

ORDINANCE No. 2023-28

AN ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, CREATING ARTICLE V “OUTDOOR STORAGE ON PUBLIC PROPERTY” OF CHAPTER 38 “STREETS, SIDEWALKS AND OTHER PUBLIC PLACES”, OF THE CITY OF DORAL CODE OF ORDINANCES; PROVIDING FOR DEFINITIONS; PROVIDING FOR PROCEDURES FOR REMOVAL AND DISPOSAL OF PERSONAL PROPERTY; PROVIDING FOR NOTICE AND HEARING; PROVIDING FOR A REPEALER; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCORPORATION INTO THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Mayor and the City Council of the City of Doral (“City”) has a substantial interest in aesthetics, sanitation, public health, and safety, as well as keeping public spaces open and available for public use, and a prohibition against storage of property on public spaces is a reasonable means of achieving that goal; and

WHEREAS, the City acknowledges that there is a procedure for the removal and disposal of abandoned and/or lost property pursuant to Section 705.103, Florida Statutes, however, said procedure does not provide for the unpermitted storage of personal property on public property owned or leased by the City and removal and proper storage of such property; and

WHEREAS, the City has a compelling interest to ensure that sidewalks are unobstructed for the passage of pedestrian traffic and access to public rights-of-way; and

WHEREAS, the City has a compelling interest in promoting the health and safety of the public by regulating potentially hazardous conditions on public property and security concerns to the public and City employees; and

WHEREAS, the City recognizes that individuals may not have a place to store their belongings, when they do not have a permanent place to do same, and the City is willing

and able to assist, on a limited basis, in providing storage facilities for these individuals;
and

WHEREAS, the Mayor and City Council of the City has determined that the following amendments promote and protect the general health, safety and welfare of the residents of and visitors to the City.

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

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

Section 2. Amendment to Chapter 38 of the City of Doral's Code of Ordinances. Chapter 38, of the City of Doral's Code of Ordinances is hereby amended as follows:

ARTICLE V., SECTION XX. OUTDOOR STORAGE ON PUBLIC PROPERTY

Sec. 38-XXX. Definitions.

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

(1) *Occupant* means the owner of or any person in actual or apparent control of any item of personal property stored upon public property.

(2) *Officer* means a sworn law enforcement officer or code inspector as defined in section 11.11.

(3) *Public property* means any street, alley, sidewalk, pedestrian pathway, swale, bicycle lane, median, or any other area encompassed within the public right-of-way of the City, any park, or other outdoor recreation facility in the City, or any other grounds, buildings, or other facilities, including any structures, fixtures, equipment, furnishings, and any other appurtenances located thereon, owned or leased by the City or by any other public owner.

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(4) Reasonable charges mean the actual costs and that the City shall take into consideration the owner's ability to pay the charges.

(5) Store means any action to place, leave, park, locate, or set an item upon public property at a distance in excess of twenty (20) feet from the occupant.

Sec. 38-XXX. Prohibition.

It shall be unlawful for any person to store any item of personal property on any public property.

Sec. 38-XXX. Process for removal of unlawfully stored property.

(1) The City may remove or cause the removal of personal property stored on public property in violation of this Article if an occupant fails to remove such personal property from any public property within twenty-four (24) hours after having been served with written notice, as described in section 38-XXX of this Article.

(2) In the event an officer determines personal property stored on public property is a threat to the health, safety, or welfare of the public, an officer may immediately remove such personal property. A threat to the health, safety, or welfare of the public shall include, but not be limited to, a fire hazard, an explosive hazard, noxious odors, or an infestation of vermin, including rodents, lice, roaches or fleas. If personal property is removed pursuant to this section without prior notice, a written notice shall be posted at the location where the personal property was removed which identifies the determined threat to the health, safety, or welfare of the public and the location to which the personal property has been taken.

