

ORDINANCE NO. 2008 - _____

1 AN ORDINANCE OF THE BOARD OF COUNTY
 2 COMMISSIONERS OF BROWARD COUNTY, FLORIDA,
 3 RELATING TO RETAIL ESTABLISHMENTS; ADDING
 4 SECTIONS TO CHAPTER 21 OF THE BROWARD
 5 COUNTY CODE OF ORDINANCES CREATING THE
 6 RETAIL ESTABLISHMENT PARKING SECURITY
 7 ORDINANCE; PROVIDING FINDINGS; DEFINING
 8 "RETAIL ESTABLISHMENT" AND "RETAIL
 9 ESTABLISHMENT PARKING AREA"; PROVIDING FOR
 10 APPLICABILITY THROUGHOUT BROWARD COUNTY;
 11 REQUIRING CERTAIN RETAIL ESTABLISHMENT
 12 PARKING AREAS TO BE EQUIPPED WITH SPECIFIC
 13 SECURITY DEVICES; PROVIDING FOR COMPLIANCE
 14 DATES; ~~PROVIDING FOR LICENSES~~; PROVIDING FOR
 15 ENFORCEMENT; AMENDING SUBSECTION 8½-16(f) OF
 16 THE BROWARD COUNTY CODE OF ORDINANCES TO
 17 PROVIDE CIVIL PENALTIES; PROVIDING FOR
 18 SEVERABILITY; PROVIDING FOR INCLUSION IN THE
 19 CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

(Sponsored by Commissioner Josephus Eggelletion, Jr.)

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA:

[UNDERLINING IN SECTION 1 OMITTED]

Section 1. Chapter 21 of the Broward County Code of Ordinances, entitled "Miscellaneous Offenses and Provisions," is hereby amended to add the following sections:

Section 21-170. Title. This article may be cited as the "Retail Establishment Parking Security Ordinance."

Section 21-171. Findings. The Board of County Commissioners ("Board") finds that many retail establishment parking areas are at risk for robbery and other crimes. The Board further finds that certain minimum security requirements are helpful in protecting the store employees and the consumer public from robbery and injury, and

1 that the provisions of this article are most beneficial to areas where death, serious
2 injury, or sexual battery occurs during the commission of a theft or robbery at a retail
3 establishment.

4 **Section 21-172. Definition.** As used in this article, the term "retail
5 establishment" means ~~any place of business that is engaged in the retail sale of goods~~
6 ~~or services or both, and a shopping center or stand-alone drugstore as defined herein.~~

7 "Shopping center" means a group of retail stores or other businesses operating from
8 property of at least four (4) acres and having a building or buildings which contain a
9 minimum of 25,000 square feet which is designed, built, or managed as a unit; and
10 which is generally open to the public for the purpose of promoting business or
11 commercial interests by sales of goods or services, or both. "Stand-alone drug store"

12 means any business operating from a building that is not structurally attached to
13 another building, which has a retail pharmacy, and sells at retail more than twenty (20)
14 consumer products. †The term "retail establishment parking area" means the motor

15 vehicle parking areas available to customers or employees of a retail establishment.

16 "Retail establishment" shall not include facilities or premises of a governmental entity,

17 shall not include pari-mutuel establishments, and shall not include "convenience

18 businesses" as defined under Section 812.171, Florida Statutes, as may be amended

19 from time to time, that are required to comply with Sections 812.173 and 812.174,

20 Florida Statutes.

21 **Section 21-173. Applicability.** This article shall be effective throughout
22 Broward County, including within municipalities in Broward County.

23 **Section 21-174. Security devices and measures.** The person or entity in
24 control of a retail establishment parking area or the owner of a retail establishment

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1 parking area shall provide, operate, and maintain at each such retail establishment
2 parking area the following security devices and measures:

3 (a) A security camera video system operating twenty-four (24) hours a day,
4 seven (7) days a week, covering the entire retail establishment parking area, that shall
5 retain images and shall be capable of retrieving recorded images for at least thirty (30)
6 calendar days after recording to assist in the identification and apprehension of persons
7 who commit crimes. The video surveillance system must be capable of delineating on
8 playback of the system the activity and physical features of persons or areas within the
9 premises; and

10 (b) ~~A lighted retail establishment parking area illuminated at an intensity of two~~
11 ~~(2) foot-candles per square foot with a uniformity ratio of no more than five (5) to one (1)~~
12 ~~at eighteen (18) inches above the surface;~~

13 (b) Lighting shall be installed and operated in conformance with any and all
14 applicable zoning codes and regulations which would sufficiently enable the proper
15 functioning of the security cameras and equipment.

