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**London**  
CANADA

4 April 2013

To Community and Protective Services Committee Chair and Members;

Re; Abandoned Shopping Cart By-law

I would like to request staff to consider and report back with respect to a by-law to prohibit the removal of grocery carts from any store property, or to abandon them on public property, including parks and creeks, or on any private property. Grocery carts abandoned in parking lots, dumped in streams, and discarded in alleyways are an eyesore and are costly to replace.

Attached are three examples of shopping cart by-laws from Mississauga, Markham and Guelph.

Ward 4 Councillor  
Stephen Orser  
Cell. 519-851-4968



**THE CORPORATION OF THE CITY OF MISSISSAUGA  
SHOPPING CART BY-LAW 49-09**

**WHEREAS** under Section 9 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, The Corporation of the City of Mississauga has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

**AND WHEREAS** under Section 11 (1) of the *Municipal Act, 2001*, The Council of The Corporation of the City of Mississauga may provide any service or thing that it considers necessary for the public;

**AND WHEREAS** under Section 128 (1) of the *Municipal Act, 2001*, The Council of The Corporation of the City of Mississauga may prohibit and regulate with respect to matters that in the opinion of Council are or could become a public nuisance.

**AND WHEREAS** shopping carts that are disposed of or abandoned on or near highways and on City property constitute a public nuisance;

**AND WHEREAS** under Section 63 of the *Municipal Act, 2001*, The Council of The Corporation of the City of Mississauga has the authority to prohibit the abandonment or disposal of an object on or near a highway;

**AND WHEREAS** under Section 391 of the *Municipal Act, 2001*, The Council of The Corporation of the City of Mississauga has the authority to impose fees or charges on persons for services or activities provided by the municipality;

**NOW THEREFORE**, the Council of The Corporation of the City of Mississauga enacts as follows:

**PART I – SHORT TITLE**

1. This By-law shall be known as the Shopping Cart By-law.

**PART II – DEFINITIONS**

2. For the purposes of this By-law,

“**abandon**” means to place, leave, park, stand or deposit a shopping cart, unattended, on any public or private property outside of the premises of the business that owns or uses the shopping cart;

**“Commissioner”** means the Commissioner of the Transportation and Works Department;

**“highway”** means a common and public highway, street, road, avenue, parkway, lane, driveway, boulevard, sidewalk, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles or persons and includes the area between the lateral property lines of any highway or road allowance including any curbs, gutters, culverts and retaining walls.

**“owner”** means a person or business who owns or provides shopping carts to its customers, and for the purposes of the retrieval of an impounded shopping cart(s) owner shall include an agent authorized in writing by the owner;

**“parking area”** means a parking lot or other property provided by a business for use by a customer of the business to park a vehicle;

**“person”** shall include a corporation;

**“premises”** means the entire area owned or otherwise utilized by a business, including any parking area. For a business that is part of a shopping centre or shopping complex, “premises” shall include all business establishments in the shopping centre or complex and all areas used by the customers of those businesses in common, including all parking areas designated for use by the customers of the shopping centre or complex;

**“shopping cart”** means a non-motorized basket which is mounted on wheels, or a similar device, which includes anything that is attached thereon, generally used by a customer of a business for the purpose of transporting goods on the business premises;

**“Shopping Cart Retrieval Fee”** means the fee that must be paid to the City by an owner of an impounded shopping cart prior to the release of the shopping cart, in the amount set in the City’s Fee and Charges - Transportation and Works By-law.

### **PART III – REMOVAL OR ABANDONMENT PROHIBITED**

3. No owner shall allow or otherwise permit a shopping cart owned or used by the business to be removed from the premises of the business.
4. No person shall remove a shopping cart from the premises of the business that owns or uses the shopping cart.
5. No owner shall abandon a shopping cart on or near any highway or on any City property.
6. No owner shall allow or otherwise permit a shopping cart owned or used by the business to be abandoned on or near any highway or on any City property.

