

Agenda Item 2



PLANNING COMMISSION STAFF REPORT

MEETING

DATE: August 29, 2016

STAFF: Robert Brown, Community Development Director

SUBJECT: **CONSIDERATION OF AMENDMENTS TO CHAPTER 19 OF THE MUNICIPAL CODE TO MODIFY TABLE 2-7 ALLOWED USES AND PERMIT REQUIREMENTS FOR COMMERCIAL/INDUSTRIAL ZONING DISTRICTS TO REMOVE REQUIREMENT FOR GROCERY STORES TO OBTAIN A USE PERMIT TO PROVIDE SHOPPING CARTS AND FINDING THAT ADOPTION THEREOF IS EXEMPT FROM THE REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA), PURSUANT TO CEQA GUIDELINES SECTION 15061(B)(3)**

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REQUESTED ACTION

Consider adoption of a resolution recommending to the City Council approval of amendments to the Novato Municipal Code (Chapter 19 – Zoning) to amend Table 4-2 to eliminate the requirement for a Use Permit for grocery stores that provide shopping carts to patrons and finding that adoption thereof is exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines Section 15061(B)(3).

In addition, addition of new Section 7-10 of the Municipal Code (Shopping Cart Containment and Retrieval) is proposed and are described below, although this chapter of the Municipal Code is outside the purview of the Planning Commission and the revisions are not included in the attached Planning Commission resolution.

BACKGROUND AND ANALYSIS

At its meeting of June 21, 2016, the City Council directed staff to analyze the issue of abandoned shopping carts and to propose enforcement options. Numerous California communities have adopted enforcement ordinances consistent with Sections 22435-22435.8 of the California Business and Professions Code which provides for the impoundment, retrieval and disposal of shopping carts that have been abandoned or removed from the owners' premises without authorization. Visual surveys of areas around grocery stores and pharmacies identified dozens of abandoned carts present each day in Novato, particularly at bus stops. The City spends considerable time dealing with abandoned carts.

Novato has 26 retail businesses which provide rolling shopping carts for the convenience of customers – 8 grocery stores, 4 pharmacies, 3 pet food stores, Target, Costco, 8 retailers, and two garden centers (see Attachment 2). The majority of these stores have outdoor corrals to contain carts near their entrances and in the parking lots to collect used carts. Some stores have locking,

radio-controlled security devices affixed to wheels to prevent carts from being removed beyond the perimeter of their site, but the great majority of these devices are inoperable.

Staff surveyed numerous Novato stores providing shopping carts (see Attachment 3). The survey found:

- Most stores do not have a defined protocol, either local or corporate, for inventorying, collecting, retrieving or replacing shopping carts.
- Most stores have employees periodically collect used carts from parking areas, but do not go beyond property perimeters to retrieve carts.
- Some smaller stores bring carts indoors at night, but most leave carts unsecured in corrals overnight.
- No stores have identification on their carts which provide the store name, address, phone contact number for retrieval, and a statement that removal from the premises is a violation of state law – all of which are required by state law.
- Some stores contract with a cart retrieval service, and fewer actually provide the contract phone number for the retrieval service on their carts.
- No stores document the number of lost carts. One store manager reported 100% annual turnover in carts.

Staff has experimented with contacting cart retrieval services and store managers directly to report abandoned carts. In many cases the carts were not retrieved for several days after notification, and in some cases not retrieved at all.

Current City Requirements

The Zoning Code currently requires new grocery stores to obtain a Use Permit if shopping carts are provided to customers. No such requirement exists for other types of businesses that provide shopping carts such as pharmacies and major retailers. City nuisance codes place responsibility on a property owner for removal of abandoned materials located on their property.

Proposed Shopping Cart Requirements

Staff proposes to adopt new regulations to be located in Chapter VII (Health) of the Municipal Code (see Attachment 4). Although this chapter of the Municipal Code is outside the purview of the Planning Commission, the Commission can offer advisory comments to the City Council on the new regulations proposed in Chapter VII and summarized below. Staff also proposes a modification to Table 4-2 of the Zoning Code (Chapter XIX) that would eliminate the Use Permit requirement for grocery stores which provide shopping carts since new, more comprehensive regulations would supersede the need for Use Permit control. This change to the Zoning Code requires Planning Commission recommendation to the City Council and is reflected in the attached Resolution (Attachment 1).

The proposed regulations would:

- Require signage on all carts identifying the owner, business address, a phone number to report an abandoned cart and that unauthorized removal is a violation of state and local law,
- Makes removal or possession of a cart beyond the business property a violation of Novato law,

- Requires any business that provides more than 10 carts, except garden centers, prepare a Prevention Plan for Director approval that addresses:
 - Signage near store/parking lot exits stating unauthorized cart removal is illegal,
 - Physical methods to prevent cart removal,
 - Daily survey and retrieval of carts within at least a quarter-mile of the store and retrieval elsewhere within 72 hours of notification, and
 - Provision of a contact phone number for store management for notification of abandoned cart location(s)

The Prevention Plan must be submitted by each business within 60 days of ordinance adoption and then annually. The Director may modify the Plan at any time if it has been proven ineffective in preventing cart removal.

In terms of financial penalties for failure of businesses to retrieve their abandoned shopping carts, the California Business and Professions Code limits fines to \$50 for each occurrence where businesses failed to retrieve carts three or more times over a six month period. However, the state law allows cities to collect reasonable fees to reimburse City expenditures when City personnel retrieve abandoned carts which are not collected by owners after 72 hours from notification. Staff will propose that the City Council establish a fee of \$622 for City collection, retention, notification and return of an abandoned cart. If the cart is not ultimately retrieved from the City by the business a fee of \$760 is proposed to pay for disposal of the cart.

ENVIRONMENTAL ASSESSMENT

The proposed Zoning Ordinance changes are not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) because there is no possibility that the proposed amendments which are minor regulatory changes will have a significant effect on the environment.

PUBLIC OUTREACH

Staff surveyed managers of 16 local businesses and sent letters outlining the intended ordinance provisions to all managers of the 24 affected retail businesses and their corporate headquarters, including the offer of a group meeting to discuss the proposals. Notices of the hearing were sent to the local store managers, corporate ownership and property owners. To date staff has only been contacted by the manager of Costco, which was supportive of the proposals. Staff also reached out to the California Grocers Association without a response.

