

ORDINANCE NO. 2006-02

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, CREATING A NEW CHAPTER OF THE CODE OF ORDINANCES OF THE CITY OF DORAL ENTITLED "LITTERING;" PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Council of the City of Doral desires to keep the City free from unsightly and unhealthy litter and debris; and

WHEREAS, the City Council of the City of Doral finds it in the best interest of its citizenry to pass a littering ordinance which punishes individuals who litter in the City of Doral; and

WHEREAS, the City Council desires to repeal any conflicting provisions of the County Code pertaining to littering and establish its own littering ordinance;

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

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

Section 2. That the "Code of the City of Doral," is hereby amended to create a new Chapter entitled, "Littering," as follows:

LITTERING

Sec. _____ . Throwing litter in public places; possession of glass or metal containers on public parks; sweeping or throwing litter in gutters; garbage containers required for take-out restaurants; civil fines for violation.

(a) It shall be unlawful for any person to throw, discard, place or deposit litter in any manner or amount whatsoever in or on any public highway, road, street, alley, thoroughfare or any other public lands, except in containers or areas lawfully provided therefore. It shall be unlawful for any person to throw, discard, place or deposit any garbage, cans, bottles or containers in or on any freshwater lakes, canals, rivers or streams within the city. In addition, it shall be unlawful for any person to throw, discard, place or deposit litter in any manner or amount whatsoever on any private property,

unless prior consent of the owner has been given and unless such litter will not cause a public nuisance or be in violation of any other state or local laws, rules or regulations.

(b) It shall be unlawful for any person to carry into any park within the city a glass bottle or other glass container.

(c) It shall be unlawful for any person to sweep, cast or throw, or cause to be cast or thrown, into any of the gutters, drains or sewers within the City any garbage, trash, tree or grass cuttings or other objects or substances.

(d) All restaurants with take-out service shall have up to four garbage containers, as need requires, based on the determination of the City Manager or his designee. The containers shall be located in front of and within fifty feet in each direction of the premises at locations approved by the City Manager or his designee. These containers shall be kept in clean and sanitary condition at all times and shall be emptied daily or more frequently if necessary to prevent overflowing.

(e) The following fines shall be imposed for violations of this section:

(1) First citation, \$100.00 fine.

(2) Second citation, \$250.00 fine.

(3) Third citation, \$500.00 fine.

Sec. . Handbills.

(A) Definitions. The following words, terms and phrases, when used in this Chapter shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning;

Handbill means any handbill, dodger, circular, folder, booklet, letter, card, pamphlet, sheet, poster, sticker, banner, notice or other written, printed or painted matter circulated to attract the attention of the public, whether commercial or noncommercial.

Motor vehicle means every self-propelled device in, upon or by which any person or property is or may be transported or drawn upon a public right-of-way, excepting devices moved by human power or exclusively upon rails or tracks.

Offense means either an uncontested notice of violation issued by a code compliance officer or a finding of violation by a special magistrate.

Person means any individual, trust, labor union, partnership, limited partnership, corporation or other business entity.

Public Parking lot means an a parking area open for motor vehicle parking for use by members of the public for a fee or charge (charge). It may be metered or attendant or valet operated.

(B) Distributing on premises of another; when prohibited.

It shall be unlawful for any person to distribute or place any handbills upon the premises of another if requested orally or in writing not to do so by the owner or manager of such premises or if forbidden to do so by an appropriate sign posted in a conspicuous place on such premises.

(C) Placing on motor vehicles prohibited.

(1) It shall be unlawful for any person to distribute or place any handbill on any motor vehicle by any means whatsoever, when such motor vehicle is parked, standing, stopped or located in a public street, highway, parking lot or place.

(2) It shall be unlawful for any person to knowingly authorize or employ any person to distribute or place any handbill on any motor vehicle by any means whatsoever when such motor vehicle is parked, standing, stopped or located in a public street, highway, parking lot or place.

(D) Enforcement; penalties.

(1) *Enforcement by code compliance officer; notice of violation.* If a code compliance officer finds a violation of this article, he shall issue a notice of violation to the violator. The notice shall inform the violator of the nature of the violation, amount of fine for which the violator may be liable, instructions and due date for paying the fine, notice that the violation may be appealed by requesting an administrative hearing within twenty days after service of the notice of violation, and that failure to do so shall constitute an admission of the violations and waiver of the right to a hearing.

(2) *Civil fines for violators.* The following civil fines shall be imposed for each violation of this Chapter:

(a) First offense, \$100.00 fine.

(b) Second offense (within one year of the first offense), \$250.00 fine.

(c) Third offense/additional offenses (within one year of the first offense), \$500.00 fine.

(3) *Rights of violators; payment of fine; right to appear; failure to pay civil fine or to appeal.*

(a) A violator who has been served with a notice of violation shall elect either to:

(1) Pay the civil fine in the manner indicated on the notice; or

(2) Request an administrative hearing before a special magistrate appointed by the City Council to appeal the decision of the code

compliance officer that resulted in the issuance of the notice of violation.

(b) If the named violator after notice fails to pay the civil fine or fails to timely request an administrative hearing before a special master, the special magistrate shall be informed of such failure by report from the code compliance officer. Failure of the named violator to appeal the decision of the code compliance officer within the prescribed time period shall constitute a waiver of the violator's right to administrative hearing before the special magistrate. A waiver of the right to an administrative hearing shall be treated as an admission of the violation, and penalties may be assessed accordingly.

(c) Any party aggrieved by the decision of a special magistrate may appeal that decision to a court of competent jurisdiction.

(4) Recovery of unpaid fines; unpaid fines to constitute a lien; foreclosure.

(a) The City may institute proceedings in a court of competent jurisdiction to compel payment of civil fines.

(b) A certified copy of an order imposing a civil fine may be recorded in the public records and thereafter shall constitute a lien upon any other real or personal property owned by the violator; and it may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property, but shall not be deemed to be a court judgment except for enforcement purposes. After two months from the filing of any such lien remaining unpaid, the City may foreclose or otherwise execute upon the lien.

(5) Injunctive relief. As an additional means of enforcement, the City may seek injunctive relief and/or follow procedures to revoke an occupational license/certificate of when there are more than three offenses by the same violator within a calendar year.

Section 3. Severability. That if any section, subsection, sentence, clause, phrase, word 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 insofar as there is conflict or inconsistency.

Section 5. Inclusion in Code. It is the intention of the 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 be effective upon adoption on second reading.

The foregoing Ordinance was offered by Councilwoman Ruiz who moved its adoption. The motion was seconded by Councilman Van Name 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	Yes
Councilwoman Sandra Ruiz	Yes
Councilmember Robert Van Name	Yes

PASSED AND ADOPTED upon first reading the 11th day of January, 2006.

PASSED AND ADOPTED upon second reading the 8th day of February, 2006.



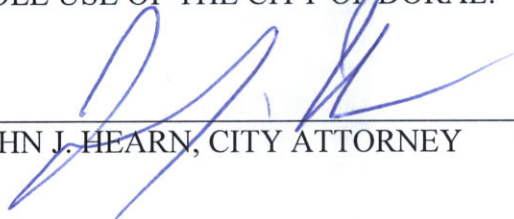
JUAN CARLOS BERMUDEZ, MAYOR

ATTEST:



BARBARA HERRERA-HILL, CITY CLERK

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



JOHN J. HEARN, CITY ATTORNEY