

ORDINANCE NO. 08-_____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING REGULATIONS RELATED TO MALLS AND BUSINESSES WITH PARKING LOTS CONTAINING 25 OR MORE PARKING SPACES; PROVIDING FOR INSTALLATION OF SECURITY CAMERA SYSTEMS FOR PARKING LOT SURVEILLANCE; PROVIDING FOR A PROCEDURE FOR MALLS AND BUSINESSES TO KEEP RECORDINGS FOR 30 DAYS; PROVIDING FOR AN EXEMPTION FOR CONVENIENCE BUSINESSES ALREADY GOVERNED BY SIMILAR FLORIDA STATUTES; PROVIDING TECHNICAL SPECIFICATIONS FOR A SECURITY CAMERA SYSTEM; CREATING A GRACE PERIOD FOR COMPLIANCE FOR EXISTING MALLS AND BUSINESSES; AMENDING THE SCHEDULE OF VIOLATIONS AND CIVIL PENALTIES SECTION OF THE CODE TO INCLUDE PENALTIES FOR VIOLATION OF THESE SECTIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay (the “Town”) deems it to be in the best interest of the health, safety, and welfare of its citizens, businesses, and visitors to provide safer environments for customers and employees in its community; and

WHEREAS, the Town Council of Cutler Bay finds that the parking lots of businesses and both enclosed malls and retail strip malls (the “Malls”) may expose people to the risk of abductions, robberies, and other similar criminal acts; and

WHEREAS, statistics compiled by the Cutler Bay Police Department demonstrate that insufficient mall security is a significant threat to the health, safety, and well-being of visitors to Miami-Dade County malls, and Town of Cutler Bay malls in particular, and

WHEREAS, the Cutler Bay police have determined, for example, that there were 136 documented, significant criminal incidents last year at the Southland Mall in Cutler Bay alone, nearly 32% higher than the other comparable Malls studied; and

WHEREAS, this risk was corroborated by a recent investigative report in the *South Florida Sun-Sentinel* that studied 13 malls in Miami-Dade, Broward, and Palm Beach Counties, including the fact that parking lots and garages are the most dangerous places at a mall, that in four of five cases surveillance cameras which could have prevented or helped solve the crime were non-existent, broken, or captured only flawed and useless images, and that in three of four cases a suspect is not arrested or even identified; and

WHEREAS, the Town Council of Cutler Bay, as corroborated by the Cutler Bay Police Department, finds that certain minimum security standards, including the installation of security cameras to monitor the parking lots of Malls and businesses, should both improve the solvability of crimes in those areas and deter and prevent future crimes; and

WHEREAS, the threat of liability for these incidents to mall and business owners is very significant and could undermine the economic health of the Town's business community. For example, in November of 2007, there was a \$104 million verdict against a North Miami strip mall for negligent security; and

WHEREAS, by installing these security cameras now, rather than after an incident takes place, owners of businesses and Malls may take affirmative steps to not only protect their loyal customers and employees but also help insulate themselves from liability; and

WHEREAS, the installation of security cameras would be a valuable tool for protecting customers and employees from harm and to help protect owners of Malls from liability.

NOW, THEREFORE BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AS FOLLOWS¹:

Section 1. Recitals Adopted. That the recitals set forth above are true and correct and incorporated herein by this reference.

Section 2. Cameras in Retail Strip Malls, Enclosed Malls, and Businesses.

- (1) This section shall be known as the "Town of Cutler Bay Parking Lot Security Ordinance."
- (2) **Findings.** The Town Council finds that in the absence of security measures the parking lots of businesses, and enclosed malls and retail strip malls ("Malls"), may leave the Town's citizens, visitors and business employees vulnerable to abductions, robberies, and other similar criminal acts, despite the provision of law enforcement services. The Town Council of Cutler Bay, corroborated by the Town's Police Department (contracted through the Miami-Dade Police Department), finds that certain minimum security standards, including the installation of security cameras to monitor the parking lots of businesses, may improve both the solvability of crimes in those areas and, more importantly, deter future crime. The Town Council also finds that certain minimum-security requirements are beneficial to better protect the health, welfare, and safety of residents and visitors to the town.
- (3) **Intent.** It is the Council's intent to require businesses or Malls which have 25 or more parking spaces to install, use, and maintain security cameras to protect employees and the consumer public from robbery, burglary and other violent crimes. It is the Council's intent that security

¹ Coding: underlined words are additions to existing text, ~~struck through~~ words are deletions from existing text, **shaded** text reflects changes made from First Reading.

cameras required hereunder shall be adequate enough to significantly improve solvability of crimes committed in parking lots.

