

1 **BILL NO. 2001-5**

2 **ORDINANCE NO. _____**

3 **AN ORDINANCE TO PROVIDE FOR THE REMOVAL AND DISPOSITION OF ABANDONED**
4 **SHOPPING CARTS, AND TO PROVIDE FOR OTHER RELATED MATTERS.**

5 **Sponsored by:**
6 **Councilman Michael J. McDonald**

7 **Summary: Provides for the removal and**
8 **disposition of abandoned shopping carts.**

9 **THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES HEREBY ORDAIN**
10 **AS FOLLOWS:**

11 **SECTION 1: Title 9 of the Municipal Code of the City of Las Vegas, 1983 Edition,**
12 **is hereby amended by adding thereto a new chapter, consisting of the provisions which are set forth**
13 **as Sections 2 to 12, inclusive, of this Ordinance.**

14 **SECTION 2: As used in this Chapter, the following terms shall have the meanings**
15 **ascribed to them:**

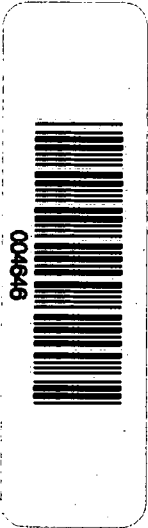
16 **“Authorized official” means any person designated and empowered by ordinance to**
17 **abate nuisance activities, and any person authorized by the City Manager to enforce the provisions of**
18 **this Chapter.**

19 **“Parking area” means a parking lot or other property provided by a retailer for use by**
20 **a customer to park an automobile or other vehicle. The parking area shall also include the entire**
21 **parking area used by a multi-store complex or shopping center wherein a retailer is located.**

22 **“Public property” includes, but is not limited to, all the area dedicated to or in public**
23 **use or an easement granted for public street purposes, parks, alleys, sidewalks, flood control channels**
24 **and other property owned or occupied by a governmental entity.**

25 **“Shopping cart” means a basket or similar device which is mounted on wheels and**
26 **which is generally used in retail or wholesale establishments for the purpose of transporting goods of**
27 **any kind. The term includes any constituent part of a shopping cart, as well as a shopping cart which**
28 **is dismantled or not in working order.**

SECTION 3: The authorized official may enter upon public or private property to
examine a shopping cart, obtain information as to the ownership of a shopping cart, or to remove or



1 cause to be removed a shopping cart pursuant to this Chapter.

2 SECTION 4: The owner or operator of any retail establishment which allows its
3 customers to use shopping carts to carry goods into a parking area shall:

4 (A) Prominently and conspicuously post a notice at all entrances to the parking area
5 and at all entrances to the retail establishment, in substantially the following form: "Removal of
6 shopping carts from these premises is prohibited by law"; and

7 (B) Permanently affix to each such shopping cart a sign that:

8 (1) Identifies the owner of the shopping cart, including the name, address
9 and telephone number of the local store in which the shopping cart is to be used;

10 (2) Notifies the public of the procedure to be utilized for authorized removal
11 of the cart from the premises;

12 (3) Notifies the public that the unauthorized removal of the shopping cart
13 from the premises or parking area of the establishment or unauthorized possession of the cart is a
14 violation of City ordinances; and

15 (4) Lists a valid telephone number or address which can be used in
16 returning the cart to the owner.

17 SECTION 5: (A) Except as otherwise provided in Subsection (B) of this Section,
18 a shopping cart which is left standing on any public or private property shall be deemed to be
19 abandoned. For purposes of this Chapter, an abandoned shopping cart is a public nuisance and is
20 subject to removal in accordance with this Chapter.

21 (B) The provisions of this Section shall not apply to any shopping cart which:

22 (1) Is left standing on the property of the owner of the shopping cart or
23 within any common area of the shopping center in which the owner's store is located; or

24 (2) Has been removed for purposes of repair or maintenance.

25 (C) As provided in this Chapter, the owner of an abandoned shopping cart is
26 responsible for removal of the cart from the location of abandonment, and is liable for the cost of any
27 removal and disposition performed by or on behalf of the City.

28 SECTION 6: (A) Upon discovering the existence of an abandoned shopping cart

1 on public or private property, the authorized official may cause the removal thereof in accordance with
2 this Section.

