



Agenda Item 9-A

Approvals:

City Manager \_\_\_\_\_

Dept. Head CGD

Attorney \_\_\_\_\_

Finance JV

## AGENDA REPORT

SAN CLEMENTE CITY COUNCIL MEETING

Meeting Date: August 21, 2018

**Department:** Community Development Department, Planning Division  
**Prepared By:** Sheri Vander Dussen, Consultant/Interim City Planner

**Subject:** *SHOPPING CART CONTAINMENT AND RETRIEVAL PROGRAMS*

**Fiscal Impact:** None.

**Summary:** Staff recommends that the Council provide direction to Staff regarding preparation of an amendment to the Municipal Code regulating shopping carts.

**Background:** At the City Council meeting of June 19, 2018, the City Council requested that a discussion regarding shopping cart containment programs be set for a future agenda.

**Discussion:** It is illegal under State law to remove a shopping cart from a business without prior authorization of the owner of that shopping cart. Nevertheless, carts are removed from retail sites. For instance, customers may use the carts to carry groceries to a bus stop or their home; in such cases, the carts may not be returned to the store when the groceries have been removed. Abandoned shopping carts contribute to blight and may impede pedestrian access on sidewalks and create a safety hazard on roadways.

The California Business and Professions Code states that a city may not retrieve a shopping cart located outside the premises or parking area of a business unless the owner has failed to collect the cart for three days. If a city does retrieve a shopping cart, it must hold it at a location that is reasonably convenient to the owner of the cart, and is open at least six hours each business day. The city may fine the owner of a shopping cart no more than \$50 for each occurrence in excess of three during a six month period for failure to retrieve shopping carts, and an occurrence is defined as all carts impounded in a one-day period.

### Existing City Regulations

Chapter 8.60 of the Municipal Code regulates businesses providing shopping carts. This chapter requires a sign to be permanently affixed to each shopping cart that identifies the owner of the cart, or retailer, or both; advises customers how to obtain approval to remove a shopping cart from the premises; indicates that unauthorized removal of the shopping cart, or the unauthorized possession of the cart, is a violation of state law; and provides a phone number or address so that a cart removed from the premises may be returned to the owner. The intent of this chapter is to ensure that people understand it is illegal to remove carts from the retail site, and to allow anyone finding a cart off the premises to notify the owner so the cart may be retrieved. It also

allows the City to retrieve abandoned carts after three days and impose fines or fees when businesses pick up impounded carts. Owners can be exempt from these provisions if they choose to submit a cart retrieval program to the City. To date, no retail business using carts has submitted such a plan.

### **Existing Code Compliance Violations**

The City has received, and continues to receive, multiple complaints about abandoned or unlawfully removed shopping carts from the City's large retail establishments. In the past two and a half years, the City's Code Compliance division investigated 28 cases stemming from more than 40 complaints involving shopping carts.

### **Options to Regulate Shopping Carts**

Many communities have found that the required three day waiting period to remove an abandoned cart from public or private property is too long. Following state law also means that city employees have to tag abandoned carts, notify the owner, and return three days later before arranging to have the cart removed. As a result, many cities have adopted requirements to ensure that carts are contained on retail sites, or that the business owner is responsible for retrieving carts removed from the premises within 12 or 24 hours. The approaches used by other cities in Orange County and nearby communities generally fall into four categories:

- Require signs on all carts that include contact information so the owner may be notified if a cart is found off the retail premises
- Adopt a local ordinance implementing applicable provisions of state law regarding impounding abandoned carts
- Require all businesses using shopping carts to obtain approval of a cart retrieval plan from the City; and/or
- Require all businesses using shopping carts to obtain approval of a cart containment plan from the City

As described above, the City has already adopted regulations requiring signs on all carts, and allowing the City to impound abandoned carts. The City does not require businesses using carts to have a cart retrieval or containment plan approved by the city. The components of cart containment and retrieval programs throughout Orange County are fairly standard. Most cities establish that a business must have at least five or ten carts before compliance with a cart program is required.