COMMISSION ALTERNATIVES

1. Adopt the attached resolution recommending to the City Council adoption of the proposed Zoning Code amendments.
2. Propose revisions to the proposed Zoning Code amendments to the City Council.
3. Request additional information or analysis from staff.
4. Do not adopt the attached resolution, recommending no change to the Zoning Code.

ATTACHMENTS

1. Resolution recommending modification to Table 4-2 of Chapter 19 (the Zoning Code) to the City Council
2. List of Businesses Providing Shopping Carts
3. Store Survey re: Shopping Cart Retention
4. New Section 7-10 NMC (Shopping Cart Containment and Retrieval)

Attachment 1

PLANNING COMMISSION RESOLUTION

RESOLUTION NO. _____

RESOLUTION OF THE PLANNING COMMISSION RECOMMENDING TO THE CITY COUNCIL AMENDMENTS TO CHAPTER XIX (ZONING) OF THE NOVATO MUNICIPAL CODE REVISING SUBSECTION 19.12.030 TABLE 2-7 ALLOWED USES AND PERMIT REQUIREMENTS FOR COMMERCIAL/INDUSTRIAL ZONING DISTRICTS RELATING TO REGULATION OF GROCERY STORES WHICH PROVIDE SHOPPING CARTS TO PATRONS AND FINDING THE ADOPTION THEREOF EXEMPT FROM THE REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO CEQA GUIDELINES SECTION 15061 (b)(3)

WHEREAS, on June 21, 2016 the Novato City Council directed staff to consider means of addressing the abandonment of shopping carts throughout the community; and

WHEREAS, shopping carts are provided by grocery stores, pharmacies and some retail establishments for the convenience of customers while shopping on the premises of such businesses; and

WHEREAS, Sections 22435-22435.8 of the California Business and Professions Code provide for the impoundment, retrieval and disposal of shopping carts that have been abandoned or removed from the owners premises without authorization; and

WHEREAS, abandoned shopping carts on public and private property contribute to blight, lowered property values and threaten the health and safety of the public by obstructing public sidewalks, streets, traffic visibility, bicycle lanes and bus stops; and

WHEREAS, the City Council wishes to impose regulations to prevent the unlawful removal of carts from business premises and to require prompt retrieval of abandoned carts; and

WHEREAS, the Record of Proceedings (“Record”) upon which the Planning Commission bases its decision on the proposed amendment to the Municipal Code includes, but is not limited to: (1) the staff reports, City files and records and other documents, prepared or and/or submitted to the City relating to the proposed amendment; (2) all documentary and oral evidence received at public meeting and hearings or submitted to the City during the comment period relating to this amendment; (3) the City of Novato 1996 General Plan and its EIR; and (4) all other matters of common knowledge to the City including, but not limited to, City, state, and federal laws, policies, rules, regulations, reports, records and projections related to development within the City of Novato and its surrounding areas. The custodian of records is the City Clerk of the City of Novato, 922 Machin Avenue, Novato, CA 94945.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby approve and recommends that the City Council approve the proposed Municipal Code revisions, as described in Exhibit A, based on the following findings:

1. The proposed Municipal Code amendments are consistent with the policies and programs of the General Plan as most currently amended and further the following goals and objectives to assure property maintenance and nuisance abatement (Policy CI 5).
2. The adoption of this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3) Section 15061 (b)(3). The ordinance is being adopted in accordance with the requirements of California Business and Professions Code Sections 22435-22435.8 authorizing local agencies to adopt reasonable zoning and land use requirements for businesses which provide shopping carts to patrons. This ordinance does not result in additional development but requires retrieval of abandoned carts from the built and natural environment. It can therefore be seen with certainty that there is no possibility that the adoption of this ordinance may have a significant effect on the environment.

Passed and adopted at a regular meeting of the Planning Commission of the City of Novato held on the 7th day of August, 2017, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

I HEREBY CERTIFY that the foregoing is a full, true and correct copy of the resolution which was adopted by the Planning Commission, City of Novato, County of Marin, State of California, on the 7th day of August, 2017.

Planning Commission Chair

Attachment: Exhibits A - Proposed Municipal Code Amendments

Attachment 1 - exhibit A

EXHIBIT A

(revisions shown in underline for text additions and ~~STRIKEOUT~~ for text deletions)

| TABLE 2-7 Allowed Uses and Permit Requirements for Commercial/Industrial Zoning Districts | | P Permitted Use (2) UP Use Permit required (3) — Use not allowed | | | | | | | |
|---|-----------------------------|--|----|-----|-----|----|-----|--------------------------------|--|
| LAND USE (1) | PERMIT REQUIRED BY DISTRICT | | | | | | | Specific Use Regulations | |
| | BPO | CN | CG | CDR | CDB | CI | LIO | | |
| MANUFACTURING & PROCESSING USES | | | | | | | | | |
| Assembly of products from parts produced off-site | — | — | — | — | — | P | P | | |
| Electronics, equipment, and appliance manufacturing | — | — | — | — | — | P | P | | |
| Food and beverage product manufacturing | — | — | UP | — | — | P | P | | |
| Furniture/fixtures manufacturing, cabinet shops | — | — | — | — | — | P | P | | |
| Handcraft industries, small-scale manufacturing | — | — | UP | — | — | P | P | | |
| Laundries and dry cleaning plants | — | — | — | — | — | P | P | | |
| Metal products fabrication, machine/welding shops | — | — | — | — | — | P | P | | |
| Printing and publishing | — | — | UP | — | — | P | P | | |
| Quarry materials storage and processing | — | — | — | — | — | UP | UP | | |
| Recycling facilities - Large collection facilities | — | — | — | — | — | UP | UP | 19.34.150 | |
| Recycling facilities - Processing, light | — | — | — | — | — | — | UP | 19.34.150 | |

| | | | | | | | | |
|--|--------|----|--------|---|----|--------|--------|-----------|
| Recycling facilities - Reverse vending machines | P | P | P | P | P | P | P | 19.34.150 |
| Recycling facilities - Scrap and dismantling yards | — | — | — | — | — | — | UP | 19.34.150 |
| Recycling facilities - Small collection facilities | — | UP | UP | — | — | P | P | 19.34.150 |
| R&D (Research and development) | P | — | P | — | — | P | P | |
| R&D - Biotechnology, chemical, pharmaceutical | UP | — | UP | — | — | UP | UP | |
| Storage or use of hazardous materials as accessory use | UP (4) | — | UP (4) | — | — | UP (4) | UP (4) | |
| Warehouses, wholesaling and distribution | — | — | — | — | >— | P | P | |

KEY TO ZONING DISTRICT SYMBOLS

| | | | |
|-----|----------------------------------|-----|-------------------------|
| BPO | Business and Professional Office | CDB | Downtown Core Business |
| CN | Neighborhood Commercial | CI | Commercial/Industrial |
| CG | General Commercial | LIO | Light Industrial/Office |
| CDR | Downtown Core Retail | | |

Notes: (Only the notes that apply to this page are shown. A full list of notes is provided at the end of Table 2-7.)