3 (B) In accordance with the provisions of Section 7 of this Ordinance, the authorized
4 official may notify the apparent owner of an abandoned shopping cart and provide a period of time
5 for the owner to remove the cart.

6 (C) Alternatively, the authorized official may remove the cart or cause it to be
7 removed in accordance with the provisions of Section 8 of this Ordinance.

8 SECTION 7: The authorized official, at his discretion, may notify the apparent owner
9 of an abandoned shopping cart that the cart must be removed within a specified period of time, and
10 that failure to effect the removal will subject the cart to removal by or at the instance of the City. The
11 notice may be delivered personally to the owner or a representative, by mail addressed to the address
12 listed on the cart or to the last known address of the owner, or by delivery or mailing to an agent
13 designated by the owner for such notice to be given. If removal is not accomplished by or on behalf
14 of the owner within the time period specified in the notice, the City may remove or cause the removal
15 of the cart and may store it until retrieved or disposed of in accordance with this Chapter.

16 SECTION 8: The authorized official, at his discretion, may remove or cause to be
17 removed any abandoned shopping cart without notice to the owner thereof, and may store it until
18 retrieved or disposed of in accordance with this Chapter. Thereafter, the authorized official shall
19 notify the apparent owner of the shopping cart of the removal, including the date the shopping cart
20 was removed from the location of abandonment, the location and procedure for retrieval of the
21 shopping cart, and a statement that the owner or its agent must submit a request for a hearing either
22 in person or in writing within ten days after notice has been delivered or sent. The notice may be
23 delivered personally to the owner or a representative, or by mail addressed to the address listed on the
24 cart or to last known address of the owner.

25 SECTION 9: (A) A request for hearing concerning the removal of one or more
26 shopping carts must set forth the grounds upon which the hearing is requested. If a request for hearing
27 is timely and properly made, a hearing shall be conducted within fifteen business days after receipt
28 of the request. The hearing shall be conducted by the City Manager or a designee. The failure to

1 request a hearing in within the required time shall constitute a waiver of the hearing.

2 (B) If a hearing is conducted concerning the removal of a shopping cart, the person
3 requesting the hearing shall have the burden of demonstrating that the removal was unwarranted. The
4 person conducting the hearing shall determine whether or not removal of the shopping cart was
5 warranted, and that determination shall be deemed to be the final administrative determination.

6 (C) If removal of the shopping cart is determined to have been warranted, the owner
7 or agent shall have fifteen days from the date of the ruling to retrieve the shopping cart, after payment
8 of the fees and costs associated with removal and storage. If removal of the shopping cart is
9 determined to have been unwarranted, the fees and costs shall be waived and the owner or its agent
10 shall have fifteen days to retrieve its shopping cart from the storage area.

11 SECTION 10: (A) Any shopping cart which has been removed and stored by or at
12 the instance of the City pursuant to the provisions of this Chapter shall be released to the owner, after
13 payment of the associated removal and storage fees, if release is sought in a timely manner. The
14 City's obligation to release a shopping cart continues only for the following periods:

15 (1) Thirty days after notice of removal has been given, if no hearing is
16 timely and properly requested; or

17 (2) Fifteen days after a determination is made in connection with a hearing.

18 (B) Any shopping carts that have not been retrieved by the owner within the time
19 periods contained in this Section shall be deemed to be permanently abandoned. The City may
20 continue to release such carts to the owner in accordance with Subsection (A), but may also be sold
21 at public auction, destroyed or otherwise disposed of by the City.

22 SECTION 11: (A) The fees associated with the removal and storage of shopping
23 carts shall be established, and may be amended from time to time, by resolution of the City Council.
24 The City is authorized to charge the actual costs of removal and storage, plus a fifteen percent
25 administrative fee to cover administrative costs.

26 (B) In addition to any other fee which the City may charge pursuant to this Section,
27 the City Council may assess a civil penalty in accordance with this Subsection (B). Any owner of
28 shopping carts whose carts have been the subject of more than three occurrences within any six month

1 period shall be subject to a civil penalty of \$50.00 per shopping cart for each occurrence in excess of
2 three during that six month period. For purposes of this Subsection, an "occurrence" with regard to
3 a shopping cart owner consists of any notice to remove sent by the City to that owner, or the removal
4 by or at the instance of the City of any abandoned shopping cart belonging to that owner.

