City of Bellevue

STAFF REPORT

DATE: June 18, 2009

TO: Chair Orrico and Members of the Planning Commission

FROM: Carol Helland, Land Use Director
Development Services Department

SUBJECT: Shopping Cart Management Land Use Code Amendment (LUCA)
(Bellevue File No. 08-143237 AD)

This staff report presents the recommendation of the Development Services Department (DSD) on the proposal to amend the Wholesale and Retail use charts to require retailers to manage shopping cart supply and provide signage regarding violations for removal and a phone number to call for cart recovery. A public hearing on this topic has been scheduled for July 8, 2009. Following the public hearing, staff requests the Planning Commission develop a recommendation for transmittal to the City Council. A copy of the recommended Shopping Cart Management LUCA is included with this memorandum as Attachment A.

I. BACKGROUND

Policy discussion regarding management of abandoned shopping carts began with the City Council in the fall of 2006. The content of these discussions is summarized below for Planning Commission information regarding the initiation of this code amendment.

On October 30, 2006, staff discussed with Council available options to address abandoned shopping carts in response to a series of citizen complaints originating in the Crossroads Subarea. At that time, staff recommended that the City pursue primarily non-regulatory measures to address shopping cart abandonment, together with minimum labeling requirements to help facilitate cart return. The full range of shopping cart collection and retrieval options evaluated in preparation for the Council discussion are summarized as Attachment B. Council did not endorse the labeling component of the staff recommendation because insufficient information was available regarding the magnitude of the problem and costs associated with labeling. Council subsequently directed staff to:

- Collect additional data on shopping cart abandonment;
- Educate retailers and encourage them to identify voluntary measures to contain carts;
- Educate residents regarding the consequences of cart removal and alternative means to transport goods; and
- Report back to Council.

Results of the additional study on shopping cart abandonment demonstrated that the problem was significant, it disproportionately impacted neighborhoods surrounding shopping centers where the City was actively working to improve livability, and the problem warranted intervention. Staff presented these results to Council on August 6, 2007. Results of the monitoring and education efforts are summarized and included as Attachment C to this memorandum. The intervention recommended by staff following the Council directed monitoring and education included the following amendments to the Land Use Code and the Bellevue City Code:

- Require cart supply management signage regarding violations for removal and a phone number to call for cart recovery (Land Use Code).
- Declare abandoned shopping carts to be a nuisance (Bellevue City Code).
- Define abandoned shopping carts as those outside a defined shopping cart containment area (Land Use Code and Bellevue City Code).
- Define parties responsible for the violation to include the retailer and underlying owner (Bellevue City Code).

Council considered the staff recommendation and directed staff to add the following code amendment elements:

- Cart labeling requirements consistent with state law to support misdemeanor charges through Police enforcement (Land Use Code); and
- Expansion of the responsible parties list to include people who remove shopping carts without authorization from retailers' places of business (Bellevue City Code).

In addition to the code amendment package endorsed by Council, the following direction was provided regarding code administration for shopping cart regulations:

- Enforce nuisance provisions on a complaint basis on private property.
- Enforce nuisance provision proactively on rights-of-way.
- Provide an opportunity for voluntary compliance.
- Impose escalating penalties.
- Take responsible parties who fail to voluntarily comply to a hearing with opportunity for the Hearing Examiner to levy fines or require a containment plan.

Staff from DSD, Police, and Neighborhood Outreach (PCD) collaborated on the development of a draft ordinance that would address the elements identified by the Council. That ordinance was presented to City Council on June 1, 2009, at which time the Council directed staff to conduct the necessary environmental review under the State Environmental Policy Act and to hold the public hearings necessary to finalize the ordinance for Council action. The draft ordinance contained in Attachment A includes the code amendments that Council requested to be considered for inclusion in the Land Use Code. Attachment D includes the code amendments directed by Council for inclusion in the Bellevue City Code. These amendments do not require a hearing before the Planning Commission, but are provided for reference to illustrate the full range of changes that are being considered to address the cart abandonment issue.

II. PROPOSAL

The Wholesale and Retail use chart notes contained in LUC section 20.10.440 would be amended to include the following cart management requirements to be applied to wholesalers and retailers who offer shopping carts to customers:

- Designate a cart containment area,
- Display signage around the cart containment area that notifies users that unauthorized removal of a cart constitutes theft.
- Affix labels to carts that identify the owner and includes a telephone number where abandoned shopping carts can be reported for recovery by the owner.
- Provide a cross reference to the Bellevue City Code requirements that define abandoned shopping carts as a nuisance.

The full legislative draft of the recommended ordinance is provided in Attachment A to this staff report.

