

To: The Honorable Mayor and City Council  
From: Jeff P. H. Cazeau, CAO; Chair Clean City Task Force  
Date: May22, 2018  
RE: Ordinance Addressing Abandoned Shopping Carts.

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## **RECOMMENDATION**

The Clean City Task Force recommends that the Mayor and Counsel enact the attached ordinance.

## **BACKGROUND**

As you know, in January 2018, City Administration established the Clean City Task Force to address residents and elected officials' concerns regarding the overall cleanliness of the City. During the Task Force's evaluation of the City's condition, the proliferation of abandoned shopping carts was quickly identified as a safety concern as well as a significant contributor to visual pollution in the City. The proposed Shopping Cart Ordinance is the first time the City is addressing the issue of abandoned shopping carts since the late 1990's and the first time the City is enacting specific legislation addressing the concern. The Shopping Cart Ordinance mandates among other things the following:

1. Fines for abandoned shopping carts is increased from ten dollars (\$10) per cart to twenty-five (\$25) per cart.
2. Requires all owners of shopping carts to affix an identification sign on their carts.
3. All owners of shopping carts must by October 1, 2018, provide the City with a plan on how they intend to keep shopping carts on their property.
4. Mandates that all owners of shopping carts must implement a twice-weekly program of collecting their shopping carts that are illegally removed.



776 N.E. 125 Street, North Miami, Florida 33161

## Council Report

5. Establishes a civil penalty of two-hundred and fifty dollars (\$250) for any violation of the ordinance.

### **ATTACHMENT(s)**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 11 “LICENSES AND BUSINESS REGULATIONS” OF THE CITY OF NORTH MIAMI CODE ORDINANCES BY ESTABLISHING ARTICLE VII. ENTITLED “SHOPPING CARTS”; CREATING REGULATIONS RELATED TO SHOPPING CARTS, PROVIDING FOR DEFINITIONS, PROVIDING FOR POSTING OF NOTICE OF PENALTIES FOR REMOVAL OF SHOPPING CARTS, REQUIRING IDENTIFICATION OF SHOPPING CARTS, PROVIDING FOR A PROCEDURE FOR HANDLING IDENTIFIABLE AND UNIDENTIFIABLE SHOPPING CARTS FOUND ON PUBLIC PROPERTY, PROVIDING FOR REGULATIONS RELATED TO SHOPPING CARTS ON PRIVATE PROPERTY, PROVIDING FOR A GENERAL SCHEDULE OF VIOLATIONS AND CIVIL PENALTIES; AMENDING THE SCHEDULE OF VIOLATIONS AND CIVIL PENALTIES SECTION OF THE CODE TO INCLUDE PENALTIES FOR VIOLATION OF THESE SECTIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, In January 2018, the City of North Miami (“City”) established a Clean City Task Force (the “Task Force”) to respond to the concerns of both residents and elected officials regarding the general cleanliness of the City; and

**WHEREAS**, the Task Force identified abandoned shopping carts as being one of the primary contributors to visual pollution and general untidiness of both public and private properties as well as a potentially significant safety hazard; and

**WHEREAS**, The City deems it to be in the best interest of the health, safety, and welfare of its citizens to provide for regulations of shopping carts to enhance the aesthetic appearance of the City and to prevent any potential traffic and/or pedestrian hazards; and

**WHEREAS**, the Mayor and City Council have deemed it necessary to hold local retail establishments accountable for the retrieval and maintenance of their shopping carts.

**NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, THAT:**

**Section 1. Recitals Adopted.** That the recitals set forth above are true and correct and incorporated herein by reference.

**Section 2. Article VII “Shopping carts” Established.**

Chapter 11- Licenses and Business

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**ARTICLE VII. – SHOPPING CARTS**

**Section 1. Definitions**

As used in this chapter, the following terms shall have the meanings indicated:

Shopping Carts — as found in § 506.502 of the Florida Statutes, as may be amended from time to time.

**Section 2. Required preventative measures and notices; penalties for offenses.**

A. Every business and/or entity that utilizes shopping carts in its operation shall affix the following notice to all such carts, and such notice shall be clearly legible in the English, Creole and Spanish language and shall state:

**WARNING**

Any person who removes a shopping cart from the premises of the owner, or is in the possession of any shopping cart, shall be presumed to be in possession of stolen property and is guilty of a misdemeanor of the first degree, punishable by a term of imprisonment of up to one year as provided by §§ 506.509 and 506.513 of the Florida Statutes.

B. Failure to abide by the provisions of Subsection A above shall constitute a violation and result in a civil penalty in the amount of \$25 per cart.

C. Additionally, on or before October 1, 2018, or of the opening of the business or the initial use of shopping carts by the business, whichever is later, any business and/or entity providing shopping carts for the use of their patrons or employees shall:

(1) Construct barriers to prevent the removal of shopping carts from the business premise; or

(2) Attach alarm mechanisms to shopping carts to prevent their removal;  
or

(3) Implement a policy of not allowing the customer to exit the store with shopping carts; and/or

(4) Provide an employee to carry or wheel the customers' merchandise to the customers' vehicle; or

(5) Implement some other plan, approved by the City, that will prevent removal of carts from the business premise; and

(6) Implement a twice-weekly program of collection of their carts that are illegally removed. An affidavit from the affected business owner detailing the specific days of collection shall be submitted to the City.

