MEMORANDUM

MSC
Agenda Item No. 1G2

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: November 12, 2015

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Ordinance amending Section 8A-76 of the Code, requiring construction of barriers or use of security devices to prevent theft of shopping carts; amending Section 8CC 10 of the Code, providing penalties for failure to comply with Section 8A-76 of the Code

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Senator Javier D. Souto.

R. A. Cuevas, Jr.
County Attorney

RAC/cp

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Memorandum

MIAMI-DADE COUNTY

Date:

To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Ordinance Requiring Construction Of Barriers Or Use Of Security Devices To Prevent Theft Of Shopping Carts; Providing Penalties For Failure To Comply

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The proposed ordinance regarding Uniform Trade Standards and Code Enforcement amends section 8A-76 and 8CC-10 of the code of Miami-Dade County to require that every retail sales establishment which utilizes shopping carts in the operation of its business and has more than fifteen (15) shopping carts on site shall construct barriers, or utilize shopping carts with wheel locking mechanisms in conjunction with an electronic barrier along the perimeter of the property of the retail sales establishment, or utilize alarm mechanisms or other security devices affixed to the shopping carts to prevent the removal of shopping carts from the property of the retail sales establishment or shopping center. Petitions for exemption from the requirements of Section 8A-76 (a), (b), and (c) will no longer be accepted. In addition, it amends schedule of civil penalties by removing the civil penalty of $100.00 for failure of a retail establishment to retrieve shopping cart from Public Works and Waste Management Department, per shopping cart (sec. 8A-76.1 (B)) and adding a civil penalty of $250.00 for failure of retail establishment to install barriers or anti-theft mechanisms or devices to prevent the removal of shopping carts (sec. 8A-76(d)).

The current fee for seeking the exemption under 8A-76 is $63.00 for one location and $31.00 for additional store locations. This fee is paid only once to secure the exemption, and no additional fees are collected for maintaining the exemption. Regulatory and Economic Resources Department generally sees one (1) to five (5) applications per year. Since the adoption of the original ordinance in 1996, a total of approximately 215 exemptions have been issued. The bulk of those exemptions were applied for and issued in that same year. Hence, the adoption of this ordinance will result in a minimal loss of revenue.

Additionally, the level of enforcement activity that this ordinance will create cannot be determined presently and therefore, the precise fiscal impact cannot be determined at this time.

Jack Osterholt
Deputy Mayor

Fls00316

MEMORANDUM

(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: December 1, 2015

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No.

Please note any items checked.

	"3-Day Rule" for committees applicable if raised
✓	**6 weeks required between first reading and public hearing**
✓	**4 weeks notification to municipal officials required prior to public hearing**
	Decreases revenues or increases expenditures without balancing budget
	Budget required
	Statement of fiscal impact required
✓	**Statement of social equity required**
	Ordinance creating a new board requires detailed County Mayor's report for public hearing
	No committee review
	Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve
	Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor

Veto _____

Override _____

Agenda Item No. 4(D)

9-1-15

ORDINANCE NO. _____

ORDINANCE AMENDING SECTION 8A-76 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; REQUIRING CONSTRUCTION OF BARRIERS OR USE OF SECURITY DEVICES TO PREVENT THEFT OF SHOPPING CARTS; AMENDING SECTION 8CC-10 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, PROVIDING PENALTIES FOR FAILURE TO COMPLY WITH SECTION 8A-76 OF THE CODE; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Section 8A-76 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:[1]

Sec. 8A-76. Notice of penalties for removal of shopping carts.

(a) Shopping cart identification sign required for retail establishments. Every retail sales establishment which utilizes shopping carts, as defined by F.S. § 506.502(10), 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.