16 **Section 21-175. Compliance Dates.** ~~Any retail establishment parking area~~
17 ~~in existence on the effective date of this Ordinance, or which begins operation within~~
18 ~~two (2) weeks thereof, shall be in compliance with the requirements of the Ordinance~~
19 ~~within one hundred twenty (120) days from the effective date of the Ordinance, and any~~
20 ~~retail establishment parking area which begins operating more than two (2) weeks from~~
21 ~~the effective date of this Ordinance shall be in compliance with the requirements of this~~
22 ~~Ordinance on the first day of business.~~ (a) Dates. Any retail establishment parking
23 area designated for customer or employee use, or use by both, which is in existence on
24 the effective date of this Ordinance, or which begins operation within two (2) weeks

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1 thereof, shall be in compliance with the requirements of the Ordinance within one
2 hundred ~~twenty eight~~ (120) (180) days from the effective date of the Ordinance, and
3 any retail establishment parking area which begins operating more than two (2) weeks
4 from the effective date of this Ordinance shall be in compliance with the requirements of
5 this Ordinance on the first day of business.

6 b. Inspections and access to media. Retail establishments shall be subject
7 to random inspections and such inspections shall be performed by either the Broward
8 County Sheriff's Office or through a contract with municipal law enforcement agencies.
9 If a crime occurs or if an employee believes a crime has occurred, the retail
10 establishment shall immediately contact the appropriate law enforcement agency stated
11 above and provide immediate access to the recorded event to the appropriate law
12 enforcement agency. Images obtained by the security camera video system may be
13 released only to the following:

- 14 1. Law Enforcement;
- 15 2. The Public Defender, other criminal defense attorney, or an investigator
16 appointed by the Court to assist a pro se criminal defendant;
- 17 3. The State Attorney;
- 18 4. The Attorney General of the State of Florida; and
- 19 5. An authorized representative of any of the above.

20 **~~Section 21-176. Licenses.~~**

- 21 ~~(a) General.~~
- 22 ~~(1) A license shall be issued by the Department of Environmental Protection~~
23 ~~and Growth Management. Fees for licenses shall be in accordance with~~
24 ~~the schedule adopted by the Board of County Commissioners by~~

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1 resolution. The person or entity in control of a retail establishment parking
2 area or the owner of a retail establishment parking area existing at the
3 effective date of this Ordinance shall make an application for a license
4 within one hundred twenty (120) days of the effective date of this
5 Ordinance.

6 (2) All retail establishment parking areas existing at the effective date of this
7 Ordinance shall be initially inspected by the Department of Environmental
8 Protection and Growth Management to ascertain whether such security
9 devices and measures comply with the provisions of this Ordinance.

10 (b) Renewal.

11 (1) A license shall be renewed annually. Each renewal application shall
12 include an Affidavit from the license holder stating that the license holder
13 is in full compliance with the provisions of this Ordinance.

14 (2) Whenever any entity that is a license holder is sold, transferred, or
15 otherwise changes ownership, the new owner(s) shall file an application
16 with the Department of Environmental Protection and Growth
17 Management, which reflects the change of ownership, the existing license
18 number, the name(s), address(es), and contact number(s) of the new
19 owner(s), and the new owner(s) shall pay all appropriate transfer and
20 renewal fees.

21 (3) The license shall be renewed annually no later than November 1 of each
22 year.

23 **Section 21-177. Noncompliance penalties.** If noncompliance with this
24 Ordinance is corrected within ten (10) days after receipt of a written notice of violation,

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1 ~~no civil penalty shall be assessed. However, any person or entity in control of a retail~~
2 ~~establishment parking area or the owner of a retail establishment parking area who~~
3 ~~willfully and deliberately violates any requirement of this Ordinance, or who deliberately~~
4 ~~fails to initially implement the requirements of this Ordinance, shall be required to pay to~~
5 ~~Broward County, upon notice that noncompliance remains uncorrected, a civil penalty of~~
6 ~~up to five hundred dollars (\$500.00) for the first violation, and five hundred dollars~~
7 ~~(\$500.00) for a repeat violation, as allowed under Chapter 162, Florida Statutes.~~

8 **Section 21-1776. Noncompliance penalties.** If noncompliance with this
9 Ordinance is corrected within ten (10) days after receipt of a written notice of violation,
10 no civil penalty shall be assessed. ~~However, any person or entity in control of a retail~~
11 ~~establishment parking area or t~~The owner of a retail establishment parking area who
12 willfully and deliberately violates any requirement of this Ordinance, or who deliberately
13 fails to initially implement the requirements of this Ordinance, shall be required to pay to
14 Broward County, upon notice that noncompliance remains uncorrected, a civil penalty of
15 up to five hundred dollars (\$500.00) for the first violation, and five hundred dollars
16 (\$500.00) for a repeat violation, as allowed under Chapter 162, Florida Statutes.