7. No person shall abandon any shopping cart on or near any highway or on any City property.
8. Sections 3 and 4 of this By-law shall not apply to an owner, or any person authorized in writing by an owner, where a shopping cart is removed from the premises of a business for the purposes of a transfer to a different location, sale, repair, maintenance or proper disposal.

#### **PART IV – DISPOSAL OF ABANDONED SHOPPING CARTS**

9. City staff may remove and impound any abandoned shopping cart that is found on or near any highway or on any City property. The shopping carts may be impounded in any City storage facility.
10. If the owner's identity can be determined from a visual inspection of an impounded shopping cart, City staff shall notify the owner by way of a written notice that the City has impounded the owner's shopping cart(s) and provide a reasonable period of time for the owner to retrieve the shopping cart from the storage facility
11. For the purposes of subsection 10, the written notice may be sent to the owner by facsimile transmission, regular letter mail or by leaving a copy of the notice at the owner's place of business. The City may send the written notice to any corporate head office or any local business address that may be available for the owner of an impounded shopping cart.
12. A Shopping Cart Retrieval Fee shall apply to each shopping cart impounded pursuant to this By-law. The Shopping Cart Retrieval Fee shall become due and payable by the owner of the shopping cart on the date the shopping cart is impounded.
13. The City shall release an impounded shopping cart to an owner after the owner has paid the Shopping Cart Retrieval Fee to the City pursuant to section 12 of this By-law.

#### **PART IV – DISPOSAL OF ABANDONED SHOPPING CARTS**

14. If the owner of an impounded shopping cart cannot be determined by City staff through a visual inspection of the shopping cart and the City has not been contacted by the owner of an impounded shopping cart where ownership cannot be determined by City staff, the shopping cart may be disposed of by the City after the passage of a period of 60 days from the date the shopping cart is impounded.
15. If an impounded shopping cart, for whom the owner has been identified either through a visual inspection by City staff or by contact from the owner, remains unclaimed from the storage facility after the passage of 60 days from the date the shopping cart is impounded, the shopping cart may be disposed of pursuant to the provisions of the *Repair and Storage Liens Act*, R.S.O. 1990, c.R.25, as amended.

**PART V – ENFORCEMENT**

16. Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to the penalties specified in accordance with the *Provincial Offences Act*, R.S.O. 1990, c.P.33, as amended. Each day that such offence is committed, or permitted to continue, shall constitute a separate offence and may be punishable as such.

**PART VI – GENERAL**

17. If a Court of competent jurisdiction declares any provision or part of any provision of this By-law to be invalid or to be of no force and effect, it is the intention of the Council for The Corporation of the City of Mississauga in enacting this By-law, that each and every other provision of this By-law authorized by law, be applied and enforced in accordance with its term to the extent possible according to law.
18. The Commissioner shall prescribe all notices and forms necessary to administer this By-law and may amend such forms from time to time as the Commissioner deems necessary
19. By-law 368-94, as amended is hereby repealed.

**ENACTED and PASSED this 11<sup>th</sup> day of February, 2009.**

**Signed by: Maja Prentice, Acting Mayor and Crystal Greer, City Clerk**

## THE CORPORATION OF THE CITY OF GUELPH

### By-law Number (2005)-17785

A by-law relating to the depositing, disposal and abandonment of Shopping Carts on land within the City of Guelph, and the disposal by the City of abandoned Shopping Carts

WHEREAS Section 127(c) of the Municipal Act, 2001, provides that the municipality may prohibit the depositing of refuse or debris on land without the consent of the owner or occupant of the land;

AND WHEREAS pursuant to Section 128 of the Municipal Act, 2001, The Council of the Corporation of the City of Guelph has the power to prohibit and regulate with respect to public nuisances, including matters that, in the opinion of council, are or could become or cause public nuisances, and that the opinion of council under this section, if arrived at in good faith, is not subject to review by any court;

AND WHEREAS City Council has determined that Shopping Carts which are deposited, disposed of or abandoned on land within the City of Guelph, including but not limited to land owned or occupied by the City, constitute a public nuisance in that they may be a traffic hazard, impede sidewalks and street maintenance, and be a risk to public safety or become unsightly.

