

ORDINANCE #2014-41

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, AMENDING CHAPTER 32 OF THE CITY CODE OF ORDINANCES, ENTITLED "SOLID WASTE," BY CREATING ARTICLE IV, "CITYWIDE RECYCLING PROGRAM FOR MULTIFAMILY RESIDENCES," ESTABLISHING RECYCLING DEFINITIONS, REQUIREMENTS AND ENFORCEMENT, PROVIDING FOR PUBLIC EDUCATION AND WARNING PERIOD, AND INSTITUTING PENALTIES AND APPELLATE PROCEDURES; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR INCORPORATION INTO THE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the recycling of recyclable materials is in the best interest of the City of Doral (the "City"), the residents of the City, and the environment at large; and

WHEREAS, by managing solid waste and conserving material resources through reduction, reuse, and recycling, the City will help minimize impacts to the quality and safety of the local environment, reduce costs of waste disposal, and decrease the carbon footprint associated with the production, use and disposal of materials; and

WHEREAS, the City seeks to establish a City-wide recycling program for multifamily residences, with standards that are equivalent to or exceed the minimum recycling requirements of Miami-Dade County; and

WHEREAS, though shall enforce the provisions of this Ordinance, it shall be the responsibility of multifamily residences to ensure that the manner in which it is participating in the City-wide recycling programs meets the minimum standards set forth in Section 15-2.5 of the Miami-Dade County Code.

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**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 32. SOLID WASTE

ARTICLE IV – CITY-WIDE MULTIFAMILY RESIDENCES RECYCLING PROGRAM

Sec. 32-100. Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Collection Location. An accessible location or locations at each multifamily residential establishment designated for the deposit and accumulation of recyclable materials and for the unobstructed collection of such materials by the City's recycling company;

Multifamily residential establishment: any building or buildings designed, constructed, and licensed for four (4) or more family dwelling units, located in within one of the City's multiple family residential zoning districts, excluding townhomes grouped in any amount which currently receive individual residence recycling service as provided by Miami-Dade County; and

Recycling Customer: the owner of the multifamily residential establishment; however, in the case of a condominium or cooperative building or complex, the recycling customer shall be considered to be the condominium or cooperative unit owners association.

Sec. 32-101. - Recycling program and separation of recyclable materials from solid waste stream required for multifamily residences of four dwelling units or more; owner/association liability; recycling contractors' assistance.

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- (a) As of July 1, 2015, every Multifamily Residential Establishment shall provide a recycling program pursuant to this section or a city-approved modified recycling program pursuant to section 32-104. The Recycling Customer shall be liable for the failure to provide a recycling program or a modified recycling program approved by the City. Further, recycling contractors shall assist and provide written notice to the Director of the City's Public Works Department in identifying multifamily residences subject to this article which do not have a recycling program or, in the alternative, which have allowed a recycling program to lapse or expire.
- (b) As of July 1, 2015, every Multifamily Residential Establishment shall be required to use a single-stream recycling process to separate, from all other solid waste, the five following recyclable materials:
- (1) *Newspaper.* Used or discarded newsprint, including any glossy inserts;
 - (2) *Glass.* Glass, jars, bottles, and containers of clear, green or amber (brown) color of any size or shape used to store and/or package food and beverage products for human or animal consumption, and/or used to package other products, which must be empty and rinsed clean of residue. This term excludes ceramics, window or automobile glass, mirrors, and light bulbs;
 - (3) *Metal food and beverage containers.* All ferrous and nonferrous (i.e., including, but not limited to, steel, tin-plated steel, aluminum and bimetal) food and beverage containers (i.e., including, but not limited to, cans, plates, and trays) of any size or shape used to store and/or package food and beverage products suitable for human or animal consumption, which must be empty and rinsed clean of residue;
 - (4) *Other metal containers.* All other ferrous and nonferrous containers used to package household products including, but not limited to, paint cans and aerosol cans, which must be empty and rinsed clean of residue;
 - (5) *Plastics.* All high density polyethylene (HDPE) and/or polyethylene terephthalate (PET) bottles, jugs, jars, cartons, tubs, and/or other containers, and lids, of any size or shape used to package food, beverages, and/or other household products, or crankcase oil, which must be empty and rinsed clean of residue. This term excludes all plastic film, plastic bags, vinyl, rigid plastic (i.e., toys), and plastic foam materials.

