

Legislative #  
190222

ORDINANCE NO. 190222

An ordinance of the City of Gainesville, Florida, amending Chapter 14.5 of the City Code of Ordinances to create Article VIII titled Shopping Carts, to regulate businesses within the City of Gainesville, Florida that provide shopping carts to customers; establishing shopping cart retention system requirements; establishing enforcement procedures; amending Section 2-339 to establish a civil citation penalty; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an effective date.

**WHEREAS**, the measures set forth in this ordinance are intended to regulate businesses which make shopping carts available to customers throughout the city;

**WHEREAS**, imposing requirements upon businesses to implement a shopping cart retention system will improve the quality of life and reduce blight by reducing the likelihood that shopping carts will be dispersed beyond the location of the business and will instead be retained on the premises, promote safety of drivers, and discourage illegal removal of shopping carts from businesses;

**WHEREAS**, this ordinance provides for an implementation period, during which this ordinance will not be enforced, allowing businesses to develop and implement a shopping cart retention system;

**WHEREAS**, at least 10 days' notice has been given once by publication in a newspaper of general circulation notifying the public of this proposed ordinance and of public hearings to be held in the City Commission Auditorium, City Hall, City of Gainesville; and

**WHEREAS**, the public hearings were held pursuant to the published notice described at which hearings the parties in interest and all others had an opportunity to be and were, in fact heard.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE  
CITY OF GAINESVILLE, FLORIDA:**

**Section 1.** The Code of Ordinances of Gainesville, Florida is hereby amended by adding  
a new Article VIII to Chapter 14.5, which article reads as follows:

**Chapter 14.5 – MISCELLANEOUS BUSINESS REGULATIONS**

**ARTICLE VIII. – SHOPPING CARTS**

**Sec. 14.5-173. - Definitions.**

Parking area means a lot or other property provided by a business for the use of  
customers to park automobiles or other vehicles while doing business in that establishment.

Shopping cart means a basket mounted on wheels or a similar device which is generally  
used in a business by a customer for the purpose of transporting goods of any kind.

**Sec. 14.5-174. - Shopping Cart Retention System.**

Every business that makes more than 10 shopping carts available to customers shall  
install and maintain a city approved retention system to retain all shopping carts within the  
premises of the business location, including any parking area the business has authority to use.  
Any business failing to implement or properly maintain a city approved retention system is in  
violation of this Article.

The retention system shall consist of the following:

(a) The business shall affix an identification sign on each shopping cart providing the  
name, address and phone number of the business.

(b) The business shall affix the following notice to all shopping carts:

**WARNING**

Any person who removes a shopping cart from the premises or parking area of the business, 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 Section 506.518, Florida Statutes.

(c) The business shall post signage in a conspicuous location notifying shopping cart users of the retention system and how such system operates;

(d) Permitted methods of retention shall include any one (1) or more of the following methods:

(1) A toll-free shopping cart recovery service system whereby any person who identifies a shopping cart outside of the premises or parking area of the business can call the number and a vehicle arranged by the business is dispatched to recover the cart;

(2) Shopping carts equipped with a protruding arm or similar device preventing the carts from being removed from the interior of the business;

(3) 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;

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

(5) Shopping carts equipped with GPS technology that is used in conjunction with a locking mechanism and/or a retrieval operation protocol, such as a shopping cart retrieval management company or retrieval by employees of the business.

**Sec. 14.5-175. - Retention system plan submission; review.**

Every business that utilizes shopping carts shall submit its shopping cart retention system plan to the city. Based upon the requirements set forth in sec. 14.5-174, the city shall approve or disapprove the plan within 15 business days of the plan being submitted and send written notice of the decision to the business. If approved, the proposed plan shall be implemented no later than 30 days after approval. If the plan is disapproved, the business shall re-submit the plan no later than 30 days after the date of its disapproval.

**Sec. 14.5-176. - Enforcement; penalties; civil citation.**

The city may enforce this article by civil citation in accordance with Division 6, Article V, Chapter 2. In addition, businesses which are not in compliance with this article shall be subject to appropriate civil action in the court of appropriate jurisdiction for injunctive relief.

**Section 2.** Section 2-339, Division 6, Article V, Chapter 3 of the Gainesville Code of Ordinances is hereby amended as set forth below. Except as amended herein, the remainder of Section 2-339 remains in full force and effect.

<u>Article VIII of Chapter 14.5</u>	<u>Failure to implement and maintain an approved shopping cart retention system</u>	<u>I</u>	<u>\$250.00</u>
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**Section 3.** It is the intention of the City Commission that the provisions of Section 1 and Section 2 of this ordinance will become and be made a part of the Code of Ordinances of the

City of Gainesville, Florida, and that the sections and paragraphs of this ordinance may be renumbered or relettered in order to accomplish such intentions.

**Section 4.** If any word, phrase, clause, paragraph, section or provision of this ordinance or the application hereof to any person or circumstance is held invalid or unconstitutional, such finding will not affect the other provisions or application of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

**Section 5.** All ordinances or parts of ordinances, in conflict herewith are to the extent of such conflict hereby repealed.

**Section 6.** This ordinance shall become effectively immediately upon adoption; however, to allow time for businesses to implement a city approved shopping cart retention system, the City will not commence enforcement of this ordinance until 8 a.m. on November 6, 2020.

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2020.

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LAUREN POE, MAYOR

Attest:

Approved as to form and legality:

\_\_\_\_\_  
OMICHELE D. GAINES,  
CLERK OF COMMISSION

\_\_\_\_\_  
NICOLLE M. SHALLEY,  
CITY ATTORNEY

This ordinance passed on first reading this \_\_\_\_ day of \_\_\_\_\_, 2020.

DRAFT

1 This ordinance passed on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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