

ORDINANCE NO. 2015-23

AN ORDINANCE AMENDING CHAPTER 95, NUISANCES, OF THE CODE OF ORDINANCES OF THE CITY OF BALCONES HEIGHTS, TEXAS, BY ADDING AN ARTICLE, SHOPPING CARTS, REGULATING THE USE OF SHOPPING CARTS WITHIN THE CITY OF BALCONES HEIGHTS, AND PROVIDING A REPEALER CLAUSE, A SEVERABILITY CLAUSE, A PUBLICATION CLAUSE, A PENALTY CLAUSE, AND AN EFFECTIVE DATE.

WHEREAS, the City Council finds that damaged, dismantled, and/or abandoned shopping carts on public or private property create conditions that reduce property values, promote blight and deterioration within the City's neighborhoods; and

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

WHEREAS, the City Council hereby finds that regulating the use of shopping carts is in the best interest of the City and will promote the health and welfare of the citizens of Balcones Heights and the general public;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BALCONES HEIGHTS, TEXAS, THAT:

Section I. Chapter 14, Offenses - Miscellaneous, of the Code of Ordinances of the City of Balcones Heights is hereby amended by adding the following article to read as follows:

SHOPPING CARTS

Sec. 95.50 Definitions.

In this article:

Shopping cart means a basket, which is mounted on wheels or a similar device, generally used in a retail establishment by a customer to transport goods of any kind.

Abandoned shopping cart means any unattended shopping cart removed from a business establishment's premises, which is located on public property for a period greater than twelve (12) hours.

Owner means any person or entity within a business establishment who owns or provides shopping carts for customer use. Owner includes, but is not limited to, the store owner, manager, on-site manager, on-duty manager, or other designated agent of a business establishment.

Premises means the entire area owned or otherwise utilized by the business establishment that provides shopping carts for use by its customers, including any parking area and pedestrian access-way between a street right-of-way and the establishment. For a business establishment that is part of a shopping center or shopping complex, "premises" shall include all business establishments in the shopping area center or complex and all areas used by the customers of those businesses in common, including all parking areas designated for use by the customers of the shopping center or complex.

Sec. 95.51 Offense.

It shall be unlawful to leave or abandon a shopping cart at a location other than the premises or parking area of the retail establishment that owns the shopping cart.

Sec. 95.52 Requirements.

Every owner of a business establishment providing shopping carts to its customers must post signs at all entrances to the parking areas, in both English and Spanish, and in a conspicuous place near the business establishment's exit doors, informing customers that cart removal from the premises is prohibited and constitutes a violation of State and local law.

Sec. 95.53 Retrieval and impoundment by the city.

The City of Balcones Heights may retrieve and impound any abandoned shopping cart located on public property.

A shopping cart recovered by the City of Balcones Heights will be released to the owner, or his designee, upon payment to the city of a recovery fee of \$75 per shopping cart.

Sec. 95.54 Disposal of abandoned shopping carts.

Shopping carts impounded shall be held for a period not more than thirty (30) days to allow for retrieval by the owner or his designee.

Shopping carts not reclaimed by the owner within thirty (30) days of impoundment shall be sold or disposed of by the City of Balcones Heights.

Sec. 95.55 Enforcement Authority.

The City Administrator or his designee(s) shall have the authority and powers necessary to determine whether a violation of this chapter exists and to take appropriate action to gain compliance with the provisions of this chapter and applicable state codes.

Sec. 95.56 Penalty.

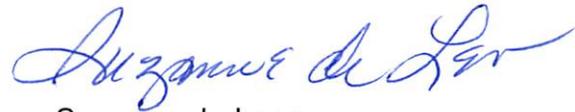
Any person violating any provision of this article shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed \$2,000. Every day a violation continues shall constitute a separate offense.

Section II. All provisions of the Ordinances of the City of Balcones Heights, codified or uncodified, in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Balcones Heights, codified or uncodified, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

Section III. It is the intention of the City Council that this Ordinance, and every provision thereof, shall be considered severable, and the invalidity or unconstitutionality of any section, clause, provision or portion of this Ordinance shall not affect the validity or constitutionality of any other portion of this Ordinance.

Section IV. This Ordinance shall become effective immediately upon its passage and publication as required by law.

PASSED, APPROVED AND ADOPTED in Balcones Heights, Texas this the 16th day of November, 2015.



Suzanne de Leon
M a y o r

ATTEST:



Delia Flores, TRMC
City Secretary

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