D. Failure to abide by the provisions of Subsection C above shall constitute a violation and result in a civil penalty in the amount of \$250 per violation.

**Section 3 - Identification of shopping carts required; penalties for offenses.**

An establishment that utilizes shopping carts in the operation of its business shall affix an identification sign on the shopping cart providing the name, address and phone number of the retail establishment. Failure to abide by this provision shall constitute a violation and result in a civil penalty in the amount of \$25 per cart.

**Section 4 - Procedure for handling identifiable shopping carts found on public property.**

A. Employees and officers of the City of North Miami shall be deemed agents of the City and any shopping carts found by them on public property during the course of their official duties shall be reported to the Code Enforcement Department.

B. The owner's failure to retrieve any shopping carts from the City right-of-way shall cause the shopping carts to be removed by the City.

C. The City Public Works Department shall collect and secure the shopping carts.

D. The City shall notify the owner of the shopping cart(s), in writing, that the City has secured the shopping carts and the fees, costs, and fines associated with the collection and storage of the carts. A fee of \$25 per cart plus any additional costs of retrieval incurred by the City, shall be imposed on the owner of the carts.

E. If the shopping carts are not picked up by the owner within ten (10) days, the carts will be disposed of in accordance with state law.

F. Fees, costs and fines shall be assessed and paid by the owner prior to the return of the carts. There will be no mitigation of fees, costs or fines except by the Special Magistrate. The owner shall consider the receipt of a special notice form the City of such a violation as proper notice of such potential fees, costs and fines. No fees, costs or fines shall be assessed which would violate Section 506.5131 of the Florida Statutes, as may be amended, or any other law.

**Section 5- Procedure for handling unidentifiable shopping carts found on public property.**

All unidentifiable shopping carts found on public property shall be considered abandoned and shall be disposed of in accordance with Chapter 705 of the Florida Statutes, as amended from time to time.

**Section 6 - Shopping Carts on Private Property.**

A. No shopping cart shall be placed on any property where it can be readily seen from the right of way unless the shopping cart is located on a nonresidential zoned property and is owned by the business legally operating on the same property.

B. Upon a finding of a violation of this section the City may impose a fine as provided for in this code of ordinances.

C. In addition to any other remedies, the Special Magistrate, may upon finding a violation, authorize the City to remove the shopping cart.

D. Upon removal of the shopping cart it shall be disposed of in accordance with the provisions set forth in Section 4 for shopping carts found on public property.

E. The fees and costs for removal may be imposed upon the owner of the property. In addition, fees and costs may be imposed on the owner of the cart pursuant to and with the limitations set forth in Section 4 above. A fee of \$25 per cart plus any additional costs of retrieval incurred by the City, shall be imposed on the owner of the cart.

**Section 7 - Schedule of violations and civil penalties.**

Any person who violates any section of this chapter shall be subject to the issuance of a civil penalty in the amount of \$250.00, unless otherwise specified herein, to be issued in accordance with Chapter 21, Code Compliance, of the Code of Ordinances of the City of North Miami and any statutory requirements.

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**Section 2. Repeal.** All ordinances or parts of ordinances in conflict herewith are repealed.

**Section 3. Conflicts.** In the event that the provisions of this Ordinance are in conflict with any other ordinance, rule or regulation, the provisions of this Ordinance shall prevail.

**Section 4.**     **Severability.** The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance, but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 5.**     **Codification.** It is the intention of the City Council of the City of North Miami and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami, Florida. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and the word “ordinance” may be changed to “section,” “article” or any other appropriate word.

**Section 6.**     **Effective Date.** This Ordinance shall become effective immediately upon adoption on second reading.

**PASSED AND ADOPTED** by a \_\_\_\_\_ vote of the Mayor and City Council of the City of North Miami, Florida, on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**PASSED AND ADOPTED** by a \_\_\_\_\_ vote of the Mayor and City Council of the City of North Miami, Florida, on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
DR. SMITH JOSEPH  
MAYOR

ATTEST:

\_\_\_\_\_  
MICHAEL A. ETIENNE, ESQ.  
CITY CLERK

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

\_\_\_\_\_  
JEFF P. H. CAZEAU, ESQ.  
CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: \_\_\_\_\_

Sponsored by: \_\_\_\_\_

**Vote:**

Mayor Smith Joseph, D.O., Pharm. D.

\_\_\_\_\_ (Yes) \_\_\_\_\_ (No)

Vice Mayor Carol Keys, Esq.

\_\_\_\_\_ (Yes) \_\_\_\_\_ (No)

Councilman Scott Galvin

\_\_\_\_\_ (Yes) \_\_\_\_\_ (No)

Councilman Alex Desulme

\_\_\_\_\_ (Yes) \_\_\_\_\_ (No)

Councilman Philippe Bien-Aime

\_\_\_\_\_ (Yes) \_\_\_\_\_ (No)

Additions shown by underlining. Deletions shown by ~~overstriking~~.