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March 11, 2010

Council of the City of Los Angeles
Planning and Land Use Management Committee
200 N. Spring Street
Los Angeles, CA 90012

(Council File 08-2070)

Honorable Members of the Planning and Land Use Management Committee:

On August 6, 2008, Councilmembers Cardenas and Smith introduced Motion CF 08-2070 requesting that the Planning Department develop a shopping cart containment program similar to Glendale's model that mandates shopping cart retention for all existing and new stores with six or more shopping carts.

In response to this motion, the Planning Department, in conjunction with the Department of Public Works, researched Glendale's shopping cart containment program to assess the feasibility of implementing a similar program in Los Angeles. As part of assessing the fiscal impacts associated with establishing and implementing the Glendale program citywide, the Planning Department consulted with the City Administrative Officer and the Bureaus of Sanitation and Street Services. It was estimated that such a program would cost at a minimum of \$3.9 million. As an alternative approach, the Planning Department also evaluated the feasibility of drafting an ordinance for an on-site shopping cart containment program for only new development (and major remodels) which could be developed at a minimal cost. The findings of this study are in the attached report.

Based upon this analysis, the Planning Department requests further direction on how to proceed. If you have any questions, please contact either Tom Rothmann at (213) 978-1370 or Gabriela Juárez at (213) 978-1337 of my staff.

Sincerely,

MICHAEL J. LOGRANDE
Chief Zoning Administrator

cc:

Honorable Councilmember Cardenas, Council District 6
Gary Harris, Bureau of Street Services
Salvador Miranda, Bureau of Sanitation
Emilio Rodriguez, Office of the City Administrative Officer

Onsite Shopping Cart Containment Program

SUMMARY

In an effort to address the blight and safety hazards created by abandoned shopping carts on a citywide basis, this report presents two strategies that were developed from a workgroup. The Department of City Planning led this workgroup consisting of the Department of Public Works Bureaus of Sanitation and Street Services, and the City Administrative Officer. The two strategies developed are: 1) implement an Onsite Shopping Cart Containment Program, modeled after the City of Glendale, estimated at a minimum of \$3.9 million and requires funding resources upfront, or 2) write an ordinance that addresses only new development and major remodels requiring onsite shopping cart containment methods as a new development standard, with very minimal staff costs. The City Planning Department seeks further direction on the two options presented.

BACKGROUND

Abandoned shopping carts are a source of blight throughout the City of Los Angeles. An abandoned shopping cart is a shopping cart located outside the premises or parking lot or facility of the business establishment which furnishes the shopping cart for use by its patrons. Shopping carts are often used by families to carry groceries home. The carts are commonly left on the streets, sidewalks, or near bus stops. Community members make numerous calls to their local council offices and police stations reporting the abandoned shopping carts. The shopping carts can obstruct pedestrian and vehicular traffic in the public right of way, creating hazards to the health and safety of the general public.

In addition to the City's costs in monitoring, retrieving, storing and returning these errant carts, stores also incur a huge cost to maintain their cart inventories. These costs are transferred by the store owner directly to all consumers, not just the individuals illegally removing the carts, in the form of higher prices. Specifically, local store managers are forced to either absorb these costs in their monthly operating costs or raise the price of goods sold. Therefore, as cart-associated costs increase, merchandise costs also increase.

STATE REGULATIONS LIMITING MUNICIPAL CONTROL

The State legislature has slowly lessened local government's power to address abandoned shopping carts, and has determined that the entire issue is subject to statewide, not local regulations. Relative to cart retrieval, cities may not enact any regulations that are more stringent than the State's regulations; however

there are numerous problems with the State regulations and their impacts on our City:

1. State law requires City staff to leave an abandoned cart on the street for 24 hours before removing it, so as to allow the store the opportunity to collect the cart. Staff is required to monitor and watch each cart for a minimum of 24 hours. If the cart is still unclaimed by the owner, staff must then tag it with the date, location and time of pick-up when it is collected and removed from the site. Once the cart is removed and in possession of it, the City is required to immediately notify the owner. The owner may redeem the cart without paying any City costs, if the cart is redeemed within three days. Carts not redeemed must be discarded at City cost. The direct costs to the City involved in following these regulations have been too onerous to document on a citywide basis. As a point of reference, the City of Glendale estimated approximately \$70,000 annually to address shopping cart related problems originating from their 41 stores. However, previous estimates for shopping cart recovery program proposals, modeled after the City of San Jose, are approximately \$600,000 per council district in the City of Los Angeles. Due to the State requirement, 80%-90% of abandoned carts are not collected by City staff and remain on the street.

