

CITY OF CORAL GABLES, FLORIDA

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COMMISSION OF CORAL GABLES, FLORIDA, CREATING ARTICLE IV, "COST RECOVERY FOR FAILURE OF RESPONSIBLE PARTY TO APPEAR ON BEHALF OF BUSINESS," OF CHAPTER 26, "EMERGENCY SERVICES," OF THE CITY OF CORAL GABLES CODE; PROVIDING FOR ENFORCEMENT; REPEALER; SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Coral Gables Commission acknowledges that the success of any prosecution is largely dependent on victim/witness participation; and

WHEREAS, it has come to the attention of the Commission, that certain merchants in the City have internal no-prosecution policies for retail theft (through shoplifting or fraud); and

WHEREAS, significant City resources are expended during the response, investigation and ultimate arrest of individuals who commit retail theft, by the Coral Gables Police Department; and

WHEREAS, the successful prosecution of these individuals is nearly impossible without the assistance of the merchant.

NOW THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF CORAL GABLES, FLORIDA:

SECTION 1. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

SECTION 2. Article IV, "Costs Recovery for Failure of Responsible Person to Appear on Behalf of Business" of the City of Coral Gables Code of Ordinance is hereby created under Chapter 26, "Emergency Services":

CHAPTER 26 – EMERGENCY SERVICES

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Article IV. Cost Recovery for Failure of Responsible Person to Appear on Behalf of Business

Section 26-66. Definitions

- (a) **Business Owner or Operator:** The owner or operator of a business establishment which is operating within the City or which holds a local business tax receipt issued by the City, which business is the victim, complainant, reporter, or is the site of the suspected commission of criminal activity or transaction, and which activity or transaction is within the jurisdiction of the Coral Gables Police Department (CGPD), and who, as a business owner or operator, may be liable for costs incurred due to a reasonable person's failure to appear as provided by this section.
- (b) **Cost Incurred:** Any and all monetary cost directly incurred by the City in relation to the investigation, arrest or prosecution of suspected criminal activity or transaction which has been complained of, witnessed or reported, by a responsible person or concerning which a responsible person is required to appear at court proceedings.
- (c) **Court Proceedings:** Any law enforcement, prosecutorial or judicial proceedings relating to the reporting, filing, initiation or maintenance of a complaint or charge concerning a criminal prosecution, including but not limited to, State Attorney intake and pre-filing proceedings, filing of criminal proceedings, depositions or court appearances.
- (d) **Criminal charge is abandoned, dismissed or fails:** When a criminal complaint is abandoned, declined to be filed or dismissed by the State Attorney or by the court or a verdict of "not guilty" by the jury or court, directly upon the basis of the failure to appear of a responsible person.
- (e) **Failure to Appear:** The failure to appear of a responsible person before the State Attorney or at a Court proceeding.
- (f) **Person:** Any natural person, individual, firm, partnership, association or corporation.
- (g) **Responsible Person:** The person who, as a business owner or operator, or who, as an employee, officer or agent of a business owner or operator, furnished information to police, initiated a complaint or filed a complaint upon or concerning suspected criminal activity or transaction on behalf of any business owner or

operator or concerning an incident in which such person reported criminal activity or transaction, within CGPD jurisdiction.

Section 26-67. Service Charge.

- (a) Pursuant to Sec. 166.201, F.S. a service charge in the full amount of the City's costs incurred is hereby imposed upon the business owner or operator, in the event that a criminal charge is abandoned, dismissed or fails as a direct result of a responsible person's failure to appear in court proceedings. The identity of each responsible person may be noted in the applicable offense report or in a supplemental report. A written certification by the State Attorney, Court Administrator, or CGPD Chief that a criminal charge is abandoned, dismissed or fails as a direct result of the failure to appear of a responsible person shall be prima facie evidence that the costs incurred are the obligation of the business owner or operator pursuant to this section.
- (b) In lieu of imposing a service charge for the full amount of the City's costs, the police Chief may, in his/her own discretion, determine that a flat service charge of \$200.00 shall be imposed based on the amount of time involved in the case or other mitigating conduct of the responsible person, business owner or operator.
- (c) The City Manager or City Attorney may, in their discretion, waive the service charge.

Section 26-68. Computation of Costs. If the service charge is based upon the full amount of the City's costs, the City's Finance Director, or his/her designee, shall calculate the costs incurred by CGPD, based upon pertinent information provided in writing by the CGPD Chief or his/her designee.

Section 26-69. Collections. Full payment is due to the City within thirty (30) days of receiving the notice of amount due. Failure to pay the full amount within the thirty (30) days will result in the assessment of a late fee of five (5) percent. Service charges and late fees are recoverable by the City or its assignee in a Court of competent jurisdiction.

SECTION 3. All ordinances or parts of ordinances that are inconsistent or in conflict with the provisions of this Ordinance are repealed.

SECTION 4. If any section, part of section, paragraph, clause, phrase or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

SECTION 5. It is the intention of the City Commission that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of City of Coral Gables, Florida, which provisions may be renumbered or re-lettered and that the word ordinance be changed to "section", "article", or other appropriate word to accomplish such intention.

SECTION 6. This ordinance shall become effective upon adoption.

PASSED AND ADOPTED THIS _____ DAY OF _____, A.D. 2016.

APPROVED:

JIM CASON
MAYOR

ATTEST:

WALTER FOEMAN
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

CRAIG E. LEEN
CITY ATTORNEY