

**BOROUGH OF MOUNT POCONO  
MONROE COUNTY, PENNSYLVANIA**

**ORDINANCE NO. 6 2022**

**AN ORDINANCE AMENDING THE CODE OF THE BOROUGH OF MOUNT POCONO TO ADD A NEW CHAPTER 163 TO  
BE ENTITLED "SHOPPING CARTS"**

**THE INTENT OF THIS ORDINANCE IS TO SET FORTH REGULATIONS TO ENSURE THAT REASONABLE MEASURES  
ARE TAKEN BY OWNERS OF BUSINESSES THAT PROVIDE SHOPPING CARTS ON THEIR PREMISES FOR THE  
CONVENIENCE OF THEIR CUSTOMERS TO PREVENT THE REMOVAL OF SHOPPING CARTS FROM BUSINESS  
PREMISES AND PARKING LOTS, AND, WHEN REMOVED DESPITE THE OWNER'S IMPLEMENTATION OF ITS  
CONTROL PLAN, TO PROVIDE FOR THE PROMPT RETRIEVAL OF SUCH SHOPPING CARTS**

**AND;**

**TO MAKE REMOVAL OF SHOPPING CARTS A VIOLATION OF THE LAW, AND TO FACILITATE THE RETRIEVAL OF  
ABANDONED SHOPPING CARTS IN A MANNER THAT SUPPLEMENTS AND COMPLEMENTS STATE LAW, BUT  
IS NOT PREEMPTED WITH STATE LAW.**

**Chapter 163  
Article I  
"SHOPPING CARTS"**

**§ 163-1 DEFINITIONS.**

The definitions set forth herein shall govern the application and interpretation of this chapter.

**ABANDONED SHOPPING CART**

Any shopping cart that has been removed, without written consent of the owner, from the owner's business premises and is left unattended or discarded on either public or private property other than the premises of the business establishment from which the shopping cart was removed. For purposes of this chapter, any shopping cart which is properly identified as required by this chapter, located on any public or private property other than the premises of the retail business establishment from which the shopping cart was removed, shall be presumed to be abandoned, even if in the possession of any person unless such person in possession is either the owner, employee or agent of the owner, the owner, employee or agent of a shopping cart retrieval service hired to retrieve shopping carts from the Borough, or has written permission or consent to be in possession of the shopping cart from the shopping cart's owner.

**BOROUGH**

The Borough of Mount Pocono, Monroe County, Pennsylvania.

**OWNER**

Any person or entity who, in connection with the conduct of a business, owns, leases, possesses or makes a shopping cart available to customers or the public.

**PREMISES**

The entire area owned, occupied, and/or utilized by an owner which provides shopping carts for use by customers or other persons, including any parking lot or other property provided by or on behalf of the owner for customer parking or use.

**SHOPPING CART**

A basket which is mounted on wheels or a similar device generally used in a retail or commercial establishment by a customer for the purpose of transporting goods of any kind. The word "shopping cart" includes laundry carts, which are shopping carts used in a laundromat or retail dry-cleaning establishment by a customer or attendant for the purpose of transporting textile goods.

**§ 163-2 PURPOSE.**

- A. Many retail establishments provide shopping carts for the convenience of customers while shopping on the establishment's premises. However, shopping carts removed from the premises of these establishments and left abandoned on public or private property throughout the Borough constitute a public nuisance and a potential hazard to the health and safety of the public. The proliferation of

lost, stolen, wrecked or abandoned shopping carts on public and private property:

- (1) Creates conditions that reduce property values, and promote blight and deterioration of the Borough neighborhoods, tending to lead to declining property values and increases in crime;
  - (2) Obstructs the free passage along public and private streets, sidewalks, parking lots and other rights of way and/or interfere with pedestrian and vehicular traffic on streets;
  - (3) Impedes emergency services; and
  - (4) Clogs storm drain channels reducing their ability to function properly, by trapping debris and trash and thereby creating flooding hazards, and constitute violation of the Borough's waste discharge requirements.
- B. For these reasons, such lost, stolen, wrecked or abandoned shopping carts are hereby declared to be a public nuisance, which shall be subject to abatement in the manner set forth in this chapter or in any other manner provided by law.

**§ 163-3 APPLICABILITY; PROHIBITION.**

- A. This chapter shall apply to all owners of business establishments or other commercial services within the Borough that provide shopping carts for customer use.
- B. It shall be unlawful for an owner and/or owner's agent to cause or permit any shopping cart to be abandoned upon any sidewalk, street or other public place in the Borough or upon any private property other than the premises owner of such shopping cart.
- C. It shall be unlawful for any person:
- (1) To remove a shopping cart from a premises, either temporarily or permanently, which is properly marked in conformity with this chapter, without written consent of the owner;
  - (2) To be in possession of a shopping cart that has been removed from a premises, which is properly marked in conformity with this chapter, without written consent of the owner; or
  - (3) To detach the sign or deface the name or address marked on a sign, which is properly marked in conformity with this chapter.
  - (4) This section does not apply to shopping carts removed as authorized by the owner for the purposes of repair, maintenance or disposal.

