

ORDINANCE NO. #2008-23

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, CREATING AND ADOPTING A CODE SECTION ENTITLED "DEMONSTRATIONS AND PARADES"; PROVIDING FOR APPLICABILITY; PROVIDING FOR DEFINITIONS; PROVIDING FOR PROCESS FOR APPLICATION OF PERMIT; PROVIDING FOR STANDARDS FOR ISSUANCE OF PERMIT; PROVIDING FOR APPEAL PROCEDURE FOR REJECTION OF PERMIT; PROVIDING FOR ENFORCMENT AND PENALTIES; PROVIDING FOR CONFLICTS; PROVIDING FOR INCLUSION; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Doral wishes to regulate demonstrations and parades that may occur within the City limits; and

WHEREAS, demonstrations have occurred in the past that have disrupted the flow of traffic and created a hazard for the citizens; and

WHEREAS, the City of Doral wishes to establish a permitting procedure to provide adequate safety measures during demonstrations and parades; and

WHEREAS, the Mayor and City Council through the adoption of this ordinance seeks to protect the public health, safety, and welfare 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, "Demonstrations and Parades", shall be and it is hereby created to read as follows:

ARTICLE I. DEMONSTRATIONS AND PARADES

DIVISION 1. GENERALLY

Sec. 101. 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:

Demonstration means a public gathering, procession or parade, the primary purpose of which is to exercise the rights of assembly and free speech as guaranteed by the First Amendment of the Constitution of the United States. It includes activities conducted on public property for the purpose of demonstrating approval or disapproval of governmental policies or practices, expressing a view on public issues, or bringing into public notice any issue or other matter.

Parade means any march or procession consisting of persons, animals, vehicles or any combination thereof, traveling upon any public way, within the territorial jurisdiction of the city.

Picket line means a line of protesters outside a place of work with the purpose of intercepting outsiders and prevent them from working for employers with whom the organization is at variance.

Rally means a gathering of people with the intent to arouse enthusiasm or support for a common cause.

DIVISION 2. PERMIT

Sec. 102. Required; exceptions.

(a) No person shall conduct or manage any parade or demonstration without first having obtained a written permit from the chief of police; however nothing in this article shall be construed to prevent the peaceful assembly of any group for orderly expression or communication between those assembled.

(b) No permit shall be required for:

- (1) Funeral processions; and
- (2) Parades sponsored either by the federal or municipal government or agencies thereof.

Sec. 103. Application for permit.

(a) *Required.* Any person seeking issuance of a permit shall file an application with the chief of police on forms approved by him. No fee shall be required for the permit.

(b) *Filing period.* An application for a permit shall be filed with the chief of police not less than 15 days nor more than 90 days before the date on which it is proposed to conduct the parade; except, upon a showing of good cause, the chief of police may, in

his discretion, consider an application filed less than 15 days before the date on which it is proposed to conduct the parade.

(c) *Contents.* The application for a permit shall set forth the following information:

(1) The name and permanent address of the sponsoring organization, if any, and its chief officers, and the name, address and telephone number of the applicant and that person who is chiefly responsible for the conduct of the event.

(2) The date when the event is to be conducted, the approximate times when the event is to begin and end, and the approximate times when assembly for and disbanding of the event are to take place.

(3) The assembly area, the specific proposed route and the disbanding area for the event.

(4) The approximate number of persons, animals and vehicles that will constitute the event, the type of animals, a description of the types of vehicles to be used, and the number of bands, other musical units and sound trucks to be used.

(5) The number of persons who will be designated to monitor the event.

(6) A statement that the applicant has read and is familiar with the provisions of this division.

(7) Any additional information of a like nature which the chief of police shall find reasonably necessary in order to make a fair determination as to whether or not a permit shall be issued.

Sec. 104. Standards for issuance.

The chief of police shall issue a permit as provided for under this division when, from a consideration of the application and from such other information as may otherwise be obtained, he finds that:

(1) The conduct of the event will not substantially interrupt the safe and orderly movement of other vehicular and pedestrian traffic contiguous to its route.

(2) The conduct of the event will not divert such a large number of police officers from their normal police duties so that the city would thereby be deprived of reasonable police protection.

(3) The concentration of persons, animals and vehicles in the assembly and disbanding areas and along the event route will not substantially interfere with the movement of police, fire, ambulance and other emergency vehicles on the streets.

(4) The event is scheduled to move from its assembly location to its disbanding location expeditiously and without unreasonable delays en route.

(5) The event will not substantially interfere with any other parade for which a permit has already been granted.

(6) The applicant has provided for the services of that number of event monitors considered reasonably necessary by the chief of police to assure that the event will be conducted in conformity with the permit.

(7) The applicant has not materially misrepresented any facts or information set forth in his application for a permit.

(8) The applicant has furnished proof that, if the assembly or disbanding locations or the route of march for the event, encroach upon, occupy or traverse any area within the

jurisdiction of the federal or other local governments, permits or permission therefore have been obtained from the appropriate authorities.

(9) The event is not to be held for the sole purpose of advertising for private gain any product, wares, merchandise, contest or event.

Sec. 105. Notice of rejection.

The chief of police shall act upon the application for a permit within five days after its filing. If the application is rejected, the chief of police shall forward by certified mail a copy of the notice of rejection within ten days after the filing of the application; and the reasons therefore shall be set forth specifically in writing.

Sec. 106. Alternate permit.

The chief of police, in rejecting the application for a permit, may authorize an alternate permit providing for the conduct of the event on a date, at a time or over a route different from that specified in the application. Should an applicant wish to accept such alternate permit, he shall file a written acceptance thereof within five days after service of the rejection of the application by the chief of police. An alternate permit shall conform to the requirements and shall have the effect of a permit under this division.