17 If security devices and measures as outlined in Section 21-174, have been
18 installed but are not functioning properly, a civil penalty of up to two hundred fifty dollars
19 (\$250.00) may be assessed for the first violation, and five hundred dollars (\$500.00) for
20 a repeat violation, as allowed under Chapter 162, Florida Statutes.

21 **Section 21-1787. Enforcement.** (a) This Ordinance shall be enforced
22 according to the alternate code enforcement procedure provided for in Chapter 8½,
23 Article II, Section 8½-8, et seq., of the Broward County Code of Ordinances.

1 (b) The enforcement of this Ordinance and any amendment to this Ordinance
2 is vested in the Broward County Sheriff and each of his or her deputies, any other
3 enforcement officers and persons as may be lawfully authorized, and any entity that has
4 jurisdiction.

5 (c) In addition to all other penalties, remedies, or other enforcement
6 measures established by this Ordinance, or as otherwise provided by law, violations of
7 the provisions of this Ordinance shall be subject to civil penalties as provided in Chapter
8 8½ of the Broward County Code of Ordinances.

9 (d) All remedies under this Ordinance are cumulative unless otherwise
10 expressly stated. The exercise of one remedy shall not foreclose use of another.
11 Remedies may be used singly or in combination; in addition, the County may exercise
12 any rights it has at law of equity.

13 ~~Section 2. Subsection 8½-16(f), "Schedule of civil penalties," of the Broward~~
14 ~~County Code of Ordinances is hereby amended to read as follows:~~

15 ~~Sec. 8½-16. Schedule of civil penalties.~~

16 ~~...~~

17 (f) ~~Miscellaneous provisions:~~

18 ~~...~~

19	Violation	First Violation	Repeat Violation
20	(35) Violation of Retail Establishment Parking		
21	Security Ordinance Section 21-174.	\$500.00	\$500.00
22	(36) Failure to Obtain Permit or Renewal		
23	Under Section 21-176.	\$125.00	\$250.00

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1 Section 2. Subsection 8½-16(f), "Schedule of civil penalties," of the Broward
2 County Code of Ordinances is hereby amended to read as follows:

3 Sec. 8½-16. Schedule of civil penalties.

4 . . .

5 (f) Miscellaneous provisions.

6 . . .

7	Violation	First Violation	Repeat Violation
8	(35) Violation of Retail Establishment Parking		
9	Security Ordinance Section 21-174.	\$500.00	\$500.00
10	(36) Failure to Obtain Permit or Renewal		
11	Under Section 21-176.	\$125.00	\$250.00
12	<u>Partial Violation of</u>		
13	<u>Retail Establishment Parking</u>		
14	<u>Security Ordinance Section 21-176.</u>	<u>\$250.00</u>	<u>\$500.00</u>
15	<u>(Security devices and measures installed but not functioning properly)</u>		

16 Section 3. SEVERABILITY.

17 If any portion of this Ordinance is determined by any Court to be invalid, the
18 invalid portion shall be stricken, and such striking shall not affect the validity of the
19 remainder of this Ordinance. If any Court determines that this Ordinance, or any portion
20 hereof, cannot be legally applied to any individual(s), group(s), entity(ies), property(ies),
21 or circumstance(s), such determination shall not affect the applicability hereof to any
22 other individual, group, entity, property, or circumstance.

23 Section 4. INCLUSION IN CODE.

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1 It is the intention of the Board of County Commissioners that the provisions of
2 this Ordinance shall become and be made a part of the Broward County Code; and that
3 the sections of this Ordinance may be renumbered or re-lettered and the word
4 "ordinance" may be changed to "section," "article," or such other appropriate word or
5 phrase in order to accomplish such intentions.

6 Section 5. EFFECTIVE DATE.

7 This Ordinance shall become effective as provided by law.

8

9 ENACTED

10 FILED WITH THE DEPARTMENT OF STATE

11 EFFECTIVE

12

13 PURPOSE: To deter persons from committing crimes at or against retail
14 establishments, and to protect retail establishment employees and
15 the public from criminal activity.

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23 ADS/ds
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