2. It is difficult for local authorities to directly deal with the individuals who take the carts from the stores. Because possession of the cart is not a strict liability offense, the store manager must testify in court that *each* cart taken was taken without their express permission. This essentially makes prosecution of cart theft impossible, as store managers would be required to go to court every day, leaving their stores unattended, *and* the manager would be required to bring charges against one of their customers. For this reason, few citations are written for shopping cart removal under the State regulation, as the City Attorney's Office is unable to prosecute.

CURRENT METHODS USED BY THE CITY

The City's current "Cart Collection" strategy, where carts are retrieved after they have been abandoned, is ineffective because:

- There is no consequence for taking and subsequently abandoning a shopping cart. There is no penalty for taking a cart and there is no disincentive for taking the cart. There is an expectation that the cart will be collected and returned to the store.
- Smaller stores usually do not operate their own collection system or contract with a professional service, placing the entire responsibility for picking up abandoned carts on City staff.

- Even though they operate their own collection service, the larger grocery stores cannot collect the carts from City streets as fast as they are abandoned.

In 2007, a six-month "Pilot Abandoned Shopping Cart Removal Program" was conducted in Council District 6. This program consisted of the Department of Public Works Bureaus of Sanitation and Street Services recovering abandoned shopping carts during their wayshed sweep routes. This resulted in the collection of a total of 5,340 carts. While this method did aid in reducing the number of abandoned shopping carts in neighborhoods, it resulted in an exorbitant number of unclaimed, unrecyclable shopping carts in the City storage yards, at great additional cost.

CURRENT METHODS USED TO BY LOCAL MERCHANTS

To deter the illegal removal of shopping carts, some merchants use methods that including cart retrieval services and electronic wheel locking systems. Shopping cart retrieval services are most commonly used. However, in contracting with shopping cart retrieval services, some store owners have experienced shopping cart theft. In order to increase retrieval profits, cart retrieval services have been known to illegally remove carts from stores, creating more issues. Wheel locking systems are also a common method to prevent illegal removal, however, some research shows that this is only an effective deterrent in about three out of four carts. While these efforts have been proactive, generally, they have not proven to be significantly effective as evidenced by the continued complaints reporting the abandoned carts, the continued hazard to the health, safety and general welfare, and the accumulating visual blight evident in our neighborhoods.

DISCUSSION

ONSITE CONTAINMENT STRATEGIES

Onsite containment of shopping carts means to retain carts within a store's premises which includes the lot area, maintained and managed by the business, that may include the building, parking lot and adjacent walkways, and where the business' shopping carts are permitted. There are various methods of containing shopping carts onsite including, but not limited to, the installation of bollards to act as a barrier to prevent carts from leaving the store's premises, wheel locking systems which stop carts once they are removed from the store's boundaries, attaching tall bars that prevent carts from exiting the entrances of the store, or having employees help customers take groceries and purchased merchandise out to their cars, not allowing the carts to be removed by their customers. These methods are far more effective and efficient than contracting shopping cart retrieval services for a few reasons. Through higher prices, consumers have been paying for retrieval companies to pick up the carts after they are abandoned. Additionally, some retrieval services have been known to illegally

remove carts from store premises in order to increase their revenues, again passing the extra costs onto consumers. By preventing the removal of shopping carts on store properties, consumers will no longer have to pay for the retrieval of hundreds of abandoned carts per day and the blight and nuisance is abated.

CITY OF GLENDALE, CA MODEL

The City of Glendale model has two primary components:

- Merchants that provide carts to their customers are required to contain all carts on their own property by utilizing some sort of control system or barricade. The City does not mandate a particular system, but only requires any system that effectively contains 100% of all carts. The City monitors the systems through an annual inspection and an annual fee applied to merchants with six or more carts to maintain the program. Abandoned carts are fined on a "per cart" and "per day" rate to the owner.
- Individuals have needed to change their habits by acquiring, then using, personal convenience carts, in lieu of store-provided shopping carts. Cart users must be made aware of containment systems and should be encouraged to use personal convenience carts outside of store premises.

