

ORDINANCE #2007-07

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, CREATING AND ADOPTING A CODE SECTION ENTITLED "COLLECTION"; PROVIDING FOR APPLICABILITY; PROVIDING FOR DEFINITIONS; PROVIDING FOR LOCATION OF GARBAGE FACILITIES; PROVIDING FOR CONDITION AND INSPECTION; PROVIDING FOR MINIMUM CAPACITY REQUIREMENTS; PROVIDING FOR REMOVAL OF ITEMS; PROVIDING FOR REGULATIONS FOR DISPOSAL OF HAZARDOUS WASTE; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR CONFLICTS; PROVIDING FOR INCLUSION; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Doral is concerned about the protection of the public investment in the right-of-way; and

WHEREAS, the City of Doral believes that it is necessary to regulate the placement of dumpsters; and

WHEREAS, the City of Doral wishes to provide minimum capacity requirements for dumpsters; and

WHEREAS, the Mayor and City Council through the adoption of this ordinance seeks to provide a ensure the public convenience, aesthetic and ecological considerations are protected for all of the City of Doral;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DORAL:

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

Section 2. That a new ordinance of the City of Doral, entitled, "Collection," shall be and it is hereby created to read as follows:

DIVISION 1. COLLECTION

Sec 101-01. Applicability.

The purpose of this chapter is to ensure that the public convenience, aesthetic and ecological considerations and the public investment in the right-of-way are protected. This chapter shall apply to all properties which utilize a commercial hauler service including single family residences where indicated.

Sec. 101-02. Definitions

In addition to other definitions in this Chapter, the following terms shall have the definitions set forth herein:

Dumpster means a container approved by the waste industry with a tight fitting top and a minimum capacity of one-half cubic yard or between 200 and 133.3 gallons approved for use by the City Manager.

Garbage means every refuse accumulation of animal, fruit, vegetable or organic matter that attends the preparation, use cooking, and dealing in or storage of meats, fish, fowl, fruit, or vegetables, and decay, putrefaction and the generation of noxious or offensive gases or odors, or which, during or after decay, may serve as breeding or feeding material or other germ-carrying insects.

Garbage Storage Facility means a structure enclosed on bottom and all sides except the top, which may be open or closed, constructed of solid material and having sufficient capacity to hold all garbage facilities required for a particular establishment.

Sec. 101-03. Location of garbage facilities and garbage storage facilities.

(a) All garbage cans or containers, trash containers, or dumpsters shall be completely screened from the adjacent properties and the public right-of-way by use of walls or fences and landscaping material, subject to the approval and standards established by the City Manager or his designee. Such area shall not extend into any front yard; on corner lots it shall not extend into any side yard facing a street. Such area shall be accessible to both contractors and private waste collectors. The area shall be located so that garbage collectors do not have to use stairs or ascend or descend split elevations in the collection process. The location of a garbage can, trash container or dumpster in an area requiring the garbage collector to use stairs or ascend or descend split elevations in order to collect garbage is deemed to be a health hazard and subject to penalty pursuant to this section. This section shall not apply to single family residences. All properties shall have six (6) months from the passage of this ordinance to comply with this section before any enforcement action is taken.

(b) A city building permit shall be required for construction of a garbage storage facility. When a Garbage Storage Facility is required by this Chapter it shall be approved as

part of a site plan or revisions to an existing site plan and it shall be so constructed as to be compatible in appearance with the building it services.

(c) It shall be the responsibility of the property owner, operator, agent, lessee, or manager of such property owner and private waste contractor to ensure the return of cans, containers or dumpsters to the approved location after collection.

(d) At no time shall cans, containers or dumpsters be kept upon any public property, street, alley or sidewalk or other public land or any property not in the ownership or tenancy of the persons by whom the garbage is accumulated. Except that containers provided for pickup of recyclable material pursuant to the interlocal agreement for inclusion in the county curbside recycling program may be placed upon city-owned parkways located in front of the properties between the hours of 12:01 a.m. and 11:59 a.m. on designated pickup days.

e) All new commercial buildings and all new multifamily residences exceeding eight units shall provide a Garbage Storage Facility approved by the Planning and Zoning Department, Public Works Department, and/or Building Department as to location, size, and other criteria deemed necessary by law or ordinance.

(f) All buildings that are undergoing substantial rehabilitation, construction of an addition or additions, or are under new construction or undergoing a change of use must provide a garbage storage facility approved by the Planning and Zoning Departments, Public Works Department, and/or Building Department as to location, size and other criteria as required by law or city ordinance.

(g) All new restaurants and all restaurants undergoing substantial rehabilitation (more than 51%) or construction of an addition or additions shall have air conditioned garbage rooms approved by the Planning and Zoning Department, Public Works Department and the Building Department as to location, size and other criteria as required by law or city ordinance.

Sec. 101-04. Condition and inspection of garbage facilities.

All receptacles/dumpsters shall be maintained in good condition and repair and shall be provided with a cover sufficiently tight to deter flies or other insects from access to the contents of the receptacles. Receptacles/dumpsters in which wet garbage or trash matter are placed shall be leak proof. All receptacles/dumpsters shall be subject to inspection and approval or condemnation by Code Compliance Officer, and an appeal from such condemnation shall be to the Special Magistrate.

