



Legislation Details (With Text)

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Title: A substitute ordinance relating to the abandonment of shopping carts.

Sponsors: ALD. LEWIS, ALD. BAUMAN

Indexes: NUISANCES, SUPERMARKETS

Attachments: 1. Hearing Notice List, 2. Cermak Fresh Market, 3. Letter from El Family Market, 4. Roundy's Supermarkets, Inc., 5. Piggly Wiggly Midwest LLC, 6. Shopping Cart Ordinance 2017, 7. Lisbon Foods, Inc DBA Sentry Foods, 8. Menards, Inc., 9. pic 1, 10. pic 2, 11. pic 3, 12. pic 4, 13. El Rey Mexican Products - Nelson Lang, 14. Notice Published on 2-22-18

| Date | Ver. | Action By | Action | Result | Tally |
|------------|------|------------------------------------|---------------------------|--------|-------|
| 9/26/2017 | 0 | COMMON COUNCIL | ASSIGNED TO | | |
| 10/24/2017 | 1 | CITY CLERK | DRAFT SUBMITTED | | |
| 11/20/2017 | 1 | PUBLIC SAFETY AND HEALTH COMMITTEE | RECOMMENDED FOR PASSAGE | Pass | 5:0 |
| 11/28/2017 | 1 | COMMON COUNCIL | AMENDED | Pass | 15:0 |
| 11/28/2017 | 2 | COMMON COUNCIL | ASSIGNED TO | Pass | 15:0 |
| 1/5/2018 | 1 | PUBLIC SAFETY AND HEALTH COMMITTEE | HELD TO CALL OF THE CHAIR | Pass | 5:0 |
| 1/5/2018 | 1 | PUBLIC SAFETY AND HEALTH COMMITTEE | SUBSTITUTED | Pass | 4:0 |
| 1/25/2018 | 2 | PUBLIC SAFETY AND HEALTH COMMITTEE | SUBSTITUTED | Pass | 3:0 |
| 1/25/2018 | 2 | PUBLIC SAFETY AND HEALTH COMMITTEE | RECOMMENDED FOR PASSAGE | Pass | 3:1 |
| 1/26/2018 | 2 | CITY CLERK | Sponsor added | | |
| 2/6/2018 | 3 | COMMON COUNCIL | SUBSTITUTED | Pass | 15:0 |
| 2/6/2018 | 4 | COMMON COUNCIL | PASSED | Pass | 11:4 |
| 2/15/2018 | 4 | MAYOR | SIGNED | | |
| 2/22/2018 | 4 | CITY CLERK | PUBLISHED | | |

170927
SUBSTITUTE 4

ALD. LEWIS AND BAUMAN
110-36 rc

A substitute ordinance relating to the abandonment of shopping carts.

This ordinance:

1. Retains stipulations of the current code concerning shopping carts including:
 - a. Each shopping cart shall be marked with the name and address of the provider.
 - b. Removing shopping carts from the provider's premises, and possessing or abandoning shopping carts off premises, is prohibited.
 - c. The department of public works shall retrieve and transport abandoned shopping carts to the city's self-help center, and carts become city property if unclaimed after 5 days at the self-help center.
2. Sets the maximum penalty for shopping carts removed from the owner's premises, and the possession or abandonment of a shopping cart off the cart provider's premises, at \$500 for each offense. Current code stipulates a \$500 maximum for the first offense, and a \$5,000 maximum for subsequent offenses.
3. Provides abandoned shopping carts may be returned to the cart provider by the department of public works, at the departments sole discretion, rather removed to the City's self-help center.
4. Stipulates a graduated penalty per shopping cart retrieved or returned by the department of public works beginning a \$50 per cart to a maximum of \$250 depending on the number of carts retrieved or returned in a year.
5. Requires that a cart provider providing 25 or more carts to the public implement anti-theft measures to prevent removal of shopping carts from the cart provider's premises after 100 retrievals or returns of abandoned carts by department of public works. The penalty for not implementing anti-theft measures is set at \$250 to \$1,000 per unprotected shopping cart.

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 110-36 of the code is repealed and recreated to read:

110-36. Shopping Cart Management.

