

ORDINANCE NO. 2967

AN ORDINANCE OF THE CITY OF ISSAQUAH, WASHINGTON, AMENDING THE ISSAQUAH MUNICIPAL CODE BY ADDING A NEW CHAPTER 8.30, SHOPPING CART REGULATION; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City has seen an increase in abandoned shopping carts. In the last six months of 2021, the City has documented more than 1,000 abandoned carts from 13 stores; and

WHEREAS, until this point, the City has taken primary responsibility for locating and retrieving displaced carts; and

WHEREAS, the City desires to adopt shopping cart regulations in an effort to reduce the volume of abandoned carts and reduce the onus of retrieving displaced shopping carts from the City; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF ISSAQUAH, WASHINGTON, DO
ORDAIN AS FOLLOWS:

Section 1. Shopping Cart Regulations Adopted. The Issaquah Municipal Code is amended by adding a new chapter to read:

**Chapter 8.30
SHOPPING CART REGULATION**

Sections:

- 8.30.010 Purpose.**
- 8.30.020 Declaration of nuisance.**
- 8.30.030 Definitions.**
- 8.30.040 Exemptions.**
- 8.30.050 Shopping cart containment and retrieval required.**
- 8.30.060 Shopping cart signage.**
- 8.30.070 Impoundment and Notification.**

8.30.080 Retrieval by owner.

8.30.090 Fees.

8.30.100 Shopping cart containment and retrieval plans.

8.30.110 Illegal possession or accumulation of carts.

8.30.010 Purpose.

The primary purpose of this chapter is to promote public safety and improve the image and appearance of the City by preventing: the illegal removal of shopping carts from business premises; the continued possession of illegally removed carts; and the accumulation of illegally removed carts on public or private properties. This chapter is also intended to motivate the owners and operators of businesses that utilize shopping carts to use the means available to them to deter, prevent, and mitigate the removal of shopping carts from their business premises, and to provide for the prompt retrieval of lost, stolen or abandoned shopping carts that may be removed despite these efforts.

8.30.020 Declaration of nuisance.

Retail establishments sometimes provide shopping carts for the convenience of their customers. However, shopping carts that are removed from the premises of a business and left abandoned on public or private property throughout the City can create conditions of blight in the community, obstruct free access to sidewalks, streets and other rights-of-way, interfere with pedestrian and vehicular traffic on pathways, driveways, public and private streets, impede emergency services, or pose other dangers. It is for these reasons that lost, stolen, or abandoned shopping carts are hereby declared to be a public nuisance and a potential hazard to the health and safety of the public, and shall be subject to abatement in the manner set forth in this chapter, or in any other manner provided by law. Each shopping cart that has been removed from the premises of the business and left abandoned on public or private property throughout the City constitutes a public nuisance in violation of this chapter.

For purposes of this chapter, any shopping cart located on any public or private property other than the premises of the retail establishment from which such shopping cart was removed shall be presumed lost, stolen, or abandoned, even if in the possession of any person, unless such person in possession thereof is:

- (1) An authorized agent; or
- (2) Retail establishment personnel; or
- (3) Enforcement personnel; or
- (4) An authorized customer.

8.30.030 Definitions.

Except as otherwise expressly set forth herein, the following words and terms as used in this chapter shall have the following meanings:

(1) Director. The Director of the Community Planning and Development Department.

(2) Authorized Agent. The owner, or an employee or authorized agent of the owner, entitled to possession of the shopping cart.

(3) Authorized Customer. A customer of the Retail Establishment that provides the shopping cart, having the written permission of the owner or owner's agent to remove the shopping cart from the owner's premises.

(4) Cart Patrol and Retrieval Company. A contracted agent who recovers shopping carts on behalf of retail establishments within a one-mile radius of the contracting retail establishment(s).

(5) Enforcement Personnel. Any code enforcement officer, police officer, or other designated staff employed by the City of Issaquah.

(6) "Identification Sign" or "Cart Sign." A clearly visible sign fastened to each cart that provides ownership information required by this chapter.

(7) Lost, Stolen, or Abandoned Shopping Cart. A shopping cart that is either:

(a) Removed from the premises of a retail establishment by any person without the written permission or consent of the owner of the shopping cart or the retailer otherwise entitled to possession of such cart; or

(b) Left unattended, discarded or abandoned upon any public or private property other than the premises of the retail establishment from which the shopping cart was removed, regardless of whether such shopping cart was removed from the premises with permission of the owner;

(c) For purposes of this chapter, any shopping cart located on any public or private property other than the premises of the retail establishment from which such shopping cart was removed shall be presumed lost, stolen, or abandoned, even if in the possession of any person, unless such person in possession thereof is either:

(i) The owner, or an employee or authorized agent of the owner, entitled to possession of said shopping cart; or

(ii) An officer, employee or agent of a cart patrol and retrieval service hired by the owner to retrieve such carts; or

(iii) City enforcement personnel retrieving, storing or disposing of said cart pursuant to the provisions of this code; or

(iv) An authorized customer with written permission from the owner or agent of the owner to take the cart off premises.

