

33 **WHEREAS**, the existing code requires existing businesses to submit a plan but
34 does not require the same of new businesses, does not expressly authorize the City to
35 dispose of the shopping carts retrieved and stored at the City’s Public Works facilities that
36 are not retrieved by business owners following a reasonable period of notification from
37 the City and provides for a fee and administrative charge for retrieval of carts; and
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39 **WHEREAS**, Section 506.5131 (2), Florida Statutes, prohibits charging owners of
40 carts unless the shopping cart was found on public property and was removed from the
41 premises or parking area of a retail establishment by the owner of the shopping cart, or
42 an employee acting on the owner’s behalf, and the fee, fine, or cost has been approved
43 by the Department of Agriculture and Consumer Services; and
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45 **WHEREAS**, the amendment to Chapter 13, Article III – Shopping Carts, Sections
46 13.70 and 13.76 of the City Ordinance, i) requires new businesses utilizing shopping carts
47 to submit a shopping cart plan; ii) authorizes the City the to dispose of shopping carts not
48 retrieved by shopping cart owners within fourteen (14) business days following notice
49 from the City that the shopping carts have been retrieved, and are being held by, the City
50 and iii) deletes reference in Section 13.76 of a retrieval fee and administrative charge to
51 owners of shopping carts.
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53 **NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY**
54 **COMMISSION OF THE CITY OF HALLANDALE BEACH, FLORIDA:**
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56 **SECTION 1.** The foregoing “Whereas” clauses are hereby incorporated herein.
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58 **SECTION 2.** Chapter 13, Article III – Shopping Carts, Sections 13.70 and 13.76
59 of the City Ordinance is hereby amended to provide as follows (words in ~~strikethrough~~
60 are deleted, words in underline are inserted):

61 **ARTICLE III. - SHOPPING CARTS**

62 Sec. 13-67. - Purpose.

63 It is the primary purpose of this article to provide for the prompt retrieval of lost,
64 stolen or abandoned shopping carts in order to promote public health, safety and
65 welfare and improve the image and appearance of the city. It is the purpose of this
66 article to have the owners and operators of businesses providing shopping carts to use
67 the means available to them to deter, prevent or mitigate the removal of shopping carts
68 from their business premises. It is further purpose of this article to prevent the illegal
69 removal of shopping carts from the business premises.

70 Sec. 13-68. - Declaration of public nuisance.

71 Shopping carts that have been removed from the premises of businesses and left
72 abandoned on public or private property throughout the city constitute a public nuisance
73 and a potential hazard to the health, safety and welfare of the public. They create
74 conditions of blight in the community, obstruct free access to sidewalks, streets and
75 other public rights-of-way, interfere with pedestrian and vehicular traffic, impede
76 emergency services, and create impediments to the flow of water in drainage systems
77 and other waterways when abandoned within drainage culverts and easements. It is for
78 these reasons such lost, stolen, or abandoned shopping carts are hereby declared to be
79 a public nuisance which shall be subject to abatement in the manner set forth in this
80 article, or as provided by law.

81 Sec. 13-69. - Definition.

82 For the purposes of this article, the term "shopping cart" as defined in F.S. §
83 506.502, means a basket mounted on wheels or a similar device which is generally
84 used in a retail establishment by a customer for the purpose of transportation of goods
85 of any kind.

86 Sec. 13-70. - Retrieval plan.

87 Each retail establishment furnishing shopping carts to patrons to transport items
88 purchased from the establishment, is hereby required to develop and implement a
89 specific plan to retrieve its shopping carts that are found throughout the city. Two or
90 more retail establishments may collaborate and submit to the city a single plan. The
91 plan must be submitted to the city ~~with the yearly business tax license renewal, and~~
92 upon submission of the Local Business Tax Receipt application for new business, and
93 with the yearly Local Business Tax Receipt renewal for established businesses
94 and. The plan must include an effective and specific method of retrieving the retail
95 establishment's shopping carts found throughout the city.