III. STATE ENVIRONMENTAL POLICY ACT (SEPA)

Notice of the SEPA application was provided on June 4, 2009. The optional Determination of Non-Significance (DNS) process was used, and a DNS is anticipated for issuance on June 25, 2009. As of the date of this staff report, no comments have been received on the SEPA application associated with the Shopping Cart Management LUCA. There is no administrative SEPA appeal to the Bellevue Hearing Examiner that must occur prior to the Planning Commission taking action on this proposal. The SEPA determination may only be appealed together with the final Council action to adopt the Shopping Cart Management LUCA by filing a petition with the Growth Management Hearings Board. Any comments received by staff following issuance of this staff report will be transmitted to the Planning Commission prior to the public hearing.

IV. PUBLIC NOTICE, PARTICIPATION, COMMENT AND RESPONSE

The Shopping Cart Management amendment to the LUC was forwarded by the City Council to the Planning Commission on June 1, 2009. The Public Hearing was set for July 8, 2009. Notice of the Application and associated SEPA review was published in the Weekly Permit Bulletin on June 4, 2009. Notice of the Public Hearing before the Planning Commission was published in the Weekly Permit Bulletin on June 18, 2009.

The recommended Shopping Cart Management amendment would modify use charts of general applicability contained in the Land Use Code. As such, these regulations are within the jurisdiction of the East Bellevue Community Council (EBCC). A Courtesy Public Hearing is scheduled with the EBCC on July 7, 2009. Comments received from members of the EBCC will be provided during the public hearing that is scheduled to occur before the Planning Commission on July 8, 2009.

A copy of the ordinance language for the Shopping Cart Management LUCA will be distributed with the weekly permit bulletin to the Northwest Grocers Association and to retailers or shopping center owners in Bellevue that provide shopping carts for the

convenience of their customers. As of the date of issuance of this staff report, no interested parties requested to be included on the mailing list for this LUC amendment.

Pursuant to the requirements of the Growth Management Act, state agencies must be given 60 days to review and comment on recommended amendments to the LUC. Copies of the recommended Shopping Cart Management LUCA were provided to the state agencies for review on June 8, 2009, and expedited review was requested to accommodate Council adoption prior to the summer break. The department received an acknowledgment letter from the state indicating that the Department of Community, Trade and Economic Development did not have any comments on this LUC amendment. No other comment letters have been received by DSD since the Council initiated this code amendment and notice of the SEPA application was provided.

V. APPLICABLE DECISION CRITERIA - LAND USE CODE PART 20.30J

The Planning Commission may recommend and the City Council may approve or approve with modifications an amendment to the text of the Land Use Code if:

A. The amendment is in accord with the Comprehensive Plan; and

The following Comprehensive Plan Goals and Policies would be advanced through adoption of the recommended Shopping Cart Management LUCA:

POLICY LU-1. . . . Implement land use strategies by balancing community and neighborhood values, the neighborhood's quality of life, the natural environment, and the economy.

POLICY LU-8. Ensure that commercial land uses are contained within carefully delineated areas.

POLICY LU-19. Maintain stability and improve the vitality of residential neighborhoods through adherence to, and enforcement of, the city's land use regulations.

POLICY LU-25. Maintain areas for shopping centers designed to serve neighborhoods, recognizing their multiple roles: serving residents' needs, acting as community gathering places, and helping to establishing a neighborhood's identity.

Housing Element - Neighborhood Quality & Vitality Goal 2. To ensure the vitality and health of single family and multifamily neighborhoods.

POLICY ED-3. Develop and maintain regulations that allow for continued economic growth while respecting the environment and quality of life of city neighborhoods.

POLICY ED-8. Recognize and consider the economic and environmental impacts of proposed legislative actions prior to adoption.

Urban Design Element Goal 1. To create an attractive, lively, and gracious city for people.

POLICY UD-56. Ensure that perimeter areas of major commercial and public centers use appropriate planting, lighting, and signs to blend with surrounding development and to be compatible with surrounding residential neighborhoods.

POLICY UD-59. Assure that more intense development is compatible with adjacent, less intense development by incorporating elements in site and building design that soften the impact from commercial to residential areas or from multifamily to single family areas.

POLICY UD-63. Maintain vegetation along major neighborhood arterials.

POLICY UD-66. Enhance the appearance of neighborhoods, especially those which are older, with targeted city programs and services, such as landscaping and maintenance along the public right-of-way, sidewalk enhancements, identity treatments, and other actions that may enhance neighborhood appearance.

The recommended Shopping Cart Management LUCA would provide a targeted City approach that is aimed at ensuring that the operation and management of commercial wholesale and retail establishments does not negatively impact surrounding neighborhood quality and appearance. Responsibility to address the shopping cart abandonment problem would not rest solely with the business owners. The Shopping Cart Management LUCA is part of a three pronged approach to address this issue and includes: 1) minimum cart management standards for retailers who provide shopping carts for the convenience of their customers (Land Use Code Amendment), 2) police enforcement provisions that would be applicable to individuals who removed shopping carts without permission (Bellevue City Code Amendment), and 3) education and outreach to the property managers of multifamily developments in the vicinity of neighborhood shopping areas (non-regulatory).

