

City of Tarpon Springs, Florida STAFF REPORT

January 16, 2019

TO: MAYOR & BOARD OF COMMISSIONERS

FROM: PLANNING AND ZONING DEPARTMENT

HEARING DATES: JANUARY 22, 2019 (BOARD OF COMMISSIONERS) 1ST READING
FEBRUARY 12, 2019 (BOARD OF COMMISSIONERS) 2ND READING

SUBJECT: APP-18-122 ORDINANCE 2019-01 AN ORDINANCE OF THE CITY OF TARPON SPRINGS, FLORIDA AMENDING CHAPTER 8 HEALTH AND SANITATION BY ADOPTING ARTICLE V SHOPPING CARTS ON PUBLIC PROPERTY; PROVIDING FOR RETRIEVAL PLAN, IDENTIFICATION OF SHOPPING CARTS, SIGNAGE, REMOVAL AND STORAGE OF SHOPPING CARTS, AND PENALTIES AND REMEDIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR MODIFICATION THAT MAY ARISE AT PUBLIC HEARING; AND PROVIDING FOR AN EFFECTIVE DATE

I. STAFF RECOMMENDATION

Staff recommends approval of Ordinance 2019-01.

II. BACKGROUND

The City has seen an increasing number of stray shopping carts within the City's right of ways. The attached ordinance addresses a new process to require shopping cart owners to have management plans in place to retrieve stray shopping carts. In the event a shopping cart is found within the City's right of way the ordinance authorizes the use of the code enforcement process to ensure compliance. This ordinance is consistent with Florida Statute 506.

The ordinance was reviewed at a Technical Review Committee meeting on November 29, 2018 and was then circulated to shopping carts owners with the city limits. At this time the City has received no comment on the proposed ordinance.

List of Exhibits:

- 1) Ordinance 2019-01



City of Tarpon Springs, Florida

DEVELOPMENT SERVICES DEPARTMENT
PLANNING AND ZONING DIVISION
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(727) 942-5611
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Date: 11/29/2018

TECHNICAL REVIEW COMMITTEE (TRC) MINUTES

PROJECT NAME: City of Tarpon Springs

FILE NUMBER: 18-122

APPLICATION TYPE: Ordinance

PROJECT DESCRIPTION: Shopping Carts

PROPERTY LOCATION:

PARCEL ID / TAX ID NO.:

TRC MEETING DATE: 11/29/2018

TRC REVIEW RESULTS: Your project was reviewed by the City of Tarpon Springs Technical Review Committee on the above referenced date. The following items have been identified for your review and response:

- Additional information required from applicant.
- Redlined plans enclosed.
- See Member Comments below.
- Submit revised plans per enclosed redlines or department comments. Four full sets of revised plans will be required for staff's off-line review.

TRC MEMBER COMMENTS

PLANNING & ZONING REVIEW COMMENTS:

APPROVE DENY DEFER SEE BELOW NO COMMENTS

INITIALS: HU/PM

FIRE DEPARTMENT REVIEW COMMENTS:

APPROVE DENY DEFER SEE BELOW NO COMMENTS

INITIALS: RK

BUILDING DEVELOPMENT REVIEW COMMENTS:

APPROVE DENY DEFER SEE BELOW NO COMMENTS

INITIALS: KP

POLICE DEPARTMENT REVIEW COMMENTS:

APPROVE DENY DEFER SEE BELOW NO COMMENTS

INITIALS: JU

PUBLIC SERVICES REVIEW COMMENTS:

APPROVE DENY DEFER SEE BELOW NO COMMENTS

INITIALS: FF/RP

PUBLIC WORKS REVIEW COMMENTS:

APPROVE DENY DEFER SEE BELOW NO COMMENTS

INITIALS: TF

- Include Public Works number and Code of Ordinances to party on notification of pickup.

PROJECT ADMINISTRATION DEPARTMENT

APPROVE DENY DEFER SEE BELOW NO COMMENTS

INITIALS: NM

PLANNING AND ZONING BOARD REVIEW

TRC review is complete and your project is scheduled for Planning and Zoning Board on the following date _____

Your project remains unscheduled for Planning and Zoning Board because revised plans or additional information is required.

Planning and Zoning Board review is not required for this project.

