

## Shopping Cart Policy and Potential Related Fees – 60 Day Notice

Posted 3/24/2020

In accordance with A.R.S. 9-499.15, the City of Avondale is proposing fees related to a potential Shopping Cart Ordinance. Below is the Council Report related to the ordinance and the potential fees. Council action on the item is scheduled for the Council Meeting on Monday, June 1, 2020.



Item Number: 4.a.

## CITY COUNCIL REPORT

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**SUBJECT:** Shopping Cart Ordinance

**MEETING DATE:** 3/23/2020

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**TO:** Mayor and Council

**FROM:** Kevin Murphy, Development & Engineering Services  
Department Director

**THROUGH:** Charles A. Montoya, City Manager, (623) 333-1016

**PURPOSE:**

Staff will present information and request feedback from City Council on a proposed shopping cart ordinance. The ordinance is intended to address abandoned shopping carts by holding businesses accountable to prevent shopping cart removal from premises.

**BACKGROUND:**

In 2000, the State of Arizona imposed uniform shopping cart regulations prohibiting abandonment and removal of carts by the public, but the regulations did not require business owners within municipalities to implement measures to prevent shopping cart removal from their property. The absence of regulation leaves municipalities to take on abandoned shopping cart issues.

There is an ongoing abandoned shopping cart issue throughout the City. Often these carts are found on sidewalks, vacant lots, and streets far from the place of origin. These shopping carts are a blight on the community and may pose a risk to the health and general welfare of our residents. The Code Compliance Division has implemented measures to assist with

abandoned shopping carts. Lift gates were installed on code compliance vehicles to help with the removal of shopping carts including those that are an immediate safety hazard to traffic and pedestrians. Code Staff continuously contact businesses that have contracted cart retrieval services to report abandoned shopping cart locations so they may facilitate retrieval by their service provider. And, the “myAvondale” mobile app includes an option to report abandoned shopping carts.

In July 2019, the City approved a shopping cart retrieval service contract to help retrieve abandoned shopping carts in the City. The shopping cart retrieval service reduced the number of abandoned shopping carts improving both the safety and visual appearance of the City. However, to further reduce the number of abandoned shopping carts, an ordinance is proposed to hold businesses accountable and prevent shopping cart removal from premises.

## **DISCUSSION:**

The proposed shopping cart ordinance (Exhibit A) contains a mixture of uniform regulations required by State law and provisions tailored to the needs of the City. The State legislature has imposed uniform regulations regarding impoundment, thus any local ordinance on the same subject must be consistent with State law. As such, there is language in the ordinance that mirrors the impoundment procedures laid out by the State.

A major requirement for businesses in the proposed ordinance is the requirement of restrictive devices on shopping carts. Every new and existing business that provides shopping carts to the public must install a restrictive device to their shopping carts after the ordinance is implemented. An alternative to the restrictive device requirement is that a business owner may elect to contract with a shopping cart retrieval service to remove any carts in the City from their store. However, if they fail to pick up shopping carts, the City would still have Code Compliance staff impound them; therefore, the City will require a designated annual certification fee if the business elects to contract with a shopping cart retrieval service. The certification fee covers administrative costs for shopping carts retrieved by the City and/or its contractor. Code Compliance and Finance and Budget Staff worked together to determine the fees for the certification and shopping cart impoundment.

Staff has developed proposed fees based on cost recovery of administering the program. There are two fees; an impoundment fee and a certification fee. Information related to the time, tasks, duties, processing steps, number of staff involved, and the like is used in a calculation to determine the fees. The retrieval/impoundment fee of \$45.00 per cart is based on staff estimates between retrieving abandoned shopping carts, travel to the City's Public Works yard for storage, unloading of shopping carts, and return of shopping carts to owners; City Staff estimates one-hour of staff time per shopping cart. The administrative fee of \$50.00 is based on the time necessary for the Code Compliance Manager to process the application plus time to reach out and educate businesses on the program. Staff estimates one-hour of staff time on average per application. The proposed fees and means of calculating will be posted on the City's website at least 60 days before Council action.

An additional requirement when contracting with a shopping cart retrieval service is that a business owner must adhere to the public notice and identification requirements which needs to include the following elements:

- Each shopping cart must contain identifying business owner information, name, address, and phone number.

- Posted public notices in English and Spanish notifying customers that removal of shopping carts is a violation of the law.

The proposed ordinance declares abandoned and removed carts a public nuisance and authorizes City Staff to impound carts and hold business owners responsible for failure to comply with the law. The requirement of restrictive devices would mitigate an increase of abandoned carts. The proposed ordinance is meant to be a comprehensive set of regulations, designed to empower City Staff to impound carts, hold persons liable for violations, and compel business owners within the City to adopt preventative measures.

## **Public Participation**

City staff held a public meeting to discuss the proposed shopping cart ordinance on February 11, 2020. The meeting was held in the City of Avondale's Sonoran conference room at 6 p.m. Notice of the meeting was mailed via postcard on January 21, 2020 to thirty (30) Avondale businesses who provide shopping carts to their customers. There were three (3) attendees at the meeting who conveyed the following. A meeting summary is attached as Exhibit B.

- Food City on Main Street: This store allows their customers to take shopping carts home. According to Food City personnel, this practice assists families with no other means to carry their groceries home. The store's customers call Food City to have the carts picked up. Food City is concerned that their customers will be at a disadvantage if restrictive devices are required.
- Costco: The store's shopping carts are oversized and challenging to have installed restrictive devices. Through experience at a different store location, customers have found methods to bypass barriers at the property line and remove the cart from the premises.
- Fry's on Dysart Road: Restrictive devices are implemented at the existing Fry's store. The system requires an employee and/or security guard to check the locks at the doorway. It has worked well to stop shoplifters from taking products from the store. There have been issues with people replacing or tampering with batteries in the carts. When the cart is at the doorway boundary it locks. Representatives from the Fry's on MC 85 and Avondale Boulevard were not in attendance.

There was one comment posted on the City's aVOICE digital forum stating, "I think it's a great Idea because not everyone has time to chase everywhere for a cart including but limited to those that work at that business and the people that shop there always have a cart to use to shop with."

The Code Compliance Division has not received any additional calls or emails from citizens or businesses regarding the proposed shopping cart ordinance.

## **BUDGET IMPACT:**

This presentation is for informational purposes only. If the program is implemented as proposed, the anticipated fees will generate \$1,500.00 based on an estimated thirty (30) certification applications.

## **RECOMMENDATION:**

The shopping cart ordinance is provided to City Council for information, feedback, and

direction.