The recommended Land Use Code amendment sets performance expectations regarding cart management for retailers who profit from operations that include the provision of shopping carts for the convenience of their customers. These performance expectations do not dictate management means, but allow the business owner to develop management methods that are tailored to their unique circumstances. Labeling of carts and cart containment area signage is a modest expense to business owners in order to help combat the impacts associated with cart abandonment in neighborhoods surrounding shopping areas.

An image of blight is created in residential areas when shopping carts are abandoned in bus shelters, landscape planting strips, and private yards. Landscaping and vegetation is damaged by cart abandonment in parks and along rights of way. Even when the carts are removed, the damage to landscaping persists and diminishes the community sense of vitality. Costs are incurred by city maintenance divisions that are required to repair or replace damaged landscaping to restore community assets to their pre-existing conditions.

Adoption of the recommended Shopping Cart Management LUCA would help appropriately contain the impacts associated with retail uses within the commercial areas and respect the environment and quality of life within city neighborhoods by imposing minimum management standards on businesses that benefit from the use of shopping carts in their operations.

B. The amendment bears a substantial relationship to the public health, safety or welfare; and

The recommended amendment to the Land Use Code requires wholesalers and retailers to exercise minimum management standards when they provide shopping carts for the convenience of their customers. Monitoring that occurred over the course of a year indicated that the problems associated with abandoned shopping carts were significant, they disproportionately impacted neighborhoods surrounding shopping centers where the City was actively working to improve livability, and the problem warranted intervention. Refer to Attachment C for a summary of the results of the monitoring conducted by staff. During the monitoring, abandoned shopping carts were identified in public parks, in public rights of way, and in bus shelters. The carts often created impediments to safe pedestrian and vehicular travel, or were observed in critical areas and landscape strips. Requirements to impose minimum cart management standards on businesses that use shopping carts will reduce the safety issues and damage that occurs as a result of shopping cart abandonment.

C. The amendment is not contrary to the best interest of the citizens and property owners of the City of Bellevue.

The recommended amendment is in the best interest of the citizens and property owners, because it will help control the potential nuisance that can be associated with abandoned shopping carts. The Shopping Cart Management LUCA is part of a three pronged approach to address this issue and includes: 1) minimum cart management standards for retailers who provide shopping carts for the convenience of their customers (LUCA), 2) police enforcement provisions that would be applicable to individuals who removed shopping carts without permission (Bellevue City Code Amendment), and 3) education and outreach to the property managers of multifamily developments in the vicinity of neighborhood shopping areas (non-regulatory).

VI. RECOMMENDATION

Transmit the recommended Shopping Cart Management LUCA to the City Council for approval as drafted and included in Attachment A to this staff report.

ATTACHMENTS

A. Recommended Shopping Cart Management LUCA
B. Shopping Cart Collection and Retrieval Options
C. Summary of Staff Monitoring and Education Efforts
D. Bellevue City Code Amendments requested by the City Council

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. _____

AN ORDINANCE amending Section 20.10.440 of the Land Use Code relating to Shopping Cart Containment Areas required for wholesale and retail uses; providing for severability; and establishing an effective date.

WHEREAS, by adoption of the regulations contained herein, the Bellevue City Council seeks to prohibit shopping cart abandonment and otherwise require the designation of Shopping Cart Containment Areas for wholesale and retail uses; and

WHEREAS, the City of Bellevue has complied with the State Environmental Procedures Act (SEPA), Chapter 43.21C RCW, and the City's Environmental Procedures Code, Chapter 22.02 BCC; now, therefore

WHEREAS, the Planning Commission held a public hearing on **[insert date]** with regard to proposed Land Use Code amendments contained herein; and

WHEREAS, the Planning Commission **[recommends / does not recommend]** that the City Council approve such proposed amendments, now, therefore,

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Chart 20.10.440 of the Bellevue Land Use Code Relating to Wholesale and Retail Districts is hereby amended to add the following Note which shall read as follows:

20.10.440 Wholesale and Retail Uses

(39) All wholesale and retail uses, which offer shopping carts to customers, shall (a) designate a Shopping Cart Containment Area as defined in 9.10.010 of the Bellevue City Code; (b) display signage around shopping cart corrals and at the perimeter of the Shopping Cart Containment Area that provides notice that unauthorized removal of a shopping cart from the premises constitutes theft under RCW 9A.56.270 and unauthorized abandonment of a shopping cart more than 100 feet away from the parking area of a retail establishment or shopping cart containment area is a Class 3 civil infraction as defined in RCW 7.80.120 under [section 6 of this ordinance] and (c) display information on each shopping cart that is consistent with the labeling requirements of RCW 9A.56.270; and includes a 24-hour toll-free phone number to report abandoned shopping carts. Abandoned shopping carts or shopping carts located outside of a Shopping Cart Containment Area constitute a public nuisance under BCC 9.10.030(H) and may be abated through the provisions of Chapter 1.18 BCC.

