

ORDINANCE #2011- 24

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, AMENDING CHAPTER 20 TITLED "ENVIRONMENT;" PROVIDING FOR STANDARDS FOR OPEN BURNING; PROVIDING FOR PROHIBITION TO OPEN BURNING; PROVIDING FOR ENFORCEMENT; PROVIDING FOR PENALTIES; PROVIDING FOR CONFLICTS; PROVIDING FOR INCLUSION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Doral wishes to adopt a green master plan and be environmentally friendly;

WHEREAS, the City of Doral recognizes the need to protect the environment by regulating open burnings;

WHEREAS, the City of Doral wishes to adopt its own ordinance regulating open burnings and not have to enforce Miami-Dade County Ordinance;

WHEREAS, the City of Doral has sought to be environmentally conscience and seeks to protect the health, safety and welfare of its residents;

WHEREAS, the substantial growth in the number of homes and businesses within the City of Doral and the potential for open fires has produced a concern of the impact on surrounding residential family neighborhoods and the adverse impact that would result in environmental hazards for the community; and

WHEREAS, the Mayor and City Council through the adoption of this ordinance seeks to regulate open burning within the City of Doral and to keep the environment free of pollution;

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, "Burning Restrictions" shall be and it is hereby created to read as follows:

* * * * *

Sec. 20-2. – Open Burning

No Person shall ignite, cause to be ignited, permit to be ignited or suffer, allow or maintain and open outdoor fire except as provided in Section 20-3.

Sec. 20-3 Exceptions to prohibition against open burning.

- 1) Fires used only for noncommercial cooking of food for human beings or for recreational purposes.
- 2) Any fire set or permitted by the City Manager in the performance of official duty, if such fire is set or permission given for the purpose of weed abatement, the prevention of a fire hazard, including the disposal of dangerous material when there is no safe alternate method of disposal, or in the opinion of such official necessary.
- 3) Fires set for the purpose of instruction in the methods of fighting fires, provided prior permission has been granted by a public officer in the performance of official duty and by the City Manager.
- 4) An agricultural fire set by or permitted by the City Manager if such fire is for the purpose of disease and pest prevention, or for frost protection.
- 5) Smokeless flares or safety flares for the combustion of waste gases.
- 6) A fire set or permitted by the by the Director of the Department of Environmental Resources Management, Miami-Dade Fire Rescue Department and under his control for the purpose of nonrecurring clearing of debris from land, agricultural and silviculture.

Sec. 20-4. Enforcement.

This article shall be enforced by the Code Compliance Department and the Doral Police Department. If a Code Compliance Officer finds a violation of this article,

he shall issue a civil citation to the violator as provided in the Code Compliance Ordinance. The citation 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 20 days after service of the violation, and that failure to do so shall constitute an admission of the violations and waiver of the right to a hearing. Each day in violation of this article shall constitute a separate offense. The City of Doral, in addition to the criminal sanctions contained herein, may take any other appropriate legal action, including but not limited to emergency injunctive action, to enforce the provisions of this article.

Sec. 20-5. Penalties

Violation of any provisions of this article shall be subject to the following penalties:

- a) First Violation – Citation in the amount of \$250
- b) Second Violation – Citation in the amount of \$500
- c) Third and any subsequent violation – Fine not to exceed \$500 and /or imprisonment in the county jail not to exceed 60 days.

- 1) A violator who has been served with a citation shall elect either to:
 - a. Pay the citation in the manner indicated on the notice; or
 - b. Request an administrative hearing before a Special Magistrate appointed by the City Council upon recommendation of the City Manager to appeal decision of the Code Compliance Officer that resulted in the issuance of the citation.
- 2) The procedures for appeal by administrative hearing of the citation shall be set for in the Code Compliance Ordinance.
- 3) If the named violator after notice fails to pay the civil fine or fails to timely request an administrative hearing before a Special Magistrate, the Special Magistrate shall be informed of such failure by report of 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 an 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.
- 4) Any party aggrieved by the decision of a Special Magistrate may appeal that decision to a court of competent jurisdiction.

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 Councilman Boria, who moved its adoption. The motion was seconded by Vice Mayor DiPietro and upon being put to a vote, the vote was as follows:

Mayor Juan Carlos Bermudez	Yes
Vice Mayor Michael DiPietro	Yes
Councilmember Luigi Boria	Yes
Councilmember Pete Cabrera	Yes
Councilwoman Ana Maria Rodriguez	Yes

PASSED AND ADOPTED upon first reading the 14th day of September, 2011.

PASSED AND ADOPTED upon second reading the 12th day of October, 2011.



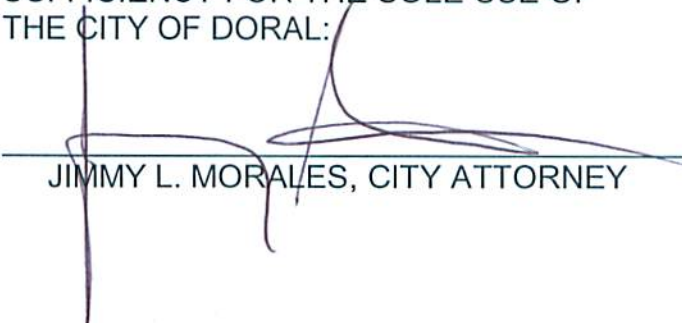
JUAN CARLOS BERMUDEZ, MAYOR

ATTEST:



BARBARA HERRERA, CITY CLERK

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



JIMMY L. MORALES, CITY ATTORNEY