Cumberland Town Council

Ordinance 2019-23

Shopping Cart Policy

Whereas, the Cumberland Town Council seeks to promote the health, safety, and welfare of the Town and its citizens; and

Whereas, due to numerous businesses located in or near the Town, a significant number of shopping carts are removed from businesses and abandoned on or near public streets, sidewalks, right-of-way or other public areas; and

Whereas, the presence of abandoned shopping carts and/or baskets creates safety hazards to the public and interferes with pedestrian and vehicular traffic; and

Whereas, the Town Council finds that is in the best interest of the Town, and its citizens, to create a new section of the Town of Cumberland Code of Ordinance to prohibit individuals from improperly using, removing, or abandoning shopping carts on public property and to ensure that business owners take measures to prevent the removal and misuse of shopping carts and/or baskets from its business site.

Therefore, it is ordained, that a new section, §00-11-113, of the Town Code shall be added to create a shopping cart policy. This new section shall read as written in Exhibit A.

It is further ordained that this ordinance shall become effective December 1, 2019.

It is further ordained that all other provisions of the Town Code which is not specifically amended by this ordinance shall remain in full force and effect.
Cumberland Town Council:

Joe Siefker, President

Anna Pea, Vice President

Nicole Bell, Member

Aaron Cutshaw, Member

Brian Gritter, Member

Attest:

Erica Salmon, Clerk-Treasurer
Exhibit A

“§00-11-113-01 Shopping Cart and Basket Policy

(A) Shopping Cart and Basket Identification. Every shopping cart or basket owned or provided by any business owner shall have a sign permanently affixed to the cart or basket that contains the following information:
(1) The identity of the owner or business;
(2) Notification to the public that the removal of a cart from the premises is a violation of Town of Cumberland local law; and
(3) The address and phone number of the owner of the business for cart return.

(B) Signage. Every business that owns or provides shopping carts and baskets for the use of its customers within the Town shall post conspicuous signs at or near each entrance to its parking lot and public entrance door to its business which notifies all patrons that the removal of shopping carts and baskets from the premises without authorization is prohibited.

(C) Abandonment Prohibited. It shall be unlawful for any person to cause or permit a shopping cart or basket to be abandoned on or upon any sidewalk, street, right-of-way, other public area, or upon private property, other than the premises of business owner’s property from which the shopping cart or basket originated.

(D) Removal Prohibited. It shall be unlawful for any person, either temporarily or permanently, to remove a shopping cart or basket from the business premises, or be in possession of a shopping cart or basket that has been removed from a business premises without the written consent of the business owner. This section does not apply to shopping carts removed from the premises by the business owner.

(E) Return or Disposal of Shopping Carts and Baskets by the Town. If a shopping cart or basket is located on a public street, roadway, sidewalk, right-of-way or other public area the Town of Cumberland, or its designee, will return it to the identified owner. Any cart or basket abandoned on a public street, roadway, sidewalk, right-of-way or other public area which is not identifiable as required
by this section shall be removed from the property and disposed of by the Town or its designee.

(F) **Declaration of Nuisance.** Abandoned or removed shopping carts and baskets located on either public or private property in violation of section (C) and (D) are hereby declared a nuisance.

(G) **Penalty.**

(1) Any owner or business who violates a provision of this chapter shall be subject to a fine of $30.00 per violation. After a cumulative total of 10 violations in a calendar year, any owner or business who violates a provision of this chapter will be subject to a fine of $60.00 per violation.

(2) Any person who violates the provisions of this policy shall be subject to a fine of $20 for each violation;

(3) The fines detailed in section (1) and (2) are nonexclusive remedies. Violations of this chapter may be enforced as a nuisance pursuant to the Town of Cumberland Code Book and Zoning Ordinance.

(H) **Notice of Fine; Appeal; Payment of Fine; Collection.**

(1) In the event the Town Manager determines that a violation of this section has occurred, the Town Manager will deliver to the violator a fine citation. This citation will either be delivered personally to the violator or mailed to the violator.

(2) All fines are payable to the Clerk-Treasurer's Office within 30 days of the date of the fine citation.

(3) The violator has 10 days from the date of the issuance of the fine citation to appeal the citation to the Town Council. The violator must file a written appeal with the Clerk-Treasurer. This appeal must state the reasons the violator believes that the fine is in error.

(4) Upon receiving the appeal, the Clerk-Treasurer will notify the Town Council of the appeal. The Town Council will conduct a hearing on the appeal within 14 days of the Clerk-Treasurer's receipt of the appeal and will provide to the appellant written notice of the appeal hearing. This
notice must be mailed to the appellant at the address provided by the appellant at least seven days prior to the appeal hearing.

(5) At the hearing on the appeal, the appellant may be represented by an attorney, may present evidence supporting the appeal, and may cross examine witnesses called by the Town Manager in support of the denial or revocation.

(6) Within 10 days of the hearing, the Town Council will make written findings and conclusions and mail the same to the appellant and the Town Manager.

(7) Either the Town Manager or the appellant may appeal the decision of the Town Council by filing an appeal with a court of competent jurisdiction within 30 days of the Town Council’s decision.

(8) If the violator fails to pay the fine within 30 days of the issuance of the citation, or 30 days from the date of the Town Council’s decision if an appeal is filed, the Town Manager will refer the matter to the Town Attorney for collection. If the matter is referred to the Town Attorney for collection, the violator is liable to the Town of Cumberland for all court costs, filing fees, and reasonable attorney’s fees incurred by the Town in the collection of the fine and those expenses incurred by the Town in conjunction with any appeal.”