- (1) See Article VI for land use definitions. See Section 19.02.020.F regarding uses not listed.
- (2) Zoning Clearance required (Section 19.42.020). Design Review may also be required; see 19.42.030.
- (3) See Section 19.42.050 for Use Permit processing requirements.
- (4) Accessory use may be allowed in accordance with standards as promulgated by the Novato Fire Protection District and all other local, state and federal laws and regulations

| TABLE 2-7 Allowed Uses and Permit Requirements for Commercial/Industrial Zoning Districts | | P Permitted Use (2) UP Use Permit required (3) — Use not allowed | | | | | | |
|---|-----------------------------|--|----|--------|-----|----|--------|-----------------------------|
| LAND USE (1) | PERMIT REQUIRED BY DISTRICT | | | | | | | Specific Use Regulations |
| | BPO | CN | CG | CDR | CDB | CI | LIO | |
| RECREATION, EDUCATION & ASSEMBLY USES | | | | | | | | |
| Adult-oriented businesses | — | — | — | — | — | — | UP (6) | 19.23 |
| Clubs, lodges and membership meeting halls | — | UP | UP | UP(5) | UP | — | — | |
| Community centers | — | UP | UP | UP | UP | — | — | |
| Health/fitness facilities | UP | P | P | UP | P | P | P | |
| Indoor amusement/entertainment facilities | — | UP | UP | UP | UP | UP | UP | |
| Libraries, museums, galleries | UP | UP | UP | UP | UP | UP | UP | |
| Outdoor recreation facilities, active | — | UP | UP | — | — | — | UP | |
| Outdoor recreation facilities, passive | P | P | P | P | P | P | P | |
| Parks and playgrounds | — | — | — | P | P | — | — | |
| Religious Facilities | — | UP | UP | UP(5) | UP | — | — | |
| Schools - Private | UP | UP | UP | UP (5) | UP | — | UP | |
| Schools - Specialized education and training | UP | UP | UP | UP (5) | UP | — | P | |
| Studios - Art, dance, martial arts, music, etc. | UP | UP | P | UP (5) | UP | P | P | |
| Theaters and auditoriums | — | — | UP | UP | UP | — | — | |
| RESIDENTIAL USES | | | | | | | | |

| | | | | | | | | |
|--|----|----|----|--------|--------|----|----|-----------|
| Caretaker quarters | UP | — | UP | — | — | UP | UP | |
| Emergency Shelter | — | — | — | — | — | — | — | 19.34.072 |
| Residential shelters | — | — | UP | — | — | — | — | |
| Home occupations | P | P | P | P | P | — | — | 19.34.080 |
| Live/work projects | P | — | P | P | P | P | P | 19.34.090 |
| Multi-family dwellings and duplexes, in a mixed use project | — | UP | — | UP (5) | UP (5) | — | — | 19.34.100 |
| Single family dwellings | — | — | — | — | — | — | — | |

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- (1) See Article VI for land use definitions. See Section 19.02.020.F regarding uses not listed.
- (2) Zoning Clearance required (Section 19.42.020). Design Review may also be required; see 19.42.030.
- (3) See Section 19.42.050 for Use Permit processing requirements.
- (5) Use allowed only on upper floors or rear of site, with ground floor street frontage reserved for retail, entertainment and personal service uses.
- (6) Permit requirement established by Division 19.23 (Adult-Oriented Businesses).

| TABLE 2-7 Allowed Uses and Permit Requirements for Commercial/Industrial Zoning Districts | | | | P Permitted Use (2) UP Use Permit required (3) — Use not allowed | | | | |
|---|-----------------------------|----|--------|--|--------|--------|--------|--------------------------------|
| LAND USE (1) | PERMIT REQUIRED BY DISTRICT | | | | | | | Specific Use Regulations |
| | BPO | CN | CG | CDR | CDB | CI | LIO | |
| RETAIL USES | | | | | | | | |
| Accessory retail and service uses | P | P | P | P | P | P | P | 19.34.034 |
| Alcoholic beverage sales, on or off-site (15) | UP | UP | UP | UP | UP | UP | UP | 19.34.050 |
| Art, antique, collectible, and gift stores | — | P | P | P | P | P | — | |
| Auto parts sales | — | P | P | P | P | P | P | |
| Auto sales and rental | — | — | UP | — | — | UP | P | |
| Bars and night clubs | — | — | UP | UP | UP | — | UP | |
| Book stores | — | P | P | P | P | P | P | |
| Building material stores | — | — | UP | — | — | UP | P | |
| Construction/heavy equipment sales and rental | — | — | — | — | — | UP | UP | |
| Convenience stores | — | UP | UP | UP | UP | — | — | |
| Drive-in and drive-through sales | — | UP | UP | — | — | — | UP | |
| Equipment rental | — | — | UP | UP | UP | P | P | |
| Extended hour businesses (11 p.m. to 6 a.m.) | P (98) | UP | P (98) | P (98) | P (98) | P (98) | P (98) | |