Sec. 101-05. Minimum capacity requirements for various types of uses and occupancies.

(a) It shall be the responsibility of the owner, agent, manager or operator of every premises, structure or building in the city to provide sufficient temporary garbage and trash storage through the use of approved cans, containers or dumpsters.

(b) The garbage containers per site shall not be limited provided each individual property has its own approved number of garbage containers and provided that all garbage is picked up a minimum of twice a week. The City Manager has the authority

and power to approve the capacity of the containers and the frequency of collection services for each individual property pursuant to the guidelines as set forth below.

(c) The city divides and classifies waste and its handling requirements as follows:

(1) *Residential refuse* is all the garbage, rubbish or trash, or waste generated in any existing dwelling used for a single-family residence, duplex, townhouse, apartment, condominium or multifamily building.

(2) *Commercial refuse* is all solid waste generated by businesses such as stores, restaurants, bars, hotels, motels, markets, schools, churches, hospitals and other institutional buildings. Minimum requirements for capacity of cans or containers and frequency of collection are as follows:

a. Restaurants, stores, office buildings, churches, schools, cafeterias, bars, markets, hotels and motels will have container capacities and frequency of service as approved by the City Manager or his designee on an individual basis.

b. The minimum capacity required above may be supplied by providing garbage cans or containers or trash cans, or containers or dumpsters of sufficient size and number as are required to hold the minimum capacity indicated above and providing for all such facilities containing garbage to be emptied at least twice a week or by providing cans or containers of lesser sizes or number provided the same are emptied on a regular scheduled basis more frequently than twice a week; and that the product of the capacity of the containers provided multiplied by the number of times per week the containers are emptied is equal to the minimum capacity requirements set forth in subsection (b) of this section. Minimum capacity requirements may also be met through the use of a garbage or trash compactor, in which event the minimum required capacity of the actual cans or containers provided shall be reduced in the same ratio as the compactor is capable of reducing the bulk of garbage or trash, as certified by its manufacturer.

c. Where the minimum capacity requirements of this section are met through the use of collections on a basis more frequent than twice a week or through the use of a trash or garbage compacting device, the owner of the premises shall, if requested by the City Manager or by such other person as is charged by the City Manager with responsibility for enforcing this section, provide proof of the frequency of trash and garbage collections, or in the case of a compacting device, the manufacturers' brochures or certification indicating its capacities. If such proof is not provided when requested it shall be presumed that the capacity supplied is that of the containers provided and that the containers are emptied on a basis no more frequent than once a week.

d. Installation of compactors is subject to permit and approval of the City Manager or his designee.

(3) *Industrial waste* is all waste and debris generated by construction, land claims, excavating of structures, roads, streets, sidewalks or parkway, including waste collected for recycling, such as but not limited to oils, greases and papers. Any such waste and debris that, if because of volume or nature do not lend themselves to collection and incineration, shall be removed through special handling and shall be the responsibility of persons who generate the waste and debris.

(4) *Bulky waste*. All large items of household refuse, such as appliances, furniture, accumulations from major tree cutbacks, large crates and like articles shall be disposed of by whomever generates the bulky waste.

Sec. 101-06. Removal of garbage, trash and other items.

(a) All owners, and in the case of single-family residences or duplexes, all owners and occupants, shall be required to remove from their property and the area adjacent to such property between the property line and the paved portion of the right-of-way of any street or alley any and all garbage, trash and other debris or discarded matter within 24 hours of the time such materials is placed in those areas.

(b) This section shall not be deemed to apply to any garbage, trash and other items properly stored for collection in accordance with the provisions of this chapter, or the temporary storage pending collection of discarded furniture, appliances or bedding for a period of less than 72 hours.

(c) It is prohibited for an owner, operator or agent of a commercial establishment to transport any type of garbage, trash or waste off the premises on which it was generated. Violators of this section shall be subject to fine and penalty as provided under sections of the Code Compliance Ordinance. The owner shall be responsible to ensure that the company performing the removal of solid waste only performs that activity between the hours of 7AM and 10PM; any waste removal operations outside this timeframe will be considered a violation.

Sec. 101-07. Illegal disposal of waste.

Except as provided elsewhere in this chapter, it shall be unlawful and subject to the penalties provided in this chapter to deposit garbage, trash or any kind of waste upon any vacant, occupied or unoccupied premises within the city; or upon any street, alley, parkway or park; or in any canal, waterway, bay, ocean, pool or lake within the city.

Sec. 101-08. Disposal of biohazardous or hazardous waste.

Notwithstanding any other provisions of this chapter, biohazardous and/or hazardous waste shall not be placed in garbage cans, containers or dumpsters for routine collection. Substances in this class shall be segregated and disposed of as provided by state and federal law and in accordance with the procedures set forth in F.A.C. CH. 17-7, which prohibits the deposit of this type of waste in a sanitary landfill.

Sec. 101-09. Removal of industrial wastes.

