

ORIGINAL

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5889

AN ORDINANCE amending Sections 1.16.010, 1.18.020, 9.10.010, and 9.10.030; and adopting Chapter 9.28 of the Bellevue City Code relating to Shopping Cart Containment Areas required for wholesale and retail uses; declaring abandoned carts a public nuisance, establishing violations and penalties, and providing for severability; and establishing an effective date.

WHEREAS, study of the shopping cart abandonment issue demonstrated that the problem was significant, it disproportionately impacted neighborhoods surrounding shopping centers where the City was actively working to improve livability, and the problem warranted intervention; and

WHEREAS, by adoption of the regulations contained herein, the Bellevue City Council seeks to prevent shopping cart abandonment and otherwise require the designation of Shopping Cart Containment Areas for wholesale and retail uses; and

WHEREAS, the Bellevue City Council recognizes the complexity of regulating shopping cart abandonment and seeks enforcement alternatives to supplement not otherwise replace other alternatives, such as criminal prosecution; and

WHEREAS, the City of Bellevue has complied with the State Environmental Procedures Act (SEPA), Chapter 43.21C RCW, and the City's Environmental Procedures Code, Chapter 22.02 BCC; now, therefore,

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Section 1.16.010 of the Bellevue City Code is hereby amended to read as follows:

1.16.010 Enforcement Terms Defined.

The following words, whenever used in the ordinances in the city, shall be construed as defined in this section unless from the context a different meaning is specifically defined:

- A. "Civil violation" means any offense as defined in BCC 1.18.020(D).
- B. "Crime" means a misdemeanor or gross misdemeanor.

C. "Gross misdemeanor" means any crime punishable by a fine not exceeding \$5,000, or imprisonment not exceeding one year, or both, unless otherwise specifically defined.

D. "Misdemeanor" means any crime punishable by fine not exceeding \$1,000, or imprisonment not to exceed 90 days, or both, unless otherwise specifically defined.

E. "Nuisance" means anything specifically enumerated by the Bellevue City Council as a public nuisance or all actions or lack thereof as defined in Chapter 9.10 of the Bellevue City Code.

F. "Offense" means any act or omission which violates any ordinance for which a penalty may be prescribed or remedy may be granted.

G. "Public officer" has its ordinary meaning and includes all assistants, deputies, clerks and employees of any public officer and all persons exercising any of the lawful powers or functions of a public officer.

H. "Traffic infraction" means an offense under the provisions of BCC Title 11, for which a monetary penalty may be imposed pursuant to Chapter 46.63 RCW et seq.

Section 2. Section 1.18.020 of the Bellevue City Code is hereby amended to read as follows:

D. "Civil violation" means a violation for which a monetary penalty may be imposed as specified in this chapter. Each day or portion of a day during which a violation occurs or exists is a separate violation. Traffic infractions pursuant to BCC Title 11, civil noise infractions pursuant to Chapter 9.18 BCC and shopping cart infractions pursuant to Chapter 9.28 BCC are specifically excluded from the application of this chapter.

Section 3. Section 9.10.010 of the Bellevue City Code is hereby amended to read as follows:

9.10.010 Definitions.

The words and phrases used in this chapter, unless the context otherwise indicates, shall have the following meanings:

A. "Abate" means to repair, replace, remove, destroy or otherwise remedy a condition which constitutes violation of this chapter by such means and in such a manner and to such an extent as the applicable department director determines is necessary in the interest of the general health, safety and welfare of the community.

B. "Applicable department director" means the director of the department or any designated alternate who is empowered by the city manager or by ordinance to enforce a city ordinance or regulation.

C. "Building materials" means and includes lumber, plumbing materials, wallboard, sheet metal, plaster, brick, cement, asphalt, concrete block, roofing material, cans of paint and similar materials.

D. "Shopping Cart Containment Area" as required by LUC 20.10.440 – Note 39 means: (a) a location determined by the City to constitute a Shopping Cart Containment Area; (b) an area designated during permit review as a Shopping Cart Containment Area; (c) an area stipulated to by the City and wholesale or retail owner pursuant to a voluntary compliance agreement; or (d) any area designated as a Shopping Cart Containment Area through adjudication of a civil enforcement action. A Shopping Cart Containment Area may include all or a portion of the property permitted for wholesale or retail use but may not include property located outside of said permitted use areas and may not include any area designated as right-of-way.

E. "Person" means any individual, firm, association, partnership, corporation or any other entity, public or private.

F. "Premises" means any building, lot, parcel, real estate or land or portion of land whether improved or unimproved, including adjacent sidewalks and parking strips and any lake, river, stream, drainage way or wetland.

Section 4. Section 9.10.030(H) of the Bellevue City Code is hereby adopted to read as follows:

9.10.030(H) Types of nuisances.

H. The presence of abandoned shopping carts outside of a Shopping Cart Containment Area as defined in BCC 9.10.010(D) and required by LUC 20.10.440 – Note 39. The following parties may collectively or independently be responsible for shopping carts leaving a containment area or causing abandonment of shopping carts: (a) the property owner, (b) the tenant, (c) a person causing abandonment of a shopping cart or, (d) a person causing the shopping cart to leave the containment area.

Section 5. New Chapter 9.28 of the Bellevue City Code is hereby adopted to read as follows:

Chapter 9.28 Taking a Shopping Cart without Permission

9.28.010 Removal of shopping cart violation and penalties

A. It is a Class 3 civil infraction as defined in RCW 7.80.120 for a person without written permission of the owner or person entitled to possession to abandon or to be in possession of a shopping cart that is the property of another more than 100 feet away from the parking area of a retail establishment or shopping cart containment area.

B. This section shall apply only if a shopping cart: (a) Has a sign permanently affixed to it that identifies the owner of the cart or the retailer, or both; (b) notifies the public of the procedure to be used for authorized removal of the cart from the premises; (c) notifies the public that the unauthorized removal of the cart from the premises or parking area of the retail establishment, or the unauthorized abandonment of the cart, is unlawful; and (d) lists a telephone number or address for returning carts.

Section 6. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.

Section 7. This ordinance shall take effect and be in force thirty (30) days after legal publication.

Passed by the City Council this 6th day of July, 2009
and signed in authentication of its passage this 6th day of July,
2009.

(SEAL)



Grant S. Degginger, Mayor

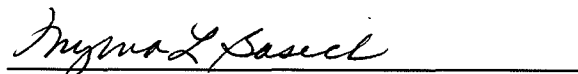
Approved as to form:

Lori M. Riordan, City Attorney



Lacey Madche, Assistant City Attorney

Attest:



Myrna L. Basich, City Clerk

Published July 9, 2009