| | | | | | | | | |
|--|----|----|----|--------------|--------------|----|----|------------------------|
| Florists | — | P | P | P | P | P | P | |
| Furniture, furnishings & appliance stores | — | — | P | P | P | — | — | |
| General retail | — | P | P | P (109) | P (109) | P | P | <u>7-10</u> |
| Grocery stores | — | UP | P | P (7) | P (7) | — | — | <u>7-10</u> |
| Gun sales | — | — | UP | — | — | UP | — | |
| Marijuana Dispensaries | — | — | — | — | — | — | — | |
| Mobile home, RV, and boat sales | — | — | — | — | — | UP | P | |
| Outdoor displays retail sales, temporary | — | P | P | P (1110) | P (1110) | P | P | 19.34.130 |
| Outdoor displays retail sales, permanent | — | UP | UP | UP | UP | UP | UP | 19.34.130 |
| Plant nurseries and garden supply stores | — | UP | P | UP | UP | P | P | |
| Restaurants and outdoor dining areas, including incidental on-site alcohol sales | UP | P | P | P (89)(1110) | P (89)(1110) | UP | UP | 19.34.050 19.34.130 |
| Tobacco product shops | — | — | — | UP | UP | — | — | 19.34.166 |
| Warehouse retail | — | — | UP | — | — | — | — | |

KEY TO ZONING DISTRICT SYMBOLS

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| | | | |
|-----|----------------------|-----|-------------------------|
| CG | General Commercial | LIO | Light Industrial/Office |
| CDR | Downtown Core Retail | | |

Notes: (Only the notes that apply to this page are shown. A full list of notes is provided at the end of Table 2-7.)

- (1) See Article VI for land use definitions. See Section 19.02.020.F regarding uses not listed.
- (2) Zoning Clearance required (Section 19.42.020). Design Review may also be required; see 19.42.030.
- (3) See Section 19.42.050 for Use Permit processing requirements.
- ~~(7) Use Permit required if shopping carts are proposed.~~
- (87) Permitted if in compliance with the design standards of the Downtown Specific Plan.
- (98) Use Permit required if located within 300 feet of a residential zone.
- (409) Related uses are permitted which meet all of the following criteria: open during weekdays 10 a.m. to 5 p.m. and Saturday; provides window displays which are changed monthly; and has two-hour customer turnover.
- (4410) Also permitted in the public right-of-way with a license agreement pursuant to Section 15-4 of the Municipal Code.
- (4514) Except for restaurants with incidental on-site alcohol.

| TABLE 2-7 Allowed Uses and Permit Requirements for Commercial/Industrial Zoning Districts | | P Permitted Use (2) UP Use Permit required (3) — Use not allowed | | | | | | |
|---|-----------------------------|--|----|--------|-----|----|-----|-----------------------------|
| LAND USE (1) | PERMIT REQUIRED BY DISTRICT | | | | | | | Specific Use Regulations |
| | BPO | CN | CG | CDR | CDB | CI | LIO | |
| SERVICE USES | | | | | | | | |
| Animal Grooming | — | UP | UP | UP (5) | UP | UP | UP | |
| Auto repair and maintenance - Major | — | — | — | — | — | UP | UP | |
| Auto repair and maintenance - Minor | — | — | UP | — | — | P | P | |

| | | | | | | | | |
|--|----|----|----|---------------------------|---------------------------|----|----|-----------------------------|
| Automated teller machines (ATMs) (non-drive through) | P | P | P | P | P | P | P | |
| Banks | P | P | P | UP (1413) | P(1413) | — | P | |
| Business support services | P | P | P | P (5) | UP (5) | P | P | |
| Car wash | — | — | UP | — | — | — | UP | |
| Check Cashing | — | — | UP | — | — | — | — | |
| Child/adult day care centers | UP | UP | UP | UP (5) | UP | — | UP | 19.34.070 |
| Congregate care/group facilities | UP | — | UP | — | — | — | — | |
| Contractor storage yard | — | — | — | — | — | UP | UP | |
| Drive-in and drive-through services, including ATM | — | UP | UP | UP | UP (1211) | — | — | |
| Financial Services | P | P | P | P (5) | P (1312) | — | P | |
| Gas stations | — | UP | UP | — | — | — | UP | 19.34.050.F |
| Hotels and motels | UP | UP | UP | UP | UP | UP | UP | |
| Kennels & boarding | — | — | UP | — | — | UP | UP | |
| Massage Establishments | UP | UP | UP | UP | UP | UP | UP | 19.34.190 see also Sec. 8-4 |
| Massage establishments - small | P | P | P | P | P | P | P | see also Sec. 8-4 |

| | | | | | | | | |
|--|----------|----|----------|-------|-------|----|----------|-----------|
| Medical - Clinics, offices, and laboratories | P | P | P | P (5) | P (6) | — | — | |
| Medical - Extended care | UP | — | UP | — | — | — | — | |
| Medical - Hospitals | UP | — | UP | — | — | — | — | |
| Mortuaries & funeral homes | UP(1615) | — | UP(1615) | — | — | — | UP(1615) | |
| Offices | P | P | P | P (5) | P (6) | P | P | |
| Pawn Shops | — | — | UP | — | — | — | — | |
| Personal services | P | P | P | P | P | P | P | |
| Public utility facilities | UP | UP | UP | UP | UP | UP | UP | |
| Residential care facility for the elderly (RCFE) | — | UP | — | — | — | — | — | 19.34.160 |
| Real Estate Offices | P | P | P | P | P | P | P | |
| Storage Facilities - Indoor | — | — | UP | — | — | UP | UP | |
| Storage - Outdoor | — | — | UP | — | — | UP | UP | |
| Tattoo Parlor | — | — | — | — | — | — | UP | 19.34.168 |
| Travel Agency | P | P | P | P | P | P | P | |
| Upholstering shops | — | — | — | — | UP | P | P | |
| Veterinary clinics, outpatient treatment only | — | UP | UP | — | UP | UP | UP | |
| Veterinary clinics, animal hospitals | — | — | UP | — | UP | UP | UP | |

KEY TO ZONING DISTRICT SYMBOLS

| | | | |
|-----|----------------------------------|-----|-------------------------|
| BPO | Business and Professional Office | CDB | Downtown Core Business |
| CN | Neighborhood Commercial | CI | Commercial/Industrial |
| CG | General Commercial | LIO | Light Industrial/Office |
| CDR | Downtown Core Retail | | |

Notes: (Only the notes that apply to this page are shown. A full list of notes is provided at the end of Table 2-7.)

