

ORDINANCE NO. 2014-21

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, AMENDING THE CITY CODE BY CREATING ARTICLE I, "ANIMAL CRUELTY," IN CHAPTER 3, "ANIMALS", PROHIBITING ACTS OF CRUELTY TOWARDS ANIMALS; PROVIDING FOR CIVIL ENFORCEMENT; PROVIDING FOR PENALTIES; PROVIDING FOR INCORPORATION INTO THE CITY CODE; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Mayor and City Council, the Animal Population Steering Committee, and residents at large, of the City of Doral (the "City") has expressed concerns over the treatment of animal within the City; and

WHEREAS, Section 828.27, Florida Statutes, authorizes a municipality to enact an ordinance related to prevention of cruelty to animals; and

WHEREAS, Section 5-25, Miami-Dade County Code of Ordinances, permits municipalities within Miami-Dade County to adopt and enforce additional regulations than what is provided in Chapter 5 of the Miami-Dade County Code regarding the treatment of animals, provided that such additional municipal regulations are not in conflict and the cost of the enforcement of which shall be borne by the municipality; and

WHEREAS, the Mayor and Council desire to adopt legislation that makes unlawful acts that constitute animal cruelty, with the goal of educating the public, advancing policies for the humane treatment of animals, and providing a means for civil enforcement to penalize individuals who conduct acts of cruelty; and

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WHEREAS, the Mayor and Council find that the policies established by this Ordinance are in the best interest of the community.

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 by the addition of Article I, "Cruelty to Animals," in Chapter 3, "Animals," which shall read as follows:

CHAPTER 3. ANIMALS

ARTICLE I – ANIMAL CRUELTY

Sec. 3-1. Legislative intent.

It is the intent of the City Council of the City of Doral, Florida, to enact by Ordinance, in accordance with Chapter 828, Florida Statutes, locals laws providing for an enforcement means wherein cruelty to animals may be corrected and the animals protected, with the greater intention of seeking to prevent cruelty to animals through education and the encouragement of good husbandry, which includes support for no-kill animal population control methods such as, without limitation, trap-neuter-return policies and programs. Though this Ordinance may be codified, it is in the intent of the City Council that this Ordinance be known as the "Bibiana Salmon Animal Cruelty Ordinance" in honor of her unyielding efforts to protect the lives and well-being of animals and her dedicated service to the City of Doral.

Sec. 3-2. Definitions.

As used in this section, the term:

- (1) "Animal" means any living dumb creature;
- (2) "Control" means the regulation of the possession, ownership, care, and custody of animals;

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- (3) "Cruelty" means any act of neglect, torture, or torment that causes unjustifiable pain or suffering of an animal;
- (4) "Code Inspector" means the code compliance officers or any authorized agent or employee of the city whose duty it is to ensure code compliance, as provided for Chapter 11 of the Code ; and
- (5) "Citation" means a written notice, issued to a person by an Code Inspector, that the Code Inspector has probable cause to believe that the person has committed a civil infraction in violation of a duly enacted ordinance, for which the City through a special magistrate shall hear the charge pursuant to Chapter 11 of the City Code.

Sec. 3-3. Acts Deemed Cruelty To Animals Unlawful.

It shall be unlawful to commit any act that constitutes cruelty to animals. Pursuant to Chapter 828, Florida Statutes, and Chapter 5, Miami-Dade County Code of Ordinance, the following acts shall be deemed cruelty to animals:

- (1) To torture, torment, mutilate, kill, or unnecessarily overdrive any animal or to cause the same to be done;
- (2) To engage in animal fighting, including, without limitation, dog fighting or cock fighting. For purposes of this section, to be engaged in animal fighting means to instigate, promote, assist, hold, manage, stage, conduct, be employed in connection with, be present for the preparation of, provide an animal for, allow one's own real or personal property to be used for, gamble on, be a spectator at, or profit from an exhibition, contest, or event featuring the fighting of an animal with another animal during which an animal may be injured, maimed, or killed. The practice of "trunking," in which two animals are locked in the trunk of a car and induced to fight in the confined space, shall be deemed animal fighting;
- (3) To intentionally commit an act to any animal which results in the cruel death of the animal, or the excessive or repeated infliction of unnecessary pain or suffering to the animal, or to cause the same to be done;
- (4) To deprive an animal of necessary sustenance, whether by neglect or refusal. For purposes of this section, "necessary sustenance" means: food and water that is of sufficient quantity and nutritive value to meet the minimal daily requirements for the condition and size of the animal as set forth by the commercial food industry or by a licensed veterinarian; food and water that is free of contaminants and vermin and insect infestation; and proper medical attention for any illness, injury, infection, skin disorder,

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and internal parasite. Feeding a cow on feed that produces impure or unwholesome milk shall be deemed to be a violation of this section;

- (5) To leave or deposit any poison or any substance containing poison in any yard or enclosure that contains or is known to regularly contain any animal, the result of which is the full or partial consumption of the poison or substance containing poison by an animal therein and the injury, incapacity, or death of same;
- (6) To deprive an animal of dry ground and shelter from extreme weather, including, but not limited to, extreme heat or near-freezing temperatures, thunderstorms, tornadoes, tropical storms, or hurricanes;
- (7) To restrain an animal outdoors by tethering an animal to any object or structure, including, but not limited to, a house, tree, fence, post, garage, or shed, by any means, including, but not limited to, chain, rope, cord, leash, or running lines, unless: the animal is in visual range of the responsible party and the responsible party is located outside with the animal; the means of restraint avoids strangulating, injuring, and/or entangling the animal during movement and is of such length as to be no less than five (5) times the length of the animal; the animal has access to water, shelter, and dry ground; the animal is not injured or sick; and the animal is older than six (6) months. Multiple animals must be individually restrained in compliance with the foregoing. The foregoing does not apply to leashes used for the purposes of walking or exercising animals. The foregoing shall not be construed to be less restrictive than Section 5-21 of the Miami-Dade County Code, with regard to the tethering of dogs, but instead more restrictive as it applies to all animals. Where this subsection conflicts with Section 5-21 of the Miami-Dade County Code, the latter shall control.
- (8) To impound or confine an animal in any place and during such confinement: to fail to supply the animal with a sufficient quantity of good and wholesome food and water; to fail to provide the animal with wholesome exercise and change of air; to keep the animal in an enclosure that does not permit the animal to make normal postural movements; to keep the animal in an enclosure that contains excess excreta. Enclosing an animal in a vehicle without adequate ventilation shall be deemed to be a violation of this provision;
- (9) For a responsible party to abandon an animal in a street or other public place or to abandon an animal if it is maimed, infirm, or diseased; for any individual to remove an animal from a particular area and relocate it to another with the intent of permanently abandoning the animal, without making provision for the feeding and sheltering of the animal, with the

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intent to harm and/or kill the animal, and/or without the owner's consent if the abandoning party is not the owner. For purposes of this section, "abandon" means to forsake an animal for which one is responsible without providing for its care, necessary sustenance, protection, and shelter;

- (10) If an animal is known to have or to have been exposed to a contagious or infectious disease: to transfer possession of such animal without first disclosing the condition of the animal to the person to whom the animal is transferred; to knowingly permit such animal to run at large; or to knowingly permit such animal to come into contact with any animal of another person without the other person's knowledge or permission.
- (11) To intentionally trip, fell, rope, or lasso the legs of an animal by any means for the purpose of entertainment or sport, except for cattle roping as might occur at authorized rodeo event. As used in this subsection, "trip" means any act that consists of the use of any wire, pole, stick, rope, or other apparatus to cause an animal to fall or lose its balance. The provisions of this subsection shall not apply when tripping is used to control an animal that is posing an immediate threat to well-being of human beings or other animals; for the purposes of capturing a loose or lost animal; or for the purpose of administering veterinary care.

