

Being By-law to establish minimum standards to prevent and control the discarding and abandonment of shopping carts in the City of Oshawa.

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 the occupier 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 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 Oshawa 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 Oshawa 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 Oshawa enacts as follows:

1. TITLE

- 1.1 This By-law may be cited as the “Shopping Cart By-law”.

2. DEFINITIONS

- 2.1 In this By-law

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

“**disposition date**” means the day on which the City of Oshawa will sell or otherwise dispose of any abandoned shopping carts that have been unclaimed by the owner;

“**General Fees and Charges By-law**” means the City’s By-law 13-2003 as from time to time amended;

“**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 under the jurisdiction of the City;

“**owner**” means a person or business who owns or provides shopping carts to its customers in connection with said business;

“**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 an individual, partnership, or 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 Identification Tag” means a means of identification containing the owner’s name, phone number, and location of premises, permanently affixed to the shopping cart in a highly visible location;

“Shopping Cart Retrieval Fee” means the fee that must be paid to the City of Oshawa by an owner of an impounded shopping cart prior to the release of the shopping cart, in the amount set in the General Fees and Charges By-law;

“unclaimed shopping cart” means an abandoned shopping cart that has been impounded by the City of Oshawa in accordance with section 6.1 or section 6.2 of this By-law, and the owner has not paid the Shopping Cart Retrieval Fee and picked up the shopping carts two weeks before the disposition date”.

3. IDENTIFICATION

3.1 Each shopping cart shall be affixed, permanently and visibly, with a Shopping Cart Identification Tag.

3.2 Each Owner shall maintain or replace the Shopping Cart Identification Tag as necessary, to ensure the information is updated and visible.

4. PREVENTION

4.1 Each owner shall take reasonable and effective measures to prevent shopping carts from being a nuisance.

4.2 Each owner shall take reasonable and effective measures to prevent shopping carts from being removed from the premises.

4.3 Each owner shall take reasonable and effective measures to ensure shopping carts are located, collected and returned to the premises in a timely manner.

5. PROHIBITION

5.1 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.

5.2 No person shall remove a shopping cart from the premises of the business that owns or uses the shopping cart.

5.3 No owner shall abandon a shopping cart on or near any highway or on any City of Oshawa property.

5.4 No owner shall allow or otherwise permit a shopping cart owned or used by the business to be abandoned on any highway or on any City of Oshawa property.

5.5 No person shall abandon any shopping cart on or near any highway or on any City of Oshawa property.

6. DISPOSAL OF ABANDONED SHOPPING CARTS

6.1 On discovery of an abandoned shopping cart, City of Oshawa staff may collect the shopping cart and impound it at a City of Oshawa storage facility.

6.2 City of Oshawa staff may remove and impound any abandoned shopping cart that is found on or near any highway or on any City of Oshawa property.

6.3 The owner shall contact the City of Oshawa, either by contacting Service Oshawa or by completing and submitting the Shopping Cart Retrieval Form on the City’s website, pay the Shopping Cart Retrieval Fee as set out in General Fees and Charges By-law, and arrange for pickup of the impounded shopping carts at least two weeks prior to the next disposition date.

6.4 Any person may arrange for the pickup of an abandoned shopping cart in accordance with section 6.3 when the abandoned shopping cart does not comply with the identification requirements in sections 3.1 or 3.2.

6.5 No owner or person shall have a claim against the City of Oshawa for the condition of the shopping cart after it is picked up in accordance with section 6.1 or 6.2.

6.6 It is the sole responsibility of the owner to contact the City and arrange for the pickup of abandoned shopping carts in accordance with section 6.3. The City of Oshawa will provide public notice of its intention to sell or otherwise dispose of

all unclaimed, discarded or abandoned shopping carts in accordance with section 6.7 on designated disposition dates.

- 6.7 The City of Oshawa will provide notice advising the public of designated disposition dates as per the methods of notice as articulated in the Notice to the Public By-law 147-2007, as amended.
- 6.8 Subject to section 6.7, if the shopping cart remains unclaimed on the disposition date, the City of Oshawa may dispose or otherwise sell the abandoned shopping cart and is entitled to retain any proceeds of the sale for associated administrative costs.
- 6.9 Notwithstanding section 6.7, the City may dispose of impounded, unclaimed, or abandoned shopping carts in accordance with the Repair and Storage Lien Act, R.S.O. 1990, c. R.25.

7. PENALTIES

- 7.1 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.

8. ADMINISTRATIVE MONETARY PENALTIES

- 8.1 No Person shall fail to comply with any provision or standard of this By-law.
- 8.2 Administrative Penalty Process By-law 63-2013 applies to each administrative penalty issued pursuant to this By-law.
- 8.3 Each Person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law 63-2013, be liable to pay to the City an administrative penalty. If a Person receives a penalty notice in accordance with the City's Administrative Penalty Process By-law for a contravention of this By-law, and the Person has not received a penalty notice for the same contravention within one (1) calendar year or less, the Person shall be liable to pay to the City a tier one (1) administrative penalty amount for that contravention in the amount of \$125. If a Person receives an additional penalty notice for the same contravention of the By-law within one (1) calendar year or less from the date of the penalty notice containing a tier one (1) administrative penalty amount, the Person shall be liable to pay to the City a tier two (2) administrative penalty amount for that contravention in the amount of \$225. If the Person receives a subsequent penalty notice for the same contravention of the By-law within one (1) calendar year or less from the date of the penalty notice containing a tier two (2) administrative penalty amount, the Person shall be liable to pay to the City a tier three (3) administrative penalty amount for that contravention in the amount of \$325. If the Person receives any subsequent penalty notices for the same contravention of the By-law within one (1) calendar year or less from the date of the penalty notice containing a tier three (3) administrative penalty amount, the Person shall be liable to pay to the City a tier three (3) administrative penalty amount for that offence in the amount of \$325.

9. SEVERABILITY

- 9.1 If any provision or part of a provision of this By-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in particular circumstances, the balance of the By-law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.

10. EFFECTIVE DATE

- 10.1 This By-law is in effect on the date of its passing.

By-law passed this twelfth day of December, 2022.

Original signed by Deputy Mayor and City Clerk.