

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Harry Freitas
Jennifer A. Maguire

SUBJECT: ABANDONED SHOPPING
CART PROGRAM

DATE: May 27, 2014

Approved

Date

5/29/14

RECOMMENDATION

It is recommended that the City Council:

1. Amend the 2014-2015 Proposed Fees and Charges to increase the fee for Abandoned Cart Program in the Planning, Building and Code Enforcement Department (Code Enforcement Fee Program) from \$200 per year to \$345 per year.
2. Approve the following 2014-2015 Proposed Operating Budget amendments to the General Fund:
 - a. Increase the estimate for Departmental Charges by \$26,100; and
 - b. Increase the Essential Services Reserve by \$26,100.

BACKGROUND

This memorandum is in response to a request submitted by Councilmember Campos at the Rules Committee on April 16, 2014 requesting staff to review amendments to Section 9.60 of the Municipal Code to create a more efficient cost recovery Abandoned Shopping Cart Program and report back to Council in 60 days with a recommendation for Council action.

In addition, in November 2013, the City Auditor presented to Council a number of findings and recommendations to improve the Code Enforcement Division's ability to provide services to our neighborhoods. One finding regarding the Abandoned Shopping Cart Fee program is that this program is not achieving cost recovery as currently structured, since some stores do not fall within the program's threshold of 26 carts or more, and the staff costs are only partially funded by the relatively small fee at 22% cost recovery. Alternatives to achieving full cost recovery include adjusting the fee, or adjusting the number of carts required for a store to pay annual fees, which would require amending Section 9.60 of the Municipal Code.

The Abandoned Shopping Cart program is designed to charge stores with greater than 26 shopping carts an annual fee that would fund staff to ensure stores have an adequate cart retrieval

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plan and are adhering to that plan. Each store must also have a formal retrieval program that is approved by the City to minimize the need for a retrieval service for abandoned carts. The City currently charges each store with 26 or more carts an annual fee of \$200 and the fee has not been adjusted since 2004-2005.

There are currently 180 stores in this program. This 26 cart minimum was set at a level that was originally intended to exclude smaller stores. However, the unintended consequence is that it also excludes chain retail stores such as CVS pharmacy, Walgreens, and Dollar Store which may be just below the 26 cart threshold; yet, still benefit from the City's cart retrieval services.

When the fee was first adopted in 2001 at \$135, it provided for the cost recovery of one dedicated full-time Code Enforcement Inspector to inspect the stores annually, review prevention plans, and coordinate with staff in the Department of Transportation (DOT) for the removal of carts. However, the Code Enforcement Division has experienced staff reductions and prolonged vacancies, resulting in less dedicated staff assigned to the Abandoned Cart Program as staffing resources have concentrated on health and safety issues as necessary. For the first time in several years, the Division will be fully staffed and able to dedicate one full-time Code Enforcement Inspector to this program in 2014-2015. In addition, the Solid Waste Fee Program funds one full-time Maintenance Worker in DOT that collects abandoned carts and removal of illegal dumping. The Maintenance Worker position in DOT was previously assigned to collect abandoned carts five days a week, but because of the significant increase in illegal dumping throughout the City combined with other workload demands in DOT, the dedicated hours of this position to the collection of abandoned carts have decreased. This position has been deployed three days per week to the collection of abandoned carts and two days per week to the removal of illegal dumping. Although there are less dedicated days for the collection of abandoned carts, staff has been able to respond to every complaint and has been able to pick up every reported abandoned cart.

ANALYSIS

Staff analyzed possible changes to the Abandoned Cart Program and below is staff's recommendation on changes to the program.

Amendments to the Municipal Code

The Municipal Code could be amended to reduce the number of carts required to be in the program to less than 26; however, there is a strong possibility that if the Municipal Code was changed to reduce the number of carts required to be in the program, stores would reduce their cart total to fall below the threshold to avoid the fee.

Another possible amendment to the Municipal Code would be to require chain stores such as CVS, Walgreens, and Dollar Stores that have multiple locations and collectively have more than 26 carts, to be subject to the Abandoned Shopping Cart fee. Since these stores do not currently participate in the program, they are not required to have a formal retrieval program or recover their carts within twenty-four hours of notification by the City. Although these stores benefit

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from the retrieval services, they are not cited or fined at this time. Objects in the public right-of-way are removed, regardless of program participation, as a priority. The process to modify the Municipal Code would require outreach and noticing to the stores and by the time staff anticipates completing this process, there likely would not be enough time to implement the Municipal Code amendment in 2014-2015.

Although Municipal Code amendments could be considered for the Abandoned Cart program, due to the considerations noted above, staff recommends first dedicating one consistent full-time Code Enforcement Inspector to this program in 2014-2015. The dedicated inspector's duties will include: reviewing Abandoned Cart Prevention plans, conducting onsite inspections for plan compliance, and ensuring that citations are issued for failure to retrieve carts. After twelve months of dedicated staff, the Planning, Building and Code Enforcement Department will bring forward a report to the Neighborhood Services City Council Committee on the progress and findings of the program and suggest any necessary augmentations to the Abandoned Cart Program, which may include amendments to the Municipal Code, if appropriate.

Fee Adjustments

In order to achieve 100% cost recovery, this fee would need to recover revenues sufficient to fund one Code Enforcement Inspector plus overhead costs. In order to reach full cost recovery with the current inventory of 180 stores, the annual fee for each store would need to increase by \$727 per year, from \$200 to \$927 (a 363% increase), bringing the cost recovery from 22% to 100%. As an alternative, staff is recommending to gradually increase the permit fee over a five-year period to reach full cost recovery with a reevaluation of the program costs and revenues annually. As recommended in this memorandum, the proposed permit fee for 2014-2015 will be \$345, an increase of \$145 (approximately 73%) from the current fee of \$200. This proposed fee increase will generate an estimated \$26,100 in additional revenues in the General Fund, bringing the cost recovery rate to 37%. The anticipated additional revenues collected from this proposed fee increase are recommended to be allocated to the Essential Services Reserve to be used by the City Council as part of the 2014-2015 budget process.

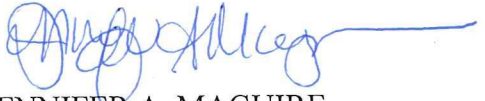
It should be noted that staff analyzed and considered other possible changes to the program that are not recommended at this time. For stores that currently have 1-25 carts, the City could propose to establish a new fee of \$150. The downside of this new fee would be that it could impact small businesses that are considered not problematic due to the business' low inventory of carts and are the businesses the program was designed to exclude. Since these small businesses currently do not fall within this program, staff does not know the number of these businesses. Also, to address increase hours dedicated to the collection of abandoned carts, an additional Maintenance Worker position could be added in DOT for the program, but in order to recover the costs for this position plus the one-time funding for a vehicle purchase, the Abandoned Shopping Cart fee would need to increase from \$200 to \$968 (an increase of 384%). As an alternative, these additional costs could be funded by the Solid Waste Fee program, which would increase the proposed fee from \$1.16 to \$1.20 per ton. However, as stated earlier, staff would like to first dedicate one-full-time Code Enforcement Inspector for twelve months to re-analyze this program and findings before recommending any further fee changes.

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COORDINATION

This memorandum has been coordinated with the City Attorney's Office and the Department of Transportation.

/s/
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