- (1) See Article VI for land use definitions. See Section 19.02.020.F regarding uses not listed.
- (2) Zoning Clearance required (Section 19.42.020). Design Review may also be required; see 19.42.030.
- (3) See Section 19.42.050 for Use Permit processing requirements.
- (5) Use allowed only on upper floor or rear of site, with ground floor street frontage reserved for predominantly retail, entertainment and personal service uses.
- ~~(4211)~~ Drive-through banking services only.
- ~~(4312)~~ See Section 19.030.040, Table 3-7 for parking requirements of ground floor offices, medical, business and financial services in the Downtown Business Core.
- ~~(4413)~~ Use allowed only on upper floors and up to a maximum of 25% of the ground floor in rear of a building, with ground floor street frontage reserved for predominantly retail, entertainment and personal service uses.
- ~~(4615)~~ Crematories are only allowed in the LIO District, and must be located a minimum of 1,000 feet from residential uses, schools and day care centers.

| TABLE 2-7 Allowed Uses and Permit Requirements for Commercial/Industrial Zoning Districts | | PERMIT REQUIRED BY DISTRICT | | | | | | | Specific Use Regulations |
|---|----|-----------------------------|----|--------|--------|-----|----|-----|--------------------------------|
| LAND USE (1) | | BPO | CN | CG | CDR | CDB | CI | LIO | |
| TRANSPORTATION & COMMUNICATIONS USES | | | | | | | | | |
| Broadcasting studios | UP | — | UP | UP (5) | UP (5) | P | P | | |

| | | | | | | | | |
|--|-------|-------|-------|---------|---------|-------|------|-----------|
| Heliports | UP | — | — | — | — | — | — | 19.34.074 |
| Parking facilities | — | — | P | P(1716) | P(1716) | P | P | |
| Telecommunications facilities | UP | UP | UP | UP | UP | UP | UP | 19.38 |
| Truck and freight terminals | — | — | — | — | — | UP | UP | |
| Vehicle storage | — | — | — | — | — | UP | UP | |
| Wireless communication facilities: New towers or monopoles or new building-mounted facilities | UP | UP | UP | UP | UP | UP | UP | 19.38 |
| Wireless communication facilities: New facilities co-located on existing towers, monopoles or buildings with existing permitted antennas | P (2) | P (2) | P (2) | P (2) | P (2) | P (2) | P(2) | 19.38 |

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| CDR | Downtown Core Retail | | |

Notes: (Only the notes that apply to this page are shown. A full list of notes is provided at the end of Table 2-7.)

- (1) See Article VI for land use definitions. See Section 19.02.020.F regarding uses not listed.
- (2) Zoning Clearance required (Section 19.42.020). Design Review may also be required; see 19.42.030.
- (3) See Section 19.42.050 for Use Permit processing requirements.

- (5) For properties with building frontage on Grant Avenue or Redwood Boulevard: Use allowed only on upper floor or rear of building, with ground floor street frontage reserved for retail, entertainment and personal service uses.

(4716) Parking facilities shall not front on Grant Avenue or Redwood Boulevard.

COMPLETE LIST OF NOTES FOR TABLE 2-7 (Reflects all revised notes above and highlighted as new additions to Ordinance).

- (1) See Article VI for land use definitions. See Section 19.02.020.F regarding uses not listed.
- (2) Zoning Clearance required (Section 19.42.020). Design Review may also be required; see 19.42.030.
- (3) See Section 19.42.050 for Use Permit processing requirements.
- (4) Accessory use may be allowed in accordance with standards as promulgated by the Novato Fire Protection District and all other local, state and federal laws and regulations.
- (5) For properties with building frontage on Grant Avenue or Redwood Boulevard: Use allowed only on upper floor or rear of building, with ground floor street frontage reserved for retail, entertainment and personal service uses.
- (6) Permit requirements established by Division 19.23 (Adult-oriented Businesses).
- ~~(7) Use Permit required if shopping carts are proposed.~~
- (87) Permitted if in compliance with the design standards of the Downtown Specific Plan.
- (98) Use Permit required if located within 300 feet of a residential zone.
- (409) Related uses are permitted which meet all of the following criteria: open during weekdays 10 a.m. to 5 p.m. and Saturday; provides window displays which are changed monthly; and has two-hour customer turnover.
- (4410) Also permitted in the public right-of-way with a license agreement pursuant to Section 15-4 of the Municipal Code.
- (4211) Drive-through banking services only.
- (4312) Ground floor offices, medical, business and financial services in the Downtown Business Core shall provide required parking at 1 space per 250 sq. ft. of gross floor area.
- (4413) Use allowed only on upper floors and up to a maximum of 25% of the ground floor in rear of a building, with ground floor street frontage reserved for predominantly retail, entertainment and personal service uses.
- (4514) Except for restaurants with incidental on-site alcohol sales.
- (4615) Crematories are only allowed in the LIO District, and must be located a minimum of 1,000 feet from residential uses, schools and day care centers.
- (4716) Parking facilities shall not front on Grant Avenue or Redwood Boulevard.

Attachment 2

Businesses Providing Shopping Carts

| Store Name | Local Address |
|---------------------|----------------------------|
| Safeway | 5720 Nave Dr. 94949 |
| Safeway | 900 Diablo Ave. 94945 |
| Nugget Market | 470 Ignacio Blvd. 94949 |
| Luckys | 1761 Grant Ave. 94945 |
| Grocery Outlet | 1535 S. Novato Blvd. 94947 |
| Harvest Market | 155 San Marin Dr. 94945 |
| Trader Joes | 7514 Redwood Blvd. 94945 |
| Whole Foods | 790 DeLong Ave. 94945 |
| Rite Aid | 910 Diablo Ave. 94945 |
| CVS Pharmacy | 2035 Novato Blvd. 94947 |
| CVS Pharmacy | 1707 Grant Ave. 94945 |
| Costco | 300 Vintage Way 949 |
| Target | 200 Vintage Way |
| Nordstrom Rack | 212 Vintage Way 94945 |
| Ross Dress for Less | 104 Vintage Way 94945 |
| Marshalls | 204 Vintage Way 94945 |
| Old Navy | 228 Vintage Way 94945 |
| BevMo | 104 Vintage Way 94945 |
| Party City | 208 Vintage Way 94945 |
| Petco | 208 Vintage Way 94945 |
| Pet Food Express | 5880 Nave Dr. 94949 |
| Pet Food Express | 912 Diablo Ave. 94945 |
| Pini Hardware | 1535 S. Novato Blvd. 94947 |
| Tuesday Morning | 191 San Marin Dr. 94945 |
| Armstrong Garden | 1430 S. Novato Blvd. 94947 |
| Sloat Garden | 2000 Novato Blvd 94947 |