Section 2. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.

Section 3. This ordinance shall take effect and be in force five (5) days after legal publication.

PASSED by the City Council this _____ day of _____, 2009, and signed in authentication of its passage this _____ day of _____, 2009.

(SEAL)

_____
Grant S. Degginger, Mayor

Approved as to form:

Lori M. Riordan, City Attorney

_____
Lacey Madche, Assistant City Attorney

Attest:

_____
Myrna L. Basich, City Clerk

Published _____

DRAFT

Attachment A: Shopping Cart Collection and Retrieval Options

PROGRAM OPTIONS: NON-REGULATORY			
Program Summary	Where Implemented	Pros	Cons
1. Bellevue 3 prong approach a. Educate store owners to neighborhood impacts resulting from abandoned carts and citizens regarding appropriate cart use. b. Notify citizens to call Code Compliance or retail stores to report abandoned carts. Code Compliance contacts store owners to request collection. c. Owners collect in response to reports of abandoned carts and/or pay staff to retrieve carts on a scheduled basis.	Bellevue Walla Walla Federal Way – enhanced program by adding abandoned cart complaint reporting function to city web site.	Inexpensive Relies on diplomacy and voluntary response rather than regulations.	Incentive based – relies on property owner desire to retrieve carts because they represent a capital investment of $400-500 per cart. Lack of regulatory mechanism to require timely collection and levy fines may limit staff ability to address chronic problems with cart containment and retrieval.
2. Cart Clean-up Days: Volunteer days to retrieve, corral and return carts	Bellevue Federal Way – conducts cart clean-up periodically as supplement to regulatory program.	Inexpensive Achieve immediate results.	Owners relieved of some responsibility to manage cart collection and retrieval. Improvement not lasting. Volunteer managed collection not sustainable. Programs that focus on retrieval rather than containment do not address impacts of abandonment.

Attachment B

PROGRAM OPTIONS: NON-REGULATORY (CONT.)			
Program Summary	Where Implemented	Pros	Cons
3. Distribute personal carts for use of residents in multifamily developments (Can subsidize distribution or provide for rental or sale).	Bellevue Pilot project underway in Deldridge Neighborhood in Seattle in collaboration with Feet First.	Provides incentive for residents to walk. Accrues health and transportation benefits. Rent/sell option is inexpensive. May reduce cart removal and abandonment, but results are varied.	Not well received when tried in Bellevue – carts do not provide stability for mobility challenged individuals and were not well used. Carts do not provide capacity to transport children. Need mechanism to corral carts in multifamily developments. Requires resources to manage program.
4. Carts collected using work release program participants to collect and return carts.	Seattle – Shopping Cart Reclamation Action Program (SCRAP). Pilot project currently on hold.	Can be used to enhance retrieval options. Taps stream of free labor. Provides opportunity for misdemeanor offenders to develop a stake in the community.	Requires resources to manage program, not currently operating in Bellevue. Owners relieved of some responsibility to manage cart collection and retrieval. Use of this work population may raise safety concerns for residents. Programs that focus on retrieval rather than containment do not address impacts of abandonment.

PROGRAM OPTIONS: CITE REGULATIONS			
Program Summary	Where Implemented	Pros	Cons
1. Require approval of Shopping Cart Containment and Retrieval Plan as development standard applicable to retail uses with shopping carts.	Renton - as component of broader Shopping Cart Containment and Retrieval Program. Glendale, CA – as component of broader Shopping Cart Containment and Retrieval Program.	Effective containment is the best way to reduce visual impacts associated with abandonment. Provisions of plan could be address through enforcement of permit conditions.	May only be applicable to future retailers – unclear if requirement could be imposed on existing retailers. May be perceived as business unfriendly.
2. Complaint based shopping cart retrieval and enforcement. City staff notify retailers of abandoned shopping cart locations in response to complaint. Retailer has 24 hours to remove. Failure to remove results in nuisance citation or $100 fine.	Kelso	Owners required to mark carts and indicate where to call for retrieval. Relatively inexpensive because managed on complaint basis.	Requires residents to remain vigilant and complain when carts are abandoned. Not likely to reduce number of carts that collect in most frequent abandonment areas (parks/bus stops). Owners will incur cost to affix ID markings on carts. Identification markings may displace advertising that generates revenue for retailers. Programs that focus on retrieval rather than containment do not fully address impacts of abandonment.

