

GENERAL

Chapter 475 MANAGEMENT OF SHOPPING CARTS

Article 1 INTERPRETATION

- 475.1.1 Business hours - defined
- 475.1.2 City - defined
- 475.1.3 Council - defined
- 475.1.4 Officer - defined
- 475.1.5 Order - defined
- 475.1.6 Property - defined
- 475.1.7 Representative of the City - defined
- 475.1.8 Supplier of shopping carts - defined

Article 2 GENERAL PROVISIONS

- 475.2.1 Supplier - responsibility - reasonable and effective measures
- 475.2.2 Supplier - management plan

Article 3 ONGOING NUISANCE - SHOPPING CART MANAGEMENT PLAN REQUIRED

- 475.3.1 Ongoing nuisance - non-compliance
- 475.3.2 Management plan - contact requirement
- 475.3.3 Management plan - contact - respond to calls or complaints
- 475.3.4 Management plan - require to modify
- 475.3.5 Order to comply

MANAGEMENT OF SHOPPING CARTS

Article 4 REMOVAL OF SHOPPING CARTS BY THE CITY

- 475.4.1 Removal and disposal by City - Failure to Comply
- 475.4.2 Removal and disposal by City - Unsafe condition

Article 5 NOTICE PROVISIONS

- 475.5.1 Notice - recipient

Article 6 ENFORCEMENT

- 475.6.1 Offence - conviction - fine

ARTICLE 7 GENERAL

- 475.7.1 General

Article 1 INTERPRETATION

475.1.1 Business hours - defined

"business hours" shall mean 9:00 am to 5:00 pm on each day Monday to Friday but shall not include holidays as defined in the *Retail Business Holidays Act*, R.S.O. 1990, c. R. 30.

475.1.2 City - defined

"City" means The Corporation of the City of Kitchener;

475.1.3 Council - defined

"Council" means the Council of the City;

475.1.4 Officer - defined

"Officer" means a By-law or Municipal Law Enforcement Officer of the City;

MANAGEMENT OF SHOPPING CARTS

475.1.5 Order - defined

"Order" shall mean an Order issued pursuant to section 4 of this Chapter;

475.1.6 Property - defined

"property" shall mean the location of the business including interior and exterior use areas associated with the business as well as any parking area commonly associated with the business or regularly used as parking by customers at the business;

475.1.7 Representative of the City - defined

"representative of the City" means any employee working for the by-law enforcement division, operations division, or corporate contact centre of the City; and

475.1.8 Supplier of shopping carts - defined

"Supplier of Shopping Carts" shall include any person providing shopping carts for customer use and shall, without limitation, include any business that supplies shopping carts and shall also include every director, owner, manager, and operator of such business.

Article 2 GENERAL PROVISIONS

475.2.1 Supplier - responsibility - nuisance prevention

Every Supplier of Shopping Carts shall:

- (a) take reasonable and effective measures to prevent the shopping carts from causing a nuisance;
- (b) take reasonable and effective measures to prevent shopping carts being taken from the property;
- (c) have a reasonable and effective plan in place to ensure timely collection of shopping carts that have left the property including shopping carts that have been removed from the property without permission;
- (d) ensure that any shopping cart that has left the property is retrieved within twenty-four (24) hours of receiving a notice or complaint about the location of the shopping cart; and
- (e) upon receiving a notice or complaint that the location of the shopping cart impedes traffic or pedestrians or causes an unsafe condition shall ensure that the shopping cart is retrieved within the lesser of three (3) business hours or twenty-four (24) hours.

MANAGEMENT OF SHOPPING CARTS

475.2.2 Supplier - management plan

Every Supplier of Shopping Carts shall ensure that the business has a shopping cart management plan that includes measures to:

97

- a) prevent carts being taken from the property;
- b) ensure timely collection of shopping carts that have left the property;
- c) ensure collection of shopping carts within twenty-four (24) hours of receipt of notice or complaint of location of the shopping cart; and
- d) where the shopping cart is in a location that impedes traffic or pedestrians or causes an unsafe condition, ensure collection of shopping carts within the lesser of three (3) business hours or twenty-four (24) hours.

