

[Milpitas, California, Code of Ordinances](#) >> [Title V - PUBLIC HEALTH, SAFETY AND WELFARE](#) >>
[Chapter 13 - SHOPPING CART REMOVAL, IMPOUNDMENT AND DISPOSAL](#) >>

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Sections:

- [V-13-100 - Findings and Purpose](#)
- [V-13-110 - Definitions](#)
- [V-13-120 - Exemption](#)
- [V-13-130 - Prohibiting Removal or Possession of Abandoned Cart](#)
- [V-13-140 - Mandatory Plan to Prevent Cart Removal and Evaluation Report](#)
- [V-13-150 - Prevention Plan Timeline and Approval Process](#)
- [V-13-160 - Penalties for Failing to Submit a Prevention Plan](#)
- [V-13-170 - Notification for Retrieval of Abandoned Carts](#)
- [V-13-180 - Administrative Costs and Fines](#)
- [V-13-190 - Disposition of Carts After Thirty Days](#)
- [V-13-200 - Violation Declared a Public Nuisance](#)

[V-13-100 - Findings and Purpose](#)

Abandoned shopping carts constitute a nuisance, create potential hazards to the health and safety of the public, and interfere with pedestrian and vehicular traffic within the City of Milpitas. The accumulation of wrecked, dismantled and abandoned shopping carts on public or private property also tends to create conditions that reduce property values, promoting blight and deterioration in the City. The intent of this Chapter is to ensure that measures are taken by store owners to prevent the removal of shopping carts from store premises and parking lots and to facilitate the retrieval of abandoned carts as permitted by State law.

(Ord. 256 (part), 4/3/01)

[V-13-110 - Definitions](#)

- a. Cart. Cart shall mean a basket which is mounted on wheels or a similar device provided by a business establishment for use by a customer for the purpose of transporting goods of any kind, including, but not limited to, grocery store shopping carts.
- b. Owner. Owner shall mean any person or entity, who in connection with the conduct of a business, owns, possesses, or makes any cart available to customers or the public. For purposes of this chapter, Owner shall also include the Owner's on-site or designated Agent that provides the carts for use by its customers.
- c. Premises. Premises shall mean the entire area owned and utilized by the business establishment that provides carts for use by customers, including any parking lot or other property provided by the owner for customer parking.
- d. Abandoned Cart. Any cart that has been removed without written permission of the Owner or on-duty manager from the premises of the business establishment, regardless of whether it has been left on either private or public property. Written permission shall be valid for a period not to exceed 72 hours. This provision shall not apply to carts that are removed for purposes of repair or maintenance.

(Ord. 256 (part), 4/3/01)

[V-13-120 - Exemption](#)

Any Owner that agrees to enter into a contract with a City-designated retrieval service to provide for retrieval of abandoned carts, or, individually or as part of a consortium of businesses, enters into a retrieval contract with a retrieval service that is satisfactory to the City, shall be exempt from the Sections V-13-140(c) through V-13-160 of this Chapter. This exemption is valid only if the other provisions of this Chapter are complied with by Owner.

(Ord. 256 (part), 4/3/01)

V-13-130 - Prohibiting Removal or Possession of Abandoned Cart

- a. It shall be unlawful to either temporarily or permanently remove a cart from the premises or parking area of a business establishment without the express prior written approval of the owner or on-duty manager of the business establishment. Written permission shall be valid for a period not to exceed 72 hours.
- b. This section shall not apply to carts that are removed for the purposes of repair or maintenance.
- c. A violation of this section shall be an infraction and punishable by a fine not exceeding One Hundred Dollars (\$100) for a first violation; a fine not exceeding Two Hundred Dollars (\$200) for a second violation of the same act within a year; and Five Hundred Dollars (\$500) for each additional violation within one year.

(Ord. 256 (part), 4/3/01)

V-13-140 - Mandatory Plan to Prevent Cart Removal and Evaluation Report

Every Owner shall develop and implement a specific plan to prevent customers from removing carts from the business premises. The plan must include the following elements:

- (a) Required signs on carts. Every cart owned or provided by any business establishment in the City of Milpitas must have a sign permanently affixed to it that contains the following information:
 - (i) Identifies the owner of the cart or the name of the business establishment, or both;
 - (ii) Notifies the public of the procedure to be utilized for authorized removal of the cart from the business premises;
 - (iii) Notifies the public that the unauthorized removal of the cart from the premises or parking area of the business establishment is a violation of State law;
 - (iv) Lists a telephone number to contact to report the location of the abandoned cart or lists an address for returning the cart to the owner or business establishment.
- (b) Required signs on property. Signs shall be placed in pertinent places near door that warn customers that cart removal is prohibited and constitute a violation of state and local law.
- (c) Physical measures. Specific physical measures shall be implemented to prevent cart removal from the business premises. These measures may include, but are not limited to, disabling devices on all carts, posting of a security guard to deter and stop customers who attempt to remove carts from the business premises, security deposits required for use of all carts, or the rental or sale of utility carts that can be temporarily or permanently used for transport of purchases.