PROGRAM OPTIONS: CIVIL REGULATIONS			
Program Summary	Where Implemented	Pros	Cons
3. Pay contractor to collect and return marked carts and to destroy unmarked carts. Keep records regarding ownership of abandoned carts and locations collected. Related regulatory requirements: Must require Owners to mark carts, or City cannot deprive owner of property and/or destroy the cart.	Burien – views cart abandonment as form of graffiti and pays graffiti contractor to collect/return/destroy.	Owners required to mark carts and indicate removal is a crime and where to call for retrieval. Relatively inexpensive over time as businesses improve collection and retrieval effectiveness in response to fines and cart destruction. (Burien now experiences about 25 abandoned carts/mo = $150 in contractor fees.) Reduces number of carts that collect in most frequent abandonment areas (parks/bus stops). Records provide data to evaluate program effectiveness.	Owners relieved of some responsibility to manage cart containment and retrieval. City incurs cost associated with private business practice. Program implementation phase (1-2 years) likely to be expensive, until retail operators change approach to collecting and retrieving carts in order to avoid fines. Owners will incur cost to affix ID markings on carts. Identification markings may displace advertising that generates revenue for retailers. Programs that focus on retrieval rather than containment do not fully address impacts of abandonment.

PROGRAM OPTIONS: CIVIL REGULATIONS			
Program Summary	Where Implemented	Pros	Cons
4. Use City staff to collect marked carts, impound and release for a fee. Unmarked carts are destroyed. Related regulatory requirements: Must require Owners to mark carts, or City cannot deprive owner of property and/or destroy the cart	Renton – as component of broader Shopping Cart Containment and Retrieval Program. Auburn - as component of broader Shopping Cart Containment and Retrieval Program.	Long term positive results most likely with this type of regulatory structure. Owners required to mark carts and indicate removal is a crime and where to call for retrieval. Addresses issue proactively because staff can focus effort on most frequent abandonment areas (parks/bus stops). Consistent enforcement may provide incentive to owners to effectively manage collection and retrieval to reduce ongoing fine assessments.	New program would need to be established and cannot be accommodated with existing maintenance and operations crew programs. Program implementation phase (1-2 years) likely to be expensive, until retail operators change approach to collecting and retrieving carts in order to avoid fines. Requires trucks to collect and space to impound carts. City incurs cost associated with private business practice. Owners will incur cost to affix ID markings on carts. Identification markings may displace advertising that generates revenue for retailers. Programs that focus on retrieval rather than containment do not fully address impacts of abandonment.

PROGRAM OPTIONS: CIVIL REGULATIONS			
Program Summary	Where Implemented	Pros	Cons
5. Require cart security devices such as alarms or wheel locks that deploy at retailer property line, monetary deposits, bollards to retain carts in retail area (IKEA used to use this approach) or the exercise of employee control over carts (help all customers to car). Could be applied to all retailers with more than minimum number of carts (10 for example) or can be imposed as penalty for repeated cart impoundments or other identifiable violations.	Glendale, CA – require of all stores to provide cart security as part of development regulations. City of Lakewood – required WalMart to install wheel locks. They are considering expanding the program to other retailers where cart abandonment problems have emerged. University District Walgreens voluntarily installed alarm system. Deposit system used in Canada and Europe.	Most effective way to address cart abandonment. Security device option can be tailored to size of the store and cart inventory. Large stores can more easily absorb cost of cart mounted security devices. Initial investment recouped within 18 months, thereafter cost savings realized. Smaller stores can exercise control over carts with limited additional expense. In all cases, costs associated with retrieval would be eliminated. Eliminates need for citizens to complain in order to reduce cart abandonment or increase timely retrieval. Could be implemented and enforced as development regulation applicable to all retailers using carts. Monetary deposits can create secondary impacts when non-retail patrons view deposit return as revenue stream (i.e., aluminum can rebates).	Expensive for retailers to retrofit or replace carts. Application of development regulation may not be possible to existing retailers. Application of development regulation to all businesses may unduly penalize businesses that are effectively managing cart containment and retrieval. Application as land use permit condition can only be applied prospectively – will not address cart containment and retrieval problems occurring with existing retailers. Grocery trade groups likely to oppose (as experienced in CA and FL). May be perceived as business unfriendly.

