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City of Gainesville Policy Program Preliminary Research & Analysis

TOPIC: Abandoned Shopping Carts
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EXECUTIVE SUMMARY AND RECOMMENDATIONS

In the State of Florida and around the US, a great number of Cities have passed ordinances or laws to mitigate the issue of abandoned shopping carts. Through careful analysis, the following requirements are the most common amongst the legislation passed:¹

- A retailer/business establishment must have a plan or system in place to retain and/or retrieve errant shopping carts.
- There are fines and penalties imposed by a city for abandoned or errant shopping carts.
- A retailer must affix signage on each of their carts that indicates the retail establishment for which it belongs, and respective contact information. In cases where a plan is in place, signage must be provided to let the shopping cart user know of it and how it works.

HISTORY/BACKGROUND INFORMATION

Florida law deems any person in possession of shopping carts with a registered name off of the rightful owner's property to be in possession of stolen property and thus guilty of a misdemeanor of the first degree.² It is illegal to remove shopping carts from the premises or parking area of a retail store as well as to alter the sign on the cart. The owner of any shopping cart that is found on public property is to be notified of its recovery, and fees shall be assessed if it was both found on public property and was removed from the premises by the owner of the cart. This is not applicable to ordinances that require a business establishment to install a retention system to retain shopping carts within the real property boundaries of a business location.

¹ <https://www.gatekeepersystems.com/us/ordinances.php>

² http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=0500-0599/0506/Sections/0506.509.html

City of Gainesville Policy Program Preliminary Research & Analysis
Abandoned Shopping Carts

Every retail sales establishment which utilizes shopping carts, as defined by Section 506.501(10), Florida Statutes, in the operation of its business is required to attach the following notice to all carts and at the exits of the retail establishment in both English and Spanish:³

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 (1) year as provided by Sections 506.509 and 506.513, Florida Statutes.”⁴

The Florida State Statutes are applicable to all municipalities within the state, but in cities where there are stricter provisions, those shall prevail. For most cities, they include this section of the Florida State Statutes and proceed to charge a fine if the owner of the shopping cart violates it.

In 2006, Kissimmee and other municipalities in Florida were struggling to deal with the abandoned shopping cart issue that was imposing a safety issue on drivers and a quality of life issue on communities. Kissimmee’s effort was not smooth sailing since between the ordinance being proposed in 2002 and becoming effective in 2006, the Florida Retail Federation pursued an injunction. “The city appealed and eventually won when a 5th District judge ruled the ordinance constitutional. The judge noted that the ordinance encouraged businesses to maintain their cart pool, and was not an out-and-out punitive fine.”⁵ The City Manager of Kissimmee at the time, Mark Durbin, noted that a year after their abandoned shopping cart ordinance was put into effect there were hardly any carts along the road.

Since that interaction, the Florida Retail Foundation took its efforts to Tallahassee where the State Legislature amended state law to say that no local ordinance can fine the owner of a shopping cart unless it was found on public property and removed by the owner or an employee. Orlando, meanwhile, was struggling with the costs of collection labor and landfill tipping fees of orphaned shopping carts that came out to about \$32,000 a year, just under the annual salary of one code enforcement officer. At one point, Orlando was collecting and disposing of about 200-300 shopping carts a month according to the Manager of Code Enforcement at the time, Mike Rhodes. Orlando and Kissimmee’s ordinances are described in the following section.

Gainesville and Alachua County lack any ordinances for abandoned shopping carts. What some call “shopping carts in the wild,” abandoned carts act as an eyesore contributing to blight and can often be attributed to underlying local poverty and homelessness issues. In neighborhoods where few people own a vehicle, shopping carts can offer a viable and efficient way to take any groceries or shopping items home.⁶ Additionally, homeless people often find it convenient to use the shopping carts to transport their belongings from place to place. This reflects a possible systematic transportation problem which should simultaneously be discussed in the implementation of

³ <https://www.gatekeepersystems.com/us/ordinance-details.php?id=188>

⁴ http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=0500-0599/0506/0506.html

⁵ <https://www.orlandoweekly.com/orlando/whats-with-all-the-shopping-carts/Content?oid=2257666>

⁶ <https://www.cnn.com/2014/02/24/living/irpt-missing-shopping-carts/index.html>

merchant shopping cart retrieval or retention plan requirements. Meanwhile, this large scale litter acts as an eyesore contributing to blight. As current laws stand in Gainesville, a police officer has the authority to arrest someone they see pushing a cart away from the store on charges of theft. However, the other approach to solving the abandoned cart issue can be to directly hold retailers accountable through fines and approved retrieval plans.

PRELIMINARY RESEARCH AND FINDINGS

Most of the ordinances studied fell into the following categories:

Retention Plan Required

Apopka, Kissimmee, Orlando, & Port Orange, FL

Kissimmee's code⁷ states that all business establishments utilizing shopping carts or similar devices, and having more than 20 shopping carts on-site, shall install and maintain a system to retain the carts within the real property boundaries of the business location. Penalties are enforced in Kissimmee through constituting each separate day of violation as a separate offense. According to City Officials, there has been significant improvement in the numbers since the ordinance went into effect in 2005.