96 Sec. 13-71. - Abandoned cart prevention plan.

97 The city shall determine whether a retail establishment's plan for retrieving its
98 shopping carts submitted pursuant to this article is reason ably calculated to result in the
99 prompt removal of the retail establishment's shopping carts found throughout the city on
100 property other than that of the retail establishment furnishing the shopping carts to
101 patrons. The shopping cart retrieval plan shall identify the number of employees who

102 will be assigned such cart retrieval duties, the number of total hours per week that each
103 assigned employee will perform such retrievals, and extent of training each of such
104 personnel has received or will receive concerning the retrieval of lost, stolen or
105 abandoned shopping carts. The shopping cart retrieval plan shall include a copy of each
106 contract with a cart retrieval service or indicate that the cart retrieval will be performed
107 in-house. The shopping cart retrieval plan shall identify the streets and bus stops which
108 will be patrolled as required by this article as well as the manner, frequency, and times
109 of such patrols.

110 Based on the above referenced criteria, the city shall approve, reject or modify a
111 plan, within 30 days of when the plan is submitted. If the plan is approved, the proposed
112 measures shall be implemented no later than 30 days after approval. If the plan is
113 rejected, the retail establishment shall modify the plan and re-submit it to the city no
114 later than 30 days after the date of its rejection.

115 Following the approval of a plan, a retail establishment may file a written request
116 with the city manager to amend its plan. The proposed amended plan is subject to the
117 same criteria and review process as an original plan.

118 If a retail establishment's original or amended plan is approved by the city and
119 subsequently, the city manager determines that the retail establishment's plan for
120 retrieving its shopping carts found throughout the city is ineffective, the city manager
121 shall notify the establishment in writing and a new or modified plan to correct any
122 deficiencies identified by the city shall be submitted within 30 days. The city manager
123 shall provide the retail establishment with written notice of such, along with the city
124 manager's recommendation.

125 Sec. 13-72. - Signage.

126 (a) *Signs on carts required.* Every shopping cart made available for use by customers
127 shall have a sign permanently affixed to include identification of the owner of the
128 shopping cart or the name of the business establishment, or both and the current
129 telephone number to report abandoned carts.

130 (b) *Notice to customers.* Written notice shall be provided to customers as described
131 herein that removal of shopping carts from the premises is prohibited.

132 (c) *Employee training.* The owner of the retail establishment shall implement and
133 maintain a periodic training program for new and existing employees designed to
134 educate such employees of the requirements of the abandoned cart prevention plan
135 and the provisions of state and city law prohibiting the unauthorized removal of
136 shopping carts from the premises of the retail establishment.

137 (d) *Compliance.* Within 60 days of the effective date of this article, each retail
138 establishment that utilizes shopping carts in the operation of its business shall affix
139 on each shopping cart, and maintain thereon, information identifying the name,
140 address and telephone number of the retail establishment.

141 Sec. 13-73. - Shopping carts to be maintained on-site.

142 The following are required measures to contain shopping carts on-site. The owner
143 of the retail establishment may install specific physical measures on the carts or
144 implement other measures to prevent cart removal from business premises. These
145 measures may include, but are not limited to:

- 146 (1) Installing disabling devices on all carts;
- 147 (2) Posting store personnel to deter and stop customers who attempt to remove
148 carts from business premises;
- 149 (3) Installing bollards and chains around business entrances/exits to prevent cart
150 removal;
- 151 (4) Requiring security deposits for use of all carts;
- 152 (5) Providing carts for rental or sale that can be temporarily or permanently used
153 for the purpose of transporting purchases; or
- 154 (6) Providing personnel for the purposes of the retrieval of lost, stolen or abandoned
155 shopping carts. Such personnel may be either employees of the business or one
156 or more independent contractors hired by the owner to provide shopping cart
157 retrieval services, or combination of both.
- 158 (7) The city manager shall have the authority to require businesses of 35,000
159 square feet or more to install systems or devices to contain shopping carts on-
160 site.

161 Sec. 13-74. - Penalty for failure to submit, modify or implement plan.

162 Any retail establishment that fails to timely submit a plan, implement a plan
163 approved by the city, resubmit a rejected plan or make required modifications to a plan
164 shall constitute a violation of this article, and subject to the penalties in F.S. § 162.22.

165 Sec. 13-75. - Posting of signs.

166 Within 60 days of the effective date of this article, each retail sales establishment
167 that utilizes shopping carts in the operation of its business shall post a minimum of two
168 signs not less than one and one half feet by three feet in a conspicuous location on the
169 inside of the retail sales establishment building and not visible from any public street.
170 Such signs shall state the following:

171 "NOTICE—It is a violation of F.S. § 506.513 to remove a shopping cart, without
172 written authorization, from its owner or from the premises or parking area on any
173 retail establishment."