AND WHEREAS Section 427(1) of the Municipal Act, 2001, provides that if a municipality has authority by by-law or otherwise to direct or require that a matter or thing be done, the municipality may, in the same or another by-law direct that, in default of it being done by the person directed or required to do it, such matter or thing shall be done at the person's expense.

### **NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF GUELPH ENACTS AS FOLLOWS:**

1. For the purposes of this By-law, the following terms shall have the definitions set out below:
  - (a) "City" – means The Corporation of the City of Guelph;
  - (b) "City Staff" – means any City employee appointed to enforce the provisions of this By-law.
  - (c) "Shopping Cart" - means any device made available by the owner or operator of a business, to the customers of that business, for the conveyance of goods purchased from the business while on the Owner's premises or the associated parking area;
  - (d) "Owner" - means any Person that owns or operates a business for which shopping carts are provided;
  - (e) "Person" - includes a corporation;
2. No Person shall deposit any Shopping Cart on any land within the City of Guelph, including but not limited to land owned or occupied by the City, without the permission of the occupant or registered owner of the land.
3. Every Owner shall ensure that no Shopping Cart is taken from the business premises or associated parking area for which it is provided such that the Shopping Cart is deposited, disposed of or abandoned on any land, including land owned or occupied by the City, without the consent of the occupant or registered owner of such land.
4. (a) Upon discovery of any Shopping Cart which has been removed from the business premises or associated parking area for which it is provided and deposited, disposed of or abandoned on any land owned or occupied by the City, without the consent of the

City or of the occupant of the land, as the case may be, City staff or an authorized agent of the City may collect such Shopping Cart at the expense of the Owner.

- (b) Upon discovery of any Shopping Cart which has been removed from the business premises or associated parking area for which it is provided and deposited, disposed of or abandoned on any land that is not owned or occupied by the City, without the consent of the occupant or registered owner of the land, City staff or an authorized agent of the City may, with consent of the registered owner or the occupant of the land, collect such Shopping Cart at the expense of the Owner.
  - (c) The Owner of any Shopping Cart collected under Section 4 (a) or (b) shall be responsible for payment of the Collection Fee and of any Storage Fee, as set forth in Schedule A of this By-law, The Collection Fee and Storage Fee may be collected as set out in subsections 4(d), (e) and (h) and section 6 of this By-law.
  - (d) If following collection of a Shopping Cart under Section 4(a) or (b), the Owner has been identified, City staff or an authorized agent of the City will return the Shopping Cart to the Owner and may either receive payment on behalf of the City at that time for each Shopping Cart returned in accordance with the Collection Fee or invoice the Owner on behalf of the City for the number of Shopping Carts returned in accordance with the Collection Fee.
  - (e) If following collection of a Shopping Cart under Section 4(a) or (b), the identity of the Owner cannot be determined from a visual inspection of the Shopping Cart or the Owner cannot reasonably be located, City staff or an authorized agent of the City may store the Shopping Cart at the expense of the Owner for the Storage Fee as set out in Schedule A of this By-law. If the Owner claims the Shopping Cart from the storage location, the Shopping Cart shall be returned to the Owner or the Owner's agent upon payment of both the Collection and Storage Fees as set out in Schedule A.
  - (f) If no one comes forward to claim the Shopping Cart from storage the Commissioner of the Environment & Transportation Group of the City or his or her designate shall, prior to the sale or other disposal of such Shopping Cart, place a notice in a newspaper of general circulation in the municipality, describing the Shopping Cart and allowing five (5) business days for the Owner thereof to contact the Manager of Administration & Communication in the Environment & Transportation Group of the City or his or her designate, as the case may be.
  - (g) If following the notice set out in clause 4(f), the Owner has not contacted the Manager of Administration & Communication in the Environment & Transportation Group of the City or his or her designate within five (5) business days of such advertisement, or within such longer time as may occur before the sale or disposition of the Shopping Cart, the City may consider the Shopping Cart to be abandoned and the Commissioner of Environment & Transportation of the City or his or her designate, or an authorized agent of the City, may sell or otherwise dispose of the Shopping Cart.
  - (h) If the Owner contacts the Manager of Administration & Communication in the Environment & Transportation Group of the City or his or her designate, in accordance with the advertisement set out in clause 4(f), within five (5) business days of such advertisement, or within such longer time as may occur before the sale or disposition of the Shopping Cart, then the Shopping Cart will be returned to the Owner upon payment of applicable Collection and Storage Fees as set out in Schedule A.
5. Any person who fails to comply with Section 2 of this By-law is guilty of an offence, and shall upon conviction be liable to a penalty as set out in Section 61 of the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended from time to time, or any successor thereof.
6. In addition to any other rights and remedies that the City may have, the City may collect any Collection or Storage Fees as a debt owing by the Owner to the City by way of an action in a court of competent jurisdiction.

