

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 26 OF THE CODE OF ORDINANCES, ENTITLED "ENVIRONMENT", BY ADDING DIVISION 6 ENTITLED "SHOPPING CARTS", SECTIONS 26-137 THROUGH 26-140 TO REQUIRE RETAIL SALES ESTABLISHMENTS TO PROVIDE IDENTIFICATION ON SHOPPING CARTS, ESTABLISHING PROCEDURES FOR REMOVAL OF SHOPPING CARTS FOUND ON PUBLIC PROPERTY AND PROVIDING FOR ENFORCEMENT, FEES AND PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, abandoned shopping carts create a nuisance on public and private properties in Key West, causing obstructions and attracting refuse in unsightly and unhealthy ways; and

WHEREAS, in furtherance of the Key West Strategic Plan goal of improving cleanliness, the City Commission finds it is reasonable to regulate the unlawful removal of shopping carts from businesses, and abandonment of shopping carts on public property, through ordinances enforced through code compliance; and

WHEREAS, adding sections 26-137 through 26-141 to the Code of Ordinances will promote the health, safety and welfare of the citizens and visitors of the City of Key West.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF KEY
WEST, FLORIDA:

Section 1: That Division 6, Sections 26-137
through 26-140 is hereby added to the Code of Ordinances as
follows*:

CHAPTER 26 - ENVIRONMENT

* * * * *

DIVISION 6. - SHOPPING CARTS

**Sec. 26-137. - Procedure for handling identifiable carts
found on public property.**

(a) Employees and officers of the city shall be
deemed agents of the city and any identifiable shopping
carts found by them on public property during the course of
their official duties shall be reported to the code
compliance department. The code compliance department shall
collect the shopping carts and place them in storage.

*(Coding: Added language is underlined; deleted
language is ~~struck through~~ at first reading. Added language
is double underlined and ~~double struck through~~ at second
reading.)

(b) The code compliance department shall provide reasonable notice within a reasonable period of time to the owner of the shopping cart as designated on the shopping cart's identification sign to retrieve the property. Said notice shall be sent by certified mail, return receipt requested.

(c) The owner of the shopping cart shall have five days from receipt of the notice to retrieve the property. Upon retrieval of the property, the owner shall pay all costs of removal and storage in the form of a fee as set forth in subsection (f) of this section.

(d) The owner's failure to retrieve the property within the time stated in the notice shall constitute a violation and result in a civil penalty of \$100.00. Each unclaimed shopping cart shall be deemed a separate violation.

(e) The owner of the shopping cart who, after notice as provided in this article, does not retrieve such property within the specified period shall be liable to the code compliance department for all costs of removal, storage and disposal of such property in the form of a fee as set forth in subsection (f) of this section.

(f) The fees shall be in an amount to be determined by the city manager by administrative order and approved by the

city commission by Resolution.

(g) If the shopping cart is not claimed by the owner within the time specified in this article, the title to such property shall vest in the city and shall be disposed of by the code compliance department.

Sec. 26-138. - Procedure for handling unidentifiable shopping carts found on public property.

All unidentifiable shopping carts found on public property shall be handled in accordance with Lost and Abandoned Property, Chapter 705 of Florida Statutes, as amended from time to time.

Sec. 26-139. - Notice of penalties; exemption procedure.

(a) Every retail establishment which utilizes shopping carts, as defined by F.S. 506.501(10), in the operation of its business shall affix the following notice to all such carts and at the exits of the retail establishment which shall be clearly legible in the English, Spanish and Creole language and shall state the following:

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 F.S. 506.509 and 506.513."

(b) Any establishment desiring an exemption from this article shall file a petition for exemption with the city manager of their designee and enclose an appropriate application fee to be determined by the city manager. A petition for an exemption from the requirements of this article may be granted to any retail establishment which:

(1) Constructs barriers to prevent the removal of shopping carts;

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

(3) Implements a policy of not allowing the customer to exit the store with shopping carts, provides an employee to carry or wheel the customer's merchandise to the customer's vehicle, and agrees to implement a program to collect their own carts that are illegally removed.

Sec. 26-140. - Enforcement of article.

(a) Violations of this section shall be punished

pursuant to Chapter 2, Article 6, Division 2,
Code Compliance Special Magistrate Sec. 2-637,
Sec. 2-638, Sec. 2-639 and Sec. 2-640.

(b) Enforcement of this article shall begin six
months from the day of approval of this article.

Section 2: If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section 3: All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

Section 4: This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Read and passed on first reading at a regular meeting held this _____ day of _____, 2023.

Read and passed on final reading at a regular meeting held this _____ day of _____, 2023.

Authenticated by the presiding officer and Clerk of the Commission on _____ day of _____, 2023.

Filed with the Clerk _____, 2023.

Mayor Teri Johnston	_____
Vice Mayor Sam Kaufman	_____
Commissioner Lissette Carey	_____
Commissioner Mary Lou Hoover	_____
Commissioner Clayton Lopez	_____
Commissioner Billy Wardlow	_____
Commissioner Jimmy Weekley	_____

TERI JOHNSTON, MAYOR

ATTEST:

KERI O'BRIEN, CITY CLERK