereto to the interior premises of the business establishment or another exterior area of the business establishment dedicated to the containment of shopping carts.
 - e. Other similar methods or plans submitted by an owner for the approval of the commissioner which shall satisfy the intent of this subsection to retain shopping carts on the premises of the business establishment or its parking lot or to ensure the immediate retrieval of shopping carts outside of the business establishment or its parking lot.
- 6. REPORTING** a. The commissioner shall report semi-annually to the common council the number of carts the department of public works has collected from a business establishment for the reporting period. The commissioner shall submit the report to common council within 60 days of the end of the reporting period.
- 7. WHEEL LOCKING MECHANISM** Pursuant to sub. 6, a business establishment that has a total of 150 shopping carts collected by the department of public works in the preceding 6 or 12 month reporting periods shall implement and maintain, upon notification by the department of public works, a wheel-locking mechanism installed on the shopping cart that is commonly used in conjunction with an electronic barrier along the perimeter of a business establishment and which mechanism is activated upon the shopping cart's approach or passing through the electronic barrier.
- 8. CART COLLECTION** a. Prior to the close of each business day, or on a daily basis each business day, every business establishment shall collect and secure its shopping carts on its premises, including its parking lot.
- 9. IMPOUNDMENT AND RETRIEVAL OF SHOPPING CARTS.** a. Any unattended shopping cart found outside the perimeter of a business establishment or its parking lot may be removed and impounded by the department of public works. The personnel removing the shopping cart shall make a written report that identifies himself or herself as well as the date, time and location of the shopping cart at the time of the removal; this report may take the form of a tag attached to the shopping cart; a copy of the report shall be immediately forwarded to the commissioner.
- b. Within a reasonable time, but not more than 3 business days after removal, the commissioner shall notify the owner of the removed shopping cart using the information provided on the permanent identity tag attached pursuant to this section. If the shopping cart does not have a permanent identity tag, the commissioner may attempt to notify the owner of the removed cart if the identity of the owner is known or reasonably discernible. Any notification of removed and impounded shopping carts shall be made in writing and shall include the date of removal, the location of removal, and the process for the owner's retrieval of the shopping cart.
- c. Any shopping cart that does not have the permanent identity tag attached and where the owners identity cannot be determined which is removed pursuant to this section is deemed to be abandoned property, and the commissioner may dispose of any such shopping cart.
- d. An owner or an owner's agent may retrieve a shopping cart removed pursuant to par. a by appearing during normal business hours at the designated holding location in the notice required in par. b and by paying a shopping cart retrieval fee for the removal of the carts established in s. 81-105.5 and a shopping cart storage fee established in s. 81-105.6.
- 10. PENALTY.** a. Any person who violates subs. 5 or 7 shall forfeit not less than \$1,000 nor more

than \$2,500. Each day of violation shall constitute a separate offense. Accumulated forfeitures recoverable in any one action shall not exceed \$10,000.

b. Any person who violates sub.3 shall be subject to a warning, and each subsequent violation of this section shall be subject to a fine of \$25 nor more than \$500.

c. Any person who violates this section other than subs. 3,5 or 7 shall forfeit not less than \$25 nor more than \$500.

Part 4. This ordinance takes effect January 1, 2008.

APPROVED AS TO FORM

Legislative Reference Bureau

Date: _____

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney

Date: _____

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JWC

6/06/07