(Ord. 256 (part), 4/3/01)

V-13-150 - Prevention Plan Timeline and Approval Process

The proposed plan for preventing cart removal shall be submitted for approval to the City within 60 days after adoption of this ordinance and each time the plan is proposed to be amended. If a new plan is submitted, the proposed measures shall be implemented by no later than thirty (30) days after City approval is given. The prevention measures shall be continued until and unless the City indicates that a measure(s) needs to be modified. Unless otherwise agreed, any modifications to the plan imposed by the City shall be implemented within thirty days after the City notifies the Owner of the needed modifications.

(Ord. 256 (part), 4/3/01)

V-13-160 - Penalties for Failing to Submit a Prevention Plan

Any Owner that fails to submit a plan, implement the proposed plan measures, or implement any required modifications to the plan by the City within the time frames specified in this Chapter shall be subject to a \$1,000 civil penalty, plus an additional penalty of \$50 for each day of noncompliance.

(Ord. 256 (part), 4/3/01)

V-13-170 - Notification for Retrieval of Abandoned Carts

Pursuant to Business and Professions Code Section 22435.7, the City shall notify the Owner of any abandoned carts owned or used by the business establishment that have been located within the City of Milpitas within twenty-four (24) hours of impoundment. The Owner shall have three (3) business days from the date the notification is given to retrieve carts from the City.

(Ord. 256 (part), 4/3/01)

V-13-180 - Administrative Costs and Fines

Pursuant to Business and Professions Code Section 22435.7, any Owner that fails to retrieve its abandoned cart(s) within three (3) business days after receiving notice from the City, shall pay the City's administrative costs for retrieving the cart(s) and providing the notification to the Owner. Any Owner who fails to retrieve abandoned carts in accordance with this Chapter in excess of three times during a specified six-month period, shall be subject to a \$50 fine for each occurrence. An occurrence includes all carts owned by the Owner that are impounded by the City in a one-day period.

(Ord. 256 (part), 4/3/01)

V-13-190 - Disposition of Carts After Thirty Days

Pursuant to State law, any cart not reclaimed from the City within thirty (30) days after notification to the Owner shall be sold or otherwise disposed of by the City.

(Ord. 256 (part), 4/3/01)

V-13-200 - Violation Declared a Public Nuisance

A violation of any provision of this Chapter is declared a public nuisance and may be abated pursuant to Chapter V-500 in a manner consistent with this Chapter and to the extent allowed by State law.

(Ord. 256.1, 9/3/02)

Stores Participating in the City's Shopping Cart Retrieval Program

BUSINESS	MILPITAS ADDRESS	DATE OF AGREEMENT
Bed Bath and Beyond	147 Great Mall Dr.	March 17, 2010
Beverages and More	1210 Great Mall Dr.	May 20, 2003
Big Lots	200 Serra Way	January 10, 2006
CVS Pharmacy	45 No. Milpitas Blvd.	February 20, 2002
Home Depot	1177 Great Mall Dr.	June 27, 2002
Lion Food Center	1838 No. Milpitas Blvd.	May 1, 2003
Marina Grocery	25 No. Milpitas Blvd.	March 12, 2010
New India Bazar	440 So. Main St.	October 19, 2007
Ocean Supermarket	2 So. Park Victoria Dr.	December 12, 2002
Orchard Supply Hardware	125 No. Milpitas Blvd.	July 17, 2003
Party City	311 W. Calaveras Blvd.	February 27, 2008
Ranch 99 Market	338 Barber Lane	July 8, 2002
Rite Aid Pharmacy	1350 So. Park Victoria Dr.	August 20, 2002
Ross Stores	239 Ranch Dr.	September 1, 2002
Saks Fifth Ave	1330 Great Mall Dr.	October 2, 2007
Saver's	60 Dempsey Rd.	July 3, 2002
Seafood City	1535 Landess Ave.	<i>Pending</i>
Walgreens - Calaveras	342 W. Calaveras Blvd.	September 15, 2003
Walgreens - Dixon/Milpitas	1833 No. Milpitas Blvd.	September 15, 2003
Walmart	301 Ranch Dr.	August 6, 2002

9/10/2010