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NOTICE OF MEETING

CITY COUNCIL

Dennis Fiorelli
President
Sara Continenza
Joe Frank
Marty Gelfand
Jane Goodman
Ruth Gray
Jason Russell

MEETING OF: **ZONING & PLANNING
COMMITTEE**

CALLED BY: JASON RUSSELL, CHAIRMAN

DATE: **OCTOBER 8, 2018**

LOCATION: COMMITTEE/JURY ROOM

TIME: 7:00 P.M.

RE: **ORD. 07-18 SHOPPING CART
REGULATIONS**

COMMITTEE MEMBERS:

MARTY GELFAND
JANE GOODMAN

COUNCIL MEMBERS:

SARA CONTINENZA
DENNIS FIORELLI
JOE FRANK
RUTH GRAY

ADMINISTRATION:

ERIC TUCK-MACALLA, BUILDING COMMISSIONER
MICHAEL LOVE, ECONOMIC DEVELOPMENT DIR.
KEITH BENJAMIN, COMMUNITY SERVICES DIR.

CITY OF SOUTH EUCLID, OHIO

ORDINANCE NO.: 07-18
INTRODUCED BY: Fiorelli
REQUESTED BY: Russell

March 26, 2018
Second Reading: October 8, 2018

AN ORDINANCE

AMENDING SECTION 521.18 "ABANDONED SHOPPING CARTS PROHIBITED" OF CHAPTER 521 "HEALTH, SAFETY AND SANITATION" OF PART FIVE "GENERAL OFFENSES CODE" OF THE CODIFIED ORDINANCES OF THE CITY OF SOUTH EUCLID, OHIO.

WHEREAS, there has been an increase of abandoned shopping carts throughout the city; and

WHEREAS, said shopping carts are both a public nuisance and an eyesore to the city landscape; and

WHEREAS, the Council of the City of South Euclid desires to regulate and abate the nuisances caused by abandoned shopping carts.

NOW THEREFORE BE IT ORDAINED by the Council of the City of South Euclid, Ohio:

Section 1: That Section 521.18 "Abandoned Shopping Carts Prohibited" of Chapter 521 "Health, Safety and Sanitation" of Part Five "General Offenses Code" of the Codified Ordinances of the City of South Euclid, Ohio be hereby amended to read as follows:

SECTION 521.18 – ABANDONED SHOPPING CARTS PROHIBITED.

- ~~(a) No person, owner, occupant, business or agent shall permit shopping carts to be abandoned off of their place of business and to remain on public or private property.~~
- ~~(b) The Director of Public Service is hereby directed to collect said abandoned shopping carts and store them for no longer than forty eight (48) hours three (3) business days. The Director of Service or his designee shall attempt to identify the owner of the abandoned shopping cart and notify them to pick them up from the Service Department. If said abandoned shopping carts are not picked up by the owner within the forty eight (48) hour time period three (3) business days, the Director of Service is directed to dispose of the cart by any manner allowed by law.~~
- ~~(c) If the owner of the abandoned shopping cart is identified and they fail to retrieve the cart within the forty eight (48) hour time period three (3) business days, the owner shall be charged a civil penalty of fifty (\$50) dollars per abandoned cart.²²~~

(a) PURPOSE:

It is the primary purpose of this Section to provide for the prompt retrieval of lost, stolen or abandoned shopping carts in order to promote public safety and improve the image and appearance of the City. It is a purpose of this Section to have the owners and operators of businesses providing shopping carts use the means available to them to deter, prevent or mitigate the removal of shopping carts from their business premises, and to retrieve any carts that may be removed despite these efforts. It is a further purpose of this Section to prevent the accumulation of illegally removed carts on public or private properties.

