

ORDINANCE NO. _____

AN ORDINANCE AMENDING APPENDIX B, ARTICLE II, DIVISION 3 “NUISANCES,” OF THE CODE OF THE CITY OF FORT WORTH, TEXAS (2015), AS AMENDED, BY PROVIDING REGULATIONS TO AND CONCERNING ABANDONED SHOPPING CARTS BY ADDING SECTION 11A-30 ABANDONED SHOPPING CARTS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL PRIOR ORDINANCES AND REPEAL CONFLICTING ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER OF THE CITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Fort Worth (“City Council”) seeks to protect public safety, preserve the environment, and promote efficiency within the City; and

WHEREAS, the abandonment of shopping carts is an issue of concern to the City of Fort Worth and its citizens because the problem impacts every sector of the City; and

WHEREAS, the City Council believes that such abandoned shopping carts constitute a nuisance, create potential hazards to the health and safety of the public and interfere with pedestrian and vehicular traffic; and

WHEREAS, the abatement of these abandoned shopping carts places a financial burden on both the City and retail establishment therein; and

WHEREAS, the prevention of shopping cart abandonment and the retrieval of carts promotes environmental health and public safety; and

WHEREAS, to accomplish the aforementioned goals there is a need to collect shopping carts from public rights-of-way and provide a mechanism to allow retail owners to reclaim impounded shopping carts.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS, THAT:

SECTION 1.

Appendix B, Article II, Division 3 “Nuisances,” of the Code of the City of Fort Worth (2015), as amended, is hereby revised to add a new section to read as follows:

§ 11A-30 ABANDONED SHOPPING CARTS

(a) Definitions. In this section.

ABANDONED SHOPPING CART – Any shopping cart which has been removed from a retail establishment’s premises and is unattended at the time of investigation. Abandoned shopping

carts will be assumed to be the property of the retail business geographically closest to the cart's collection point based on logos, branding and/or retailer's name.

OWNER - a person that operates, manages, or controls the retail establishment.

PREMISES – The entire property owned or leased by the retail establishment, which provides shopping carts for use by its customers. In the case of a retail business located within a shopping center or shopping complex, the premises extend to include all parking areas and other common areas shared by the tenants therein.

SHOPPING CART –means a basket that is mounted on wheels, or a similar device, generally used in a retail establishment by a customer to transport goods of any kind.

(b) Shopping Cart Identification. Owners of retail establishments providing shopping carts for customers may affix to the cart durable, weatherproof, and legible signs or markings identifying the name of the retail establishment. Retail establishments may employ unique color schemes and logos in lieu of the retail establishment's name.

(c) Shopping Cart Control Plan.

(1) Following the impoundment of sixteen (16) or more abandoned shopping carts owned by any one retail establishment within a time period of six (6) months, the Code Compliance Director or designee may place the retail establishment on a Shopping Cart Control Plan and require the retail establishment to do any of the following to mitigate the loss of its shopping carts:

(i) Install wheel locks on all retail establishment shopping carts; or

(ii) Affix to the carts a durable all-weather decal stating the following in legible letters:

IT IS AN OFFENSE PUNISHABLE BY A FINE UP TO \$500 TO POSSESS THIS SHOPPING CART AT A LOCATION OTHER THAN ON THE PREMISES OF THE RETAIL ESTABLISHMENT THAT OWNS THIS SHOPPING CART.; or

(iii) Any other reasonable measures that the retail establishment and the Director or Designee may agree to.

(2) A retail establishment may only be released from a Shopping Cart Control Plan if the retail establishment complies with the requirements provided in the Shopping Cart Control Plan and the retail establishment does not have more than two (2) shopping carts impounded by the City within a six (6) month period after the effective date of the Shopping Cart Control Plan.

(d) Offenses

(1) The owner commits an offense if the City has impounded sixteen (16) or more abandoned shopping carts owned by the retail establishment

(2) A person commits an offense if they have failed to comply with any requirements stated in a Shopping Cart Control Plan.

(3) It is a defense to prosecution if the retail establishment has installed a functioning wheel-lock system on its shopping carts.

(e) Retrieval and Impoundment

(1) The City may collect and impound any abandoned shopping cart located on public property. In the event an abandoned shopping cart is found on public property and is damaged, no longer functional, has no legible identifying markings, or presents a public health and safety concern, the City may dispose of the cart immediately and in a method the Code Compliance Director or designee deems appropriate.

(2) An abandoned shopping cart collected and impounded by the City may be made available to the retail establishment for reclamation for a period of thirty (30) days from the date provided in the notice to the owner of the impoundment at a designated location determined by the City.

(3) Each abandoned shopping cart collected and impounded by the City of Fort Worth will be released to an owner or employee of the retail establishment upon payment of a recovery fee to the City, which shall be established by City Council. Each shopping cart shall be charged a separate recovery fee. A recovery fee shall not be assessed to any abandoned shopping cart that is collected and impounded, if it has a functioning wheel-lock system installed.

(4) In the event an abandoned shopping cart is not reclaimed within thirty (30) days after the owner is notified of the impoundment, the City may dispose of the cart in a method the Code Compliance Director or designee deems appropriate.

(f) Penalty. Any person violating the provisions of this section shall be guilty of a misdemeanor and shall be punished by a fine not to exceed \$500.

SECTION 2.

That these ordinances shall be cumulative of all other ordinances of the City of Fort Worth, Texas, and shall not repeal any of the provisions of such ordinances, except in those instances where provisions of such ordinances are in direct conflict with the provisions of this ordinance.

SECTION 3.

That all rights or remedies of the City of Fort Worth, Texas, are expressly saved as to any and all violations of the City Code, or any amendments thereto that have accrued at the time of the effective date of this ordinance; and as to such accrued violations, and all pending litigation, both civil and criminal, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 4.

That it is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of these ordinances are severable, and if any phrase, clause, sentence, paragraph or section of these ordinances shall be declared void, ineffective or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such voidness, ineffectiveness or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of these ordinances, since the same would have been

enacted by the City Council without the incorporation herein of any such void, ineffective or unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 5.

That any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of these ordinances shall be fined not more than Five Hundred Dollars (\$500) for each offense. Each day that a violation exists shall constitute a separate offense.

SECTION 6.

That the City Secretary of the City of Fort Worth, Texas, is hereby directed to publish these ordinances for two (2) days in the official newspaper of the City of Fort Worth, Texas, as authorized by the V.T.C.A. Local Government Code Subsection 52.013.

SECTION 7.

These ordinances shall take effect after adoption and publication as required by law.

APPROVED AS TO FORM AND LEGALITY:

ATTEST:

By: _____
Assistant City Attorney

City Secretary

Adopted: _____

Effective: _____