

**ORDINANCE NO. 24- 322**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA AMENDING TOWN OF MIAMI LAKES CODE CHAPTER 16, AND CREATING ARTICLE V., SHOPPING CARTS, PROVIDING FOR INCLUSION INTO THE CODE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Miami Lakes (the “Town”) Council has provided direction to Town Staff and the Town Attorney to prepare legislation that will address the littering of shopping carts throughout Town rights-of-ways; and

**WHEREAS**, the instant legislation addresses the Town Council’s concerns and provides for enforcement of violators; and

**WHEREAS**, in order to ensure the success of this ordinance, the Town shall create an educational program to educate its residents and business owners regarding the benefits and enforcement of this Ordinance; and

**WHEREAS**, the Town Council finds that this Ordinance is in the Town’s best interest.

**THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:**

**Section 1.**     **Recitals.** The foregoing Recitals are true and correct and incorporated herein by this reference.

**Section 2.**     **Adoption of Ordinance** The Ordinance included herein and detailed herein is adopted.

**Section 3.**     **Providing for Codification.** The Town Clerk shall ensure that this Ordinance is codified and incorporated into the Town Code.

**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 invalid or unconstitutional, 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 the Ordinance shall stand notwithstanding the invalidity of any part.

**Section 5.**     **Educational Campaign.** The Town shall conduct an educational campaign that will educate its residents and business owners regarding the operation of this Ordinance.

**Section 6.**     **Expenditure of Budgeted Funds.** The Town Manager is authorized to expend budgeted funds in order to implement this Ordinance and for the expense of the educational campaign.

**Section 7.**     **Effective Date.** That this Ordinance shall be effective immediately upon its adoption on second reading.

**FIRST READING**

The foregoing Ordinance was offered by Councilmember Dieguez who moved its adoption on first reading. The motion was seconded by Councilmember Collazo and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	No
Vice Mayor Carlos Alvarez	Absent
Councilmember Luis E. Collazo	Yes
Councilmember Joshua Dieguez	Yes
Councilmember Tony Fernandez	Yes
Councilmember Ray Garcia	Yes
Councilmember Marilyn Ruano	Yes

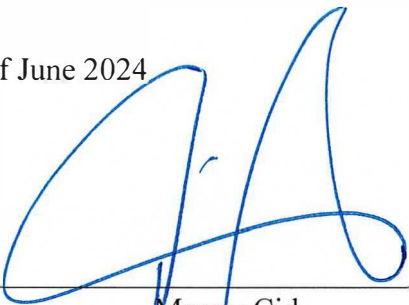
Passed and adopted on first reading this 14<sup>th</sup> of November 2023

**SECOND READING**

The foregoing Ordinance was offered by Councilmember Dieguez who moved its adoption on first reading. The motion was seconded by Councilmember Morera and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	Yes
Vice Mayor Tony Fernandez	Yes
Councilmember Luis E. Collazo	Yes
Councilmember Josh Dieguez	Yes
Councilmember Ray Garcia	Yes
Councilmember Bryan Morera	Yes
Councilmember Marilyn Ruano	Yes

Passed and adopted on second reading this 11th of June 2024



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Manny Cid  
MAYOR

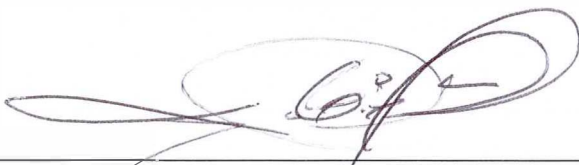
Attest:



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Gina M. Inguanzo  
TOWN CLERK

Approved as to form and legal sufficiency:



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Raul Gastesi, Jr.  
Gastesi, Lopez and Mestre, PLLC  
TOWN ATTORNEY

## *ARTICLE V. SHOPPING CARTS<sup>1</sup>*

### **Sec. 16-70. Defined.**

The term "shopping cart" shall be defined as found in F.S. § 506.502, as may be amended from time to time.

### **Sec. 16-71 Notice of penalties for removal of shopping carts; required preventative measures.**

(a) Shopping cart identification sign required for retail establishments. Every retail sales establishment which utilizes shopping carts, as defined by F.S. § 506.502(10), 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.

(b) 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, Spanish, and Creole languages and shall state:

WARNING

Any person who removes a shopping cart from premises without the written consent of the owner of the shopping cart or the retailer, 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.

