

**CITY OF BELLMEAD
ORDINANCE 2023-08**

AN ORDINANCE OF THE CITY OF BELLMEAD, TEXAS AMENDING CHAPTER 11 – MISCELLANEOUS PROVISIONS AND OFFENSES TO ADD ARTICLE XIII. SHOPPING CARTS TO ESTABLISH REGULATIONS; PROVIDE FOR PENALTY; PROVIDING FOR REPEALING, SAVINGS, AND SEVERABILITY CLAUSES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Bellmead, Texas (“City Council”) has investigated and determined that it would be advantageous and beneficial to the citizens of the City of Bellmead, Texas (“City”) in promoting the public health, safety, and welfare of the citizens by adopting an ordinance regulating shopping carts; and,

WHEREAS, the abandonment of shopping carts is an issue of concern to the City of Bellmead and its citizens because the problem impacts every sector of the City; and,

WHEREAS, the City Council believes that such abandoned shopping carts constitute a nuisance, creates potential hazards to the health and safety of the public and interferes with pedestrian and vehicular traffic; and,

WHEREAS, the abatement of these abandoned shopping carts places a financial burden on both the City and retail establishments therein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLMEAD, TEXAS:

SECTION 1

Sec. 11-200. Definitions.

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. Abandoned shopping carts will be assumed to be the property of the retail business geographically closest to the cart's collection point based on logos, branding, and/or retailer's name.

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. 11-201. Offense.

- a) A person commits an offense if he possesses a shopping cart at a location other than the premises of the retail establishment that owns the shopping cart.
- b) 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.
- c) It is a defense to the prosecution under Subsection (a) above that the person was the owner, employee, or agent of the retail establishment that owns the shopping cart and was delivering, retrieving, or returning the shipping cart to the retail establishment.

Sec. 11-202. Requirements.

- a) Every owner of a business establishment providing shopping carts to customers should affix to the shopping cart a durable, all-weather, and legible decal identifying the name, address, and telephone number of the retail establishment. The decal must also state the following in legible letters:

IT IS AN OFFENSE PUNISHABLE BY A FINE OF UP TO \$500 TO
POSSESS THIS SHOPPING CART AT A LOCATION OTHER
THAN ON THE PREMISES OF THE RETAIL ESTABLISHMENT
THAT OWNS THIS SHOPPING CART"

- b) 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. 11-203. Retrieval and impoundment by the city

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

A shopping cart recovered by the City of Bellmead will be released to the owner, or his designee, upon payment to the city of a recovery fee as set forth in Appendix B – fee schedule.

Sec. 11-204. 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 Bellmead.

Sec. 11-205. Enforcement authority.

The city manager 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. 11-206. Penalty.

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

SECTION 2

That all provisions of the ordinances of the City of Bellmead in conflict with the provisions of this Ordinance be, and the same are hereby, repealed, and all other provisions of the ordinances of the City of Bellmead not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 3

That should any sentence, paragraph, subdivision, clause, phrase, or section of this Ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this Ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal, or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

SECTION 4

That an offense committed before the effective date of this Ordinance is governed by prior law and the provisions of the Code of Ordinance, as amended, in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 5

That this Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such cases provide.

PASSED AND APPROVED ON FIRST READING AUGUST 8, 2023.

PASSED AND APPROVED ON SECOND READING SEPTEMBER 12, 2023.

PASSED AND APPROVED ON THIRD AND FINAL READING SEPTEMBER 12, 2023.

THE CITY OF BELLMEAD, TEXAS

BY: J. Neal
Jasmine Neal, Mayor

ATTEST:

Holly Owens
Holly Owens, City Secretary



APPROVED AS TO FORM AND LEGALITY:

[Signature]
City Attorney



Regular 9/12/2023

Item # 9K

CCM/O 2023-08

CITY COUNCIL MEMORANDUM FOR ORDINANCE

Prepared By: Holly Owens

Approval: Yousry Zakhary

Shopping Carts

DESCRIPTION:

Consider **Ordinance 2023-08**; Amending Chapter 13 – Nuisances; Creating Article V. – Shopping Carts; Setting regulations; Creating Article X. – Enforcement, Abatement, and Removal; Providing severability; and providing for an effective date.

BACKGROUND:

The abandonment of shopping carts is an issue of concern to the City of Bellmead and its citizens because the problem impacts every sector of the City. The abandoned shopping carts constitute a nuisance, creates potential hazards to the health and safety of the public, and interferes with pedestrian and vehicular traffic. The abatement of these abandoned shopping carts places a financial burden on both the City and retail establishments. The first reading was held on August 8, 2023, and was approved unanimously, 6-0. This will be the second and final reading, if approved it will become effective immediately.

FISCAL IMPACT / FUNDING SOURCE:

Code Enforcement efforts will be offset by a \$75.00 retrieval fee paid by the retailers if they reclaim their carts.

STAFF RECOMMENDATION:

Staff recommends approval of **Ordinance 2023-08**; Amending Chapter 13 – Nuisances; Creating Article V. – Shopping Carts; Setting regulations; Creating Article X. – Enforcement, Abatement, and Removal; Providing severability; and providing for an effective date.

ATTACHMENT(S):

Ordinance 2023-08