

ORDINANCE No. 2015-19

AN ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, AMENDING CHAPTER 26 OF THE CITY CODE OF ORDINANCES, ENTITLED "MISCELLANEOUS OFFENSES," BY CREATING ARTICLE VII, "ODORS," ESTABLISHING DEFINITIONS, REQUIREMENTS AND ENFORCEMENT; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR INCORPORATION INTO THE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City deems that the existence of odor nuisances within its boundaries unreasonably interferes with the enjoyment of health, safety and welfare of its citizens; and

WHEREAS, the City deems that existing provisions of the Code of Ordinances shall be amended and new Sections shall be added so as to promote the abatement of odor nuisances and protect the health, safety and welfare of its citizens; and

WHEREAS, the City finds that adoption of this Ordinance is in the best interest of the community.

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

Section 1. Recitals. The above Recitals are confirmed, adopted, and incorporated herein and made a part hereof by this reference.

Section 2. Code Amended. The Code of Ordinances of the City of Doral is hereby amended as follows:

CHAPTER 26. MISCELLANEOUS OFFENSES

ARTICLE VII. ODORS

Sec. 26-180. Prohibitions.

It shall be unlawful for any owner or operator of premises located within the City to cause or allow odor to emit beyond the boundaries of the real property which:

- (1) Creates odors or smells which are offensive or obnoxious to other persons within the City; or
- (2) Endangers the health and welfare of other persons within the City; or
- (3) Creates a detrimental effect on the use and enjoyment of property of other persons in the City; or
- (4) Unreasonably interferes with the enjoyment of life, health, safety, peace, comfort or property of other persons in the City.

Sec. 26-181. Complaint Tracking.

- (1) An odor hotline shall be maintained by the City to receive complaints relating to odor pollution. In addition, the City will track complaints entered into Doral 311.
- (2) Records of such complaints shall be maintained. The records may include names and addresses of callers, times and dates of calls and descriptions of odor nuisances.
- (3) Upon receipt of five complaints or more within a four-hour period relating to a single odor description, an alert condition shall be deemed to exist. The hotline operator and/or Doral 311 website administrator shall immediately inform the Code Compliance Director of all known details regarding the odor complained of.
- (4) The odor hotline and Doral 311 website administrator shall provide a report of all data generated to the City Manager for report to the City Council on an annual basis or as requested by the City Manager and/or City Council.

Sec. 26-181. Odor testing and odor nuisance determination.

- (1) The City will use reasonable efforts to investigate odor complaints to verify the source of the odor.
- (2) The issuance of an alert condition in Section 26-181(3) will cause the City to perform Event Driven Monitoring. The protocol for Event Driven Monitoring is specified in the City's Odor Management Plan. A copy of the Odor Management Plan shall be available for review at the office of the City Clerk.

- (3) Subject to the provisions of Section 53-184(d)(2)b and Section 53-184-(d)(3)b of the Land Use Code, an odor nuisance is deemed to exist if the following conditions are present beyond the boundaries of property emitting an odor to other properties within the City:
- (a) For residentially zoned areas, when odor is detectable in the ambient air at a dilution threshold (D/T) of seven (7) volumes of odor-free air to one (1) volume of odorous air for two samples or observations not less than 15 minutes apart within a one hour period measured by a field olfactometer device, such as a Nasal Ranger® Olfactometer or Scentometer®, according to manufacturer's specifications.
- (b) For all other areas, when odor is detectable in the ambient air at a dilution threshold (D/T) of fifteen (15) volumes of odor-free air to one (1) volume of odorous air for two samples or observations not less than 15 minutes apart within a one hour period measured by a field olfactometer device, such as a Nasal Ranger® Olfactometer or Scentometer®, according to manufacturer's specifications.

Sec. 26-182. Notice.

Notice of violation of this section of the Code of Ordinances shall be made as provided in Section 11-47 of the Code.

Sec. 26-183. Abatement.

The City may proceed to abate the odor nuisance as provided in Section 11-49(b) of the Code.

Sec. 26-184. Lien.

Costs and fines for violations of this ordinance shall be a lien upon the premises as provided in Section 11-49(g) of the Code.

Sec. 26-185. Foreclosure of lien.

Foreclosure of a lien for unpaid odor abatement charges shall proceed as provided in Section 11-49(i) of the Code.

Sec. 26-186. Fines.

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

- (1) First violation, \$500.00 fine.

(2) Second violation, \$1,000.00 fine.

(3) Third and subsequent violations, \$1,500.00 fine, provided, however, that a violation that occurs more than 180 days following a prior violation shall be deemed a first violation for purposes of this section of the Code.

Section 3. Implementation. The City Manager, City Clerk and City Attorney are hereby authorized and directed to implement the provisions of this Ordinance and to take any and all necessary administrative actions as may be appropriate by their position to execute the purpose of this Ordinance.

Section 4. Incorporation into the Code. The provisions of this Ordinance, to the extent appropriate, shall become and be made a part of the Code of Ordinances of the City of Doral. The City Clerk is authorized to take all actions necessary to incorporate the provisions of this Ordinance into the Code of Ordinances, including, but not limited to, renumbering or relettering sections and to change and that the word “ordinance” may be changes to “section,” “article,” or such other appropriate word or phrase in order to accomplish such intention.

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. Conflicts. All ordinances or parts of ordinances, resolution or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

Section 7. Effective Date. This Ordinance shall become effective immediately.

The foregoing Ordinance was offered by Vice Mayor Ruiz, who moved its adoption. The motion was seconded by Councilmember Cabrera, and upon being put to a vote, the vote was as follows:

Mayor Luigi Boria	Yes
Vice Mayor Sandra Ruiz	Yes
Councilman Pete Cabrera	Yes
Councilwoman Christi Fraga	Yes
Councilwoman Ana Maria Rodriguez	Yes

PASSED AND ADOPTED on FIRST READING THIS 7 day of April 2015.

PASSED AND ADOPTED on SECOND READING THIS 13 day of May 2015.



LUIGI BORIA, MAYOR

ATTEST:



CONNIE DIAZ, CITY CLERK

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



WEISS SEROTA HELFMAN COLE
BIERMAN & POPOK, PL
CITY ATTORNEY