Attachment 3

SHOPPING CART SURVEY

Questions to ask local merchants using shopping carts as part of their business:

1. Do you have an internal protocol for shopping carts? If yes, what is it? Is your protocol a corporate policy or is it store specific?
2. What measures does your business take to ensure shopping carts are secured during non-business hours?
3. Are all of your shopping carts marked with your business name and contact information. If no, why not?
4. How does your business take inventory of shopping carts?
5. Reference outstanding carts, what steps do you take to retrieve them?
6. If the City of Novato was to pass a shopping cart ordinance, what would you like included? What do you think would be fair?

Stores included in this survey were selected randomly via web search of Novato grocery stores, also included are some non-grocery stores which were identified through searches of shopping centers.

RESPONSES:

LUCKY (Joe Lombardo)

- 1. Do you have an internal protocol for shopping carts? If yes, what is it? Is your protocol a corporate policy or is it store specific?**
Corporate policy, every hour an employee is sent to retrieve carts.
- 2. What measures does your business take to ensure shopping carts are secured during non-business hours?**
The carts are kept outside of the front of the store, there is no security measures in place during non-business hours.
- 3. Are all of your shopping carts marked with your business name and contact information. If no, why not?**
Only the business name is displayed on the cart, no contact information.
- 4. How does your business take inventory of shopping carts?**
Inventory is performed semi-regularly, they have an estimate of 150 shopping carts.
- 5. Reference outstanding carts, what steps do you take to retrieve them?**
Every Saturday a retrieval company is paid to retrieve abandoned shopping carts throughout the city.
- 6. If the City of Novato was to pass a shopping cart ordinance, what would you like included? What do you think would be fair?**
No comment.

GROCERY OUTLET – Mitchell Kim (Supervisor)

- 1. Do you have an internal protocol for shopping carts? If yes, what is it? Is your protocol a corporate policy or is it store specific?**
Store specific retrieval, there is no corporate policy they were aware of.
- 2. What measures does your business take to ensure shopping carts are secured during non-business hours?**
During non-business hours the shopping carts are stored in corrals in front of the store. There are no additional security measures.
- 3. Are all of your shopping carts marked with your business name and contact information. If no, why not?**
Carts only have the name of the business on them, no contact information.
- 4. How does your business take inventory of shopping carts?**
They do inventory monthly, 50 carts are lost to theft annually. They have approximately 50 carts.
- 5. Reference outstanding carts, what steps do you take to retrieve them?**
The owner of the business and an employee goes out for cart retrieval weekly.
- 6. If the City of Novato was to pass a shopping cart ordinance, what would you like included? What do you think would be fair?**
They want support from police, feels un-prioritized despite the store's support for the community.

PET FOOD EXPRESS (Supervisor)

- 1. Do you have an internal protocol for shopping carts? If yes, what is it? Is your protocol a corporate policy or is it store specific?**
Corporate requires them to call their maintenance facility when someone locates a shopping cart throughout the city, or one of the coworkers sees an abandoned shopping cart. This happens irregularly.
- 2. What measures does your business take to ensure shopping carts are secured during non-business hours?**
They do not have corrals on-site, so they inventory and keep the carts inside the business during non-business hours.
- 3. Are all of your shopping carts marked with your business name and contact information. If no, why not?**
The carts have the business's name on them, they do not have contact information on them; the supervisor was unsure as to why they did not.
- 4. How does your business take inventory of shopping carts?**
The employees collect the carts at the end of the day, they also have help from their security guard to collect the carts throughout the shopping center.
- 5. Reference outstanding carts, what steps do you take to retrieve them?**

A maintenance facility is called to pick up the carts when they are abandoned throughout the city, this is not a common occurrence.

- 6. If the City of Novato was to pass a shopping cart ordinance, what would you like included? What do you think would be fair?**

No comment.

HARVEST MARKET (Supervisor)

- 1. Do you have an internal protocol for shopping carts? If yes, what is it? Is your protocol a corporate policy or is it store specific?**

Yes, they have two (2) corrals that are tended to when needed. This is not a corporate policy.

- 2. What measures does your business take to ensure shopping carts are secured during non-business hours?**

Carts are collected and kept in the corrals outside during non-business hours, they are not locked.

- 3. Are all of your shopping carts marked with your business name and contact information. If no, why not?**

Only the businesses name is located on the cart, no contact information is located, supervisor was unsure as to why not.

- 4. How does your business take inventory of shopping carts?**

Inventory is done through rough guess/estimates. 100 large carts and 50 smaller carts that are monitored (no security device, coworkers keep an eye on carts).

- 5. Reference outstanding carts, what steps do you take to retrieve them?**

Coworkers keep an eye on the carts, if they spot them around the city they ask a coworker with a truck to help retrieve the cart.

- 6. If the City of Novato was to pass a shopping cart ordinance, what would you like included? What do you think would be fair?**

No comment. I asked the supervisor about security devices, they responded by saying “the cost of security devices may be detrimental to a smaller business, considering they are ~\$100 in addition to the cost of carts”.

TRADER JOES (Store Manager)

- 1. Do you have an internal protocol for shopping carts? If yes, what is it? Is your protocol a corporate policy or is it store specific?**

Corporate policy requires employees to retrieve carts every hour; sometimes this can be more or less (depending on cart availability for shoppers).

- 2. What measures does your business take to ensure shopping carts are secured during non-business hours?**

They have 2 corrals inside and 2 corrals outside, all of the employees put the carts in the 4 corrals at store closing; the carts are not secured.

3. **Are all of your shopping carts marked with your business name and contact information. If no, why not?**
Shopping carts only have the name of the business on them, they do not have contact information.
4. **How does your business take inventory of shopping carts?**
Inventory is done through estimation/guessing. Total of 75 shopping carts are supposed to be on site.
5. **Reference outstanding carts, what steps do you take to retrieve them?**
Company comes to retrieve shopping carts found throughout the city at least once a month.
6. **If the City of Novato was to pass a shopping cart ordinance, what would you like included? What do you think would be fair?**
No comment. Unsure of what to include.