**§ 163-4 REQUIREMENTS.**

**A. IDENTIFICATION.**

- (1) Every shopping cart owned or provided by any owner must have a sign, label or imprinted logo permanently affixed to the shopping cart that clearly identifies the owner and/or the owner's business establishment, the address of said establishment for shopping cart return, a return phone number that can be contacted to request shopping cart retrieval by the owner, and a warning notification that it is illegal to remove carts from the premise.
- (2) Any shopping cart found without the above required identification and information may be removed and disposed of by the Borough in accordance with state law.
- (3) No owner shall provide any shopping cart for customer use that does not contain the information described in this section.

**B. RECOVERY.**

- (1) Any owner or employees of the owner must immediately recover, upon sight or notice, any shopping cart that is not contained within the parking area on the premises of the establishment providing the shopping cart for customer use. Notice of an abandoned shopping cart may be provided verbally or in written form by a Borough official or by any person witnessing the occurrence. Owners must recover carts that are located anywhere in the Borough including, but not limited to:
  - (a) Shopping carts located on a street, alley or right-of-way;
  - (b) Shopping carts located in stormwater conveyance or ponding areas; and/or
  - (c) Shopping carts located on sidewalks or private property.



- (2) Owners must ensure that uncontained shopping carts are located and recovered by conducting a search and recovery of nearby property, neighborhoods and areas of frequent shopping cart accumulation at least once every seven calendar days.
- (3) Owners must establish a written schedule and/or plan for shopping cart control and be able to produce said schedule/plan at the request of any Borough official authorized to enforce the provisions in this chapter.

#### § 163-5 IMPOUNDMENT.

The Zoning/Code Enforcement Officer or other designated Borough employee shall have the authority to retrieve and impound abandoned shopping carts located outside the premises of a business establishment.

#### § 163-6 VIOLATIONS AND PENALTIES.

- A. The owner of any cart impounded by the Borough pursuant to § 163-5 shall be liable for the Borough's actual costs of retrieval and storage, as the Borough Council may adopt by resolution from time to time relating to enforcement of this Ordinance. In addition, the Borough may fine the owner of an impounded cart as per fee schedule.
- B. Any shopping cart not recovered within 15 calendar days of the Borough giving notice of impoundment will be recycled and/or disposed of by the Borough at the owner of the shopping cart's expense, plus payment of the shopping cart recovery fee, to be paid within 30 calendar days upon receipt of the billing from the Borough.
- C. In addition, any merchant who shall fail to properly tag or identify shopping carts or shall permit the removal of any shopping cart as set forth in § 163-4 hereof, and any person who shall remove any shopping cart from the premises of any merchant in violation of § 163-3B hereof and any person who shall abandon any shopping cart upon any public place in violation of § 163-3C hereof shall be subject to prosecution before any District Justice of the Borough and, upon conviction of any violation of any section of this chapter, shall pay a fine of not more than \$600, plus the cost of prosecution, and in default of payment of such fines and costs shall be subject to imprisonment for not more than 30 days. Each shopping cart which shall have been found to have been in violation of this chapter shall constitute a separate violation of the provisions of this chapter.

#### §163-7 SEVERABILITY AND VALIDITY.

If any section, subsection, paragraph, or sentence of the Ordinance, or any part thereof, is for any reason found to be unconstitutional, invalid or beyond the authority of the Mount Pocono Borough by a court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance.

#### §163-8 EFFECTIVE DATE.

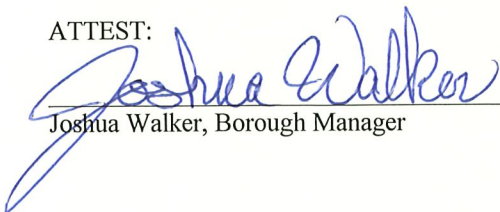
This Ordinance shall become effective immediately upon adoption. Existing businesses must comply with §163-4 within 60 days of the effective date of this chapter, unless for good cause shown by an Owner, in the absolute discretion of the Zoning Officer.

#### ADOPTION

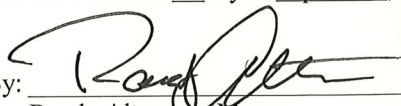
ORDINANCE ORDAINED AN ENACTED this 6<sup>th</sup> of September, 2022, by the Borough Council of the Borough of Mount Pocono, Monroe County, Pennsylvania.

By:   
Donald Struckle, Council President

ATTEST:

  
Joshua Walker, Borough Manager

APPROVED this 6<sup>th</sup> day of September, 2022

By:   
Randy Altemose, Mayor