(8) Owner. Any person or entity that owns, leases, possesses, or makes shopping carts available to customers or the public in connection with the conduct of a retail establishment.

(9) Parking Area. A parking lot or other property provided by a retail establishment for the use of customers of said retail establishment for the parking of customer vehicles. The parking area of a retail establishment located in a multi-store complex or a shopping center shall include the entire parking area used by the multi-store complex or shopping center.

(10) Premises. Any building, property, or other area upon which any retail establishment conducts or operates business in the City of Issaquah, including the parking area provided for customers in such retail establishment.

(11) Retail Establishment. Any business located in the City of Issaquah which offers or provides shopping carts for the use of the customers of such business regardless of whether such business is advertised or operated as a retail or wholesale business, and regardless of whether such business is open to the general public, is a private club or business, or is a membership store.

(12) Security Measures. Physical impediments or methods to prevent removal of shopping carts from the premises of the retail establishment including, but not limited to:

- (a) Electronically activated self-braking wheels;
- (b) Poles mounted to shopping carts, which prevent their removal from the interior of the retail establishment;
- (c) Utilization of a cart patrol and retrieval company;
- (d) Dedicated security personnel; and
- (e) Other measures deemed appropriate and effective by the Director.

(13) "Shopping Cart" or "Cart." A basket which is mounted on wheels or a similar device generally used in a retail establishment by a customer for the purpose of transporting goods of any kind.

8.30.040 Exemptions.

The requirements of this chapter shall not apply to any retail establishment which provides a total of 15 or fewer shopping carts for use by customers of such business. This chapter shall not apply to carts that are removed for repair or maintenance by an owner or authorized agent entitled to possession of the shopping cart.

8.30.050 Shopping cart containment and retrieval required.

Every owner who provides shopping carts to customers for use on the premises of any retail establishment shall be responsible for the containment of such shopping carts to the premises of the business establishment and for the immediate retrieval of any lost, stolen, or abandoned shopping carts which have been removed from the premises of the retail establishment. There is a rebuttable presumption that a shopping cart found abandoned somewhere off the premises was removed from the premises without the cart owner's consent.

8.30.060 Shopping cart signage.

(1) Shopping Cart Identification Signs Required. Each shopping cart made available for use by customers shall have a Cart Sign permanently affixed to it that includes the following information in accordance with RCW [9A.56.270](#), as now enacted or hereafter amended:

- (a) Identifies the owner of the shopping cart or the name of the business establishment, or both;
- (b) Notifies the public of the procedure to be utilized for authorized removal of the cart from the premises;
- (c) Notifies the public that the unauthorized removal of the cart from the premises of the business or parking area of the retail establishment, or the unauthorized possession of the cart, is unlawful; and
- (d) Lists a current telephone number or address for returning carts removed from the premises or parking area to the owner or retailer.

(2) Notice to Customers. Conspicuous signs warning customers that removal of shopping carts from the premises is prohibited by state and City law must be placed and maintained on the premises near all customer entrances and exits and throughout the premises, including the parking area.

8.30.070 Notification and retrieval.

The City shall utilize the required Cart Sign to notify the owner that a lost, stolen, or abandoned shopping cart that has been found outside the premises or parking area of a retail establishment and the location of such cart(a). The owner or owner's agent must retrieve any lost, stolen, or abandoned shopping cart(s) within twenty-four (24) hours of the City providing such notice.

8.30.080 Return by City.

A lost, stolen, or abandoned cart with the required identification sign affixed thereto that is not retrieved by the owner or the owner's agent within twenty-four (24) hours of the notification provided pursuant to section 8.30.070 may be picked up by the City or an agent thereof and returned to the premises from which it was taken. Fees for pick-up and return

of shopping carts by the City are set forth in section 8.30.090. A shopping cart may be immediately picked up by the City without notice under the following circumstances:

(a) Hazardous Location. If a shopping cart will impede emergency services, or the normal flow of vehicular or pedestrian traffic, City enforcement personnel are authorized to immediately retrieve the shopping cart from public or private property and return it to the premises from which it was taken; or

(b) Private Property. If a shopping cart is on private property and the owner of such property requests removal, City enforcement personnel are authorized to immediately retrieve the shopping cart from the property and return it to the premises from which it was taken; or

(c) Lack of Identification. If a shopping cart does not have the required identification sign affixed thereto, City enforcement personnel are authorized to immediately retrieve the shopping cart from the public or private property and dispose of it without notice.