5 SECTION 12: The authorized official may exempt an owner of shopping carts from
6 the removal provisions of this Chapter if the owner implements and documents, to the satisfaction of
7 the authorized official:

8 (A) A plan whereby employees provide continuous and effective shopping cart
9 retrieval; or

10 (B) A contract with a cart retrieval service that effectively provides retrieval
11 services on a daily basis.

12 SECTION 13: Title 10, Chapter 50, of the Municipal Code of the City of Las Vegas,
13 Nevada, 1983 Edition, is hereby amended by adding thereto a new section, designated as Section 5,
14 reading as follows:

15 **10.50.005:** As used in this Chapter, the following terms shall have the meanings ascribed to them:

16 "Parking area" means a parking lot or other property provided by a retailer for use by
17 a customer to park an automobile or other vehicle. The parking area shall also include the entire
18 parking area used by a multi-store complex or shopping center wherein a retailer is located.

19 "Public property" includes, but is not limited to, all the area dedicated to or in public
20 use or an easement granted for public street purposes, parks, alleys, sidewalks, flood control channels
21 and other property owned or occupied by a governmental entity.

22 "Shopping cart" means a basket or similar device which is mounted on wheels and
23 which is generally used in retail or wholesale establishments for the purpose of transporting goods of
24 any kind. The term includes any constituent part of a shopping cart, as well as a shopping cart which
25 is dismantled or not in working order.

26 SECTION 14: Title 10, Chapter 50, Section 10, of the Municipal Code of the City of
27 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

28 **10.50.010:** No person shall remove from the immediate store building or parking [premises] area

1 of any food store, market or other mercantile establishment in the City any shopping cart[, wagon or
2 similar device,] bearing a notification affixed thereto in a conspicuous place thereon to the effect that
3 such cart[, wagon or device] is not to be removed from the owner's premises, unless such person is
4 the owner or the owner's employee or agent, or unless such person is in possession of written
5 authorization from the owner or authorized agent to [so] remove [such] the cart. [,wagon or device,
6 which authorization has been issued by the owner thereof or his authorized agent or employee.

7 SECTION 15: Title 10, Chapter 50, Section 20, of the Municipal Code of the City of
8 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

9 **10.50.020:** No person shall abandon or leave any [such] shopping cart[, wagon or device] which
10 has been removed from the owner's premises upon any public [street, alley, sidewalk, parkway or
11 other public place, or upon any] or private property, except that of the owner of the shopping cart. [,
12 wagon or device.]

13 SECTION 16: Title 10, Chapter 50 of the Municipal Code of the City of Las Vegas,
14 Nevada, 1983 Edition, is hereby amended by adding thereto a new section, designated as Section 30,
15 reading as follows:

16 **10.50.030:** (A) It is unlawful for any person, whether for compensation or otherwise, to retrieve
17 shopping carts from any area which is not on the premises of the owner of the shopping carts without
18 first obtaining written authorization from the owner permitting him to retrieve the shopping carts. A
19 copy of such authorization must be carried personally or in the vehicle of any person whenever that
20 person is engaged in the retrieval of shopping carts.

21 (B) It is unlawful for the owner of a vehicle which is used to retrieve shopping carts
22 to fail or refuse to surrender, upon demand to a peace officer, the copy of the authorization referred
23 to in Subsection (A).

