



CITY OF MARION

By-law made under the Local Government Act 1999

Shopping Trolley Amenity By-law 2020

By-law No. 8 of 2020

To protect and enhance the amenity of the area of the Council, suppress nuisance caused by the use of shopping trolleys on roads, local government land and private land and otherwise for the convenience, comfort and safety of the Council's community.

Part 1 – Preliminary

1. Short Title

This by-law may be cited as the *Shopping Trolley Amenity By-law 2020*.

2. Commencement

2.1 Subject to paragraph 2.1 of this by-law will come into operation four months after the day on which it is published in the *Gazette* in accordance with Section 249(5) of the *Local Government Act 1999*.

2.2 Notwithstanding paragraph 2.1 of this by-law, paragraphs 4, 5, 6, 7 and 8 of this by-law come into operation on 1 February 2021 in accordance with Section 249(5) of the *Local Government Act 1999*.

3. Definitions

In this By-law:

3.1 **authorised person** has the same meaning as in the *Local Government Act 1999*;

3.2 **authorised token** means any object designed to release a trolley from a coin deposit and release system that has been approved by the Council on application by a retailer;

3.3 **coin deposit and release system** means a coin-operated lock that operates with the insertion of an Australian currency one dollar or two dollar coin or equivalent authorised token;

3.4 **premises** includes:

3.4.1 land;

3.4.2 a part of any premises or land;

- 3.5 **removal notice location** means:
- 3.5.1 the place mentioned in a removal notice where the trolley was found; and
 - 3.5.2 any place outside a retailer's shopping centre precinct that can be clearly seen from the place mentioned in the removal notice;
- 3.6 **retailer** means a person who provides shopping trolleys for use in the retailer's premises;
- 3.7 **retailer's shopping centre precinct**, for a retailer's shopping trolley, means the shopping centre precinct where the retailer's premises that are identified on the trolley are located;
- 3.8 **shopping centre**, for retail premises which provide shopping trolleys for use in the premises, means:
- 3.8.1 if the premises occupy a single building—the retail premises; or
 - 3.8.2 if the premises are in a shopping centre, shopping mall, shopping court or shopping arcade—the centre, mall, court or arcade;
- 3.9 **shopping centre precinct** means:
- 3.9.1 an area consisting of:
 - 3.9.1.1 a shopping centre; and
 - 3.9.1.2 any car park provided for the use of customers of the shopping centre; and
 - 3.9.1.3 any area, including a road or other public place, between the shopping centre and the car park; and
 - 3.9.1.4 any other area provided for the use of customers of the shopping centre immediately adjacent to the shopping centre; or
 - 3.9.2 an area determined by the Council to constitute a shopping centre precinct for the purposes of this by-law;
- 3.10 **shopping trolley** means:
- 3.10.1 a predominantly metal trolley incorporating a basket that cannot be removed; or
 - 3.10.2 a trolley or handcart determined by the Council to constitute a shopping trolley for the purposes of this by-law;
- 3.11 **trolley containment system** means:
- 3.11.1 a wheel lock system;

- 3.11.2 a coin deposit and release system; or
- 3.11.3 such other system as the Council may determine to prevent shopping trolleys being removed from a shopping centre precinct, and to facilitate the return of the shopping trolleys to a designated location within the precinct;
- 3.12 **wheel lock system** means a disabling device which makes the trolley inoperable, including by locking the wheels of the shopping trolley, if it is removed from a retailer's shopping centre precinct.

Part 2 – Management of Shopping Trolleys

4. **Retailer to keep Shopping Trolleys within Shopping Centre Precinct**

- 4.1 *A retailer must keep a shopping trolley, which has been identified as belonging to the retailer under this by-law, within the retailer's shopping centre precinct.*
- 4.2 *This paragraph does not prevent a shopping trolley that is not within the retailer's shopping centre precinct being:*
 - 4.2.1 *on premises owned or leased by the retailer or a person authorised by the retailer to keep the trolley;*
 - 4.2.2 *in the possession of the retailer or a person authorised by the retailer to be in possession of the trolley; or*
 - 4.2.3 *in a shopping centre precinct other than the retailer's shopping centre precinct.*
- 4.3 *This paragraph does not apply if:*
 - 4.3.1 *a trolley containment system is in operation at the retailer's shopping centre precinct;*
 - 4.3.2 *the number of trolleys provided by the retailer at the retailer's shopping centre precinct is less than 25; or*
 - 4.3.3 *the retailer has obtained an exemption from the Council from the operation of this paragraph.*
- 4.4 *For the avoidance of doubt, nothing in this paragraph prevents an authorised person from giving a retailer a removal notice under paragraph 5 of this by-law.*

5. **Notice to Remove Individual Shopping Trolley**

- 5.1 *If a shopping trolley is found in a place outside the retailer's shopping centre precinct an authorised person may give a retailer a notice (a **removal notice**) requiring the retailer to remove the shopping trolley from the removal notice location specified in the removal notice within the period specified in the removal notice.*
- 5.2 *A removal notice issued under paragraph 5.1 of this by-law:*