Removal of industrial wastes is the responsibility of the owner, occupant, operator or construction contractor performing such work or other person creating or causing the accumulation of such materials as the case may be. Such removal must be done by a city licensed private waste contractor. Spent oils or greases accumulated at garages, filling stations or similar establishments will be the responsibility of the establishment to dispose in accordance with State and Federal guidelines.

Sec. 101-10. Enforcement of Chapter; Notice of Violation.

- (a) The Code Compliance Department is hereby authorized and directed to enforce all the provisions of this chapter regulating and governing the accumulation and disposition of waste.
- (b) Upon presentation of proper credentials, a Code Compliance Officer designated by the City Manager may enter, at any reasonable time, any building, structure or premises for the purpose of inspection, or to prevent violations of this chapter.
- (c) The existence of waste shall be prima facie evidence that the same was created or placed there by the occupant of the dwelling or commercial establishment or the owner, agent manager or operator of the property, if the same be vacant.
- (d) Whenever a Code Compliance Officer observes a violation of this chapter or an accumulation of garbage, trash or waste that creates a health hazard or nuisance offensive to any of the senses, the Code Compliance Officer shall order the violations to be corrected within a specified reasonable period of time by serving a written notice of violation upon the person causing or responsible for such violation, health hazard or nuisance. Such notice shall be delivered as required by the Code Compliance Chapter of the City's Code of Ordinances. Such person shall immediately cease or abate the violation.
- (e) The notice shall be served personally or by certified mail upon the owner or upon the person in lawful possession of the premises and/or upon the private waste/contractor involved. If the person addressed with such notice cannot be found after diligent search, such notice shall be sent certified mail to the last know address of such person; and a copy of the notice shall be posted in a conspicuous place on the premises; and such procedure shall be deemed equivalent service.
- (f) The notice shall also specify any fine that may be due in connection with the violation or the failure to correct the violation within the time specified by the Code Compliance Officer and the procedure for timely payment or appeal of the fine.
- (g) If in the opinion of the Code Compliance Officer the conditions constitute an immediate threat to the health and well-being of the public, the Code Compliance Officer may order the immediate correction of the hazard.

Sec. 101-11 Removal of Waste by City; Penalties for Violations.

- (1) If the person served with a notice of violation pursuant to this section does not correct the violation in the specified time, the City Manager may do the following:

For violations involving failure to remove waste, the City Manager may cause the waste to be removed from the premises involved and charge the actual cost to the occupant and/or owner of the premises. The Code Compliance Department may pursue payment of the cost in accordance with the Special Magistrate procedures. Any unpaid fines shall result in a lien being placed on the property upon entry of an Order of the Special Magistrate.

- (2) For violations of this section, fines shall be no less than the following;

- a. First Offense, \$100.00 per day
- b. Second Offense, \$250.00 per day
- c. Third or more Offense, \$ 500.00 per day

(3) For violations which present a serious threat to the health, safety or welfare of the citizens of the city and/or violations that are continually repeated by the same violator, the city attorney may seek injunctive relief and/or, in the case of commercial establishments, revoke the occupational license and/or certificate of use for the establishment and/or property.

Section 3. Severability. That if any section, subsection, sentence, clause, phrase, work or amount of this ordinance shall be declared unconstitutional or invalid by competent authority, then the remainder of the ordinance shall not be affected thereby, and shall remain in full force and effect.

Section 4. Repeal of Conflicting Provisions. That all ordinances or parts of ordinances or resolutions of the County Code made inconsistent or in conflict herewith shall be and they are hereby repealed in their entirety as there is conflict or inconsistency.

Section 5. Inclusion in Code. It is the intention of the Mayor and City Council and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the City of Doral Code; 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 6. Effective Date. This Ordinance shall become upon adoption on second reading.

The foregoing Ordinance was offered by Councilwoman Ruiz who moved its adoption.

The motion was seconded by Vice Mayor Cabrera and upon being put to a vote, the vote was as follows:

Mayor Juan Carlos Bermudez	Yes
Vice Mayor Peter Cabrera	Yes
Councilmember Michael DiPietro	Absent
Councilwoman Sandra Ruiz	Yes
Councilmember Robert Van Name	Yes

PASSED AND ADOPTED upon first reading the 12th day of February, 2007.

PASSED AND ADOPTED upon second reading the 14th day of May, 2007.



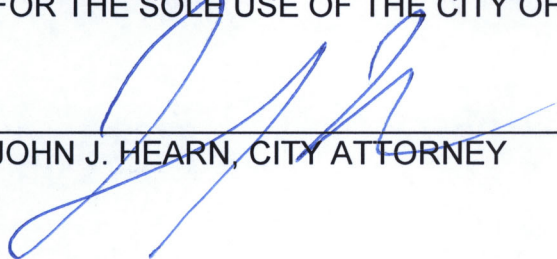
JUAN CARLOS BERMUDEZ, MAYOR

ATTEST:



BARBARA HERRERA, CITY CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY
FOR THE SOLE USE OF THE CITY OF DORAL:



JOHN J. HEARN, CITY ATTORNEY