

CHAPTER X – ABANDONED SHOPPING CARTS

Footnotes:

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1. For authority of the County to adopt this Chapter, see Va. Code Ann. § 15.2-985. *Disposition of abandoned Shopping Carts; unauthorized possession; penalties (2020)*.

ARTICLE 1. - GENERAL PROVISIONS.

Section X-1-1. - Definitions.

- (a) *Abandoned Shopping Cart*: a Shopping Cart left unattended or discarded on any public or private property other than the premises of the retail establishment that owns the cart, and from which it was removed, at least 15 days after a notice of violation has been served upon the owner of such Shopping Cart.
- (b) *Director*: Director of the Department of Code Compliance or his/her designee.
- (c) *Owner*: The word "Owner" for purposes of this Chapter means the retail establishment that owns, possesses the premises and its Shopping Carts.
- (d) *Shopping Cart*: a basket or pushcart on wheels of the type or types which are commonly provided by grocery stores, drugstores, or other merchant stores or markets for the use of its customers in transporting commodities inside such stores and from the store to a place outside the store, on store property.
- (e) *Shopping Cart Identification*: the marking and identification on every cart owned or provided by a retail establishment to conspicuously indicate the name, address, and telephone number of the Shopping Cart owner, in the form of a metal or plastic tag or plate securely fastened to the cart, or standing on the frame of the cart, or by etched branding on the side or front of the cart.
- (f) *Shopping Cart Owner*: a retail establishment that provides a Shopping Cart to its customers.
- (g) *Shopping Cart Premises*: the real property on which the retail establishment is located, including all of the parking area set aside by the owner, or set aside on behalf of the owner, for the parking of motor vehicles for the convenience of the patrons or customers of the owner.

Section X-1-2. - Applicability.

This Chapter is applicable to Abandoned Shopping Carts found on property within Fairfax County, which property is not within the corporate limits of any incorporated city or town.

Section X-1-3. – Administration.

The Director and/or his/her duly authorized agents, including the Department of Public Works and Environmental Services and the Department of Tax Administration, are responsible for the administration and enforcement of this Chapter, and will be assisted by other County departments as applicable.

Section X-1-4. - Severability.

If any of the articles, sections, paragraphs, sentences, clauses, or phrases of this Chapter are declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity does not affect the validity of the Chapter in its entirety, or any of the remaining articles, sections, paragraphs, sentences, clauses, and phrases.

ARTICLE 2. - PROHIBITION AND ENFORCEMENT.

Section X-2-1. - Prohibited abandoned Shopping Cart locations.

It is unlawful for any person to place, leave, or abandon on any real property in Fairfax County an Abandoned Shopping Cart as defined in this Chapter.

Section X-2-3. - Reports of violation of Section X-2-1.

Any person aggrieved by the presence of an Abandoned Shopping Cart in violation of Section X-2-1 may report such presence to the Department of Code Compliance.

Section X-2-4. - Enforcement.

- (a) Upon determination by the Department of Code Compliance that a Shopping Cart is on real property outside the Shopping Cart Premises, the Director may send a notice of violation by registered or certified mail to the last known address of the Shopping Cart Owner or its registered agent as reflected in state or local public records, and that mailing will satisfy the notice requirement of this Chapter. The notice of violation must identify the Shopping Cart and its location outside the Shopping Cart Premises and direct the Owner to return the Shopping Cart to the Shopping Cart Premises within 15 days of the date of the notice of violation.
- (b) Any Shopping Cart that remains on real property outside of the Shopping Cart Premises as defined in Va. Code § 18.2-102.1 at least 15 days after a notice of violation is given to the Shopping Cart Owner is presumed to be abandoned and is subject to removal from the real property by the Department of Code Compliance or its agents without further notice.
- (c) After the notice of violation is given to the Shopping Cart Owner and the violation has not been corrected within 15 days of the date of the notice of violation, the Director may proceed to remedy the violation as provided in Section X-2-5.

Section X-2-5. - Procedure and penalties when Shopping Cart is not removed by owner.

- (a) Removal. An Abandoned Shopping Cart may be removed from its location by the Director and/or his/her designated agents, and if so removed, the cost of removal, including the cost of disposal, not to exceed \$300 per abandoned Shopping Cart, will be charged to the Shopping Cart owner.
- (b) Lien. Any such charge as referenced in Section X-2-5(a) that is not paid within 30 days of the date on which it is billed to the Shopping Cart Owner constitutes a lien upon the Abandoned Shopping Cart. The County may collect such charge from the Shopping Cart Owner in any manner provided by law for the collection of taxes.
- (c) Injunction. In addition to any other remedy provided herein, the Director may institute legal action against the Shopping Cart Owner to enjoin any continuing violation of this Chapter.

Section X-2-6. Appeals.

- (a) Any shopping cart owner who is aggrieved by the decision of the Director under Section X-2-4 and/or X-2-5 may, within 15 days of the date of the notice of violation, appeal to the County Executive or his designee by submitting to the County Executive a written statement setting forth the grounds for the appeal. The County Executive, directly or by designee, will make a finding on the appeal based on the written statement provided by the shopping cart owner and information provided by the Director. Until the County Executive decides, the Director will take no action under Section X-2-5.
- (b) If an appeal is filed, the noncomplying Shopping Cart will not be destroyed until a decision on the appeal has been issued by the County Executive.