(b) DECLARATION OF NUISANCE:

Retail establishments provide shopping carts for the convenience of customers shopping on the premises of the businesses. A shopping cart that has been removed from the premises of the business and left abandoned on public or private property throughout the City constitutes a public nuisance and a potential hazard to the health and safety of the public; each lost, stolen or abandoned cart shall constitute a separate violation. Shopping carts abandoned on public and private property can create conditions of blight in the community, obstruct free access to sidewalks, streets and other rights-of-way, interfere with pedestrian and vehicular traffic on pathways, driveways, public and private streets, and impede emergency services. It is for these reasons that such lost, stolen, or abandoned

shopping carts are hereby declared to be a public nuisance which shall be subject to abatement in the manner set forth in this Section, or in any other manner provided by law.

For purposes of this Section, any shopping cart located on any public or private property other than the premises of the retail establishment from which such shopping cart was removed shall be presumed lost, stolen, or abandoned, even if in the possession of any person, unless such person in possession thereof is:

1. An authorized agent; or
2. Retail Establishment personnel; or
3. Enforcement personnel

(c) DEFINITIONS:

Except as otherwise expressly set forth herein, the following words and terms as used in this Section shall have the following meanings:

1. **Administrator:** The Director of Public Safety of the City of South Euclid.
2. **Authorized Agent:** The owner, or an employee or authorized agent of the owner, entitled to possession of the shopping cart.
3. **Cart Patrol and Retrieval Company:** A contracted agent who recovers shopping carts on behalf of retail establishments within a one half (1/2) mile radius of the contracting retail establishment(s) no fewer than two (2) times per week.
4. **Enforcement Personnel:** Any police officer, code enforcement inspector, or designated staff employed by the City of South Euclid.
5. **'Identification Sign' or 'Cart Sign':** A clearly visible sign fastened to each cart that provides ownership information required by this Section.
6. **Impounded Cart:** Any shopping cart collected by authorized City personnel, regardless of whether or not the shopping cart is being transported to or is stored within City facilities.
7. **Lost, Stolen, or Abandoned Shopping Cart:** A shopping cart that is either:
 - a. Removed from the premises of a retail establishment by any person without the written permission or consent of the owner of the shopping cart or the retailer otherwise entitled to possession of such cart; or
 - b. Left unattended, discarded or abandoned upon any public or private property other than the premises of the retail establishment from which the shopping cart was removed, regardless of whether such shopping cart was removed from the premises with permission of the owner;
 - c. For purposes of this Section, any shopping cart located on any public or private property other than the premises of the retail establishment from which such shopping cart was removed shall be presumed lost, stolen, or abandoned, even if in the possession of any person, unless such person in possession thereof is either:
 - i. The owner, or an employee or authorized agent of the owner, entitled to possession of said shopping cart; or
 - ii. An officer, employee or agent of a cart retrieval service hired by the owner to retrieve such carts; or
 - iii. City enforcement personnel retrieving, storing or disposing of said cart pursuant to the provisions of this code;
8. **Owner:** Any person or entity that owns, leases, possesses, or makes more than ten (10) shopping carts available to customers or the public in connection with the conduct of a business.
9. **Parking Area:** A parking lot or other property provided by a retail establishment for the use of customers of said retail establishment for the parking of customer vehicles. The parking area of a retail establishment located in a multi-store complex or a shopping center shall include the entire parking area used by the multi-store complex or shopping center.

10. **Premises:** Any building, property, or other area upon which any retail establishment business is conducted or operated in the City of South Euclid, including the parking area provided for customers in such retail establishment.

11. **Retail Establishment:** Any business located in the City of South Euclid which offers or provides shopping carts for the use of the customers of such business regardless of whether such business is advertised or operated as a retail or wholesale business, and regardless of whether such business is open to the general public, is a private club or business, or is a membership store.

12. **Security Measures:** Physical impediments or methods to prevent removal of shopping carts from the premises of the retail establishment including, but not limited to:

- a. Electronically-activated self-braking wheels;
- b. Poles mounted to shopping carts, which prevent their removal from the interior of the retail establishment
- c. Utilization of a cart patrol and retrieval company;
- d. Dedicated security personnel; and
- e. Other measures deemed appropriate and effective by the Administrator.