7. If a court of competent jurisdiction declares any provision or part of any provision of this By-law to be invalid or to be of no force and effect, it is the intention of the Council in enacting this By-law, that each and every other provision of this By-law authorized by law, be applied and enforced to the extent possible according to law.
8. This By-law shall be known as The Shopping Cart By-law.

**PASSED this EIGHTEENTH day of JULY, 2005.**

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K.M. QUARRIE - MAYOR

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LOIS A. GILES - CITY CLERK



**SCHEDULE A  
TO BY-LAW NUMBER (2005)-17785**

<u>ITEM</u>	<u>FEE</u>
Collection of Shopping Cart ("Collection Fee" per cart)	\$6.00
Storage of Shopping Cart(s) ("Storage Fee" flat fee)	\$25.00



## BY-LAW 2008-37

# SHOPPING CART BY-LAW

**A By-law to prevent and control the abandonment of shopping carts  
on public lands in the Town of Markham**

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WHEREAS subsection 127(c) of the *Municipal Act, 2001*, S.O. 2001, c. 25 authorizes municipalities to prohibit the depositing of refuse or debris on land without the consent of the owner or occupant of the land;

AND WHEREAS section 128 of the *Municipal Act, 2001*, S.O. 2001, c. 25 authorizes municipalities to prohibit and regulate public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisances;

AND WHEREAS the Council of The Corporation of the Town of Markham has determined that shopping carts which are deposited, disposed of or abandoned within the Town of Markham, including but not limited to land owned or occupied by the Town, constitute a public nuisance in that they may be a traffic hazard, impede sidewalks and street maintenance and may be a risk to public safety or become unsightly;

AND WHEREAS subsection 446 of the *Municipal Act, 2001*, S.O. 2001, c. 25 provides that, if a municipality has authority by by-law or otherwise to direct or require that a matter or thing be done, the municipality may, in the same or another by-law direct that in default of it being done by the person directed or required to do it, such matter or thing shall be done at the person's expense

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF MARKHAM HEREBY ENACTS AS FOLLOWS:

### 1.0 DEFINITIONS

1.1 For the purposes of this By-Law,

- a. "Cart Management System" shall mean any physical structure or device, signage, service, or other demonstrable measure that prevents unauthorized removal of shopping carts from the owner's premises during business hours and ensures that all shopping carts are secured from public access after close of business;
- b. "Owner" shall mean a person who owns or operates a business that provides shopping carts in connection with said business;
- c. "Person" shall include an individual, partnership or corporation;
- d. "Premises" means the physical location at which the business of the owner is conducted and includes the parking area provided in relation to such business;
- e. "Public lands" are those lands owned by the Town, the Regional Municipality of York, the Toronto Region Conservation Authority, or any provincial or federal government or agency;

- f. "Shopping cart" shall refer to any device made available by the owner or operator of a business, to the customers of that business, for the conveyance of goods purchased from said business premises; and
- g. "Town" shall refer to The Corporation of the Town of Markham.