(b) Every retail sales establishment which utilizes shopping carts, as defined by Florida Statutes, Section [[~~506.501(10)~~]]>>506.502(10)<<, in the operation of its business shall affix the following notice to all such carts

[1] Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

which shall be clearly legible in the English, Spanish and Creole languages and shall state the following:

WARNING

Any person who removes a shopping cart from the premises of the owner, or is in the possession of any shopping cart, shall be presumed to be in possession of stolen property and is guilty of a misdemeanor of the first degree, punishable by a term of imprisonment of up to one (1) year as provided by Sections 506.509 and 506.513 of the Florida Statutes.

(c) Every owner of a stand-alone retail sales establishment which utilizes shopping carts or owner of a shopping center in which one or more of the retail sales establishments utilizes shopping carts, as defined by Florida Statutes, Section 506.502(10), in the operation of its business shall post signs at the entrance(s) and exit(s) of its parking area(s) which shall be clearly legible in the English, Spanish and Creole languages and which shall provide, in substantial form, the information required in Section 8A-76(b). As an alternative, universal language signs designed to convey the warning required in Section 8A-76(b) may be used.

(d) [[~~Any establishment desiring an exemption from Section 8A-76(a), (b) and (c) shall file a petition for exemption and enclose an appropriate application fee to be determined by the County Manager. A petition for an exemption from the requirements of this section may be granted by the Director of the Consumer Services Department to any retail establishment which:~~]] >>Every retail sales establishment which utilizes shopping carts, as defined by Florida Statutes, Section 506.502(10), in the operation of its business and has more than fifteen (15) shopping carts on-site shall, no later than January 1, 2016:<<

(1) Construct[[~~s~~]] barriers to prevent the removal of shopping carts >>from the property of the retail sales establishment or shopping center<<, while permitting full wheelchair ingress and egress by disabled persons; or

(2) [[~~Attaches~~]] >>Utilize<< [[~~to the~~]] >>shopping carts with wheel locking mechanisms in conjunction with an electronic barrier along the perimeter of the property of the retail sales establishment or shopping center; or

(3) Utilize<< alarm mechanisms or other security devices >>affixed<< to >>the<< shopping carts to prevent their removal from the property[[~~of the retail sales establishment or shopping center~~]].

(e) Failure to abide by Section 8A-76(a), (b)>>,<< [[~~or~~]] (c)>>, or (d)<< shall constitute a violation and result in a civil penalty as provided in chapter 8CC. >>Each day of violation or noncompliance shall constitute a separate offense. Violators may also be subject to injunction or other equitable relief to enforce compliance with or prohibit the violation of the Code.<< Nothing herein shall make illegal the removal of a shopping cart with the consent or permission of the owner of the shopping cart.

Section 2. Section 8CC-10 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 8CC-10. Schedule of civil penalties.

The following table shows the sections of this Code, as they may be amended from time to time, which may be enforced pursuant to the provisions of this chapter; and the dollar amount of civil penalty for the violation of these sections as they may be amended.

The "descriptions of violations" below are for informational purposes only and are not meant to limit or define the nature of the violations or the subject matter of the listed Code sections, except to the extent that different types of violations of the same Code section may carry different civil penalties. For each Code section listed in the schedule of civil penalties, the entirety of that section may be enforced by the mechanism provided in this Chapter 8CC, regardless of whether all activities proscribed or required within that particular section are described in the "Description of Violation" column. To determine the exact nature of any activity proscribed or required by this Code, the relevant Code section must be examined.

Code Section	Description of Violation	Civil Penalty
* * *		
8A-76(a)	Failure of retail establishment to display identification on shopping carts	100.00
8A-76(b) & (c)	Failure of retail establishment to post warning notices on carts or at entrances or exits	100.00
[[~~8A-76.1(B)~~]]	[[~~Failure of a retail establishment to retrieve shopping cart from Department of Solid Waste Management, per shopping cart~~]]	[[~~100.00~~]]
>>8A-76(d)<<	>>Failure of retail establishment to install barriers or anti-theft mechanisms or devices to prevent the removal of shopping carts<<	>>250.00<<
* * *		

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 5. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency: APW

Prepared by: DS

David Sherman

Prime Sponsor: Senator Javier D. Souto