

ORDINANCE NO. 2011-10112011

AN ORDINANCE OF THE CITY OF COCKRELL HILL, TEXAS AMENDING THE CODE OF ORDINANCES BY ADDING A NEW CHAPTER 98, ENTITLED “SHOPPING CARTS;” BY ESTABLISHING REGULATIONS CONCERNING THE USE OF SHOPPING CARTS WITHIN THE CITY COCKRELL HILL; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY FOR VIOLATION OF THIS ORDINANCE NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Cockrell Hill, Texas (“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 hazard to the health and safety of the public, and interfere with pedestrian and vehicular traffic;

WHEREAS, pursuant to Texas Local Government Code, Section 51.001, the City Council is authorized to adopt an ordinance that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, pursuant to Texas Local Government Code, Section 51.012, the City Council is authorized to adopt an ordinance, not inconsistent with state law, which the City Council considers necessary for the government, interest, welfare or good order of the City; 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 Cockrell Hill, Texas and the general public.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COCKRELL HILL, TEXAS, THAT:

Section 1. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein of Cockrell Hill Code of Ordinances be, and the same is, hereby amended by adding a new Title X, Chapter 98, entitled “Shopping Carts,” which shall read as follows:

“CHAPTER 98 SHOPPING CARTS

§ 98.01 Purpose

It is the intent of the City to prohibit damaged, dismantled, and/or abandoned shopping carts on public or private property which have the effect of creating conditions that reduce property values, promote blight and deterioration within the City’s neighborhoods. The City Council hereby finds that such shopping carts constitute a nuisance, create potential hazard to the health and safety of the public, and interfere with pedestrian and vehicular traffic.

§ 98.02 Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

SHOPPING CART means a basket, which is mounted on wheels or a similar device, generally intended for use by a customer of a business establishment to transport goods of any kind within the premises of the retail establishment.

ABANDONED SHOPPING CART means any unattended shopping cart removed from the premises of a business establishment and which is located on public or private property.

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

PREMISES means the entire area owned or otherwise utilized by a business establishment that provides shopping carts intended for use by customers of the business establishment, including any parking area and pedestrian access-ways between a street right of way and the establishment. For a business establishment that is part of a shopping center or shopping complex, the 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.

§ 98.03 OFFENSE.

It shall be unlawful for any person to leave or abandon a shopping cart at a location other than the premise of the retail establishment that owns or provides the shopping cart.

§ 98.04 REQUIREMENTS.

An owner of a business establishment providing shopping carts to its customers may, without obtaining a sign permit, post signs in both English and Spanish that inform customers that the removal of a shopping cart from the premises is prohibited, constitutes a violation of the ordinances of the City of Cockrell Hill, Texas and is punishable of a fine not to exceed \$500.00 per offense. Signs may be posted at each entrance to the premise and in a conspicuous place near the business establishment's entrance/exit doors.

§ 98.05 RETRIEVAL AND IMPOUNDMENT BY THE CITY.

The City may retrieve and impound any abandoned shopping cart located on public or private property other than the premises of the business that owns or provided the shopping cart. A shopping cart recovered by the City will be released to the owner, or his designee upon payment to the city of a recovery fee of \$50.00 per shopping cart.

§ 98.06 DISPOSAL OF ABANDONED SHOPPING CARTS.

Shopping carts impounded shall be held for a period as determined by the City Administrator or his designee for a period of 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.

§ 98.07 ENFORCEMENT AUTHORITY.

The City Administrator or his designee 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 any applicable state statutes."

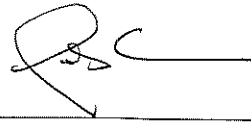
Section 2. If any section, article paragraph, sentence, clause, phrase or word in this Ordinance, or application thereto any persons or circumstances is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance; and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 3. That all provisions of the Ordinances of the City of Cockrell Hill, Texas, in conflict with the provisions of this ordinance be, and the same are hereby amended, repealed, and all other provisions of the Ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

Section 4. Any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court of the City of Cockrell Hill, Texas, shall be punished by a fine not to exceed the sum of Five Hundred Dollars (\$500.00) for each offense. Every day a violation occurs shall constitute a separate offense.

Section 5. This Ordinance shall become effective from and after its date of passage and publication in accordance with law.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF COCKRELL HILL, TEXAS ON THIS THE 11TH day of October, 2011.



Luis Carrera, Mayor
City of Cockrell Hill, Texas

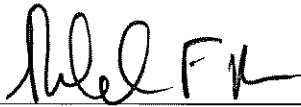
ATTEST:



Hector Saenz, City Administrator
City of Cockrell Hill, Texas

[SEAL]

APPROVED AS TO FORM:



Robert F. Brown, City Attorney
City of Cockrell Hill, Texas