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ORDINANCE NO.2005-11

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, CREATING A SECTION ENTITLED "SHOPPING CARTS," TO PROVIDE REGULATION OF SHOPPING CARTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the failure to regulate shopping carts often results in carts being abandoned in City rights-of-way and on roadways; and

WHEREAS, the City Council of the City of Doral considered the recommendation of the City Administration and finds that the recommendation to create a section regulating shopping carts is in the best interests of its citizens; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA:

Section 1. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption.

Section 2. That a Section of the Municipal Code of the City of Doral, entitled "Shopping Carts," is hereby created to read as follows:

Sec. . Shopping Carts.

(a) Shopping cart identification sign required for retail establishments. Every retail sales establishment which utilizes shopping carts, as defined by Florida 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 one hundred dollars (\$100.00).

(b) Procedure for handling identifiable shopping carts found on public property.

(1) Employees and officers of the City of Doral shall be deemed agents of the City of Doral and any identifiable shopping carts found by them on public property during the

1 course of their official duties shall be reported to the Code Enforcement Division. The Code
2 Enforcement Division shall collect the shopping carts and place them in storage.

3
4 (2) The Code Enforcement Division shall provide reasonable notice within a
5 reasonable period of time to the owner of the shopping cart as designated on the shopping cart's
6 identification sign to retrieve the property. Said notice shall be sent by certified mail, return
7 receipt requested.

8
9 (3) The owner of the shopping cart shall have five (5) days from receipt of the
10 notice to retrieve the property. Upon retrieval of the property, the owner shall pay all costs of
11 removal and storage in the form of a fee as set forth in subsection (6) below.

12
13 (4) The owner's failure to retrieve the property within the time stated in the notice
14 shall constitute a violation and result in a civil penalty of one hundred dollars (\$100.00). Each
15 unclaimed shopping cart shall be deemed a separate violation.

16
17 (5) The owner of the shopping cart who, after notice as provided in this section,
18 does not retrieve such property within the specified period shall be liable to the Code
19 Enforcement Division for all costs of removal, storage and disposal of such property in the
20 form of a fee as set forth in subsection (6) below.

21
22 (6) The fees shall be in an amount to be determined by the City Manager by
23 Administrative Order and approved by the City Council.

24
25 (7) If the shopping cart is not claimed by the owner within the time specified in this
26 section, the title to such property shall vest in the City of Doral and shall be disposed of by the
27 Code Enforcement Division.

28
29 (c) Procedure for handling identifiable shopping carts found on public property. All
30 unidentifiable shopping carts found on public property shall be handled in accordance with Chapter
31 705, Florida Statutes, as amended from time to time.

32
33 (d) The Code Enforcement Division is delegated the authority to enforce this section.

34
35 (e) Notice of penalties for removal of shopping carts.

36
37 (1) Every retail sales establishment which utilizes shopping carts, as defined by
38 Section 506.501(10), Florida Statutes, in the operation of its business shall affix the following
39 notice to all such carts and at the exits of the retail establishment which shall be clearly legible
40 in the English and Spanish language and shall state the following:

41
42 WARNING

43
44 Any person who removes a shopping cart from the premises
45 of the owner, or is in the possession of any shopping cart,

1 shall be presumed to be in possession of stolen property and
2 is guilty of a misdemeanor of the first degree, punishable by
3 a term of imprisonment of up to one (1) year as provided by
4 Sections 506.509 and 506.513, Florida Statutes.

5
6 (2) Any establishment desiring an exemption from this section shall file a petition
7 for exemption and enclose an appropriate application fee to be determined by the City
8 Manager. A petition for an exemption from the requirements of this section may be granted by
9 the Director of the Code Enforcement Division to any retail establishment which:

10
11 (i) Constructs barriers to prevent the removal of shopping carts; or

12
13 (ii) Attaches alarm mechanisms to shopping carts to prevent their removal;
14 or

15
16 (iii) Implements a policy of not allowing the customer to exit the store with
17 shopping carts, provides an employee to carry or wheel the customer's
18 merchandise to the customer's vehicle, and agrees to implement a program to
19 collect their own carts that are illegally removed.

20
21 (3) If any subsection, sentence, clause or provision of this section is held invalid,
22 the remainder of this section shall not be affected by such invalidity.

23
24 (4) This section shall become effective sixty (60) days after the date of enactment.

25
26 Section 3. Severability.

27 If any section, sentence, clause or phrase of this Ordinance is held to be invalid or
28 unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the
29 validity of the remaining portions of this Ordinance.

30 Section 4 Inclusion in Code.

31 It is the intention of the City Council of the City of Doral that the provisions of this Ordinance
32 shall become and be made a part of the City of Doral Code of Ordinances; and that the sections of this
33 Ordinance may be renumbered or re-lettered and the word "ordinance" may be changed to "section,"
34 "article," or such other appropriate word or phrase in order to accomplish such intentions.

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Section 5. Repeal of Conflicting Ordinances.

All prior ordinances or resolutions or parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

Section 6. Effective Date.

This Ordinance shall become effective immediately upon its passage and adoption.

The foregoing Ordinance was offered by Vice Mayor Cabrera who moved its adoption. The motion was seconded by Councilman Van Name and upon being put to a vote, the vote was as follows:

Mayor Juan Carlos Bermudez	yes
Vice Mayor Pedro Cabrera	yes
Councilman Michael DiPietro	absent
Councilwoman Sandra Ruiz	absent
Councilman Robert Van Name	yes

PASSED AND ADOPTED on first reading this 11th day of May, 2005.

The foregoing Ordinance was offered by Councilman Van Name who moved its adoption. The motion was seconded by Vice Mayor Cabrera and upon being put to a vote, the vote was as follows:

Mayor Juan Carlos Bermudez	yes
Vice Mayor Pedro Cabrera	yes
Councilman Michael DiPietro	yes
Councilwoman Sandra Ruiz	yes
Councilman Robert Van Name	yes

If any section, part of section, paragraph, clause, phrase or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

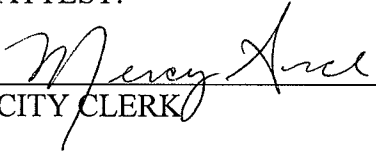
PASSED AND ADOPTED on second reading this 8thth day of June, 2005.

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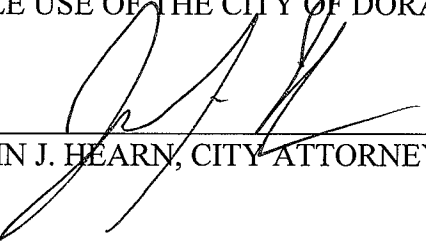
JUAN CARLOS BERMUDEZ, MAYOR

ATTEST:



CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE CITY OF DORAL:



JOHN J. HEARN, CITY ATTORNEY