- 5.2.1 *is to be complied with within 72 hours after the time the removal notice is given (or such other time as has been specified in the notice);*
- 5.2.2 *must specify:*
- 5.2.2.1 *the time and date the removal notice is given;*
- 5.2.2.2 *the place where the shopping trolley was found;*
- 5.2.2.3 *it is an offence against this by-law to fail to comply with the removal notice or remove the notice without authorisation;*
- 5.2.2.4 *the expiation fee and maximum penalty applicable under this by-law for failing to comply with the notice or removing the notice without authorisation;*
- 5.2.2.5 *the Council's contact details in relation to the removal notice.*
- 5.3 *A retailer must comply with a removal notice issued under paragraph 5.1 of this by-law.*
- 5.4 *A removal notice may be given by the authorised person:*
- 5.4.1 *either:*
- 5.4.1.1 *securely attaching the removal notice, addressed to the retailer, to the shopping trolley in a conspicuous position; and*
- 5.4.1.2 *calling the contact telephone number stated on the trolley as required under this by-law and giving the information in the removal notice to the retailer; or*
- 5.4.2 *serving the removal notice in accordance with the Local Government Act 1999.*
- 5.5 *For the purposes of this by-law, a removal notice is taken to have been given to a retailer under paragraph 5.4.1 of this by-law:*
- 5.5.1 *at the time and date the telephone call is made and the information is given to:*
- 5.5.1.1 *a person who answers the telephone call; or*
- 5.5.1.2 *a telephone answering or recording device; or*
- 5.5.2 *if a reasonable attempt was made to give the information to the retailer by telephone.*
- 5.6 *A person, other than a retailer or a person authorised by a retailer, must not remove or interfere with a removal notice attached to a shopping trolley under this by-law.*

6. **Direction to Return Shopping Trolley**

6.1 *If an authorised person believes on reasonable grounds that a person:*

- 6.1.1 *has taken a retailer's shopping trolley from the retailer's shopping centre precinct;*
- 6.1.2 *is using a retailer's shopping trolley in a place outside the retailer's shopping centre precinct; or*
- 6.1.3 *has left a retailer's shopping trolley at a place outside the retailer's shopping centre precinct,*

*the authorised person may give the person a direction (an **on-the-spot direction**) to return the shopping trolley to the retailer's premises identified on the trolley.*

6.2 *An on-the-spot direction issued under paragraph 6.1 of this by-law:*

- 6.2.1 *is to be complied with within such reasonable time as specified by the authorised person;*
- 6.2.2 *must include:*
 - 6.2.2.1 *a warning it is an offence against this by-law not to comply with the direction;*
 - 6.2.2.2 *the expiation fee and maximum penalty applicable under this by-law for failing to comply with the direction; and*
 - 6.2.2.3 *the Council's contact details;*

6.3 *A person must comply with an on-the-spot direction issued under paragraph 6.1 of this by-law.*

6.4 *Nothing in this paragraph empowers an authorised person to issue an on-the-spot direction under this paragraph to:*

- 6.4.1 *the retailer identified on the trolley; or*
- 6.4.2 *a person authorised by the retailer to deal with the trolley in the manner specified in paragraphs 6.1.1 or 6.1.2.*

Part 3 – Notification Requirements

7. **Shopping Trolley Removal Notification**

A retailer must place prominently at or near each customer exit in the retailer's premises a notice that:

7.1 *contains the following statement:*

'Under the City of Marion's Shopping Trolley Amenity By-law 2020 fines can apply for taking, using or leaving a shopping trolley outside this shopping centre precinct.'

- 7.2 *describes the retailer's shopping centre precinct;*
- 7.3 *contains anything else required by a determination of the Council under this paragraph; and*
- 7.4 *can be seen and read easily by a person leaving the retailer's premises.*

8. Identification of Shopping Trolleys

A retailer must display on each of the retailer's shopping trolleys the following information:

- 8.1 *the retailer's legal name;*
- 8.2 *the address of the retailer's premises at which the retailer keeps the trolley; and*
- 8.3 *the contact telephone number of:*
 - 8.3.1 *the retailer; or*
 - 8.3.2 *a person authorised by the retailer to collect the trolley.*

Part 3 – Miscellaneous

9. Exemptions

- 9.1 A retailer may apply in writing to Council for an exemption from the application of paragraph 4 of this by-law.
- 9.2 The Council may, in its absolute discretion, determine to exempt a retailer from the application of paragraph 4 of this by-law in respect of all shopping trolleys or particular types of shopping trolleys, either temporarily or permanently.
- 9.3 A retailer must not include information in an application made under this paragraph that is false or misleading in a material particular.

10. Requirement to Publish Determinations Online

If the Council makes a determination under paragraph 3.9.2, 3.10.2, 3.11.3 or 7.3 of this by-law, the Council must give notice of the making of that determination on a website determined by the Council's Chief Executive Officer.

The foregoing by-law was duly made and passed at a meeting of the Council of the Corporation of the City of Marion held on the 23rd day of June 2020 by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present

Mr Adrian Skull
Chief Executive Officer

Legislative History

In this version, provisions that are uncommenced appear in italics.

Principal by-law and variations

Year	No	Reference	Commencement
2020	8	<i>Gazette 02.07.2020 p 3742</i>	02.11.2020: s 249(5), except cl. 4, 5, 6, 7 and 8 - uncommenced
2020	9	<i>Council Minutes 27.10.2020 p 14, GC201027R14</i>	02.11.2020: s 249(6), except cl. 6 - uncommenced

Provisions varied

Provision	How varied	Commencement
cl. 1	varied by 8/2020 cl. 4	02.11.2020
cl. 2	varied by 8/2020 cl. 5.1	02.11.2020
cl. 2.1	varied by 8/2020 cl. 5.2	02.11.2020
cl. 2.2	inserted by 8/2020 cl. 5.3	02.11.2020
cl. 7.1	varied by 8/2020 cl. 6	uncommenced