(4) Security measures for convenience businesses. Any convenience business, as defined by F.S. § 812.171 is hereby exempt from the requirements of this ordinance.

(5) Required security measures for Businesses and Malls.

(a) Every business and Mall that is open to the public and has 25 or more parking spaces shall install, operate, and maintain a video or security camera system in its parking lot for surveillance purposes that is capable of recording and retrieving a clear and identifiable image for each section of applicable parking areas to assist law enforcement personnel in offender identification and apprehension. The security system shall be capable of making such recording in any location within the parking facilities and the system shall be installed so that no part of the parking facility is obscured from surveillance and it produces a clear and identifiable image of the license plate of each vehicle in the parking lot, as well as coverage of the entrance and exit to the parking lot. The minimum technical specifications of the security camera system which have been created with input from experts in this field, are contained within Attachment "A". All recordings must be retained and available to police for a period of 30 days from the date of recording. The Town Manager, in consultation with the Town Chief of Police, may allow a business or Mall to utilize an alternative technology for surveillance other than that which is specifically described herein if that alternative will accomplish the goals of this ordinance and circumstances prevent the business or Mall from complying with the specific requirements of this ordinance. Businesses with secured parking facilities shall be exempt from the requirements of this subsection. For the purposes of this section, secured parking facilities means a parking facility operated by an entity, with 24-hour on-site security patrol or a completely fenced in parking lot with the premises controlled by a manned guard gate.

(b) This ordinance shall be limited in its application to those parking lots for Malls and businesses whose primary purpose is to serve retail, restaurant and service establishments, and these requirements shall not apply to parking areas that solely serve locations containing solely private office or residential complexes.

(6) Enforcement Grace Period.

(a) Businesses and Malls which exist on the effective date of this ordinance and are required by this ordinance to have a security camera system shall have a period of 120 days (the "Grace Period") from the effective date of this ordinance to comply with the regulations set forth herein. Businesses and Malls which commence operations after the effective date of this Ordinance shall not have a Grace Period.

(7) Signage Requirement

(a) Businesses and Malls that are subject to the provisions of this ordinance shall also post signs, that are clearly visible from the parking lot that state as follows: “This parking lot is being monitored by surveillance cameras by order of the Town of Cutler Bay and any criminal acts committed herein will be punished to the fullest extent of the law.” There shall be a minimum of one sign for every 250 parking spaces which signs shall be evenly placed throughout the parking lot, provided that no parking lot that is subject to this ordinance shall have less than one sign.

Section 3. Schedule of violations and civil penalties amended. That the Town Code of the Town of Cutler Bay is hereby amended by amending Ordinance 07-09, Section 10 “Schedule of civil penalties”, to read as follows: ²

Sec. 10. Schedule of civil penalties.

TABLE INSET:

<i>Code Section</i>	<i>Description of Violation</i>	<i>Civil Penalty</i>
***	***	***
<u>Ordinance</u>	<u>Violation of Parking Lot Security</u>	First violation \$125; Second Violation \$250; Third or subsequent violation \$500.
***	****	***

Section 4. Conflicts. All ordinances or Code provisions in conflict herewith are hereby repealed to the extent of such conflict.

Section 5. 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 6. Inclusion in the Code. It is the intention of the Town Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the Town of Cutler Bay; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 7. Effective Date. That this Ordinance shall be effective immediately upon adoption on second reading.

² / Proposed additions to text of Town Code are indicated by underline; proposed deletions from text of Town Code are indicated by ~~striketrough~~.

PASSED on first reading this _____ day of _____, 2008.

PASSED and ADOPTED on second reading this _____ day of _____, 2008.

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ-SANTAMARIA, CMC
Town Clerk

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND BENEFIT OF THE
TOWN OF CUTLER BAY ONLY:

WEISS, SEROTA, HELFMAN, PASTORIZA,
COLE & BONISKE, P.L.
Town Attorney

Moved By:
Seconded By:

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman _____

Vice Mayor Edward P. MacDougall _____

Councilmember Peggy R. Bell _____

Councilmember Timothy J. Meerbott _____

Councilmember Ernest N. Sochin _____