



Ordinance Fact Sheet

TO: CITY COUNCIL

DATE: April 21, 2008

FROM: CITY ATTORNEY

SUBJECT: ABANDONED/UNATTENDED SHOPPING CARTS

TITLE OF PROPOSED ORDINANCE:

AN ORDINANCE OF THE CITY OF PASADENA AMENDING CHAPTER 9.62 OF THE PASADENA MUNICIPAL CODE TO REQUIRE PHYSICAL CART CONTAINMENT SYSTEMS AND OTHER REMEDIES TO ADDRESS PUBLIC NUISANCE SHOPPING CARTS

PURPOSE OF ORDINANCE:

The purpose of this ordinance is to reduce further the number of abandoned/unattended shopping carts throughout the community and to impose additional penalties to encourage compliance with the City's ordinance.

REASONS WHY LEGISLATION IS NEEDED:

At the regular City Council meeting of December 17, 2007, the Council directed the City Attorney's Office to draft this ordinance. Section 410 of the Pasadena City Charter requires that the municipal code be amended by ordinance.

The Council's discussion of the proposed amendment also raised the question whether the City could require business owners to affix identifying signs to their shopping carts. With respect to the identification of shopping carts, the state has specifically preempted the field regarding retrieval of shopping carts by cities. To discourage thefts or other removal of commercial shopping carts, the state has enacted provisions in the California Business and Professions Code aimed at protecting the shopping carts of business entities. Section 22435.1 of the California Business and Professions Code requires permanently affixed signs on shopping carts before the protections of Section 22435.2 would apply. Section 22435.2 makes it unlawful to remove a shopping cart with the intent to temporarily or permanently deprive the retailer of possession. In light of the specific preemption, nothing allows cities to "require" cart owners to label the carts.

MEETING OF 04/21/2008

AGENDA ITEM NO. 10.A.1.

The unlawful acts enumerated in Section 22435.2 carry penalties for the removal, possession or abandonment of such shopping carts. Violations of these provisions, as well as Section 22435.1, may be prosecuted by the City as misdemeanors pursuant to Section 22435.3.

PROGRAMS, DEPARTMENTS OR GROUPS AFFECTED:

Owners of businesses with shopping carts, shoppers, and the City Department of Planning and Development will be affected by this ordinance.

FISCAL IMPLICATIONS:

The implementation of a physical cart containment system will shift the responsibility for abating the nuisance of shopping carts littering the community to serial violators. At the same time, this ordinance should reduce the City's costs associated with citywide sweeps for shopping carts, specialized target areas of enhanced removal, and maintenance of a hotline to the shopping cart removal vendor

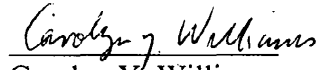
POLICY CHANGES:

This ordinance is an expansion of the remedies the City may use to abate the public nuisance of unattended or abandoned shopping carts littering the community.

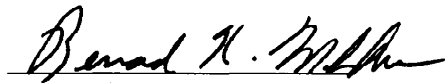
Respectfully submitted,


Michele Beal Bagneris
City Attorney

Prepared by:


Carolyn Y. Williams
Asst. City Attorney

Concurrence:


Bernard Melekian
City Manager

Introduced by Councilmember: _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PASADENA AMENDING CHAPTER 9.62 OF THE PASADENA MUNICIPAL CODE TO REQUIRE PHYSICAL CART CONTAINMENT SYSTEMS AND OTHER REMEDIES TO ADDRESS PUBLIC NUISANCE SHOPPING CARTS

The People of the City of Pasadena ordain as follows:

SECTION 1. Pasadena Municipal Code, Chapter 9.62, Section 9.62.030 (“Definitions”)

is amended to add a new subsection “H” to read:

“H. “Physical containment system” shall mean a disabling device on all shopping carts which prevents them from being removed from the business premises by locking the wheels or otherwise preventing the movement of the carts, or any other system of equipment approved by the Director of Planning and Development which physically contains shopping carts on premises.”

SECTION 2. The Pasadena Municipal Code is amended to add a new Section 9.62.055 to Title 9, Chapter 9.62 to read:

“9.62.055 Abandoned/Unattended Shopping Carts.

A. It shall be unlawful and a public nuisance for any person, company, partnership or corporation to allow one or more of that entity’s shopping carts to be abandoned or remain unattended on any private property, city street, alley, sidewalk or other public right-of-way for any period of time.

B. Violations under this Section are subject to abatement by administrative citation pursuant to Chapter 1.26 of the Pasadena Municipal Code.

C. The Director of Planning and Development Department is authorized to require any retailer who is issued more than ten (10) administrative citations within a thirty (30) day period to install a physical cart containment system.”

SECTION 3. This ordinance shall take effect thirty (30) days after its publication.

Signed and approved this _____ day of _____ 2008.

Bill Bogaard
Mayor of the City of Pasadena

I HEREBY CERTIFY that the foregoing ordinance was adopted by the City Council of the City of Pasadena at its meeting of _____, 2008, by the following vote:

AYES:

NOES:

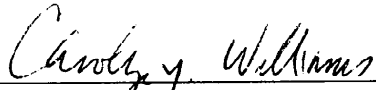
ABSTAIN:

ABSENT:

Published

Jane Rodriguez, CMC
City Clerk

APPROVED AS TO FORM:



Carolyn V. Williams
Asst. City Attorney