Apopka and Orlando require the same but only of "big box developments." The land development code in those cities define a big box development as a retail and/or wholesale commercial establishment store with more than 75,000 square feet of gross floor area. Any big box store that fails to install or properly maintain an on-site shopping cart retention system is subject to penalties.

All of these municipalities maintain that some form of signage is **required** to let the customers know about the cart retention system in place.

Apopka, Kissimmee, Orlando, and Port Orange give retailers the following retention method options:⁸

- i. A toll-free shopping cart recovery service system wherein anyone who has spotted a cart off the property can call a number and a vehicle is dispatched to recover the cart. (*Apopka, Orlando*)
- ii. Shopping carts equipped with a protruding arm or similar device preventing the carts from being removed from the interior of the business. (*All*)
- iii. A system, which may be mechanical in nature, requiring a refundable deposit to use a shopping cart; such deposit should be of a reasonable amount that would not deter the use of the cart, but would encourage the return of the cart. (*All*)
- iv. Shopping carts equipped with a wheel locking mechanism and anti-tilting bar that is used in conjunction with an electronic barrier along the perimeter of the area where shopping carts

⁷[http://library.amlegal.com/nxt/gateway.dll/Florida/kissimmee/cityofkissimmeefloridacodeofordinances?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:kissimmee_fl](http://library.amlegal.com/nxt/gateway.dll/Florida/kissimmee/cityofkissimmeefloridacodeofordinances?f=templates$fn=default.htm$3.0$vid=amlegal:kissimmee_fl)

⁸ <https://www.gatekeepersystems.com/us/ordinance-details.php?id=174>

City of Gainesville Policy Program Preliminary Research & Analysis
Abandoned Shopping Carts

are allowed. The wheel locking mechanism shall activate when the shopping cart crosses the electronic barrier. (A//)

- v. A physical barrier, such as bollards, restricting shopping carts to the front sidewalk or portion of the business. (*Kissimmee, Port Orange*)

If a cart in Port Orange is still removed from the property, everyone from city employees to city officers are responsible for notifying the appropriate owner of the carts when they are spotted.⁹ The cart owner, once notified, is requested to go and retrieve the shopping cart. If the owner fails to do so within twelve hours, the City staff is to collect it and place it in storage for ten days until the owner comes to claim it. After the ten days the cart becomes property of the City and it shall be disposed at the City's discretion. There was large support from business owners and the Port Orange City Council to move forward with a shopping cart ordinance. As one Councilmember said, "the ordinance is not meant to inconvenience business owners... it can prevent people from taking shopping carts but also keep carts out of ponds, lakes and wood lines in the long run".¹⁰

The cities listed in this section will either immediately send City officials to retrieve the cart or request that the shopping cart owner retrieve the carts in a certain time frame before the City proceeds to pick it up at the expense of the shopping cart owner. The use of City resources in the retrieval and storage of carts is covered through fines and expenses that are to be paid by the shopping cart owner regardless of there being a retrieval or retention plan in place.

Miami Gardens, FL

In Miami Gardens, business establishments providing shopping carts for the use of their patrons or employees can either:¹¹

- i. Construct barriers to prevent the removal of shopping carts from the business premise
- ii. Attach alarm mechanisms to shopping carts to prevent their removal
- iii. Implement a policy of not allowing the customer to exit the store with shopping carts
- iv. Provide an employee to carry or wheel the customers' merchandise to the customers' vehicles
- v. Implement a twice-weekly program of collection of their carts that are illegally removed. An affidavit from the affected business owner detailing the specific days of collection shall be submitted to the City.

Any establishment that utilizes shopping carts is required to place an identification on them providing the name, address, and phone number of the establishment. When shopping carts are identified on public property it shall be reported to the city's building and code compliance department.¹² In the event that the cart's owner is notified and they fail to remove it from the city

⁹https://librarystage.municode.com/fl/port_orange/codes/code_of_ordinances?nodeId=PTIICOOR_CH18BU_ARTXIVSHCA

¹⁰ <https://www.portorangeobserver.com/article/port-orange-ordinance-recruits-businesses-to-curb-shopping-cart-issue>

¹¹https://library.municode.com/fl/miami_gardens/codes/code_of_ordinances?nodeId=PTIICOOR_CH6BU_ARTVISHCA

¹²https://library.municode.com/fl/miami_gardens/codes/code_of_ordinances?nodeId=PTIICOOR_CH6BU_ARTVISHCA_S6-217IDSHCAFOPUPR

City of Gainesville Policy Program Preliminary Research & Analysis Abandoned Shopping Carts

right-of-way, the building and code compliance department will request that the public works department remove the cart and transport it to a county solid waste transfer site for storage purposes and notify the owner of the cart's new location.

Retrieval Plan Required

Tampa, FL

Tampa requires that each Retail Establishment submit to the City's Neighborhood Enhancement Division a specific plan to retrieve its shopping carts and include:¹³

- i. A method for retrieving all shopping carts within a one mile radius of the store at least one day per week.
- ii. A method for retrieving any and all shopping carts belonging to the retail establishment within the city limits.
- iii. Name, including the name of a contact person, address and telephone number of the retail establishment.
- iv. Name, including the name of a contact person, address and telephone number of the company implementing the retrieval plan, if other than retail establishment.

