

From: **Su, Lynn** <Lynn.Su@citynmb.com>

Date: Thu, Jul 23, 2026, 9:45 AM

Subject: Fw: City of North Miami Beach Shopping Cart Ordinance - Second Letter

To: Joseph Geller <joseph.geller@gmlaw.com>

Cc: Williams, Darvin <Darvin.williams@citynmb.com>, Bernard, Andrise

<Andrise.Bernard@citynmb.com>, Bankole, Sol <Sol.Bankole@citynmb.com>, Plotkin, Andrew

<Andrew.Plotkin@citynmb.com>, Collazo, Jorge <Jorge.Collazo@citynmb.com>

Attorney Geller,

I am forwarding the attached email and formal notice received from the Florida Retail Federation (FRF) regarding the City of North Miami Beach's Shopping Cart Ordinance (Code Chapter IX, § 9-39).

While this ordinance was brought forward at the direction of a commissioner, it was drafted by your office and reviewed for legal sufficiency. As our chief legal advisor, I am writing to formally request your legal analysis and guidance to ensure the City is protected from immediate legal liability resulting from this text.

The attached correspondence points to a January 21, 2026, Florida Attorney General Opinion which explicitly cites North Miami Beach Code Chapter IX § 9-39 (Footnote 14) as an unlawful local ordinance preempted by Section 506.5131, Florida Statutes. Furthermore, the FRF cites Section 57.112, Florida Statutes, which mandates that local governments pay attorney fees, court costs, and damages when enforcing preempted ordinances.

We cannot take a wait-and-see approach while sitting on an invalid ordinance until retail owners file suit. Waiting for litigation to force our hand guarantees completely avoidable taxpayer-funded legal expenses, statutory attorney fee awards, and damages against the City.

Because your office prepared this ordinance and holds the duty to maintain legal sufficiency, I am requesting that you clarify the following in writing:

1. Legal Sufficiency Review: Has your office re-evaluated Chapter IX, § 9-39 in light of the Attorney General's January 2026 opinion and Section 506.5131, Florida Statutes? What is your legal assessment of the ordinance's validity?
2. Current Enforcement Status: Is the City Manager or Code Enforcement currently enforcing this ordinance, requiring shopping cart retention plans, or assessing any fees, fines, or costs against local businesses under § 9-39?
3. Liability Exposure: Under Section 57.112, Florida Statutes, does continuing to maintain this ordinance expose the City to financial risk or mandatory attorney fee liabilities if challenged in court?
4. Immediate Corrective Action Plan: What is the timeline for your office to draft a proposed repeal or amendment to bring to the Commission, and will you advise the City Manager to immediately suspend enforcement in the interim?

Thank you for your prompt attention to this matter. I look forward to your written response so the administration can take the necessary corrective steps before avoidable litigation occurs.

Sincerely,

Commissioner Su

Lynn Su | Commissioner
Mayor & Commission
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