

ORDINANCE #2010 - 23

**AN ORDINANCE OF THE CITY OF DORAL, FLORIDA
AMENDING CHAPTER 38, ARTICLE IV OF THE CITY CODE
REGARDING DEMONSTRATIONS IN THE CITY OF DORAL;
PROVIDING FOR CONFLICTS; PROVIDING FOR
SEVERABILITY; PROVIDING FOR INCLUSION IN THE CITY
CODE; PROVIDING FOR AN EFFECTIVE DATE**

WHEREAS, the City Council wishes to amend Chapter 38, Article IV of the City Code.

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

Section 1. Chapter 38, Article IV of the City Code of the City of Doral is hereby amended to read as follows:

Section 38-81. 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, **picket line or rally**, ~~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.~~

Event means any demonstration taking place in the City of Doral for which a permit is required.

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.

Section 38-82. Penalty

Any person who shall willfully and knowingly 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~~ **\$100.00** or imprisonment for not more than ~~90~~ **ten (10)** days, or both.

Section 38-83. ~~Prohibited Activities.~~ **Reserved.**

~~(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 (a)(1) through (10) of this section shall immediately dispose of or discard the objects upon the request of a law enforcement officer. The willful refusal to dispose of or discard of the objects shall constitute a violation of this Article, punishable in accordance with Section 38-82.~~

~~(1) Any weapon. For purposes of this section, the term "weapon" means 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 used 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 one-quarter inch in thickness;~~

~~(3) Any length of plastic pipe or metal greater than one foot in length or greater than one-quarter 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 one-quarter inch in thickness and the mounting, if any, for such sign complies with subsection (a)(2) of this section.~~

~~(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 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. The term "sleeping dragon device," for purposes of this subsection, means 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 to other 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 38-82.~~

~~(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 38-96. Required; exceptions.

(a) No person shall conduct or manage any ~~parade or demonstration~~ **of more than fifty (50) participants**, 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.

Section 38-97. Application.

- (b) Filing period. An application for a permit shall be filed with the chief of police not less than 40 three (3) business days, or as soon as practicable if the applicant certifies that the assembly is of a spontaneous or urgent nature, 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 40 three (3) business 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.~~

Section 38-98. 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 **one event monitor per every fifty (50) participants or any part thereof** ~~that number of event monitors considered reasonably necessary by the chief of police~~ to ensure 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.

Section 38-99. Notice of Rejection

The chief of police shall act upon the application for a permit within five **two (2) business** days after its filing. **If the application is rejected, the chief of police shall forward by electronic mail or facsimile, if such contact information has been provided in the permit application, a copy of the notice of rejection as soon as practicable after the application has been rejected.** 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 therefor shall be set forth specifically in writing.

Section 38-102. Contents

(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 **as required by Section 38-98(6).**
- (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 therefor.~~
- (10)** ~~(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.~~

Section 2. Repeal of Conflicting Provisions. To the extent any provisions of the Code conflict with this Chapter, those provisions are repealed in their entirety.

Section 3. 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 4. Inclusion in the Code. It is the intention of the City Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of Doral, Florida; 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 5. Effective Date. This Ordinance shall be effective upon adoption on second reading.

The foregoing Ordinance was offered by Councilman Cabrera, who moved its adoption. The motion was seconded by Vice Mayor Van Name and upon being put to a vote, the vote was as follows:

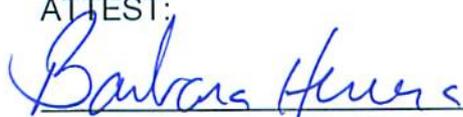
Mayor Juan Carlos Bermudez	Yes
Vice Mayor Robert Van Name	Yes
Councilman Peter Cabrera	Yes
Councilwoman Sandra Ruiz	Yes
Councilman Michael DiPietro	Yes

PASSED AND ADOPTED on first reading this 22nd day of September, 2010.

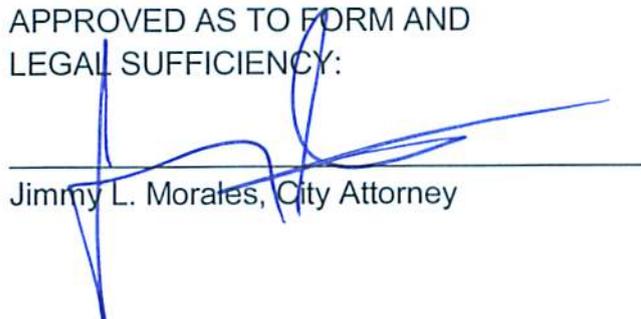
PASSED AND ADOPTED on second reading this 13th day of October, 2010.



Juan Carlos Bermudez, Mayor

ATTEST:


Barbara Herrera, City Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:


Jimmy L. Morales, City Attorney