

ORDINANCE #2013- 01

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, CREATING AND ADOPTING A CODE SECTION ENTITLED “ABANDONED VEHICLES AND VESSELS”; PROVIDING FOR APPLICABILITY; PROVIDING FOR DEFINITIONS; PROHIBITING ABANDONED VEHICLES AND VESSELS; PROVIDING FOR PROCEDURE FOR REMOVAL; PROVIDING FOR NO OBSTRUCTION, IMMUNITY AND COSTS; PROVIDING FOR CONFLICTS; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Doral (the “City”) is concerned about the safety and conditions of the roadways within the City; and

WHEREAS, the City believes that it is necessary to establish its own ordinance that regulates abandoned vehicles and vessels; and

WHEREAS, the City wishes to impose certain responsibilities on property owners that abandon their property on the public roadway; and

WHEREAS, the Mayor and City Council, through the adoption of this ordinance, seek to protect the public health, safety, and welfare for all of the residents of the City;

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

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

Section 2. A new ordinance of the City of Doral, entitled, "Abandoned Vehicles and Vessels," shall be and is hereby created to read as follows:

ARTICLE I. ABANDONED VEHICLES AND VESSELS

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:

City means the City of Doral, Florida

Commercial vehicle means a vehicle used on public roads in commerce to transport passengers or cargo, excluding private passenger vehicles which do not exhibit any exterior indication of business use.

Enforcement Officer means a Police Officer or any other officer or representative of the City designated by law, charter, ordinance or order of the City Manager to enforce provisions of this article.

Private passenger vehicle means all vehicles used to transport passengers, including a van, which has been approved for use on public roadways.

Private property means all land and improvements not constituting public properties, and lying within the City Limits.

Public property means lands and improvements owned by the Federal government, the State, the County, the City or governmental entities lying within the City and includes buildings, grounds, parks, playgrounds, streets, sidewalks, parkways, rights-of-way and other similar property.

Recreational vehicle means a motor vehicle designed to provide temporary living quarters for recreational, camping or travel use, which has its own propulsion or is mounted on or towed by another vehicle.

Vessel means every description of watercraft which is designed, used or capable of being used as a means of transportation on water.

Sec. 102 – Abandoned Vehicles and Vessels Prohibited.

It is unlawful for any person to park, store or leave any motor or other vehicle or vessel (collectively referred to in Article I as "vehicle") in a wrecked, junked, partially dismantled or abandoned condition on public or private property within the City. This shall not prohibit licensed vehicle repair shops from storing and repairing vehicles on the licensed premises.

For the purposes of this section, "abandoned" means a motor or other vehicle which does not have an identifiable owner and which has been disposed of on public or private property in a wrecked, inoperative or partially dismantled condition or which has no apparent intrinsic value to the rightful owner. The Enforcement Officer shall refer to the following characteristics to make a determination that a violation of this section exists:

- (1) The vehicle has nominal salvage value;
- (2) The vehicle is not in sufficient repair to perform its intended function;
- (3) The vehicle is on public property and does not have a current license tag, decal or registration;
- (4) The vehicle exhibits physical damage incurred in a collision or other incident that has not been repaired;
- (5) The vehicle is derelict and has been left unprotected from the elements, as exhibited by growth of vegetation about the vehicle, direct exposure to the elements, the positioning of the vehicle in other than an upright or operable manner, or vandalism; or
- (6) The length of time the vehicle has remained in its present location. A vehicle may be considered abandoned if parked or stored on the public right-of-way or private road for a period exceeding 48 hours, other than in a designated parking area.
- (7) The length of time the vehicle has remained in its present location. A vehicle may be considered abandoned if parked or stored on the public right-of-way or private road for a period exceeding 48 hours.

Sec. 103. – Procedure for Removal

The procedure for removal and disposition of abandoned vehicles shall be as follows:

(1) Abandoned vehicles on private property: Whenever the Enforcement

Officer of the City shall ascertain that an abandoned vehicle is present on private property within the limits of the City, a Warning Notice shall be issued to the property owner allowing five (5) days for the vehicle to be removed. If compliance is not achieved during the warning period the case will be forwarded to the Special Magistrate for a hearing. At the hearing daily fines can be imposed to compel compliance.