### ***Cart Retrieval Programs***

Cart retrieval programs require businesses using shopping carts to retrieve carts removed from the property within a certain period of time. They are not as effective as cart containment programs in preventing unauthorized removal of shopping carts. Retrieval programs generally include the following components:

- Signage indicating that unauthorized removal of a shopping cart is illegal
- A plan to patrol all streets within a radius of two miles of the site, and remove all carts within 24 hours

- A plan to patrol all bus stops and streets within a radius of one mile of the site, and remove all carts within 12 hours
- Retrieval may be done by employees of the business or through a contractor
- Written reports must be submitted each month by the business, detailing where carts were found and how many were retrieved

The City currently allows businesses using carts to submit a cart retrieval program to the City Manager in order to avoid paying fees and fines imposed by the City when the City picks up abandoned carts. To date, the City has not picked up abandoned shopping carts, so no cart retrieval programs have been submitted. The Municipal Code does not define the contents of a retrieval plan, and no business is required to submit such a plan.

### ***Cart Containment Programs***

Cart containment programs are most effective at preventing unauthorized removal of shopping carts from a retail facility. These programs generally include the following components:

- Signage indicating that unauthorized removal of a shopping cart is illegal
- Physical measures to prevent unauthorized removal of shopping carts, which may include the following options:
  - Disabling devices that prevent the cart from rolling beyond the parking area
  - Assigning security guards to the parking area to ensure carts are not removed
  - Restricting use of carts to the interior of the store; carts can only be removed from the store by an employee
  - Installing physical barriers at the perimeter of the parking lot, such as bollards, that prevent removal of carts
  - Imposing security deposits or rental fees that must be paid to obtain a cart and are returned when the cart is returned
  - Providing a shuttle to take customers home with their purchases
- A plan to secure carts when the business is closed
- A plan to educate employees on the cart containment program
- May also require businesses to implement a cart retrieval program

### **Considerations**

- The City Council could fund a cart retrieval program under current regulations, ensuring that carts abandoned for three days or more are impounded. The City would need to contract with a cart retrieval company to provide this service. Businesses could continue to submit a cart retrieval program to be exempt from fines and fees associated with reclaiming carts picked up by the City. The Council may wish to amend the Code to define the required components of a cart retrieval program under this option.
- Mandatory cart containment and retrieval programs generally reduce the number of abandoned shopping carts found in the community.

- The City can require all existing businesses using shopping carts to submit plans within a certain number of days after the ordinance is adopted.
- Some communities require the cart retrieval/containment plan to be updated each year, when the business license is renewed.
- Most ordinances allow the business to decide if a cart retrieval or containment program will be employed. It is possible to require a business to move from a retrieval plan to a containment plan if the retrieval plan is not effective.
- Businesses will often retain the same contractor to retrieve carts, improving the overall efficiency of removal of abandoned carts throughout the community.
- If the Council directs staff to modify current regulations, outreach to existing businesses currently using shopping carts is recommended during the formulation process.
- Staff time will be required to implement cart regulations under any change to existing codes and practices. Staff will need to advertise for and secure a contractor to retrieve carts; review and approve containment/retrieval plans; review monthly reports to confirm plans are being implemented correctly; monitor locations around stores using carts to confirm that abandoned carts are being timely collected; and process annual renewals/updates, if required.

**Recommended**

**Action:** STAFF RECOMMENDS THAT THE CITY COUNCIL PROVIDE DIRECTION TO STAFF REGARDING MODIFICATION OF REGULATIONS TO CONTAIN AND/OR RETRIEVE SHOPPING CARTS.

**Attachments:** 1. Local Cities with Shopping Cart Regulations by Type

**Notification:** N/A

ATTACHMENT 1  
LOCAL CITIES WITH SHOPPING CART REGULATIONS

**Signage required on Shopping Carts identifying Owner**

- City of San Clemente
- City of San Juan Capistrano

**Ordinance Implementing State Law regarding Impounding Shopping Carts**

- City of La Habra
- City of Orange
- City of San Clemente
- City of Tustin

**Shopping Cart Retrieval or Containment Program**

- City of Anaheim
  - May require businesses to implement a containment program if retrieval program is not effective
- City of Buena Park
- City of Irvine
  - May require businesses to implement a containment program if retrieval program is not effective
- City of Lake Forest
  - May require businesses to implement a containment program if retrieval program is not effective
- City of Oceanside
- City of Santa Ana

**Shopping Cart Containment Program**

- City of Costa Mesa
  - Staff can grant waiver to allow business to submit a cart retrieval plan
- City of Fountain Valley
- City of Huntington Beach
- City of Long Beach
  - City found that retrieval programs were not effective
  - All stores using shopping carts now required to implement containment programs
- City of Los Angeles
- City of Westminster