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- (c) Every Multifamily Residential Establishment shall be serviced by a recycling contractor licensed by the City and State.
- (d) It shall be the responsibility of every Multifamily Residential Establishment to designate and maintain a Collection Location, for the deposit, accumulation, and collection of recyclable materials within the property in which the Multifamily Residential Establishment is located. All Collection Locations located outside of a building structure shall be completely screened from 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. Collection Locations shall not extend into any front yard; on corner lots it shall not extend into any side yard facing a street. Collection Locations shall be accessible to both contractors and private waste collectors and be located so that 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 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 Chapter.

Sec. 32-102. - Unauthorized collection of designated recyclable materials.

Only those recycling contractors that have been authorized and licensed by the City and the State to collect designated recyclables in the City shall be authorized to collect recyclable materials under this article. All recycling contractors shall comply with all applicable state and city laws and regulations.

Sec. 32-103. - Public education program; requirements for recycling contractors; warning period; enforcement date.

- (a) Beginning January 1, 2015, the City shall engage in public education efforts and the City shall not prosecute individuals who unknowingly fail to provide a recycling program or a City-approved modified recycling program, or unknowingly fail to separate recyclable materials from all other solid waste materials required to be separated by this article, until as provided in subsections (c) and (d) of this section.
- (b) All recycling contractors must appropriately designate the recycling collection containers they provide to customers. The containers must contain the appropriate signage and information, as shall be established and approved by the City pursuant to subsection (c) below, that allows users to clearly and easily identify the container for recycling.

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- (c) Beginning July 1, 2015, the City shall provide for a three (3) month warning period, through and including September 30, 2013, in which warning tickets shall be issued to persons who fail to provide a recycling program, or a City-approved modified recycling program, or fail to separate recyclable materials from all other solid waste materials, regardless of knowledge or intent.
- (d) Beginning September 1, 2015, this article shall be enforced and penalties shall be applied and imposed for violations of this article as provided in Section 32-105.

Sec. 32-104. - Modified recycling programs.

- (a) Recycling programs which incorporate modifications, substitutions or reductions to the requirements of Section 32-101 may be submitted to the City's Public Works Director for approval. Approval, rejection, or approval with conditions of the proposed modified recycling program shall be determined by the director. The Director shall consider the following factors in evaluating the proposed modified recycling program:
 - (1) Whether the Multifamily Establishment operates a recycling program, and is self-hauling the materials to a recyclable material vendor.
 - (2) Whether the establishment generates a lesser number of recyclable materials than the required minimum types of recyclables required in sections 32-101, as applicable.
 - (3) Whether the establishment generates and recycles materials not listed in section 32-101, as applicable.
 - (4) Whether the establishment is contracting with a permitted private hauler for collection services, which services provide for a post-collection separation of recyclable material, and which:
 - i. Generate recyclable materials which comply, in kind and, with the recycling requirements provided for in section 32-101, as applicable; and
 - ii. Utilize a materials separation facility which is permitted in accordance with all applicable federal, state and local laws.

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- (b) Any Recycling Customer seeking approval of a modified recycling program shall submit an application in such form as is prescribed by the Director of Public Works. All modified recycling programs shall be reviewed on an annual basis and applicants shall be required to confirm or revise the information contained in their applications at that time. An application for approval of a modified recycling program shall include, but not be limited to, the following documentation, as appropriate to the specific application:
- (1) supporting documentation to evidence self-haul activities, which shall include proof of source-separation activities and copies of receipts from recyclable material purchasers;
 - (2) a waste composition study of the waste generated by the applicant, which shall cover a representative time period of no shorter than one week; and
 - (3) a copy of the applicable contract with a post-collection separation facility, specifying materials and volumes recycled which are attributable to the applicant.

Sec. 32-105. - Enforcement.

- (a) The City Manager, by and through the City Code Compliance Department, is hereby authorized and directed to enforce all the provisions of this article regulating and governing the accumulation, collection, recycling, and disposal of recyclable materials. The City Manager shall have the power to delegate duties to employees working under his authority in the enforcement of the provisions of this article.
- (b) Whenever a Code Compliance Officer observes a violation(s) of this article, or an accumulation of recyclable materials that creates a health hazard, environmental hazard, or nuisance, the inspector shall order the violation(s) to be corrected within a specified period of time by serving a written notice of violation(s) upon the Recycling Customer or other person in charge of the premises. Such person(s) shall immediately cease or abate the violation(s).
- (c) If a Code Compliance Officer determines that the conditions constitute an immediate threat to the health, safety or welfare of the public, the Compliance Officer may order the immediate correction of the violation(s) at the expense of the property owner, manager, or other person in charge, and the city shall have the right to recover such expenses. Any costs incurred by the City in correcting an immediate threat to healthy, safety, and welfare shall be paid by the Recycling Customer upon being

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invoiced. Any unpaid costs shall result in a lien being placed on the property upon entry of an order by the special magistrate, in the amount of such costs and penalties.