174 Sec. 13-76. - Penalties for violation.

175 Any violation of this article by persons other than the owner of the shopping cart,
176 shall be prosecuted pursuant to F.S. § 162.22. Each conviction for violation of this
177 article shall be punished by a fine not to exceed \$500.00 or by imprisonment in the jail
178 not to exceed 60 days or by both such fine and imprisonment. ~~A shopping cart owner,
179 as provided by law, shall be subject to pay a fee per shopping cart when the city~~

180 ~~retrieves its shopping carts, plus an administrative charge, as established yearly in the~~
181 ~~city's fee booklet.~~

182 The City is authorized to dispose of shopping carts not retrieved by shopping cart
183 owners within fourteen (14) business days following notice from the City that the
184 shopping carts have been retrieved, and are being held by, the City.

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186 Sec. 13-77. - Shopping cart theft.

187 It shall be unlawful to do any of the following acts, if a shopping cart has a
188 permanently affixed sign as provided in this article:

- 189 (1) To remove a shopping cart from the parking area of a retail establishment with
190 the intent to deprive the owner of the shopping cart the use of the cart; or
- 191 (2) To be in possession of any shopping cart that has been removed from the
192 parking area of a retail establishment with the intent to deprive the owner of the
193 shopping cart the use of the cart.

194 This section shall apply only when a shopping cart:

- 195 a. Has a sign permanently affixed to it that identifies the owner of the cart or
196 the retailer, or both;
- 197 b. Notifies the public of the procedure to be utilized for authorized removal of
198 the cart from the premises;
- 199 c. Notifies the public that the unauthorized removal of the cart from the
200 premises or parking area of the retail establishment, or the unauthorized
201 possession of the cart, is unlawful; and
- 202 d. Lists a telephone number or address for returning carts removed from the
203 premises or parking area to the owner or retailer.

204 Any person who violates any provision of this section is guilty of a misdemeanor.

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206 **SECTION 3. SEVERABILITY**

207 If any portion of this Ordinance is determined by any Court to be invalid, the invalid
208 portion shall be stricken, and such striking shall not affect the validity of the remainder of
209 this Ordinance.

210 **SECTION 4. INCLUSION IN CODE**

211 It is the intention of the City Commission that the provisions of this Ordinance shall
212 become and be made a part of the City of Hallandale Beach Code; and that the sections
213 of this Ordinance may be renumbered or relettered and the word "Ordinance" may be
214 changed to "section," "article," or such appropriate word or phrase in order to
215 accomplish such intentions.

216 **SECTION 5. Effective Date.** This Ordinance shall take effect immediately upon
217 adoption.

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219 PASSED AND ADOPTED ON 1ST reading on September 2, 2020.

220 PASSED AND ADOPTED ON 2ND reading on September 16, 2020.

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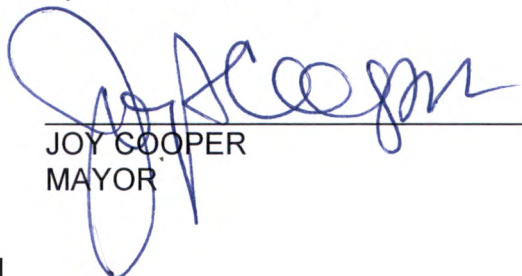
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JOY COOPER
MAYOR

SPONSORED BY: CITY ADMINISTRATION

ATTEST:



JENORGEN M. GUILLEN, CMC
CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY
AND FORM



JENNIFER MERINO
CITY ATTORNEY

FIRST READING VOTE ON ADOPTION

| | | |
|-----|------------------------|------------|
| | Mayor Cooper | <u>YES</u> |
| | Vice Mayor Javellana | <u>YES</u> |
| | Commissioner Butler | <u>YES</u> |
| | Commissioner Lazarow | <u>YES</u> |
| 251 | Commissioner Lima-Taub | <u>YES</u> |

FINAL VOTE ON ADOPTION

| | | |
|-----|------------------------|------------|
| | Mayor Cooper | <u>YES</u> |
| | Vice Mayor Javellana | <u>YES</u> |
| | Commissioner Butler | <u>YES</u> |
| | Commissioner Lazarow | <u>YES</u> |
| 252 | Commissioner Lima-Taub | <u>YES</u> |