24 SECTION 17: If any section, subsection, subdivision, paragraph, sentence, clause or
25 phrase in this ordinance or any part thereof, is for any reason held to be unconstitutional, or invalid
26 or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or
27 effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the
28 City of Las Vegas hereby declares that it would have passed each section, subsection, subdivision,

1 The above and foregoing ordinance was first proposed and read by title to the City Council on the
2 ____ day of _____, 2001, and referred to the following committee composed of
3 _____ and _____ for recommendation;
4 thereafter the said committee reported favorably on said ordinance on the ____ day of
5 _____, 2001, which was a _____ meeting of said Council; that at said
6 _____ meeting, the proposed ordinance was read by title to the City Council
7 as first introduced and adopted by the following vote:

8 VOTING "AYE": _____

9 VOTING "NAY": _____

10 ABSENT: _____

11 APPROVED:

12
13 By _____
OSCAR B. GOODMAN, Mayor

14 ATTEST:

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16 _____
BARBARA JO RONEMUS, City Clerk

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BUSINESS IMPACT STATEMENT
FOR SHOPPING CART ORDINANCE

The following Business Impact Statement was prepared pursuant to N.R.S. 237.090 to address the possible impact of Bill No. 2001-5 that would increase the responsibility of grocery stores, home improvement stores, retail/wholesale stores and drug stores to remove and abate abandoned shopping carts on public right-of-ways and private property.

1. The following constitutes a description of the number of and manner in which comments were solicited from affected businesses, a summary of their responses and an explanation of the manner in which other interested persons may obtain a copy of the summary. The trade associations and businesses that are likely to be affected by the proposed ordinance are as follows:

- A. Grocery Stores;
- B. Hardware/Home Improvement Stores;
- C. Large Retail Stores;
- D. Retailers Association;
- E. Large Retail Drug Stores; and
- F. Wholesale Discount Warehouses.

The manner in which responses were solicited is described in Paragraph 3. No summary of the responses has been prepared.

2. The estimated economic effect of the proposed rule on the businesses, including, without limitation, adverse, beneficial, direct and indirect effects are as follows:

Adverse Effects: Currently, the various business that provide shopping carts for customers use a variety of inconsistent methods to recover abandoned carts ranging from an organized program to no program at all. Those with no program in place will incur the cost to create a cart recovery program. When the City has to remove the abandoned carts, the owner will be required to pay a recovery fee and a storage fee. The recovery fee is currently estimated at \$7.50 per cart recovered. The estimated storage fee is \$1.00 per cart per day. In addition, the proposed rule provides for an additional penalty of \$50.00 per cart for repeat offenses over three (3) in a six (6) month period.

Beneficial Effects: Businesses will recover the abandoned shopping carts which are a valuable business asset and they will not have to raise prices to account for lost carts. The recovery program will also reduce the nuisance of abandoned carts in the public right-of-way and on private property. The program will further reduce the load on Neighborhood Services and the Rapid Response Team to remove abandoned carts, allowing them more time to address other needs within the City.

Direct Effects: The recovery program and proposed rule will make owners

responsible to remove abandoned carts, which will reduce the nuisance and aesthetic impacts on neighborhoods. The proposed rule will also allow the City to increase its cost recovery for removal of abandoned shopping carts.

Indirect Effects: The adoption of this ordinance is likely to have certain indirect effects; however, those effects cannot be quantified at this time.

3. The following constitutes a description of the methods that the governing body of the local government considered to reduce the impact of the proposed rule on businesses and a statement regarding which of these proposed methods, if any, were used:

The City considered implementing new standards for the recovery of abandoned shopping carts approximately 1 ½ years ago, but chose to postpone the proposal in an effort to work with those in the industry. Since that time, staff have sent a letter to the leading representatives in the industry outlining the content of the proposed new rules and invited comments. Staff have also spoken with a some of the representatives who chose to comment on the proposal. In addition, on September 6, 2000, staff met with representatives from Clark County and the industry in a effort to discuss various issues surrounding the new proposed ordinance. Staff have attempted to address the issues raised by the industry.

4. The City estimates that the annual cost to enforce the proposed rule would be between \$4,500.00 and \$15,000.00 if the stores within the industry recover the carts on their own. However, if the City is forced to continue collecting the abandoned carts the annual cost will be between \$45,000.00 and \$67,500.00.

5. The proposed rule creates a removal and storage fee that the owner must pay before a shopping cart is returned. The average expected removal and storage fee is \$12.50 per cart. The proposed rule also provides for an additional civil penalty of \$50.00 per cart after the City has picked up more than three (3) in a six (6) month period. The total annual amount is undetermined at this time since the City cannot estimate, in advance, the amount of anticipated compliance.

6. The proposed change is not duplicative or more stringent than existing federal, state or local standards.