

BILL NO. \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 12, "OFFENSES AND PENALTIES" OF THE INDEPENDENCE CITY CODE AND ADDING ARTICLE 9 OFFENSES AND PENALTIES OF SHOPPING CARTS.

WHEREAS, the City hereby finds that abandoned shopping carts constitute a nuisance, create potential hazards to the health safety of the public, and interfere with pedestrian and vehicular traffic with the City of Independence; and,

WHEREAS, the accumulation of wrecked, abandoned, and dismantled shopping carts on public or private property tends to create conditions that reduce property values and promote blight and; deterioration; and,

WHEREAS, it is deemed necessary to prevent blight and prevent the illegal removal of shopping carts from businesses; and,

WHEREAS, the City finds it is in the public interest to provide for the prompt retrieval of lost, stolen or abandoned shopping carts in order to eliminate blight and improve the image and appearance of the City; and,

WHEREAS, the City Council of the City of Independence, Missouri desires to amend Chapter 12 of the City Code to add Article 9, Offenses and Penalties of Shopping Carts.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF INDEPENDENCE, MISSOURI, AS FOLLOWS:

SECTION 1. That Article 9 of Chapter 12, Independence City Code, is hereby added to read as follows:

**ARTICLE 9. OFFENSES AND PENALTIES OF SHOPPING CARTS**

**Sec. 12.09.001. Purpose.**

**It is the purpose of this article to eliminate blight, prevent the illegal removal of shopping carts from businesses, and to improve the image and appearance of the City. The further purpose of this article is to provide prompt retrieval of lost, stolen, or abandoned shopping carts and to have the owners and operators of businesses providing shopping carts, use the best means available to deter, prevent, or mitigate the removal of shopping carts from their business premises.**

**Sec. 12.09.002. Public Nuisance.**

**Shopping carts that have been illegally removed from the premises of businesses and left abandoned on public or private property throughout the City constitute a public nuisance and a potential hazard to the health, safety, and welfare of the public; they also create conditions of blight in the community, obstruct free access to sidewalks, streets, and other public rights-of-way, interfere with pedestrian and vehicular traffic, impede emergency services, and create impediments to the flow of water in drainage systems and other waterways when abandoned within drainage culverts and easements. It is for these reasons that 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 article.**

### **Sec. 12.09.003. Definitions.**

- A. **“Shopping cart” shall mean a basket mounted on wheels or a similar device, which is generally used in a retail establishment by a customer for the purpose of transporting goods of any kind; this includes, but is not limited to, laundry and grocery carts.**
- B. **“Abandoned” means a shopping cart that is left unattended or discarded upon 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 the permission of the owner. For the purpose of this article, any shopping cart left unattended or discarded on any public property shall be presumed abandoned, and any shopping cart left unattended or discarded on any private property shall be presumed abandoned, unless the owner or occupant of the private property is:**
1. **the owner, employee, or authorized agent of the shopping cart owner, entitled to possession of said shopping cart; or**
  2. **an officer, employee, or agent of a cart retrieval service hired by the shopping cart owner to retrieve shopping carts.**
- C. **“Preventative measures” means a description of the specific measures that the business owner will implement to prevent removal of any cart from the business premises; such measures may include, but are not limited to:**
1. **electronic or other disabling devices on any cart so they cannot be removed from the business premises;**
  2. **use of courtesy clerks to accompany customers and return carts to the inside of the business premises;**
  3. **education provided to customers regarding criminal penalties associated with the removal of a cart from the premises; and**
  4. **other demonstrably effective measures likely to prevent removal of carts from the business premises.**
- D. **“Owner” means any person or entity with a business license issued by the City who owns, possesses, or has the power to make a shopping cart available to customers; this includes, but is not limited to, the store owner, store manager, on-site manager, on-duty manager, or other designated agent of a business establishment providing shopping carts for customer use.**
- E. **“Premises” means the entire area owned, rented, leased, or utilized by a business establishment that provides shopping carts for customer use, including parking areas.**
- F. **“Code Official” means any code enforcement personnel or their abatement contractor, the Municipal Services Director or their designee, or the Police Chief and their designated agents.**

### **Sec. 12.09.004. Abandoned Shopping Cart Prevention and Retrieval Plan.**

**Each retail establishment with ten (10) or more shopping carts is hereby required to develop and implement a plan to retrieve its shopping carts that are found throughout the City. All retail establishments subject to this section shall submit an Abandoned Shopping Cart Prevention and Retrieval Plan with their annual Business License renewal, pursuant to Chapter 5 of the City Code. The plan must outline effective and specific method(s) of retrieving the retail establishment’s shopping carts found throughout the City, and shall include, at a minimum, the information listed in this section.**