PROGRAM OPTIONS: CRIMINAL REGULATIONS			
Program Summary	Where Implemented	Pros	Cons
1. Adopt state model cart theft statute and define certain activities as a misdemeanor: 1) removal of a shopping cart from the parking area of the retail establishment with intent to deprive owner of use; 2) to be in possession of any shopping cart that has been removed. Pursuant to Statute, owners must mark carts to indicate that removal is a theft for the misdemeanor to be enforceable.	Bainbridge Island, Bothell, Bremerton, Dupont, Edmonds, Fife, Issaquah, Lynnwood, Maple Valley, Marysville, Mercer Island, Milton, Newcastle, Northbend, Puyallup, Shoreline, Sumner and Woodinville. Federal Way and Renton as component of broader Shopping Cart Containment and Retrieval Program.	Owners required to mark carts and indicate removal is a crime and where to call for retrieval – provides information, that may act as a deterrent to individuals who would otherwise remove the carts. Continues to place responsibility and cost for cart containment and retrieval with the retailers. Relatively inexpensive for City because theft would only be enforceable when individuals observed by police officer removing carts or in possession of removed carts. Provides necessary foundation for city to fine or destroy carts in the future if retailers do not make efforts to effectively collect and retrieve carts.	Not likely to fully resolve cart abandonment problem as isolated strategy. Simply provides information regarding consequences to individuals who remove carts – shopping cart removal prosecutions not likely. Identification must be provided in several languages to be effective in Crossroads (English, Spanish and Russians). Can appear to disproportionately impact elderly, individuals with small children and mobility challenged in absence of non-regulatory program to identify and provide alternatives to cart removal.

RESULTS OF MONITORING AND EDUCATION EFFORTS

During the October 30, 2006 Study Session, staff recommended several non-regulatory measures and code amendments to require identification labeling to address shopping cart abandonment issues raised by residents of the Crossroads area. The City Council concluded that not enough information was available regarding magnitude of the problem and cost of the labeling. The City Council directed staff specifically to: 1) Monitor and collect data regarding shopping cart abandonment for a period of a year; 2) Educate retailers and encourage them to identify voluntary measures for containment; 3) Educate residents surrounding Crossroads Bellevue Shopping Center regarding consequences of cart removal and alternative means for transporting goods; and 4) Report back to Council part way through the monitoring period. The results of the monitoring and education efforts are summarized below for the first two quarters of 2007.

Monitor Scope of the Problem

Staff have engaged in two concentrated monitoring periods over the last six months. One was conducted in the winter and one in the spring. Monitoring was conducted one day per week for five consecutive weeks. Staff focused their monitoring efforts in the area that had historically generated the most significant number of complaints. The study area boundaries are depicted on the map at the end of Attachment B and are bounded on the north by NE 20th Street and the Redmond city limits, on the south by the Lake Hills Connector, on the east by 164th Ave NE, on the west by 124th Ave NE. The study area includes the entire limits of the Crossroads subarea and portions of the Bel-Red/Northup, Wilburton, Richards Valley and SE Bellevue subareas.

Winter monitoring discovered between 47 and 71 abandoned shopping carts located in the study area. Approximately 41% of the carts abandoned during this period were generated from retailers located in the Crossroads Bellevue Shopping Center and approximately 58% of the carts were generated from retailers located in the Crossroads subarea. Approximately 16% of the carts located in the study area were generated from retailers located in Redmond. Approximately one-third of the total number of carts were generated from grocery store retailers (such as Top Foods, Trader Joe's and Safeway).

Cart abandonment increased during the spring monitoring, likely because weather conditions are more favorable to pedestrian mobility than in winter months. Spring monitoring discovered between 81 and 109 abandoned shopping carts located in the study area. Approximately 26% of the carts abandoned during this period were generated from retailers located in the Crossroads Bellevue Shopping Center and approximately 64% of the carts were generated from retailers located in the Crossroads subarea. Approximately 5% of the carts located in the study area were generated from retailers located in Redmond. Two thirds of the carts during the spring monitoring period were generated from grocery store retailers.

During both study periods, cart abandonment was most prevalent in the following areas:

- Along rights of way - with clusters often appearing at bus shelters
- On public property - such as Crossroads Park, Crossroads Fire Station and Highland Middle School
- On private property - predominantly multi-family apartment complexes.

The collected data seem to indicate that cart abandonment is most prevalent in areas with well established pedestrian infrastructure that accommodates cart mobility and in areas with high numbers of multifamily units. Abandonment also seems to increase when conditions (such as weather) are favorable to pedestrian mobility. Patterns of shopping cart abandonment are visually depicted on the map presented at the end of Attachment B. The map visually depicts the most significant areas of cart abandonment as circles. Significant abandonment for the purposes of mapping was defined as locations where more than three abandoned shopping carts were observed during multiple monitoring weeks. The concentration areas included the vicinity of Evergreen Shopping Center (at the corner of Bel-Red Road and 140th Ave NE), the multifamily complexes in the vicinity of NE 8th Street and 140th Ave NE, the 156th Ave right of way between NE 24th Street and NE 8th Street, the 164th Ave right of way between Northup and NE 8th Street and the Crossroads Park and Community Center. The arrows on the map indicate the predominant migration patterns, from retailers to abandonment concentration areas.

Efforts to Educate Retailers

Staff efforts to educate retailers have focused on the areas around Crossroads Bellevue Shopping Center (including Top Foods and Bartell's). Staff have made repeated efforts to organize meetings with the retailers at Crossroads Bellevue Shopping Center and the Shopping Center ownership (Metrovation). The first meeting was attended by two representatives of the nine stores that are located in and around Crossroads that utilize carts.