There was a twelve month "grace period" for compliance with the containment regulations to educate merchants about the new regulations and allow merchants time to secure and install an appropriate system.

This plan does not conflict with the State's legislation, as it only addresses the issue of containment, and not retrieval or abatement. The Glendale City Attorney issued an opinion that the State has not pre-empted local cities from enacting legislation that addresses cart containment as a land-use issue.

This ordinance was adopted by the City of Glendale City Council in January 2006. The City of Glendale staff have confirmed that since the program has gone into effect they have had 100% success. The staff time that has been required to maintain the program has decreased significantly three years into its actual implementation because of the effectiveness of the structure established. All 41 of their stores in the program have been compliant with the new containment regulations, making it the most successful onsite containment program in the country thus far.

APPLYING THE GLENDALE MODEL TO LOS ANGELES

In order to apply the Glendale model to the City of Los Angeles, the program would likely be conducted by the Department of Public Works Bureau of Sanitation. The Bureau of Sanitation currently manages the Bulky Item Program in coordination with Bureau of Street Services. Collectively, they have the

knowledgeable staff and equipment familiarity to conduct inspections and also have established district sweeps. Moreover, the Bureau of Sanitation has devised a fee structure that could easily be adapted to serve as a model for this program. Implementation would consist of the Department of Public Works Bureau of Sanitation scheduling annual inspections with merchants that have six or more shopping carts in their stores. In an effort to not penalize small business owners, stores with five or less carts would not be part of this program. Additionally, staff would need to coordinate violations reported from the Bureau of Street Services conducting the district sweeps to ensure enforcement.

The range of types of merchants that normally provide shopping carts to their customers includes, but is not limited to, grocery stores, clothing stores, wholesale and big box retailers. As such, the number of merchants that have six or more shopping carts has not been determined yet. The process of determining how many businesses would be required to comply with the program is an extensively laborious and intensive process. The City's existing data sources do not have this type of information readily available. Thus, staff must sort through approximately 35,000 pages of businesses to discern which merchants would likely provide carts to their customers. This information is critical in order to determine an annual fee as well as to project accurate costs in creating and operating such a program.

The Department of City Planning held some preliminary outreach meetings for input with various stakeholders, including the California Grocers Association, in the early part of 2009. Stakeholders gave their input consisting of issues and opportunities for creating more effective shopping cart abatement methods, primarily with preemptive strategies that contain carts onsite with little or no opportunity for the carts to be taken offsite.

The Department of City Planning coordinated with the Bureau of Sanitation and Council District 6 to meet with the City of Glendale staff. A workgroup was established to design a program that would be best suited for the structure and needs of the City of Los Angeles. Based on other cities' models, the most effective and efficient method for abandoned shopping cart abatement is onsite containment. The Onsite Shopping Cart Containment Program was collectively designed using the City of Glendale model. The program would be maintained through annual inspections conducted by the Bureau of Sanitation of the onsite containment methods and systems with annual fees. The annual fees would be based on a completed fee study for merchants who provide six or more shopping carts for their customers. The monitored onsite containment systems would be coupled with a penalty and citation system for any abandoned shopping carts found on district sweeps conducted by the Bureau of Street Services.

FEE

To create and implement an Onsite Shopping Cart Containment Program modeled after the City of Glendale, a fee would be required. The fee is required to cover the costs incurred for annual inspections, continual monitoring of existing stores and maintaining the program. The fee would be annually assessed against property owners that have six or more shopping carts.

There are several issues surrounding assessing and establishing a fee. These issues include: (a) establishing a fee that is so costly that it may hurt small businesses; (b) there may be challenges and difficulties collecting fees logistically from the volume; (c) the fee will not likely cover the full amount of the program's costs in the first year and may not be paid in full for the first two to three years therefore, a general fund commitment would be required.

The costs that the Department of Public Works Bureau of Sanitation has identified initially for labor, equipment and supplies in order to service the entire City are generally estimated at \$2,630,000 annually (see Attachment A). The initial staffing cost estimates for Bureau of Sanitation to service the City under this proposal is estimated at \$1,250,000 annually (see Attachment B). This estimate does not include equipment and equipment maintenance. Thus, annual operation and maintenance costs for the proposal are estimated at over \$3,900,000. These cost estimations can be further refined once the number of merchants that qualify for the program is defined.

