

CITY of ALBUQUERQUE

TWENTY SIXTH COUNCIL

COUNCIL BILL NO. O-24-57 ENACTMENT NO. _____

SPONSORED BY: Renée Grout

1 ORDINANCE

2 ADOPTING A NEW ARTICLE IN CHAPTER 13 OF THE REVISED ORDINANCES
3 OF ALBUQUERQUE 1994 TO BE KNOWN AS THE “SHOPPING CART
4 ABANDONMENT PREVENTION ORDINANCE.”

5 WHEREAS, abandoned shopping carts pose a hazard to pedestrians,
6 cyclists, and motorists, thereby endangering public safety and welfare; and

7 WHEREAS, abandoned shopping carts may also block arroyos and other
8 water channels throughout the City; and

9 WHEREAS, abandoned shopping carts are unsightly, unsanitary, and
10 contribute to neighborhood blight; and

11 WHEREAS, businesses that offer shopping carts for the convenience of
12 their customers are responsible for preventing the theft and abandonment of
13 their carts, and for educating customers to not take carts and abandon them
14 off site; and

15 WHEREAS, it is in the interest of the entire community to maintain a clean
16 and safe environment for all residents and visitors to enjoy; and

17 WHEREAS, developing good plans for securing and retrieving shopping
18 carts saves businesses the costs of replacing lost shopping carts and
19 addresses community concerns about litter and safety; and

20 WHEREAS, the City of Albuquerque seeks to promote sustainability and
21 environmental responsibility by ensuring that abandoned shopping carts are
22 not disposed of in landfills, but are reused, recycled, or repurposed; and

23 WHEREAS, a system for retrieving and managing abandoned shopping
24 carts will support City efforts to maintain cleanliness and order without
25 burdening taxpayers; and

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1 WHEREAS, the shopping cart collection provisions of this ordinance are
2 based on a pilot program that the Solid Waste Department conducted in
3 response to R-23-129 in which the department partnered with a contractor to
4 conduct cart and data collection efforts; and

5 WHEREAS, the six-month pilot program collected 4,020 shopping carts
6 throughout the city; and

7 WHEREAS, the City charges a nominal fee for retrieval and return, while a
8 new shopping cart can cost a minimum of \$250; and

9 WHEREAS, a four-month extension of the pilot program resulted in a
10 dramatic decrease in the number of shopping carts collected due to the Solid
11 Waste Department informing retailers of the collection efforts, resulting in
12 many retailers engaging with their own private collection agencies; and

13 WHEREAS, the successful shopping cart collection pilot program
14 demonstrated that a permanent program within the City will continue to be
15 impactful.

16 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
17 ALBUQUERQUE:

18 SECTION 1. A new Article 22 in Chapter 13 of the Revised Ordinances of
19 Albuquerque 1994 is hereby adopted as follows:

20 § 13-22-1-1 SHORT TITLE.

21 This Ordinance shall be known and cited as the “Shopping Cart
22 Abandonment Prevention Ordinance.”

23 § 13-22-1-2 PURPOSE. The purposes of this Ordinance include to:

24 (A) Prevent shopping cart theft

25 (B) Maintain community cleanliness

26 (C) Maintain accessibility of public conveyances by keeping abandoned
27 shopping carts out of City streets, sidewalks, and waterways

28 (D) Ensure that businesses take responsibility for their shopping carts.

29 § 13-22-1-3 DEFINITIONS

30 [For the purposes of this article, the following definitions shall apply unless
31 the context clearly indicates or requires a different meaning:

32 ABANDONED CART. A shopping cart that has been removed from a retail
33 establishment’s premises without authorization and left unattended.

1 CART OWNER. The establishment or organization that provides shopping
2 carts for customer use or uses carts for their operation.

3 FORFEITTED CART. An abandoned cart that a cart owner has voluntarily
4 chosen to not retrieve after notification of its storage at a City facility.

5 PREMISES. Any lot or combination of abutting or adjacent lots held in
6 single ownership in which a cart owner is located.

7 § 13-22-1-4 DIRECTING THE PLANNING DEPARTMENT TO CREATE AN
8 ONLINE SHOPPING CART SHOPPING CART ABANDONMENT PREVENTION
9 PLAN FORM

10 The Planning Department shall create a fillable electronic form linked to its
11 website that Cart Owners may use to submit their Shopping Cart
12 Abandonment Prevention Plans. The form should include fields for:

- 13 1. Cart inventory
14 2. Description of after-hours storage
15 3. Description of loss prevention measures
16 4. Description of employee training on shopping cart loss prevention.

17 § 13-22-1-5 SHOPPING CART IDENTIFICATION SIGNS.

18 Business owners shall have a sign and/or engraved marker permanently
19 affixed to each shopping cart in a prominent and clearly visible location. The
20 sign and/or engraved marker shall include all of the following information:

- 21 (A) The name, address and phone number of the cart owner.
22 (B) Notice to the public that the unauthorized removal of the cart from the
23 premises OR the unauthorized possession of the cart is a petty
24 misdemeanor and shall be subject to the penalty provisions set forth in § 1-
25 1-99 of this code of ordinances.
26 (C) Instructions for reporting abandoned shopping carts.
27 i. The City shall make available on its website the instructions to be
28 provided on each cart.

29 § 13-22-1-6 SHOPPING CART ABANDONMENT PREVENTION PLAN.