13. **'Shopping Cart' or 'Cart':** A basket which is mounted on wheels or a similar device generally used in a retail establishment by a customer for the purpose of transporting goods of any kind.

(d) SHOPPING CART SIGNAGE:

1. **Identification Signs on Carts Required:** Each shopping cart made available for use by customers shall have an Identification Sign permanently affixed to it that includes the following information:

- a. Identifies the owner of the shopping cart or the name of the business establishment, or both;
- b. Notifies the public that the unauthorized removal of the cart from the premises of the business or parking area of the retail establishment, or the unauthorized possession of the cart, is unlawful; and
- c. Lists a current telephone number or address for returning carts removed from the premises or parking area to the owner or retailer.

2. **Notice to customers:** Owners shall provide written notice to customers that the removal of shopping carts from the premises is prohibited. Such notice may be provided in the form of flyers distributed on the premises, notice printed on shopping bags, direct mail, notices on business websites, or any other means demonstrated to be effective. Additionally, all owners shall display and maintain conspicuous signs on the premises near all customer entrances and exits and throughout the premises, including the parking area, warning customers that removal of shopping carts from the premises is prohibited by City law.

(e) IMPOUNDMENT AND FINES:

1. **Impoundment of Shopping Carts:** The City may immediately impound any lost, stolen or abandoned shopping cart within the City, or any cart within the City to which the required Identification Sign is not affixed.

2. **Impounded Carts:** Owners identified on Cart Signs will be informed that they have fourteen (14) days in which to retrieve the cart(s) from the City.

3. **Notification of Impounded Cart:** The City shall utilize the required Cart Sign to notify the owner of each impounded cart; absence of the required Cart Sign shall relieve the City from this responsibility.

4. **Fines:** The City shall issue a five hundred dollar (\$500) fine to the owner of each lost, stolen, or abandoned cart impounded by the City, unless the fine is eligible for deferral. Each cart impounded by the City shall constitute a separate violation. After ten (10) violations in any calendar month, the fine shall increase one thousand (\$1,000) for each violation for the remainder of the calendar month.

5. **Fine Deferrals:** Within any calendar month the Administrator shall defer fines for the first three (3) impounded carts owned by any business that, prior to the impoundment, has implemented the following criteria. If four (4) or more shopping carts under common ownership are impounded within a calendar month no fines shall be deferred by the Administrator.

- a. Affixed the required identification sign to each impounded cart; and
- b. Implemented security measures, as defined in this Section, to prevent removal of shopping carts from the business' property.

(f) DISPOSITION OF CARTS:

1. **Disposition of Carts:** Carts impounded by the City which are either held for more than fourteen (14) days following the date of notification, or carts without an Identification Sign, may be disposed of or sold by the City.

2. **Appeals:**

a. **Filing of Appeal:** Any owner aggrieved by any adverse decision of the Administrator pursuant to this Section may appeal such decision within fourteen (14) calendar days following the date of such decision by filing with the Board of Appeals a written notice of appeal briefly stating the grounds for such appeal. The notice of decision shall be deemed filed on the date the appeal application fee has been paid. No appeal shall be accepted for filing and processing by the Administrator unless accompanied by the appeal application fee.

b. **Notice of Hearing:** If the appeal is timely filed, the Board of Appeals shall cause the matter to be set for hearing. Notices of the time and place of such hearing shall be mailed by the Zoning Administrator to the appellant or applicant, to all Councilmen, to owners of all property within 200 feet of the site, lot or parcel in question and to owners of any other property deemed by the Zoning Administrator to be affected.

Section 2: That is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its Committees on or after November 25, 1975, that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 3: That this Ordinance is deemed to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety within the City and therefore should be adopted at the earliest possible time. Wherefore this Ordinance shall take effect and be in force from and after the earliest period allowed by law and upon signature of the Mayor.

Passed this _____ day of _____, 2018

Dennis Fiorelli, President of Council

Attest:

Approved:

Keith A. Benjamin, Clerk of Council

Georgine Welo, Mayor

Approved as to form:

Michael P. Lograsso, Director of Law