- A. **The owner’s name and contact information including electronic mail, telephone number, or other means of contact, physical address of the retail establishment, point of contact name(s) to report abandoned shopping carts including electronic mail, telephone number, or other means of contact.**

- B. Means to maintain shopping carts on premises during business hours, including, but not limited to, installing electronic or other disabling devices on all carts, providing shopping cart rental, providing personnel for the purpose of shopping cart collection and retrieval; such personnel may be employees of the business or independent contractors hired by the owner to provide shopping cart retrieval services, or a combination of both.
- C. Means to retrieve lost, stolen, or abandoned shopping carts off premises, including, but not limited to, providing employees of the business and/or independent contractors hired by the owner to provide shopping cart retrieval services.
- D. Means to prevent lost, stolen, or abandoned shopping carts outside of business hours, including, but not limited to, indoor locked storage and bollards and chains with locks.
- E. Notifications to the public that any unauthorized removal of a shopping cart is a violation of municipal code; said notification should be permanently affixed to the location where carts are provided to customers and to any shopping cart collection corral.
- F. Identification shall be affixed to and maintained on each shopping cart available for use by customers with the name of the retail establishment with which it is owned by or otherwise associated with.
- G. The plan shall include a communication and training program for employees and contractors of the retail establishment which addresses the Abandoned Shopping Cart Prevention and Retrieval Plan and the provisions of this article.

The Abandoned Shopping Cart Prevention and Retrieval Plan must include all information list in this section to be considered complete. Any owner who fails to submit a plan, fails to implement their proposed and approved plan, or modifies their plan without approval, shall be denied a Business License pursuant to Chapter 5 of the City Code, and shall constitute a violation of this article.

#### **Sec. 12.09.005. Enforcement.**

The provisions of this article shall be enforced by code enforcement personnel or their abatement contractor for shopping carts found to be abandoned on private property, by the Municipal Services Director or their designee for abandoned shopping carts found on rights-of-way or in drainage ditches, and by the Police Chief and their designated agents for shopping carts found to be associated with a crime. As there may be an immediate danger to the health, life, safety, and welfare of any person due to abandoned shopping carts, the Code Official shall have the power to order the recovery, abatement, or collection of such dangerous condition without a notice or hearing. The cost of the recovery, abatement, or collection shall be recovered per Section 12.09.008.

#### **Sec. 12.09.006. Prohibited, Removal, Possession, and Alteration.**

- A. A person who commits the offense of stealing property by removing a shopping cart from the premises of an owner, without the written permission of the owner or the owner's authorized agent, shall be guilty of a violation under this article.
- B. A person who has, in their possession, any shopping cart with serial numbers removed, obliterated, or altered, with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart, shall be guilty of a violation under this article.
- C. A person who has, in their possession, any shopping cart while that cart is not located on the premises or parking lot of a retail establishment, with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart, shall be guilty of a violation under this article.

- D. A person who alters, converts, or tampers with a shopping cart, including removing any part or portion thereof, or removes, obliterates, or alters serial numbers on a cart, with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart, shall be guilty of a violation under this article.

**Sec. 12.09.007. Right of Entry.**

The Code Official, as allowed by law, is authorized to enter upon any property or premises to ascertain whether the provisions of this article are being complied with, and to make any examinations as may be necessary in the performance of their enforcement duties. If an owner, tenant, occupant, agent, or other responsible party refuses to grant permission to enter or inspect a property or premises for compliance with this article, then the City may seek a warrant pursuant to applicable laws.

**Sec. 12.09.008. Abatement.**

The Code Official shall have the authority to abate any abandoned shopping cart on public or private property, other than from the property of the shopping cart owner, as allowed by law and pursuant to this article. The recovery of the abatement costs shall be processed as outlined in City Code Section 4.01.010.

**Secs. 12.09.009—12.09.999. Reserved.**

SECTION 2. That all other parts and provisions of the City Code shall be in full force and effect unless previously or subsequently amended or repealed.

SECTION 3. That correction of any scrivener's errors identified within these articles are hereby authorized by this ordinance.

PASSED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022, BY THE CITY COUNCIL OF THE CITY OF INDEPENDENCE, MISSOURI.

\_\_\_\_\_  
Presiding Officer of the City Council  
of the City of Independence, Missouri

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED - FORM AND LEGALITY:

\_\_\_\_\_  
City Counselor

REVIEWED BY:

---

City Manager

**NOTE: Words struck through and bolded are being removed by this ordinance and words underscored and bolded are being added by this ordinance.**