Sec. 107. Appeal procedure.

Any applicant aggrieved by the decision of the chief of police and city manager may appeal to the Special Magistrate. Such appeal shall be filed within five days after service of the decision of the chief of police rejecting or modifying the application for a permit. The Special Magistrate shall make a final determination in the appeal within ten days after the appeal is filed.

Sec. 108. Contents of permit.

- (a) A permit shall contain the following information:
- (1) The assembly area and time for assembling.
 - (2) The starting time.
 - (3) The minimum and maximum speeds.
 - (4) The specific route plan of the parade.
 - (5) The maximum distance to be maintained between separate units of the event, if any.
 - (6) The maximum length of the event in miles or fractions thereof.
 - (7) The number of persons required to monitor the event.
 - (8) The number and type of animals and vehicles, if any.
 - (9) The portion of the street, sidewalk or other public way that is to be occupied by the event.
 - (10) A description of the type of material to be used in, and the maximum size of, any sign, banner, placard and handle or carrying device therefore.
 - (11) The disbanding area and the time for disbanding.

(12) Such other information as the chief of police shall find reasonably necessary in the enforcement of this regulation.

(b) It shall be unlawful for any organization, association or corporation to conduct or effectuate any organized public parade or any organized public march upon the public streets of the city unless such organization, association or corporation shall have provided, or caused to be present at an advertised specific location along the line of such parade or march, adequate first aid units manned by competent personnel and available for emergency use by the persons participating in such parade or march or by the public attending and viewing such parade or march.

Sec. 109. Revocation of permit.

The chief of police shall have the authority to revoke a permit issued under this division if he finds that the parade is being conducted in violation of the standards for issuance, as set forth in this Article.

Sec. 110. Penalty.

Any person who shall conduct, manage or participate in any event without first having obtained a permit, subject to the exceptions contained in this Article, or who willfully violates any of the terms or conditions of the parade permit, shall, upon conviction therefor, be punished by a fine of not more than \$1,000.00 or imprisonment for not more than 90 days, or both.

Sec. 111. Prohibited activities.

(a) Any participant in a demonstration, rally, picket line or parade within the city who is observed carrying or possessing any of the objects specified in subsections (1) through (10) below shall immediately dispose or discard the object(s) upon the request of a law enforcement officer. The willful refusal to dispose of or discard of the object(s) shall constitute a violation, punishable in accordance with section 110 of this Code.

It shall be unlawful for any person participating in a demonstration, rally, picket line or parade, to exhibit, display, possess, carry or wear any of the following:

(1) Any weapon. For purposes of this section, "weapon" shall mean any pistol, rifle, shotgun or other firearm, whether loaded or unloaded, air rifle, air pistol, paintball gun, paintball rifle, explosive, blasting cap, knife, hatchet, ax, slingshot, blackjack, metal knuckles, mace, iron buckle, ax handle, crowbar, or any other instrument customarily use or intended for use as a dangerous weapon.

(2) Any length of lumber, wood or wood lath greater than one foot in length or greater than 1/4-inch in thickness;

(3) Any length of plastic pipe or metal greater than one foot in length or greater than 1/4-inch in thickness

(4) Any sign, poster, plaque, or notice, whether mounted or not, unless such sign, poster, plaque or notice is constructed solely of a cloth, paper, or cardboard material no greater than 1/4-inch in thickness and the mounting, if any, for such sign complies with subsection (2).

- (5) Any projectile launcher or other device which is commonly used for the purpose of launching, hurling, or throwing any object, liquid, material or other substance.
 - (6) Any glass bottles, glass jars or glass containers.
 - (7) Spray paint cans.
 - (8) Balloons filled with any material or substance other than air, oxygen or helium.
 - (9) Bricks, stones, rocks or pieces of asphalt or concrete.
 - (10) Any gas mask or similar device designed to filter all air breathed and that would protect the respiratory tract and face against irritation, noxious or poisonous gases, with the intent to conceal his or her physical identity for the purpose of engaging or attempting to engage in unlawful acts, except that such masks may be worn by law enforcement officers, fire emergency officials, or other officials at their direction for public safety purposes during the scope of their employment.
- (b) It shall be unlawful for any person to carry or possess any Sleeping Dragon Device, with the intent to use the device to deny or obstruct the public's ability to freely move about on roadways, sidewalks, or into or out of buildings. For purposes of this subsection, a Sleeping Dragon Device shall mean a section of pipe, or a container, filled with weighted material, handcuffs, chains, or other locking devices utilized for the purpose of locking a person or persons to other person or persons or other objects. Prior to enforcement of this subsection, a law enforcement officer shall issue a dispersal order. Refusal to disperse peacefully and immediately shall constitute a violation of this section, punishable in accordance with section 110 of this Code.
- (c) It shall be unlawful for any person to fail to abide by the instructions of a police officer or traffic enforcement officer, given for the purpose of accommodating traffic, including emergency vehicles, through and across a parade route, demonstration, rally or picket line.
- (d) Nothing in this section shall prohibit a disabled person from carrying a cane, walker or similar device necessary for providing mobility so that the person may participate in the demonstration, parade, rally or picket line.

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 Cabrera who moved its adoption.

The motion was seconded by Councilwoman Ruiz and upon being put to a vote, the vote was as follows:

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

PASSED AND ADOPTED upon FIRST READING the 18th day of November, 2008.

PASSED AND ADOPTED upon SECOND READING the 10TH day of December, 2008.



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