30 (A) Each owner of a business shall effectively implement a shopping cart
31 abandonment prevention plan in accordance with this article and submit the
32 plan to the City's Code Enforcement Division for approval. Each shopping cart

plan shall be conspicuously posted at the place of business. A shopping cart plan shall include, but is not limited to:

1. Cart inventory

2. Description of after-hours storage

3. Description of loss prevention measures

4. Description of employee training on shopping cart loss prevention.

(B) Exemptions: A business owner is exempt from this article for two years at a time if the owner submits an exemption request and meets the following requirements:

1. The business has effective restraints that prohibit any carts from exiting the premises or from operating off the premises. Examples of such restraints include but are not limited to: poles attached to carts to keep them from passing a certain point; electronic wheel locks on all carts that prevent wheels from rolling past the perimeter of the premises; physical constraints such as bollards; or continuous use of courtesy clerks to accompany customers and return the carts to the store; and

2. The business secures all shopping carts during the hours the business is closed by storing carts inside. Carts may be locked outside on the condition that they be immobilized or secured in such a manner that the carts are not accessible to the public.

§ 13-22-1-7 SHOPPING CART RETRIEVAL AND STORAGE.

Abandoned shopping carts will be collected by the City under the following provisions:

(A) The City shall not collect carts located on private property.

(B) The City will store collected abandoned carts at a designated facility that is accessible to cart owners by appointment.

(C) The City is permitted to utilize contractors to assist with the collection, storage, and disbursement of carts.

- i. Any contractor the City utilizes shall disclose any retailers that also contract them for shopping cart collection services. That contractor shall not collect carts on the City's behalf if those carts are owned by any retailer that also contracts the vendor for collection services.

1 § 13-22-1-8 FEES FOR COLLECTION AND STORAGE OF ABANDONED CARTS;
2 FORFEITTED CARTS

3 The City shall assess the following fees:

4 (A) The cart owner will be charged \$20 per cart retrieved.

5 (B) The cart owner must retrieve the abandoned cart from the City storage
6 facility within seven calendar days of the City confirming collection.

7 i. An additional fee of \$5 per day will be assessed for each calendar
8 day the abandoned cart remains unclaimed beyond this period
9 until such a time that:

10 (a) A total of 30 calendar days have passed, at which point
11 the abandoned cart will be considered forfeited; or

12 (b) The cart owner notifies the City that it will not collect the
13 abandoned cart(s), at which point the abandoned cart will
14 be considered forfeited.

15 § 13-22-1-9 FORFEITED CARTS

16 Forfeited carts shall not be sent to a landfill. In lieu of sending forfeited
17 shopping carts to a landfill, the City shall pursue one of the following options:

18 (A) Recycle the cart: Disassemble the carts and recycle the metal and
19 plastic components.

20 (B) Donate the cart: Donate the carts to local organizations. Donated carts
21 are subject to the provisions of § 13-22-1-4 and § 13-22-1-5.

22 (C) Repair and Resale: Refurbish and sell the cart.

23 § 13-22-1-10 OFF-PREMISES POSSESSION OF SHOPPING CARTS.

24 It shall be unlawful for any individual to:

25 (A) Remove a shopping cart from the retail premises where it is used for
26 shopping; or

27 (B) Possess an off-site shopping cart not subject to an exception identified
28 in this section; or

29 (C) Abandon an off-site shopping cart; or

30 (D) Alter, convert, or tamper with a shopping cart, or remove any part or
31 portion thereof or remove, obliterate, or alter an identifying sign, mark, or
32 serial number on a shopping cart.

33 (E) Exceptions:

1 1. Shopping carts may be removed from retail premises for the
2 purposes of maintenance, repair, or any other service, with the written
3 permission of the business owner or their designee.

4 2. Shopping carts may be temporarily removed from the premises
5 with the permission of the business owner or their designee for the purpose of
6 transporting goods to access public transportation, as long as the shopping
7 cart is immediately retrieved by an employee of the business and returned to
8 the premises.

9 3. Shopping carts may be collected by City employees or contractors
10 under the provisions of § 13-22-1-6 above.

11 § 13-22-1-11 ENFORCEMENT.

12 Violation of § 13-22-1-9 is subject to prosecution as a petty misdemeanor
13 and, upon conviction, shall be subject to the penalty provisions set forth in §
14 1-1-99 of this code of ordinances. In lieu of jail time and/or fine, the sentencing
15 judge may order that the person perform community service and/or undergo
16 treatment for substance use disorders and/or mental health treatment.]

17 SECTION 2. SEVERABILITY. If any section, paragraph, sentence, clause,
18 word or phrase of this Ordinance is for any reason held to be invalid or
19 unenforceable by any court of competent jurisdiction, such decision shall not
20 affect the validity of the remaining provisions of this Ordinance. The Council
21 hereby declares that it would have passed this Ordinance and each section,
22 paragraph, sentence, clause, word or phrase thereof irrespective of any
23 provision being declared unconstitutional or otherwise invalid.

24 SECTION 3. COMPILATION. SECTION 1 of this Ordinance is to be
25 compiled as a new Article 22 in Chapter 13 of the Revised Ordinances of
26 Albuquerque, New Mexico, 1994, titled "The Shopping Cart Abandonment
27 Prevention Ordinance."

28 SECTION 4. EFFECTIVE DATE. This Ordinance takes effect 90 days after
29 publication by title and general summary.