To increase attendance and participation, Carol Helland called the representatives for all nine stores to discuss the direction received from Council and described the City desire to reduce the prevalence of shopping cart abandonment. Access to the October City Council Packet materials was provided, questions were answered and each store manager was requested to participate as a group in formulating a range of recommendations that could be provided to Council.

City staff worked with merchant and shopping center representative schedules to identify a time when they could all attend. This meeting was held on June 26, 2007. Susan Bentton attended on behalf of the shopping center ownership and was accompanied by two security guards who are assigned cart security detail on behalf of the shopping center. Only one retailer was represented – QFC sent the clerk assigned to collect carts when they are reported abandoned. Staff from the City included Carol Helland and code compliance officer Liz Krzyminski.

The Crossroads Bellevue Shopping Center ownership and City staff are now redoubling our efforts to provide educational opportunities to retailers located within the study area. Shopping Center ownership and City staff will be jointly contacting the corporate representatives for each retailer and providing written educational information and a summary of the updated Council direction following the continued study session. Information regarding options available to address abandoned shopping carts will be described and a request will be made to provide a corporate contact for future communications regarding the shopping cart issue. In addition, Metrovation is going to prepare information materials for use by the merchants that can be used to educate retail staff and consumers regarding shopping cart abandonment and abuse issues and to encourage the carts to be left on the shopping center property. These materials are envisioned to be image rich (relying on international symbols), fun and uniformly consistent with shopping center marketing materials.

Efforts to Educate Surrounding Residents

This educational effort is proving to be a challenge as well. Approximately 3,300 multifamily dwelling units are located in the vicinity of the Crossroads Bellevue Shopping Center. These units experience relatively high turn-over, so continuity of message to the residents is difficult. However, informational letters have been hand carried by City staff and provided to property managers where cart abandonment was most prevalent (total of 7 apartment complexes). These managers have been asked to provide the information with move-in packets for new residents. In addition, the information materials being prepared by Metrovation will be made available for their use in resident newsletters and in common areas (such as mail and exercise rooms). A mailing to all property managers will be prepared and distributed when the Metrovation informational materials are available.

Conclusions

Results of the data collection and stakeholder interactions indicated that there is a significant problem and intervention is warranted. Day in and day out, hundreds of carts are migrating away from retail areas and being abandoned. Abandonment seems to occur in concentrations (as shown on the attached map) around residential areas, on public property and in rights-of way. In residential complexes and area, residents are inconvenienced because carts interfere with access to parking and circulation. Carts are not consistently marked with owner information and residents have to track down the retail owner to request retrieval. When they do locate the responsible retailer, retrieval response to resident and property manager requests is reportedly slow or non-existent. If managers get frustrated enough, they dispose of the carts or make efforts to return abandoned carts on their own. On park property and rights-of-way, carts present a safety concern and significant aesthetic impacts. Carts were observed in drive lanes and on pedestrian paths where they pose safety issues. Even though some retailers retrieve carts daily, new carts are abandoned as quickly as they are picked up. As a result, the rights-of-way in proximity to shopping areas appear perpetually littered with carts, which contributes to resident feelings of community neglect and decline. Staff suggests for the reasons described above that standard code enforcement tools should be made available to help address and control the problems created by shopping cart abandonment.

Attachment D

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. _____

AN ORDINANCE amending Sections 1.16.010, 1.18.020, 9.10.010, and 9.10.030; and adopting chapter 9.28 of the Bellevue City Code relating to Shopping Cart Containment Areas required for wholesale and retail uses; declaring abandoned carts a public nuisance, establishing violations and penalties, and providing for severability; and establishing an effective date.

WHEREAS, by adoption of the regulations contained herein, the Bellevue City Council seeks to prohibit shopping cart abandonment and otherwise require the designation of Shopping Cart Containment Areas for wholesale and retail uses; and

WHEREAS, the Bellevue City Council recognizes the complexity of regulating shopping cart abandonment and seeks enforcement alternatives to supplement not otherwise replace other alternatives, such as criminal prosecution; and

WHEREAS, the City of Bellevue has complied with the State Environmental Procedures Act (SEPA), Chapter 43.21C RCW, and the City's Environmental Procedures Code, Chapter 22.02 BCC; now, therefore

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Section 1.16.010 of the Bellevue City Code is hereby amended to read as follows:

1.16.010 Enforcement Terms Defined.

The following words, whenever used in the ordinances in the city, shall be construed as defined in this section unless from the context a different meaning is specifically defined:

A. "Civil violation" means any offense as defined in BCC 1.18.020(D).

B. "Crime" means a misdemeanor or gross misdemeanor.

C. "Gross misdemeanor" means any crime punishable by a fine not exceeding $5,000, or imprisonment not exceeding one year, or both, unless otherwise specifically defined.