If Council would like to continue to move forward on creating a fee for this program to be self funded, the following would be required:

1. A study. The study would include the analysis of: (a) the total number of merchants that would qualify for the program; (b) for the nexus for the fees proposed; (c) the purpose of the program; (d) the services the program provides; and (e) the repayment schedule based on the assessed fee. The study would be conducted over approximately twelve months time.
2. The study should be conducted by the Bureau of Sanitation because their staff has the expertise and background knowledge on these types of services. Typically, fee studies of this nature are conducted by outside consultants.
3. The fee would likely be added to Section 41.45 of the Public Welfare chapter in the Los Angeles Municipal Code in order for Bureau of Sanitation to collect the fees involved.
4. The creation and administration of a fund to support the program. Working with the City Administrative Officer, Bureau of Sanitation would create a fund in order to operate and maintain the program.

ORDINANCE

Alternatively, as an initial step to address the larger issue, the Department of City Planning is prepared to write an ordinance that addresses only new development and major remodels. This ordinance would require onsite shopping cart containment methods and systems as a new development standard. The new standards would not apply to any existing stores or other businesses, and thus would not require a new fee to be imposed on existing businesses or a General Fund subsidy to administer the program.

ML:AB:TR:GJ

Attachments

- A. Bureau of Sanitation Annual Estimated Costs
- B. Bureau of Street Services Annual Estimated Costs

**BUREAU OF SANITATION
SHOPPING CART PROGRAM ANNUAL ESTIMATED COSTS**

LABOR COST (Loaded)

Positions	Annual Cost	Quantity	Total Annual Cost
Maintenance Laborer	\$ 164,666.91	6	\$ 988,001.46
St. Services Investigators*	\$ 195,313.33	4	\$ 781,253.32
Equipment Mechanic*	\$ 177,202.71	1	\$ 177,202.71
Systems Analyst I*	\$ 230,808.47	1	\$ 230,808.47
Management Analyst II	\$ 288,570.67	1	\$ 288,570.67

ANNUAL LABOR COST: \$ 2,465,836.63

HOLIDAY OVERTIME (Loaded)

Positions	Annual Cost	Quantity	Total Annual Cost
Maintenance Laborer	\$ 3,263.02	6	\$ 19,578.12
Equipment Mechanic*	\$ 5,043.92	1	\$ 5,043.92

ANNUAL HOLIDAY OT COST: \$ 24,622.04

EQUIPMENT AND SUPPLIES COST

Equipment Type	Annual Cost	Quantity	Total Annual Cost
Pick-Up Trucks ^α	\$ 18,571.00	6	\$ 111,426.00
Uniforms	\$ 590.00	6	\$ 3,540.00
Truck Wash (\$12/month)	\$ 144.00	6	\$ 864.00
PDA	\$ 2,500.00	6	\$ 15,000.00
Printing & Binding	\$ 10,000.00	1	\$ 10,000.00
Office Supplies	\$ 225.00	6	\$ 1,350.00
Other Operating Exp. & Supplies	\$ 12,600.00	1	\$ 12,600.00

ANNUAL EQUIPMENT AND SUPPLIES COST: \$ 154,780.00

TOTAL ANNUAL COST FOR THE PROGRAM: \$ 2,645,238.67

*St. Services Investigator, Equip. Mechanic, and Systems Analyst I positions are not currently part of Sanitation and therefore the CITYPAY scale was used by averaging the five step increases.

^αThe cost of each truck is an upfront cost of \$130,000, which has been annualized over seven years.

**BUREAU OF STREET SERVICES
SHOPPING CART PROGRAM ANNUAL ESTIMATED COSTS****LABOR COST (Loaded)**

Positions	Annual Cost	Quantity	Total Annual Cost
Maintenance Laborer	\$ 113,375.32	1	\$ 907,002.56
Sr St Services Investigator II	\$ 208,329.64	8	\$ 208,329.64
Management Aide/Analyst	\$ 131,483.55	1	\$ 131,483.55

ANNUAL LABOR COST: \$ 1,246,815.76