(c) Every owner of a stand-alone retail sales establishment which utilizes shopping carts or owner of a shopping center in which one or more of the retail sales establishments utilizes shopping carts, as defined by Florida Statutes, Section 506.502(10), in the operation of its business shall post signs at the entrance(s) and exit(s) of its parking area(s) which shall be clearly legible in the English, Spanish and Creole languages and which shall provide, in substantial form, the information required in 16-71(b). As an alternative, universal language signs designed to convey the warning required in 16-71(b) may be used.

(d) Any establishment desiring an exemption from Section 16-71(a), (b) and (c) shall file a petition for exemption to the Town Manager or designee. A petition for an exemption from the requirements of this section may be granted by the Town Manager or designee to any retail establishment which:

(1) Constructs barriers to prevent the removal of shopping carts, while permitting full wheelchair ingress and egress by disabled persons; or

(2) Attaches alarm mechanisms or other security devices to shopping carts to prevent their removal from the property of the retail sales establishment or shopping center.

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<sup>1</sup>State law reference(s)—Shopping carts, F.S. § 506.501 et seq.

- (e) Failure to abide by Section 16-71 (a), (b) or (c) shall constitute a violation and result in a civil penalty of \$250 and continuing penalties in accordance with Chapter 8 of the Town Code. Nothing herein shall make illegal the removal of a shopping cart with the consent or permission of the owner of the shopping cart.

**Sec. 16-72. Identifiable shopping carts found on public property.**

Every retail sales establishment which utilizes shopping carts, as defined by state statutes, 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 of \$100.00.

**Sec. 16-73 Procedure for handling identifiable carts found on public property.**

- (a) Employees and officers of the Town shall be deemed agents of the Town and any identifiable shopping carts found by them on public property during the course of their official duties shall be reported to the code enforcement division. The Town shall collect and deliver shopping carts to business location in accordance with the requirements of this section.
- (b) The code enforcement division shall provide reasonable notice within a reasonable 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) Property owners adjacent to the swale where an abandoned shopping cart is located shall have an affirmative duty to remove the cart from the swale and report it to the Town for pick up.
- (d) Where a shopping cart is found on common areas managed and maintained by condominium associations or homeowner associations, it shall be the responsibility of the condominium or homeowner association to remove the cart from the common area and report the shopping cart to the Town for pick up.
- (e) 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 delivery in the form of a fee as set forth in subsection (h) of this section.
- (f) 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.
- (g) The owner of the shopping cart who, after notice as provided in this section, does not retrieve such property within the specified period shall be liable to the code enforcement division for all costs of removal, and delivery of such property in the form of a fee as set forth in subsection (h) of this section and any civil penalties associated with enforcement pursuant to Chapter 8 of the Town Code.
- (h) The cost to remedy this violation and other expenses, including but not limited to legal due diligence, removing, delivering, and disposal together with a civil penalty of \$100.00 shall become payable within 30 days, after which the Town Manager or his or her designee shall cause a special assessment lien and charge to be immediately made upon the shopping cart owner and/or property owner, which shall be payable with interest at the legal rate from the date corrective action is taken until paid.
- (i) Such liens shall be enforceable in the same manner as a tax lien in favor of the Town and may be satisfied at any time by payment thereof including accrued interest. Upon such payment the Town Manager or his or her designee shall, by appropriate means, evidence the satisfaction and cancellation of such lien upon the record

thereof. Notice of such lien may be filed in the Office of the Clerk of the Circuit Court and recorded among the public records of Miami-Dade County.

(i) All unidentifiable shopping carts found on public property shall be handled in accordance with F.S. ch. 705, as amended from time to time.

**Sec. 16-76. Code enforcement authority.**

The Town's code enforcement department is delegated the authority to enforce this section.

- (a) Independent contractors acting on behalf of the Town, employees and officers of the Town shall be deemed agents of the Town and any shopping carts found by them on public property during the course of their official duties shall be reported to the Town's building and code compliance department.
- (b) The code enforcement division 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 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 calendar 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 (d) of this section.
- (d) The Town public works department shall collect the shopping carts and transport same to a county solid waste transfer site, as may be designated by the county solid waste department for storage. The Town shall may pass on the costs associated with the collection and disposition of the shopping carts to the owner of the shopping cart. Said costs shall be standardized, will not exceed the actual costs incurred by the Town for collection and storage, and shall be set by Resolution.

The director of the department of building and code compliance or his/her designee shall issue a Warning of Violation, as provided in Section 8 of the Town Code, to the owner of the shopping cart, in writing, of the transfer of the shopping cart to the county solid waste transfer site.