Tampa requires each retail sales establishment utilizing shopping carts to post a minimum of two signs not less than one and one-half feet by three feet in conspicuous locations on the inside of the retail sales establishment building, and a minimum of two signs not less than one and one-half feet by three feet in conspicuous locations on the outside of the retail sales establishment building. Such signs shall state the following:

"NOTICE -- It is a violation of Section 506.513, Florida Statutes to remove a shopping cart, without written authorization, from its owner or from the premises or parking area of any retail establishment." Tampa continues to enforce its comprehensive retail establishment plan requirements and in the event that shopping carts are found and retrieved, the respective contact person is notified to pick up the cart.

Fines, Penalties and Paying Costs for Abandoned Carts

Clearwater, FL

The city of Clearwater governs shopping carts in the nuisance section under Division 15 of their Code of Ordinances.¹⁴ Any abandoned shopping carts found on public property or visible from private property may be removed, impounded, and stored by the Solid Waste Department. The City then notifies the owner of the shopping cart advising that the cart should be picked up within thirty days, as at day thirty-one the cart will be disposed of in an appropriate manner. The owner of the cart can redeem it once they have paid the costs for its removal from the property it was abandoned on, paid the costs for its storage, and proven ownership or right to possession of the cart.

¹³https://library.municode.com/fl/tampa/codes/code_of_ordinances?nodeId=COOR_CH6BURE_ARTIIISPREE_DIV10SHCA

¹⁴https://library.municode.com/fl/clearwater/codes/community_development_code?nodeId=PTICODECO_ART3DEST_DIV15PRMAST_S3-1503NU

Doral, FL

Doral requires that retail establishments equip their shopping carts with identifiable signs. If the City's Code Enforcement officers and employees find shopping carts on public property they collect them and place them in storage. Afterward, Code Enforcement notifies the owner of the cart to retrieve it within five days of receipt of the notice. At the point of retrieval, the owner must pay the costs of removal and storage in the form of a fee. If not retrieved within five days, the owner pays a \$100 civil penalty for each shopping cart, which are then disposed of by Code Enforcement.¹⁵ Additionally, the owner of the shopping cart who, after being notified does not retrieve their property within the specified period, shall be liable to the code enforcement division for all costs of removal, storage and disposal of such property in the form of a fee. The fees shall be in an amount to be determined by the city manager by administrative order and approved by the city council. This helps alleviate the City's Code Enforcement Division from any costs which may be incurred from the removal and storage of a retailer's shopping carts.

Palatka, FL

Any merchant in Palatka is required to affix an identification tag to all shopping carts that include the name and address of the merchant. When carts are found left on public or private property, the respective merchant who owns the cart is held responsible. Palatka's City Code constitutes that that any shopping cart seized and impounded by the city personnel is to be sold at public auction as unclaimed property after a period of 30 days unless the owner claims the cart(s) from the city within such period and pays the sum of \$10.00 for each such cart to cover minimal retrieval cost and \$0.50 per day for the storage for each cart. In the event the owner of the cart has employed a person full-time for the specific purpose of retrieving carts removed from the owner's premises, then that owner shall be allowed to redeem the cart within the time period of 30 days for the sum of \$2.50 per cart, plus the daily storage fee.¹⁶

PRELIMINARY COST/BENEFIT ANALYSIS

Costs

- There will be a fiscal impact associated with any city effort to retrieve carts, store them, and levy fines. Some of these costs may be passed along to the owners of the carts at the time they claim them.
- There will be costs to businesses if required to install a new retention system or create a retrieval plan.

Benefits

- Reduction in numbers of abandoned shopping carts around the City

¹⁵https://library.municode.com/fl/doral/codes/code_of_ordinances?nodeId=SPAGEOR_CH26MIOF_ARTIIIS_HCA

¹⁶https://library.municode.com/fl/palatka/codes/code_of_ordinances?nodeId=PTIIMUCO_CH46OFMIPR_ARTIVSHCARE

City of Gainesville Policy Program Preliminary Research & Analysis
Abandoned Shopping Carts

- Helps in the effort of revitalizing run down areas

Expected Challenges

- Negotiations with Retailers and Establishments who own shopping carts

PRELIMINARY AND ILLUSTRATIVE LIST OF POTENTIAL STAKEHOLDERS

Anyone accessed/interviewed for information for this report

- Doral, FL Code Enforcement Division
- Clearwater FL, Code Enforcement Division
- Tampa, FL Neighborhood Enhancement Division

Potential stakeholders, partners, community and professional associations:

- Gainesville Public Works
- Gainesville Code Enforcement

RECOMMENDED POINTS FOR FURTHER RESEARCH/DISCUSSION

The city may wish to consider a fiscal analysis to determine which plan would impose the least burden on city resources.

PROPOSED TIMELINE FOR FURTHER ACTION

To be referred to the General Policy Committee at its earliest convenience for further discussion.

ADDITIONAL RESOURCES

None at this time.