1. FINDINGS. The common council finds abandoned shopping carts blight neighborhoods, reduce property values, obstruct pedestrian and vehicular traffic in the public rights-of-way, and constitute a hazard to the health, safety, and general welfare of the city.
2. DEFINITIONS. In this section:
 - a. "Abandoned shopping cart" means an unattended shopping cart on any public street, alley, sidewalk, or other public or private way within the city other than the cart provider's premises.
 - b. "Cart provider" means any business establishment that provides 25 or more shopping carts for use by patrons.
 - c. "Cart provider's premises" means the area maintained or managed by a cart provider for the conduct of business, including buildings, parking areas, storage .areas and adjacent walkways.
 - d. "Shopping cart" means a basket of any size, mounted on wheels, rollers or similar devices, provided by a cart provider for transporting merchandise of any kind on the cart provider's premises.
3. CART IDENTIFICATION AND POSTING.
 - a. The cart provider's name and premises address shall be securely attached to, or marked in a conspicuous place, upon each shopping cart provided for customers, or within 5 business days of the purchase of a new or a replacement shopping cart.
 - b. The cart provider shall post or cause to be posted a copy, or a summary, of sub. 4 and sub. 8-a in a conspicuous place within the cart provider's premises.
4. CART REMOVAL, POSSESSION OR ABANDONMENT.
 - a. No person shall remove, or cause to be removed, a shopping cart from the cart provider's premises without express permission of the cart provider.
 - b. No person shall be in possession of a shopping cart beyond the boundaries of the cart provider's premises without express permission of the cart provider.

- c. No person shall abandon or leave unattended a shopping cart upon any public street, alley, sidewalk, or other public or private way within the city other than the cart provider's premises.
5. ANTI-THEFT MEASURES. If the department of public works retrieves or returns 100 or more shopping carts provided by a single cart provider within 12 months under sub. 7, the cart provider shall implement one of the following anti-theft measures to prevent shopping cart removal from the cart provider's premises:
- a. Equip all carts with devices to disable and render inoperable any cart removed from the cart provider's premises.
 - b. Require a security deposit for the use of each shopping cart, refundable upon return of the shopping cart to a designed area on the cart provider's premises.
 - c. Install of bollards, chains, fences of other physical measures to prevent the removal of shopping carts from the cart provider's premises.
 - d. Assign personnel employed directly or indirectly by the cart provider to be primarily responsible for preventing removal of shopping carts from the cart provider's premises.
6. SHOPPING CART RETURN. Each cart provider shall make reasonable efforts to promptly return to its premises any abandoned shopping cart removed from the cart provider's premises.
7. DISPOSITION OF ABANDONED SHOPPING CARTS. Any abandoned shopping cart not promptly returned to its premises by the cart provider shall be, at the sole discretion of the department of public works, be deposited of in one of the following manners:
- a. Retrieved by the department of public works, and transported to the city self-help center. Carts not claimed at the city's self-help center within 5 days shall be the property of the city of Milwaukee. A reasonable attempt shall be made by the department retrieving and transporting an abandoned shopping cart to notify the cart provider of the shopping cart's abandonment at the time of retrieval, or within 5 days of the shopping cart's transport to the city self-help center.
 - b. Returned by the department of public works to the premises of the cart provider.
8. PENALTIES. a. Removal, Possession or Abandonment. Any person who violates sub. 4 shall forfeit not less than \$25 nor more than \$500 for each offense, and in default of payment thereof, be imprisoned as provided by law.
- b. Cart Retrieval or Return. For each shopping cart retrieved or returned in a calendar year by the department of public works under sub. 7, a cart provider shall incur the following forfeiture:
 - b-1. \$50 for the first through the 25th shopping cart.
 - b-2. \$100 forfeiture for the 26th through the 50th shopping cart.
 - b-3. \$150 forfeiture for the 51st through the 100th shopping cart.
 - b-3. \$250 forfeiture for the 101st and all subsequent shopping carts.
 - c. Failure to Identify Carts. A cart provider shall forfeit not less than \$250 nor more than \$1,000 per shopping cart retrieved by the department of public works under sub. 7 without proper identification as provided under sub. 3-a, and in default of payment thereof, be imprisoned as provided by law.
 - d. Failure to Implement Anti-theft Measures. Any cart provider who violates sub. 5 shall, upon conviction, forfeit not less than \$250 nor more than \$1,000 per shopping cart unprotected by an anti-theft measure, and in default of payment thereof, be imprisoned as provided by law.

APPROVED AS TO FORM

Legislative Reference Bureau

Date: _____

IT IS OUR OPINION THAT THE ORDINANCE

IS LEGAL AND ENFORCEABLE

Office of the City Attorney

Date: _____

LRB #170018 - 3

Aaron Cadle

February 6, 2018