## **2.0 PROHIBITIONS**

- 2.1 No person shall deposit or permit the deposit of any shopping cart on any public lands within the Town.
- 2.2 No owner shall allow a shopping cart to be taken from the premises for which it is provided without recourse for its prompt return.

## **3.0 BUSINESS OWNER OBLIGATIONS**

- 3.1 Every owner is required to implement a Cart Management System.
- 3.2 The owner's name shall be affixed, permanently and easily visible, on each shopping cart.

## **4.0 ENFORCEMENT PROVISIONS**

- 4.1 Upon discovery of a shopping cart on public lands in the Town, the Town may, at its sole discretion, either collect and remove the shopping cart, or contact the owner of the abandoned shopping cart identified on the shopping cart and require that the owner collect the abandoned shopping cart by a date and time specified by the Town.
- 4.2 Where the Town collects the shopping cart, the Town shall return the shopping cart to the owner identified on the shopping cart at the owner's expense.
- 4.3 If the Town cannot determine the identity and the contact information of the owner of the shopping cart with a visual inspection of the shopping cart, the Town may dispose of or recycle the abandoned shopping cart.
- 4.4 The owner of a shopping cart that is returned to it by the Town shall be responsible for payment of a collection fee as provided for in the Town's Fee By-Law No. 2002-276, as amended.
- 4.5 Any collection fees charged under By-Law No. 2002-276 that remain unpaid for a period of thirty (30) days from the date upon which they were incurred and communicated to the owner of the abandoned shopping cart or carts, may be collected and recovered by the Town in accordance with section 398 of the *Municipal Act, 2001*, S.O. 2001, c.25 or any other applicable authority.

- 4.6 For the purpose of this By-Law, notice from the Town to the owner may be by facsimile transmission, telephone, prepaid registered mail or in person, by leaving a copy of the notice with a person apparently in charge of the business premises. Service of such notice shall be deemed to be the date of delivery, other than for prepaid registered mail, in which case service shall be deemed to be five (5) days from the date of mailing.
- 4.7 Any person who fails to comply with the requirements of this By-Law is guilty of an offence, and shall upon conviction be liable to a penalty of not more than \$5,000, for each offence, exclusive of costs. Each day that such offence is committed, or permitted to continue, shall constitute a separate offence and may be punishable as such. Such fines shall be recoverable under the *Provincial Offences Act*, R.S.O. 1990, c. P.33. as amended, or any successor thereof.
- 4.8 Where a person has been convicted of an offence under this By-Law, the Court may, in addition to any other penalty imposed on the person convicted, issue an Order prohibiting the continuation or repetition of the offence or the doing of any act or thing by the person convicted, directed toward the cessation of the continuation or the repetition of the offence.

#### **5.0 GENERAL PROVISIONS**

- 5.1 If a court of competent jurisdiction declares any provision or part of any provision of this By-Law to be invalid or to be of no force and effect, it is the intention of the Town in enacting this By-Law, that each and every other provision of this By-law be applied and enforced to the extent possible according to law.
- 5.2 This By-Law shall be known as the "Shopping Cart By-Law".
- 5.3 All references in this By-law to the singular are to be read as the plural, and vice versa, as the context requires.

#### **6.0 EFFECTIVE DATE**

- 6.1 The effective date of this By-law shall be September 2, 2008.

READ A FIRST, SECOND, AND THIRD TIME AND PASSED THIS  
4<sup>TH</sup> DAY OF MARCH, 2008.

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SHEILA BIRRELL, TOWN CLERK

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FRANK SCARPITTI, MAYOR