

## BY-LAW NO. 2013 - 252

A by-law of the City of Ottawa respecting shopping carts on highways and City property.

WHEREAS Section 10(2), paragraph 6, of the *Municipal Act, 2001*, authorizes a municipality to pass by-laws for the health, safety and well-being of persons,

AND WHEREAS Section 63 of the *Municipal Act, 2001*, authorizes a municipality to pass a by-law to prohibit and to regulate the placing, stopping or standing of an object on or near a highway, and s. 27 of the Act further authorizes a municipality to pass by-laws in respect of a highway over which it has jurisdiction,

AND WHEREAS Section 127 of the *Municipal Act, 2001* authorizes a municipality to prohibit the depositing of refuse or debris on land without the consent of the owner or occupant of the land;

AND WHEREAS Section 128 of the *Municipal Act, 2001*, authorizes a municipality to prohibit and regulate with respect to public nuisances, including those matters that are or could become or cause a public nuisance in the opinion of City Council,

AND WHEREAS City Council considers that shopping carts that are deposited on the highway or on City property are unsightly and create a public nuisance, and furthermore may create a hazard for travellers on the highway and users of City property, and may be a risk to public health and safety;

NOW THEREFORE the Council of the City of Ottawa enacts as follows:

### DEFINITIONS

1. In this by-law:

“Chief, By-law and Regulatory Services” means the person occupying the position of Chief, By-law and Regulatory Services in the By-law and Regulatory Services Branch of the Emergency and Protective Services Department of the City of Ottawa, or an authorized designate;

“City Property” means any lands, buildings or structures owned, leased or occupied by the City of Ottawa;

“General Manager” means the person occupying the position of General Manager of the Public Works Department of the City of Ottawa, or an authorized designate;

“highway”, for the purposes of this by-law, means a common and public highway or part of a highway, and includes the sidewalk and boulevard and any bridge, trestle, viaduct or other structure forming part of the highway;

“owner” means a person or business who owns or provides shopping carts to customers in connection with the business;

“premises” means the entire area owned or used by an owner’s business including the parking area and all common areas used by customers of businesses in a shopping area or complex of which the owner’s business is a part;

“Regulated Area” means the area specifically depicted in Schedule “B” and where the boundary of the Regulated Area is a highway, the entire width of the highway is deemed to be within the regulated area for the purpose of this by-law;

“shopping cart” means a non-motorized basket mounted on wheels, or other device, including anything attached on it, that is made available to a customer by an owner for the purpose of transporting goods while on the premises of the owner;

“shopping cart management system” means any physical structure or device, signage, service, or other measure taken to prevent the unauthorized removal of shopping carts from the premises of an owner during business hours, and shall include measures to ensure that the shopping carts are secured from public access after close of business;

## INTERPRETATION

2. (1) This by-law includes the Schedule attached to it, and the Schedule hereby declared to form part of the by-law.
- (2) The headings and subheadings used in this by-law are inserted for convenience of reference only but form no part of this by-law, and shall not affect in any way the meaning or interpretation of the provisions of this by-law.
- (3) Unless the context requires otherwise, references to items in the plural include the singular unless used with a number modifying the term, and words imparting the masculine gender shall include the feminine.
- (4) It is declared that if any section, subsection, paragraph or part thereof is declared by any Court to be bad, illegal, or ultra vires, such section,

subsection, paragraph part or parts shall be deemed to be severable and all other parts of this by-law are declared to be separate and independent, and enacted as such.

#### APPLICABLE AREA

3. This By-law applies only to the Regulated Area.

#### PROHIBITIONS

4.
  - (1) No owner shall permit a shopping cart to be removed from the premises of the business.
  - (2) No person shall use a shopping cart except on the premises of the business that owns or provides the shopping cart.
  - (3) Subsections (1) and (2) do not apply to a shopping cart being used by the owner, or on the owner's behalf, for the purposes of maintenance, repair or disposal of the shopping cart.
5. No person shall place, leave, deposit or stop, or permit to be placed, left, deposited or stopped, a shopping cart on or near a highway or on or in City Property.