D. "Misdemeanor" means any crime punishable by fine not exceeding $1,000, or imprisonment not to exceed 90 days, or both, unless otherwise specifically defined.

E. "Nuisance" means anything specifically enumerated by the Bellevue City Council as a public nuisance or all actions or lack thereof as defined in Chapter 9.10 of the Bellevue City Code.

FE. "Offense" means any act or omission which violates any ordinance for which a penalty may be prescribed or remedy may be granted.

GF. "Public officer" has its ordinary meaning and includes all assistants, deputies, clerks and employees of any public officer and all persons exercising any of the lawful powers or functions of a public officer.

HG. "Traffic infraction" means an offense under the provisions of BCC Title 11, for which a monetary penalty may be imposed pursuant to Chapter 46.63 RCW et seq.

Section 3. Section 1.18.020 of the Bellevue City Code is hereby amended to read as follows:

_____D. "Civil violation" means a violation for which a monetary penalty may be imposed as specified in this chapter. Each day or portion of a day during which a violation occurs or exists is a separate violation. Traffic infractions pursuant to BCC Title 11, and civil noise infractions pursuant to Chapter 9.18 BCC, and shopping cart infractions pursuant to Chapter 9.28 BCC are specifically excluded from the application of this chapter.

Section 2. Section 9.10.010 of the Bellevue City Code is hereby amended to read as follows:

9.10.010 Definitions.

The words and phrases used in this chapter, unless the context otherwise indicates, shall have the following meanings:

A. "Abate" means to repair, replace, remove, destroy or otherwise remedy a condition which constitutes violation of this chapter by such means and in such a manner and to such an extent as the applicable department director determines is necessary in the interest of the general health, safety and welfare of the community.

B. "Applicable department director" means the director of the department or any designated alternate who is empowered by the city manager or by ordinance to enforce a city ordinance or regulation.

C. "Building materials" means and includes lumber, plumbing materials, wallboard, sheet metal, plaster, brick, cement, asphalt, concrete block, roofing material, cans of paint and similar materials.

D. "Shopping Cart Containment Area" as required by LUC 20.10.440 – Note 39 means: (a) a location determined by the City to constitute a Shopping Cart Containment Area; (b) an area designated during permit review as a Shopping Cart Containment Area; (c) an area stipulated to by the City and wholesale or retail owner pursuant to a voluntary compliance agreement; or (d) any area designated as a Shopping Cart Containment Area through adjudication of a civil enforcement action. A Shopping Cart Containment Area may include all or a portion of the property permitted for wholesale or retail use but may not include property located outside of said permitted use areas and may not include any area designated as right-of-way.

ED. "Person" means any individual, firm, association, partnership, corporation or any other entity, public or private.

FE. "Premises" means any building, lot, parcel, real estate or land or portion of land whether improved or unimproved, including adjacent sidewalks and parking strips and any lake, river, stream, drainage way or wetland.

Section 3. Section 9.10.030(H) of the Bellevue City Code is hereby adopted to read as follows:

9.10.030(H) Types of nuisances.

H. The presence of abandoned shopping carts outside of a Shopping Cart Containment Area as defined in BCC 9.10.010(D) and required by LUC 20.10.440 – Note 39. The following parties may collectively or independently be responsible for shopping carts leaving a containment area or causing abandonment of shopping carts: (a) the property owner, (b) the tenant, (c) a person causing abandonment of a shopping cart or, (d) a person causing the shopping cart to leave the containment area.

Section 4. New chapter 9.28 of the Bellevue City Code is hereby adopted to read as follows:

Chapter 9.28 Taking a Shopping Cart without Permission

A. It is a Class 3 civil infraction as defined in RCW 7.80.120 for a person without written permission of the owner or person entitled to possession to abandon a shopping cart that is the property of another more than 100 feet away from the parking area of a retail establishment or shopping cart containment area.

B. This section shall apply only if a shopping cart: (a) Has a sign permanently affixed to it that identifies the owner of the cart or the retailer, or both; (b) notifies the public of the procedure to be used for authorized removal of the cart from the premises;

(c) notifies the public that the unauthorized removal of the cart from the premises or parking area of the retail establishment, or the unauthorized abandonment of the cart, is unlawful; and (d) lists a telephone number or address for returning carts.

C. Effective date. Section 6 of this ordinance shall take effect January 1, 2010.

Section 5. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.

Section 6. This ordinance shall take effect and be in force thirty (30) days after legal publication.

PASSED by the City Council this _____ day of _____, 2009, and signed in authentication of its passage this _____ day of _____, 2009.

(SEAL)

_____
Grant S. Degginger, Mayor

Approved as to form:

Lori M. Riordan, City Attorney

_____
Lacey Madche, Assistant City Attorney

Attest:

_____
Myrna L. Basich, City Clerk

Published _____