An individual found to be in violation of this section shall be subject to all enforcement regulations as contained in this chapter and all penalties as set forth in Chapter 828, Florida Statutes, and Chapter 5, Miami-Dade County Code. To the extent that violations of this chapter constitute violations of County and/or State law, the City shall refer such actions to the appropriate County and/or State agency for prosecution.

Section 3-4. Citation System for Enforcement.

Any person violating any of the provisions of this chapter shall be deemed guilty of a civil infraction, for which a Code Inspector shall issue a Citation pursuant to Chapter 11 of the City Code. A Code Inspector may issue a Citation if he/she has probable cause to believe that a person has committed an act in violation of a section in this chapter. The Citation shall contain:

- (1) The date and time of issuance;
- (2) The name and address of the person;
- (3) The date and time the civil infraction was committed;
- (4) The facts constituting probable cause;

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- (5) The ordinance violated;
- (6) The name and authority of the Code Inspector;
- (7) The procedure for the person to follow in order to pay the civil penalty or to contest the citation;
- (8) The applicable civil penalty if the person elects to contest the citation;
- (9) The applicable civil penalty if the person elects not to contest the citation; and
- (10) A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, he shall be deemed to have waived his right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.

During a one-year period, each violation of this chapter shall constitute a separate offense.

Section 3-5. Penalties.

Violations of this chapter shall be enforced in accordance with Chapter 11 of the City Code, with penalties as follows:

- (1) For the first violation, by a civil penalty of \$50.00, if the person who has committed the civil infraction does not contest the citation;
- (2) For the first violation, by a civil penalty of \$100.00, if the person who has committed the civil infraction does contest the citation and is found to have committed the violation;
- (3) For the second violation, by a civil penalty of \$200.00, if the person who has committed the civil infraction does not contest the citation;
- (4) For the second violation, by a civil penalty of \$300.00, if the person who has committed the civil infraction does contest the citation and is found to have committed the violation;
- (5) For the third violation and each additional violation thereafter, by a civil penalty of \$400.00, if the person who has committed the civil infraction does not contest the citation;

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- (6) For the third violation and each additional violation thereafter, by a civil penalty of \$500.00, if the person who has committed the civil infraction does contest the citation and is found to have committed the violation;
- (7) Any person who fails to pay the appropriate civil penalty within the time provided on the citation or who fails to appear in county court to contest the citation, shall be deemed to have waived his right to contest the citation and judgment may be entered against the person for an amount not to exceed \$500.00.

Any person who has been issued a citation for committing an act in violation of a section of this chapter may contest the Citation before the City's special magistrate, the decision of which may be appealed to the appellate division of the Miami-Dade County Circuit Court. Any person who willfully refuses to sign and accept a citation issued by an Code Inspector shall be guilty of a misdemeanor of the second degree, punishable as provided by sections 775.082, 775.083, or 775.084, Florida Statutes.

* * *

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 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

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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

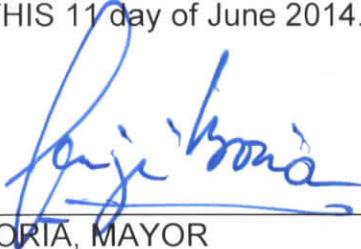
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The foregoing Ordinance was offered by Councilmember Rodriguez Aguilera, who moved its adoption. The motion was seconded by Councilmember Rodriguez, and upon being put to a vote, the vote was as follows:

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

PASSED AND ADOPTED on FIRST READING THIS 28 day of May 2014.

PASSED AND ADOPTED on FIRST READING THIS 11 day of June 2014.



LUIGI BORIA, MAYOR

ATTEST:



BARBARA HERRERA, CITY CLERK

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



WEISS SEROTA HELFMAN PASTORIZA COLE & BONISKE, PL
CITY ATTORNEY

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