(2) Abandoned vehicles on public property. Whenever the Enforcement Officer of the City shall ascertain that an abandoned vehicle is present on public property within the limits of the City, he/she shall cause a notice to be placed upon such abandoned vehicle and proceed in accordance with Chapter 705, Florida Statutes. The notice shall be placed upon such abandoned vehicle in substantially the following form:

"Notice to the Owner or the Authorized Agent of the Attached Property... This vehicle, to wit: (set forth brief description) located at (describe location) is unlawfully stored upon public property and must be removed within five (5) days from the date of this notice; otherwise, it shall be removed and disposed of pursuant to chapter 705 , Florida Statutes. The owner will be liable for the costs of removal, storage, and publication of notice, by order of the City of Doral, Florida, The property is unlawfully stored on public property in violation of Ordinance 2013- of the City of Doral Code. It must be removed within (5) days or otherwise, it shall be presumed to be abandoned property and it will be removed and destroyed by order of the Code Compliance Officer unless a hearing is requested as described below. The owner will be responsible for the costs of removal and destruction. Hearing: the owner of this property may request an Administrative Hearing within (5) days of the date of this notice by submitting a letter to the name and address below. If such request for a hearing is received within five (5) days the property will not be removed and destroyed, pending the outcome of the hearing by an Administrative Hearing Officer. Dated this:

(date of posting notice). Signed: (name, title, address and telephone number of enforcement officer)".

- a. Such notice described above shall not be less than eight inches by ten inches and shall be sufficiently weatherproof to withstand normal exposure to the elements. In addition to posting, the Enforcement Officer shall make reasonable efforts to ascertain the name and address of the owner of the vehicle and the real property upon which the vehicle is located and if such information is reasonably available to the Enforcement Officer, he/she shall mail a copy of such notice to the owners on or before the posting day. The Enforcement Officer shall contact the Department of Highway Safety and Motor Vehicles or the Department of Environmental Protection if the vehicle is a motor vehicle or vessel, respectively, to determine the name and address of the owner and any person who has filed a lien on the vehicle or vessel. The Enforcement Officer shall then mail a copy of the notice by certified mail to the owner and lienholder, if any.

- b. A hearing prior to the removal of the derelict, junk, or abandoned property is to be held before the Code Enforcement Special Magistrate when such a hearing is requested by the owner of the property or lienholder within ten days after posting of notice to abate the violation. Any order by the Code Enforcement Special Magistrate requiring the removal of derelict, junk, or abandoned property from private land shall include a description of the vehicle by identification and license number, if available at the site.

- c. If a hearing is not requested, and if at the end of five days after posting such notice as set out above, the owner or any person interested in the abandoned vehicle described in such notice has not removed the same and complied with the ordinance or section of this Code cited in the notice, or shown reasonable cause for failure to do so, the Enforcement Officer may cause the abandoned vehicle to be removed and destroyed and the salvage value, if any, of such abandoned vehicle shall be retained by the City to be applied against the cost of such removal and destruction.

- d. The procedure for sale of abandoned vehicles shall be as set forth in Ch. 705, Florida Statutes.
- e. The State Department of Motor Vehicles shall be notified of vehicles removed from private property pursuant to the terms of this section.
- f. All costs and expenses incurred by the City in carrying out the provisions of this article shall constitute, until paid, a lien against the owner of the vehicle and against the real property where it was stored when it is determined that the abandoned vehicle belongs to the owner of the real property or that the owner of the real property has failed to remove said vehicle; with interest to accrue at the rate of eight percent annually.

Sec 104. No Obstruction; Immunity; Costs

- (a) It is unlawful for any person to oppose, obstruct or resist any Enforcement Officer or any person authorized by the Enforcement Officer in the discharge of his or her duties as provided in this article.
- (b) Any Enforcement Officer or any person authorized by the Enforcement Officer shall be immune from prosecution, civil or criminal, for reasonable, good faith trespass upon real property while in the discharge of duties imposed by this article.

Section 3. Severability. 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. All ordinances or parts of ordinances or resolutions of the City Code made inconsistent or in conflict herewith shall

be and are hereby repealed in their entirety to the extent of such 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 effective upon adoption on second reading.

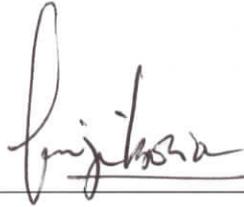
The foregoing Ordinance was offered by Vice Mayor Ruiz, who moved its adoption.

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

Mayor Luigi Boria	Yes
Vice Mayor Sandra Ruiz	Yes
Councilwoman Christi Fraga	Yes
Councilwoman Ana Maria Rodriguez	Yes
Councilwoman Bettina Rodriguez Aguilera	Yes

PASSED AND ADOPTED upon first reading the 9 day of January, 2013.

PASSED AND ADOPTED upon second reading the 13 day of February, 2013.



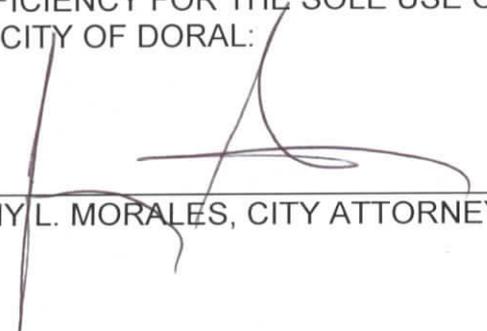
LUIGI BORIA, MAYOR

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