Article 3 ONGOING NUISANCE - ORDER FOR WRITTEN MANAGEMENT PLAN

475.3.1 Ongoing nuisance - non-compliance

When an Officer determines that a Supplier of Shopping Carts has failed on more than one occasion to comply with any of the requirements of section 2 of this Chapter, the Officer may issue an Order requiring a written shopping cart management plan that complies with section 3 of this Chapter to be submitted to the Officer. The Order shall contain the following:

- a) reasonable particulars of the contraventions of section 2 of this Chapter;
- b) the location of the land on which such contraventions occurred;
- c) the requirement to submit a written shopping cart management plan that complies with the requirements of section 3 of this Chapter; and
- d) the deadline for submission of the written shopping cart management plan.

475.3.2 Written management plan - contact requirement

In addition to meeting the requirements of section 3 of this Chapter, a written shopping cart management plan shall include the name and contact information for a person responsible for implementation of the shopping cart management plan and may include additional name(s) and contact information to ensure that someone is always available for contact purposes.

MANAGEMENT OF SHOPPING CARTS

475.3.3 Written management plan - contact - respond to calls or complaints

Where a written shopping cart management plan has been required, every Supplier of Shopping Carts shall ensure that:

- a) at least one of the person(s) whose name and contact information has been provided on the shopping cart management plan is available to respond to calls or complaints about shopping carts from the business; and
- b) that the shopping cart management plan is complied with.

475.3.4 Written management plan - requirement to modify

Where a written shopping cart management plan has been provided to the City pursuant to this Chapter but the nuisance or violations of any provision of this Chapter continue, an Officer may require modifications to the written shopping cart management plan to address the concerns of the Officer and the Supplier of Shopping Carts shall ensure that such modifications are submitted to the City.

475.3.5 Order to comply

Every Supplier of Shopping Carts who is ordered to submit a written shopping cart management plan to the City shall comply with the Order.

Article 4 REMOVAL OF SHOPPING CARTS BY THE CITY

475.4.1 Removal and disposal by City - Failure to Comply

Where a Supplier of Shopping Carts fails to retrieve a shopping cart within twenty-four (24) hours of being requested by an Officer or representative of the City to do so, the City may retrieve the shopping cart and dispose of it.

475.4.2 Removal and disposal by City - Unsafe condition

Where in the opinion of an Officer or representative of the City a shopping cart is in a location where it impedes traffic or pedestrians or causes an unsafe condition and Supplier of Shopping Carts fails to retrieve a shopping cart within the lesser of three (3) business hours or twenty-four (24) hours of being notified by an Officer or a representative of the City to do so, the City may retrieve the shopping cart and dispose of it.

MANAGEMENT OF SHOPPING CARTS

Article 5 NOTICE PROVISIONS

475.5.1 Retrieval - notice - recipient

Any request to retrieve a shopping cart pursuant to this Chapter may be made by a representative of the City or an Officer:

- a) to any manager of a business at the location of the business during business hours whether or not a written shopping cart management plan is in place;
- b) where a manager is not at the business location or readily available, to any employee of the business at the location of the business during business hours whether or not a written shopping cart management plan is in place;
- c) where a written shopping cart management plan is in place by contacting any individual identified as a contact person on the shopping cart management plan; or
- d) where a written shopping cart management plan is in place by attempting to contact each individual identified as a contact person on the shopping cart management plan by phone provided a voicemail message is left for each person where the phone number provided allows the leaving of a message.

Article 6 ENFORCEMENT

475.6.1 Offence - conviction - fine

Every person who contravenes any provision of this Chapter including failing to comply with an Order under this Chapter, and every director or officer of a corporation who knowingly concurs in such contravention by a corporation is guilty of an offence and is liable, upon conviction, to a fine not exceeding ten thousand dollars (\$10,000) exclusive of costs, pursuant to the Provincial Offences Act, R.S.O. 1990, c. P.33.

MANAGEMENT OF SHOPPING CARTS

ARTICLE 7 GENERAL

475.7.1 General

This Chapter shall be known as the "Shopping Cart Management By-law".

It is hereby declared that each and every of the foregoing sections of this Chapter is severable and that, if any provisions of this Chapter should for any reason be declared invalid by any Court, it is the intention and desire of Council that each and every of the then remaining provisions hereof shall remain in full force and effect.

The Clerk of the City is hereby directed to make this by-law a part of The City of Kitchener Municipal Code by adding it to the Concordance and arranging and numbering it as Chapter 475 so as to fit within the scheme of the Code. By-law 2017-051, 15 May 2017.