BOARD OF ADJUSTMENT REVIEW AND FINAL ACTION (VARIANCES ONLY)

- Your project is scheduled for BOA review on the following date:_____
- Your project remains unscheduled for BOA because additional information is required (see previous page).
- Board of Adjustment review is not required for this project.

BOARD OF COMMISSIONER REVIEW AND FINAL ACTION

- Your project is scheduled for review and final action by the Board of Commissioners on the following date(s): 1/22/2019 & 2/12/2019
- Your project remains unscheduled for Board of Commissioners because revised plans or additional information is required.
- Board of Commissioner review is not required for this project.

HERITAGE PRESERVATION BOARD REVIEW AND FINAL ACTION (CERTIFICATES OF APPROVAL ONLY)

- Your project is scheduled for HPB review on the following date:_____
- Your project remains unscheduled for HPB review because additional information is required (see above).
- Heritage Preservation Board review is not required for this project.

REQUIRED ACTION OF THE APPLICANT

Please review any checked items above and provide any additional required information. Your project will not be scheduled for Planning and Zoning Board, Board of Adjustments or Board of Commission review until all required information or revised plans are provided. If no additional information is required, your project should be scheduled for the next applicable meeting, if sufficient time is available to meet required advertising deadlines (generally at least 21 days).

If TRC comment sheets are attached, please follow up with the department who made the comments. The reviewing individual from each City department is responsible for notifying this department when any and all plan corrections have been made or any conditions that have been established for approval of the project.

Please keep in mind that the Planning & Zoning Division has a 90-day suspense from the date of the TRC review for the submission of revisions/additional information. If revised plans/additional information are not submitted within the above referenced time frame, the application will be considered to be "EXPIRED" and a new application will have to be submitted.

If you have questions concerning any of the above information, please do not hesitate to contact the Planning Division for assistance.

Cc: Subject File – 18-122
Applicant – City of Tarpon Springs

ORDINANCE NO. 2019-01

AN ORDINANCE OF THE CITY OF TARPON SPRINGS, FLORIDA AMENDING CHAPTER 8 HEALTH AND SANITATION BY ADOPTING ARTICLE V SHOPPING CARTS ON PUBLIC PROPERTY; PROVIDING FOR RETRIEVAL PLAN, IDENTIFICATION OF SHOPPING CARTS, SIGNAGE, REMOVAL AND STORAGE OF SHOPPING CARTS, AND PENALTIES AND REMEDIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR MODIFICATION THAT MAY ARISE AT PUBLIC HEARING; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, The Board of Commissioners identified abandoned shopping carts as being one of the primary contributors to visual pollution and general untidiness of both public and private properties as well as a potentially significant safety hazard; and,

WHEREAS, the City of Tarpon Springs deems it to be in the best interest of the health, safety, and welfare of its citizens to provide for regulation of shopping carts to enhance the aesthetic appearance of the City, and to prevent any potential pedestrian hazards; and,

WHEREAS, local retail establishments need to be held more accountable for the retrieval and maintenance of their shopping carts;

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the City of Tarpon Springs, Florida:

Section 1. That the Tarpon Springs, Florida Code of Ordinances is hereby amended by addition Article V. titled Shopping Carts on Public Property and adding sections to be renumbered 8-96 through 8-102, which said Article and sections will read as follows:

ARTICLE V SHOPPING CARTS ON PUBLIC PROPERTY

§8-96. - DEFINITIONS

Shopping cart. As defined in F.S. § 506.502, means a basket mounted on wheels or a similar device which is generally used in a retail establishment by a customer for the purpose of transportation of goods of any kind.

§8-97. - RETRIEVAL PLAN.

- A. Each retail establishment furnishing shopping carts to patrons to transport items purchased from the establishment, is hereby required to develop and implement a specific plan to retrieve its shopping carts that are found throughout the City of Tarpon Springs. Two (2) or more retail establishments may collaborate and submit to the City a single plan.
- B. Plans must be submitted to the City of Tarpon Springs, Code Enforcement Division, within sixty (60) days of the effective date of this Article, and must include the following:

- 1) A method for retrieving any and all shopping carts belonging to the retail establishment within the City limits; and
 - 2) Name, including the name of a contact person, address and telephone number of the retail establishment; and
 - 3) Name, including the name of a contact person, address and telephone number of the company implementing the retrieval plan, if other than retail establishment.
- C. The retail establishment may request permission from the City's Code Enforcement Division to employ at least two of the following methods in lieu of the required retrieval plan:
- (1) A physical barrier or barriers may be installed, such as bollards, which restrict shopping carts to the main or primary entryway of the business;
 - (2) Shopping carts may be equipped with protruding devices, arms or similar devices, which operate to prohibit the cart from being removed from the interior of the business establishment;
 - (3) A system may be used, which may be mechanical in nature, requiring a monetary deposit which is of a reasonable amount such that it does not deter usage of the cart but encourages return of the cart and allows for a refund of the deposit; or
 - (4) A shopping cart wheel-locking system may be used in conjunction with an electronic barrier along the perimeter of the business establishment premises; such a system causes the shopping cart wheels to lock when the cart approaches or crosses the barrier location by activating the electronic barrier.

§8-98. - PLAN SUBMISSION AND REVIEW.

- A. The City shall determine whether a retail establishment's plan for retrieving its shopping carts submitted pursuant to this Article is reasonably calculated to result in the prompt removal of the retail establishment's shopping carts found within the City limits.
- B. Based upon the above-referenced criteria, the City shall approve, reject or modify a plan within sixty (60) days of when the plan is submitted.
- C. If the plan is approved or approved with modifications, the plan shall be implemented no later than thirty (30) days after approval.
- D. If the plan is rejected, the retail establishment shall modify the plan to address the deficiencies and resubmit it to the City no later than thirty (30) days after the date of its rejection.

§ 8-99. - IDENTIFICATION OF SHOPPING CARTS.

Within sixty (60) days of the effective date of this Article , each retail establishment that utilizes shopping carts in the operation of its business shall affix on each shopping cart, and maintain thereon, information identifying the name, address and telephone number to call for shopping cart retrieval.

§8-100. - POSTING OF SIGN.

Within sixty (60) days of the effective date of this Article, each retail sales establishment that utilizes shopping carts in the operation of its business shall post a minimum of two (2) signs not less than one and one-half (1½) feet by three (3) feet in conspicuous locations on the inside of the retail sales establishment building and a minimum of two (2) signs not less than one and one-half (1½) feet by three (3) feet in conspicuous locations on the outside of the retail sales establishment building and are exempt from the City's sign regulations. Such signs shall state the following:

"NOTICE — It is a violation of Section 506.513, Florida Statutes to remove a shopping cart, without written authorization, from its owner or from the premises or parking area of any retail establishment."

§8-101. - REMOVAL AND PROCEDURES FOR STORAGE BY PUBLIC WORKS DEPARTMENT.

The Public Works Department shall remove and place into storage, shopping carts found on public property.

- 1) Any unidentifiable shopping carts found on public property shall be handled as lost and abandoned property. Notwithstanding any provision or subsections to the contrary, no retrieval, storage or similar fee may be charged to the shopping cart owner except to the extent permitted by Florida law; such prohibition shall not preclude the City from enforcing, or pursuing remedies for the violation of, the provisions of this Article.

§8-102. - Penalties and remedies.

A person who violates any provision of this Article shall be subject to the following penalties and/or remedies:

- 1) Violations of this Article may be punished as provided in Section 1-8.
- 2) Each day that a violation continues after receipt of a written notice of such violation shall constitute a separate violation and a separate offense for the purposes of penalties and remedies specified herein.
- 3) In addition to the penalties and remedies above, the City may institute any appropriate action or proceedings to prevent, restrain, correct or abate a violation of this Article, as provided by law.

Section 2. SEVERABILITY

The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 3. INCLUSION IN THE CODE

The Board of Commissioners intends that the provisions of this ordinance shall become and shall be made part of Chapter 8, by creating Article V, Section 8-96, Section 8-97, Section 8-98, Section 8-99, Section 8-100, Section 8-101, and Section 8-102 of the Code of Ordinances of the City of Tarpon Springs, that the sections of this ordinance may be re-numbered or re-lettered and that the words ordinance may be changed to section, article or other such appropriate word or phrase in order to accomplish such intentions.

Section 4. MODIFICATIONS THAT MAY ARISE AT PUBLIC HEARING

The Board of Commissioners intends that any minor modification that arise at public hearing shall be incorporated into this Ordinance.

Section 6. EFFECTIVE DATE

This ordinance shall become effective as provided by Florida Law.