(3) Personal notice shall not be required for the removal of personal property stored on public property in violation of this section upon which signage is located indicating that unattended items may be removed immediately. Such items may be removed immediately. Such written notice may only be posted on public property under the following conditions:

a. In the interest of security and safety, temporary signs warning of immediate removal of items from public property may be posted on public property at least thirty-six (36) hours in advance of special events as described in Chapter 35 of this Code, including, but not limited to, parades and festivals which are likely to draw large crowds to the City.

b. In the interest of security and safety, permanent signs warning of the immediate removal of items from public property may be posted around public buildings which are likely targets for the placement of explosive devices or other security risks related to terrorists or dissidents.

c. In the event the City determines the need for an area-wide clean-up, the city shall post written notice of the clean-up in the area to be cleaned at least thirty-six (36) hours in advance of the cleaning. Any items left when the clean-up commences may be immediately removed and stored according to the procedures set forth in this section.

- (4) The City may dispose of the items thirty (30) days after removal from the public property or after seven (7) days if the items are deemed to be a threat to the health, safety, or welfare of the public pursuant to this section. If the owner of the items wishes to retrieve the items, adequate proof of ownership and payment to the City of reasonable charges for storage and removal of the items are required. If the owner demonstrates he or she does not have the ability to pay the reasonable charges, such charges will not be required to retrieve the items.

Sec. 38-XXX. Notice.

- (1) The written notice required by section 38.XXX shall be deemed to have been served if:

- a. A copy is personally delivered to the occupant or identified owner of the item; or
- b. A copy is left at the party's usual place of abode with some person of the family above fifteen (15) years of age and informing such person of the contents thereof; or
- c. A copy is mailed by either registered or certified U.S. mail with return receipt requested; or
- d. If the name of such party or the place of residence or post office address cannot be ascertained after diligent search and inquiry or in the event notice sent by either registered or certified mail is returned undelivered, a copy of such notice shall be posted in a conspicuous place on the property upon which the items described in this section are or were located; or
- e. A copy of the notice is attached to the unlawfully stored items.

- (2) The notice required in subsection (1) shall contain the following:

- a. A complete description of the item(s) to be removed or a photograph thereof;
- b. The location of the property;
- c. The section of the Code in violation;
- d. The location to which the item(s) will be removed;
- e. The date and time by which the item(s) must be removed from public property; and

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- f. The date by which the item(s) must be claimed from the location where they are being stored.

Sec. 38-XXX. Abandoned and lost property.

Abandoned and lost property shall be regulated and removed in accordance with Section 705.101, et. seq., Florida Statutes.

Section 3. Repealer. All ordinances, or parts of ordinances in conflict herewith be, and the same, are hereby repealed.

Section 4. Severability. If any section, subsection, clause or provision of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be affected by such invalidity.

Section 5. Incorporation Into the Code. It is the intention of the Mayor and the City Council, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Code of Ordinances of the City of Doral; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word, as required.

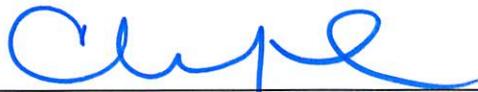
Section 6. Effective Date. This Ordinance will become effective ten (10) days after adoption at second reading.

The foregoing Ordinance was offered by Councilmember Puig-Corve who moved its adoption. The motion was seconded by Vice Mayor Pineyro upon being put to a vote, the vote was as follows:

Mayor Christi Fraga	Yes
Vice Mayor Rafael Pineyro	Yes
Councilwoman Digna Cabral	Yes
Councilwoman Maureen Porras	Not Present at Time of Vote
Councilman Oscar Puig-Corve	Yes

PASSED AND ADOPTED on FIRST READING this 13 day of September, 2023.

PASSED AND ADOPTED on SECOND READING this 18 day of October, 2023.



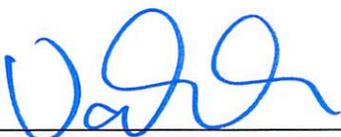
CHRISTI FRAGA, MAYOR

ATTEST:



CONNIE DIAZ, MMC
CITY CLERK

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



VALERIE VICENTE, ESQ. for
NABORS, GIBLIN & NICKERSON, P.A.
CITY ATTORNEY