8.30.090 Fees.

(1) Return Fees. The owner of a lost, stolen, or abandoned shopping cart picked up and returned pursuant to section 8.30.080 shall be responsible for reimbursing the City for the actual costs of pick-up and return by City staff or by contractors working on the City's behalf. Return fees for returns conducted by City staff will be charged at the hourly rate of the staff member(s) conducting the return, inclusive of wages and benefits, with a one-hour minimum charge and additional time billed in thirty-minute increments thereafter. Return fees for returns conducted by City contractors will be set by the Director based on the actual costs of such services to the City. An administrative fee in the amount of ten (10) percent of actual costs will be added to all return fee invoices. No fees will be charged for the first three (3) returns to an owner. Fees must be paid within sixty (60) days of the date of the invoice provided by the City. Fees that are not timely paid may be referred to a collection agency.

(2) Fee Deferral or Waivers. The City may defer or waive, in whole or part, fees owed pursuant to this section when the following conditions are met:

(a) Shopping cart(s) belonging to the owner have been picked up and returned pursuant to section 8.30.080 no more than three (3) times in the preceding twelve months;

(b) The required Indemnification Sign is affixed to each cart; and

(c) The owner has implemented security measures, as defined in this chapter, to prevent removal of shopping carts from the business's property.

(3) The City's shopping cart pick-up and return services are provided on a limited basis only and are not intended to supplant a cart owner's obligation to contain and retrieve shopping carts as required by section 8.30.050. Nothing contained herein shall be

interpreted or construed as placing an affirmative obligation on the City to pick up and return lost, stolen, or abandoned shopping carts.

8.30.100 Shopping cart containment and retrieval plans.

(1) Plans Required. If an owner who provides shopping carts to customers for use on the premises of any retail establishment is notified by the City of a lost, stolen, or abandoned shopping cart pursuant to section 8.30.070 more than six (6) times in any three (3) month period, the Director may direct them to develop, implement and comply with the provisions of a City-approved written shopping cart containment and retrieval plans providing for the containment of shopping carts on the premises of the retail establishment (shopping cart containment plan), and for the retrieval of lost, stolen, or abandoned shopping carts which have been removed from the premises of the retail establishment (shopping cart retrieval plan).

Proposed shopping cart containment and retrieval plans must be filed with the Director within thirty (30) days of notice from the Director that such a plan is required. The plans must include sections detailing the store's strategy for preventing shopping carts from leaving the business site and parking lot (shopping cart containment), and defining the methods that will be implemented to retrieve shopping carts abandoned off site (shopping cart retrieval), as described in subsections (2) and (3) of this section.

(2) Shopping Cart Containment Plans. Shopping cart containment plans shall detail the business' approach to retain carts on the property occupied by the business. At a minimum, each shopping cart containment plan must demonstrate how the following requirements of subsections (2)(a) and (b) of this section will be met.

(a) Employee Training. The owner of the retail establishment shall ensure employees are aware of the requirements of this chapter and the provisions of state law prohibiting the unauthorized removal of shopping carts from the premises of the retail establishment.

(b) Measures to Contain Shopping Carts on Site. The owner of the retail establishment must utilize measures to contain shopping carts on business premises. These measures may include, but are not limited to:

- (i) Installing disabling devices on all carts;
- (ii) Posting store personnel to deter and stop customers who attempt to remove carts from business premises;
- (iii) Installing bollards and chains around business premises entrances/exits to prevent cart removal;
- (iv) Requiring security deposits for use of all carts; or

(v) Providing carts for rental or sale that can be temporarily or permanently used for the purpose of transporting purchases.

(c) The appropriateness of proposed measures to contain shopping carts on business premises will be dependent on the size, nature, and layout of the business premises, as well as the strength of the accompanying cart retrieval program.

(3) Shopping Cart Retrieval Plans. Shopping cart retrieval plans shall detail the business's approach for retrieving shopping carts removed from the property occupied by the business. At a minimum, each shopping cart retrieval plan must demonstrate how the following requirements of subsections (3)(a) through (c) of this section will be met.