#### OBLIGATIONS OF OWNER

6. No owner shall fail to put into place a shopping cart management system to the satisfaction of the Chief, By-law and Regulatory Services.
7. No owner shall fail to ensure that the business name, address and telephone number of the business or premises for which the shopping cart is supplied is permanently affixed on every shopping cart used for the business in a manner that is easily legible and in lettering that has contrasting colours..

#### REMOVAL & IMPOUNDING OF SHOPPING CART

8. The General Manager may cause to be removed any shopping cart placed, left, deposited or stopped on a highway or on City Property and may impound such shopping cart in a storage facility.
9. Upon the impounding of any shopping cart pursuant to Section 8:
  - (1) the General Manager shall provide written notice to the owner identified on the shopping cart that the owner's cart or carts, as the case may be, has or have been impounded and setting out a

reasonable period of time for the owner to retrieve the shopping cart or carts at the storage facility; and

- (2) notice to the owner pursuant to subsection (1) may be provided by means of facsimile transmission, regular mail, or notice delivered to the owner's place of business or corporate head office.

10. A Storage Fee as set out in Schedule "A" shall apply to every shopping cart impounded and stored pursuant to this by-law, and such fee shall become due and payable by the owner on the date the cart is impounded.

11. Any Storage Fee that remains unpaid by the owner constitutes a debt of the owner to the City and may be added to the tax roll for the property on which the business is located and collected by the City in the same manner as municipal taxes.

#### RETRIEVAL OF SHOPPING CART

12. The General Manager shall cause a shopping cart to be released to its owner or the owner's agent upon presentation by the owner or the owner's agent of satisfactory identification and full payment of the Storage Fee set out in Schedule "A".

#### DISPOSAL OF SHOPPING CART AND CONTENTS

13. If a shopping cart has been impounded for at least 60 days and its Owner cannot be identified by the General Manager, the General Manager may dispose of the shopping cart and its contents, if any.

14. If notice has been provided to an owner under Section 9 and the shopping cart remains unclaimed by the owner for at least 60 days, the General Manager may dispose of the shopping cart and its contents, if any, pursuant to the *Repair and Storage Liens Act*, R.S.O. 1990, c.R. 25, as amended.

15. If the shopping cart contained any perishable item at the time of its removal from the highway or City Property, the General Manager may dispose of the perishable item at the time of its removal, pursuant to s. 63(5) of the *Municipal Act, 2001*, S.O. 2001, c.25.

#### ENFORCEMENT, OFFENCES AND PENALTIES

16. This by-law may be enforced by a police officer or a municipal law enforcement officer.

17. Any person who contravenes a provision of this by-law is guilty of an offence.

18. Every person who is convicted of an offence under this by-law is liable to a fine as provided for in the *Provincial Offences Act*, R.S.O. 1990, c.P.33, as amended.

19. When a person has been convicted of an offence under this by-law,  
(a) the Ontario Court of Justice; or  
(b) any court of competent jurisdiction thereafter, may, in addition to any other penalty imposed on the person convicted, make an order prohibiting the continuation or repetition of the offence by the person convicted.

#### SHORT TITLE

20. This by-law may be cited as the "Shopping Cart By-law."

#### EFFECTIVE DATE

21. This by-law shall come into force on November 1, 2013.

ENACTED AND PASSED this 28<sup>th</sup> day of August, 2013.