NUGGET MARKETS (Supervisor)

1. **Do you have an internal protocol for shopping carts? If yes, what is it? Is your protocol a corporate policy or is it store specific?**
An associate goes out sporadically to collect carts as needed, corporate has employees for on-site retrieval.
2. **What measures does your business take to ensure shopping carts are secured during non-business hours?**
Located outside store front during non-business hours, they are not locked.
3. **Are all of your shopping carts marked with your business name and contact information. If no, why not?**
Store name, as well as 1-800 number for a retrieval company is located on cart.
4. **How does your business take inventory of shopping carts?**
She was unsure, says they take an estimate.
5. **Reference outstanding carts, what steps do you take to retrieve them?**
There is a company that comes in to retrieve carts, no timeframe given.
6. **If the City of Novato was to pass a shopping cart ordinance, what would you like included? What do you think would be fair?**
No comment.

TARGET (Supervisor)

1. **Do you have an internal protocol for shopping carts? If yes, what is it? Is your protocol a corporate policy or is it store specific?**
Corporate, they have an employee collect carts every hour from the center.
2. **What measures does your business take to ensure shopping carts are secured during non-business hours?**
They are kept at the store front, not kept inside store, but within enclosed corrals.

3. **Are all of your shopping carts marked with your business name and contact information. If no, why not?**
Just the business's name, no contact information on cart.
4. **How does your business take inventory of shopping carts?**
Unsure, they have 400+ shopping carts, with more stored away.
5. **Reference outstanding carts, what steps do you take to retrieve them?**
Company comes to retrieve carts twice a month, more if they are called with complaints.
6. **If the City of Novato was to pass a shopping cart ordinance, what would you like included? What do you think would be fair?**
No comment.

COSTCO

1. **Do you have an internal protocol for shopping carts? If yes, what is it? Is your protocol a corporate policy or is it store specific?**
Corporate, they have an employee collect carts every hour from the center.
2. **What measures does your business take to ensure shopping carts are secured during non-business hours?**
They are kept at the store front, not kept inside store, but within enclosed corrals.
3. **Are all of your shopping carts marked with your business name and contact information. If no, why not?**
Just the business's name, no contact information on cart.
4. **How does your business take inventory of shopping carts?**
Unsure, they have 400+ shopping carts, with more stored away.
5. **Reference outstanding carts, what steps do you take to retrieve them?**
Company comes to retrieve carts twice a month, more if they are called with complaints.
6. **If the City of Novato was to pass a shopping cart ordinance, what would you like included? What do you think would be fair?**
No comment.

Safeway (900 Diablo Ave; 415-898-1503) Felicia Fisher

1. ***Do you have an internal protocol for shopping carts? If yes, what is it?***
There is a locking mechanism in place that when outside a perimeter it kicks in place. The problem is that people know how to disable the mechanism.
2. ***Is your protocol a corporate policy or is it store specific?***
Since there are two Safeways in town if the cart is within a certain distance with store it.
3. ***What measures does your business take to ensure shopping carts are secured during non-business hours?*** Put in cart corral at night.

4. ***Are all of your shopping carts marked with your business name and contact information. If no, why not?*** Safeway only. Since there are two Safeways in town if the cart is within a certain distance with store it.
5. ***How does your business take inventory of shopping carts?***
No formal inventory done.
6. ***Reference outstanding carts, what steps do you take to retrieve them?***
Once a week there is a cart collection service that combs the neighborhoods. In addition Safeway will get calls from people when carts are found and the cart collection people are notified.
7. ***If the City of Novato was to pass a shopping cart ordinance, what would you like included? What do you think would be fair?*** Fine or citation for person having cart. Carts are filthy when they come back and there is often not enough carts for customers.

CVS (2035 Novato Blvd.; 415-897-9917) Larry Lugauer

1. ***Do you have an internal protocol for shopping carts? If yes, what is it?***
Periodically pull them in from parking lot.
2. ***Is your protocol a corporate policy or is it store specific?***
Store specific - they don't have much of a problem with losing carts.
3. ***What measures does your business take to ensure shopping carts are secured during non-business hours?***
Gathered from the parking lot and stored at front of store.
4. ***Are all of your shopping carts marked with your business name and contact information. If no, why not?***
CVS but not sure about number of number or address
5. ***How does your business take inventory of shopping carts?***
Informal counts taken.
6. ***Reference outstanding carts, what steps do you take to retrieve them?***
Nothing is done.
7. ***If the City of Novato was to pass a shopping cart ordinance, what would you like included? What do you think would be fair?***
He doesn't feel the need for an ordinance and felt like it was up to the city council to decide.

CVS (1707 Grant Ave.; 415-897-4171) Kitty

1. ***Do you have an internal protocol for shopping carts? If yes, what is it?***
20-30 carts are available. Periodic retrieval by employees when needed.

2. ***Is your protocol a corporate policy or is it store specific?***
Store specific
3. ***What measures does your business take to ensure shopping carts are secured during non-business hours?***
Pulled in close to the store.
4. ***Are all of your shopping carts marked with your business name and contact information. If no, why not?***
No just says CVS
5. ***How does your business take inventory of shopping carts?***
No inventory standard.
6. ***Reference outstanding carts, what steps do you take to retrieve them?***
If they are seen outside of property a retrieval company is called. Will also throw one in back of car.
7. ***If the City of Novato was to pass a shopping cart ordinance, what would you like included? What do you think would be fair?***
Fine or citation for person removing cart from property.

Rite Aid (910 Diablo Ave.; 415-898-1905) Sherri Low

1. ***Do you have an internal protocol for shopping carts? If yes, what is it?***No particular protocol.
With only 26 carts total when these are depleted they send someone out to pull in carts.
2. ***Is your protocol a corporate policy or is it store specific?***
Store specific
3. ***What measures does your business take to ensure shopping carts are secured during non-business hours?***
Pulled in close to the store.
4. ***Are all of your shopping carts marked with your business name and contact information. If no, why not?***
Only the name.
5. ***How does your business take inventory of shopping carts?***
Counts are taken periodically, there is no formal inventory method.
6. ***Reference outstanding carts, what steps do you take to retrieve them?***
Once a week a company drives around the neighborhood to collect them.
7. ***If the City of Novato was to pass a shopping cart ordinance, what would you like included? What do you think would be fair?***

The store loses about 20 of their 26 carts a year. Sherri would like to see a fine handed out to the person that removes the cart from their property.

