

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.

Original Signed by:

K.M. Quarrie – Mayor

Lois A. Giles – City Clerk

Schedule A
To By-law Number (2005)-17785

Table 1

| Item | Fee |
|---|------------|
| Collection of Shopping Cart ("collection Fee" per cart) | \$6.00 |
| Storage of Shopping Cart(s) ("storage Fee" flat fee) | \$25.00 |