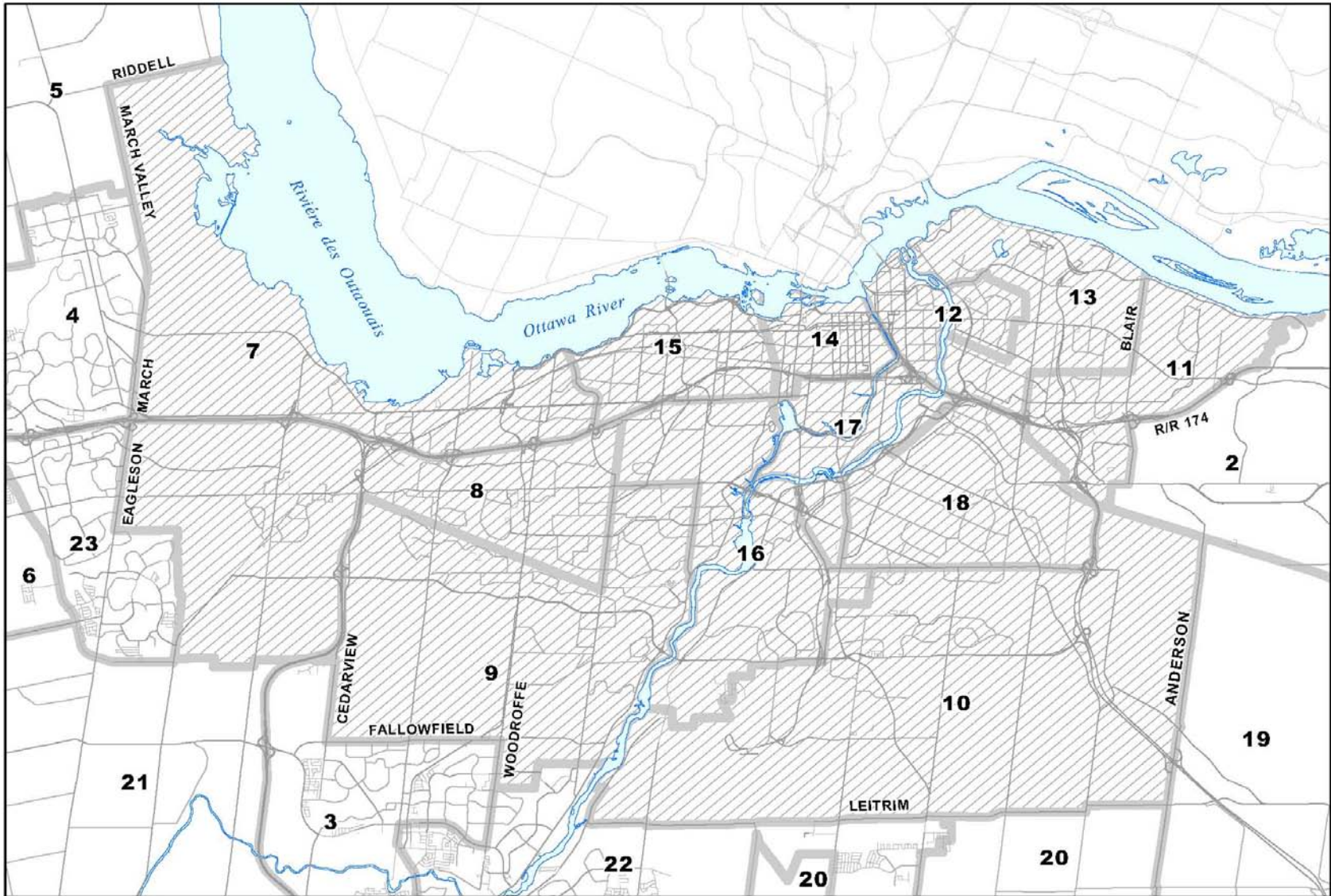
CITY CLERK

MAYOR

**Schedule A  
Fee Structure**

<u>Fee</u>	<u>Amount</u>
<p><b>Storage Fee</b></p> <p>This includes removal of cart from highway and City Property, impounding and storage, administration and management of notices and retrievals and enforcement.</p> <p>The fee is subject to HST.</p>	<p>\$52.00 per cart</p>

## Schedule B Regulated Area



### SCHEDULE B



Regulated Area : Ward 7 - Ward 18

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A by-law of the City of Ottawa  
respecting shopping carts on highways  
and City property.

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Enacted by City Council at its meeting of  
August 28, 2013.

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LEGAL SERVICES

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COUNCIL AUTHORITY:  
City Council June 26, 2013  
CPSC Report 24, Item 6