ATTACHMENT 4

7-10 – Shopping Cart Containment and Retrieval.

7-9.1 *Definitions.* For purposes of this section, the following definitions shall apply:

- a. "Shopping Cart" means 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, but excluding a laundry cart used in a coin-operated laundry or dry cleaning retail establishment or a cart for transporting plants at a garden center.
- b. "Owner" means any person or entity, who in connection with the conduct of a business, owns, possesses, or makes any shopping cart available to customers or the public. For purposes of this section, owner shall also include the Owner's on-site or designated agent that provides the carts for use by its customers.
- c. "Premises" means 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 shopping cart" means any shopping cart that has been removed from the premises of the business establishment without written permission of the Owner or on-duty manager, regardless of whether it has been left on either private or public property. Written permission to remove a shopping cart from the premises of a business shall be valid for a period not to exceed 72 hours. This provision shall not apply to shopping carts that are removed for purposes of repair or maintenance of the carts.

7-9.2 *Required Signs on Shopping Carts.* Every shopping cart owned or provided by any business establishment in the City of Novato must have a sign permanently affixed to it that contains the following information:

- a. Identifies the owner of the shopping cart or the name of the business establishment, or both;
- b. 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 and City of Novato law;
- c. Notifies the public of the procedure to be utilized for authorized removal of the cart from the business premises; and
- d. Lists a telephone number to contact to report the location of the cart if abandoned and lists an address for returning the cart to the owner or business establishment.

7-9.3 *Prohibiting Removal or Possession of Abandoned Shopping Cart.*

- a. It is unlawful to either temporarily or permanently remove a shopping 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. It is unlawful to be in possession of a shopping cart that has been removed from the premises or parking area of a business establishment without the written permission described in (a) above unless it is in the process of being immediately returned to the owner or business establishment.
- c. This section shall not apply to shopping carts that are removed for the purposes of repair or maintenance of the carts.

7-9.4 *Mandatory Plan to Prevent Cart Removal.*

- a. **Prevention Plan.** Every Owner who maintains more than 10 shopping carts for use by customers shall develop and implement a specific plan to prevent customers from removing carts from the business premises. The plan must include the following elements:
 1. **Notice to Customers.** Written notification shall be provided to customers that removal of carts from the premises and parking lots are prohibited and a violation of state and local law. This notice may be provided by signage placed in pertinent places near door exits, near parking lot exits or near shopping cart corrals, in printed handouts or by other effective means.
 2. **Physical Measures.** Specific physical measures which shall be implemented to prevent shopping cart removal from the business premises. These measures may include, but are not limited to, installation and maintenance of geographic disabling devices on all shopping carts, posting of a security guard to deter and stop customers who attempt to remove carts from the business premises, bollards and chains around business premises to prevent cart removal, or security deposits for shopping cart use.
 3. **Mandatory Cart Retrieval.** A plan for patrol and retrieval of abandoned shopping carts by the owner within a radius of one-quarter mile of the business location, or greater if necessary to include locations of frequent cart abandonment, every 24 hours at a minimum, and for retrieval of abandoned shopping carts in any location within 72 hours of notification by a member of the public or a City representative.
 4. **Contact for Owner for Shopping Cart Retrieval.** A contact phone number for notification by the City of the location of an abandoned shopping cart to the owner to initiate the retrieval process.
- b. **Prevention Plan Approval.** The proposed plan for preventing shopping cart removal shall be submitted to the Community Development Director for review and approval within sixty (60) days after adoption of this ordinance or within sixty (60) days of the opening of a new business which provides more than ten shopping carts for use by customers. The Director may approve, approve with modifications or deny the proposed plan and notify the Owner of such decision within thirty (30) days of receipt. If approved, the abandoned shopping cart prevention plan shall be implemented by the Owner no later than thirty (30) days from the date of approval and on a continuous basis thereafter.
- c. **Prevention Plan Modification.** At any time after the Director's approval of a prevention plan, the Owner may submit to the Director a modification of the previously approved plan to address a change in circumstances, address an unanticipated physical or economic impact of the plan or modify an inadequate or ineffective plan. The Director may also modify a previously approved plan which has been demonstrated to be ineffective or inadequately implemented. Grounds for Director modification include, but are not limited to, a high number of abandoned shopping carts. The Director may require the owner to install and maintain electronic or other geographic disabling devices to prevent carts from being removed from the premises. The Director shall notify the Owner of a proposed modification of a previously approved plan and provide the Owner an opportunity to respond within a 10-day period prior to the Director's decision.

7-9.5 Penalties for Failing to Submit or Implement a Prevention Plan. Any Owner that fails to submit a plan or implement the approved plan measures shall be subject to a \$1,000 civil penalty, plus an additional penalty of \$50.00 for each day of non-compliance.

7-9.6 Notification for Retrieval of Abandoned Shopping Carts. Pursuant to Business and Professions Code Section 22435.7, the City shall provide notification of the Owner of an abandoned shopping cart by telephone using the contact provided in the prevention plan or by written notice to the owner at the address in the prevention plan.

7-9.7 Administrative Costs and Fines. Pursuant to Business and Professions Code Section 22435.7, any Owner that fails to retrieve its abandoned shopping cart(s) within 72 hours of receiving notification from the City shall pay the City's administrative costs for retrieving the cart(s) and providing notification

to the Owner. Any Owner who fails to retrieve abandoned carts in accordance with this section in excess of three times during a specified six-month period, shall be subject to a fine of \$50.00 for each occurrence. An occurrence includes all carts owned by the Owner that are impounded by the City in a one-day period.

7-9.8 Disposition of Shopping Carts Impounded by City. In accordance with State law, any shopping 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.

7-9.9 No Conflict with Federal or State Law. Nothing in this section is intended to create any requirement, power or duty that is in conflict with any federal or state law.