- (d) A notice of violation shall be served personally or by certified mail upon the Recycling Customer, or upon the manager or other person in charge of the premises. If the person addressed with such notice cannot be found by the City after making a reasonable good faith effort, such notice shall be sent by certified mail to the last known address of such person, and a copy of the notice shall be posted in a conspicuous place on the premises. Such notice shall be deemed the equivalent of personal service.
- (e) Beginning July 1, 2015, violators of this article sections shall be issued one warning and shall correct the violation within 30 days. If the violation is not corrected within 30 days, a notice of violation shall be issued. After one warning, violators of this article shall be issued a notice of violation. All notices of violations shall specify any fine or penalty that may be due in connection with the violation(s), the time specified by the inspector to correct the violation(s), and the procedure for timely payment or appeal of the fine or penalty.

Sec. 32-106. - Penalties for violations of this article; removal of recyclable materials by city; liens imposed for failure to pay fines or appeal.

- (a) Penalties for violations of this article shall be as follows:
- (1) For the first violation, a fine of \$100.00.
 - (2) For the second violation, a fine of \$250.00.
 - (3) For the third violation, a fine of \$500.00.
 - (4) For the fourth violation, a fine of \$1,000.00.
- (b) Any penalty due pursuant to this article shall be charged to the Recycling Customer as provided in section 32-105. Failure to pay such costs and penalties, or to appeal pursuant to section 32-107 within 15 days of receipt of the notice of violation shall result in the imposition of a lien upon the premises, in the amount of such costs and penalties. Such liens shall be treated as special assessment liens against the subject real property and, until fully paid and discharged, shall remain liens equal in rank and dignity with the lien of ad valorem taxes, and shall be superior in rank and dignity to all other liens, encumbrances, titles and claims in, to or against the real property involved. Such liens shall be enforced by any of the methods provided in Chapter 86, Florida Statutes; or, in the alternative, foreclosure

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proceedings may be instituted and prosecuted under the provisions of Chapter 173, Florida Statutes; or the collection and enforcement or payment thereof may be accomplished by any other method authorized by law. The Recycling Customer of the premises shall pay all costs of collection, including reasonable attorneys' fees incurred in the collection of fines, and other charges, penalties, and liens imposed by virtue of this chapter.

- (c) For violations which (i) present a serious threat to the health, safety or welfare of the public, and/or (ii) constitute a fourth or subsequent offense by the same violator, the City may seek injunctive relief, in addition to the penalties set forth herein, as applicable.

Sec. 32-107. - Appeal to special master.

- (a) Any person receiving a notice of violation pursuant to this Article may request, within 15 days of receipt of the notice, an administrative hearing before a special master, appointed as provided in article II of chapter 30, to appeal the decision of the city inspector resulting in the issuance of the notice. The procedures and application fee for the scheduling and conduct of the hearing shall be as provided in Chapter 11 of the City Code. Failure to appeal within the prescribed time period shall constitute a waiver of the violator's right to an administrative hearing. A waiver of the right to an administrative hearing shall be treated as an admission of the violation, and fines and penalties may be assessed accordingly.
- (b) Timely filing of a notice of appeal pursuant to this section shall toll the imposition of a lien or enforcement procedures pursuant to section 32-106, until 30 days after the issuance of a written determination by the special master. Any costs or penalty amounts due the city pursuant to such determination must be received by the city within 30 days after the issuance of the determination, or a lien shall be imposed upon the premises, and any other enforcement or collection procedures may be commenced, as provided by this chapter or under state law.

* * * *

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

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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

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The foregoing Ordinance was offered by Councilmember Cabrera, who moved its adoption. The motion was seconded by Councilmember Rodriguez, 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

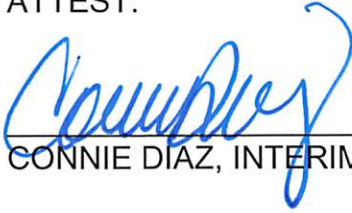
PASSED AND ADOPTED on FIRST READING THIS 12 day of November 2014.

PASSED AND ADOPTED on SECOND READING THIS 10 day of December 2014.




LUIGI BORIA, MAYOR

ATTEST:



CONNIE DIAZ, INTERIM CITY CLERK

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



WEISS, SEROTA, HELFMAN, COLE,
BIERMAN & POPOK, PL
CITY ATTORNEY

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