(a) Retrieval Personnel. The owner shall provide personnel for the purposes of the retrieval of lost, stolen or abandoned shopping carts. Such personnel may be either employees of the business or one or more independent contractors hired by the owner to provide shopping cart retrieval services, or a combination of both. The shopping cart retrieval plan shall either:

(i) Identify the number of employees who will be assigned such cart retrieval duties, the number of total hours per week that each assigned employee will perform such services; or

(ii) Include a copy of each contract with a cart retrieval service (other than confidential financial information that may be retracted from the contract).

(b) Prompt Retrieval of Carts. The owner shall:

(i) Provide retrieval personnel in sufficient numbers to assure that all public streets within a minimum one-mile radius of the premises of the retail establishment are patrolled not less often than every twenty-four (24) hours.

(ii) Immediately retrieve and remove each lost, stolen or abandoned shopping cart owned or provided by the retail establishment which is found as a result of such patrols from any public or private property upon which the cart is found.

(c) Patrol Area and Resources. The shopping cart retrieval plan shall:

(i) Identify the streets, parks, bus stops, and other places that will be routinely patrolled as required by this subsection as well as the manner, frequency, and times of such patrols. The Issaquah Transit Center (1050 17th Ave NW) or Issaquah Highlands Park and Ride (1775 Highlands Drive), whichever is closer to the commercial premises, shall be included in all shopping cart retrieval plans.

(ii) Include information such as the number of trucks, hours of operation and retrieval personnel, as reasonably required by the City to assure that the owner

is devoting sufficient resources to cart retrieval operation to comply with the approved shopping cart containment plan.

(iii) Provide a current telephone and an electronic mail address (email) to report the location of the abandoned cart. (It shall be the owner's responsibility to notify the Director if the abandoned cart reporting telephone number or abandoned cart reporting electronic mail address is changed.)

(4) Plan Submittal and City Review.

(a) Plan Review and Decision. Upon the filing of any proposed plans pursuant to this chapter, and receipt of the required processing fee as established by the Director, the Director shall review said proposed plans to ensure they meet the requirements of this section and contain sufficient measures to achieve the goals of this chapter and shall: (i) approve, (ii) approve with conditions, or (iii) deny the shopping cart containment or retrieval plan. If the proposed plan is denied, the notice of decision given to the owner shall state the grounds upon which the proposed plan was denied and a deadline to submit a new plan for review. An Owner who fails to timely file a proposed plan or to abide by the terms of an approved plan is in violation of this chapter and shall be subject to civil penalties in the amount of \$500 for each day during which the violation continues.

(b) Amendments by Owner. The owner of any retail establishment which has an approved shopping cart containment or retrieval plan conforming to the requirements of this chapter may, at any time, submit a proposed amendment to the approved plan, which shall be processed and a decision issued within 14 calendar days following the receipt thereof by the Director.

(c) Implementation of Plan. The proposed measures shall be implemented no later than thirty (30) days after City approval is given, unless otherwise stated in the decision approving the plan. Unless otherwise agreed, any modifications to the plan imposed by the City shall be implemented within thirty (30) days after the City notifies the owner of the needed modifications.

(5) Appeals. The owner may appeal a decision of the Director issued pursuant to this section in the time and manner provided in Chapter 1.32 IMC. No appeal shall be accepted for filing and processing unless accompanied by the appeal fee set forth in Chapter IMC 1.32.

8.30.110 Illegal possession or accumulation of carts.

(1) Any person removing a shopping cart from the premises of an owner, without the written permission of the owner or the owner's authorized agent, shall be guilty of shopping cart theft, which is a misdemeanor pursuant to RCW 9A.56.270

(2) Anyone who knowingly possesses a shopping cart without the written permission of the owner, is guilty of possession of stolen property in the 3rd degree, which is a gross misdemeanor.

8.30.120 Additional relief authorized.

The City may seek other legal or equitable relief to enjoin any acts or practices or to abate any conditions that violate this chapter. All costs and expenses incurred by the City during abatement of such violations shall be assessed to the person(s) responsible for the condition, and responsibility for all costs and expenses is joint and several.

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 3. Effective Date. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City, and shall take effect and be in full force thirty (30) days after publication.

Section 4. Passed by the City Council of the City of Issaquah, the 18th day of January, 2022.

Approved by the Mayor of the City of Issaquah, the 18th day of January, 2022.

DocuSigned by:
Mary Lou Pauly
CEFF9F862CD7468...


MARY LOU PAULY, MAYOR

ATTEST/AUTHENTICATED:

DocuSigned by:
Tisha Gieser
FE989FA7135144C

TISHA GIESER, CITY CLERK

APPROVED AS TO FORM:

DocuSigned by:

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RACHEL BENDER TURPIN, CITY ATTORNEY

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