

**ORDINANCE No. 2019-03**

**AN ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, AMENDING CHAPTER 44 “TRAFFIC AND VEHICLES” CREATING SECTIONS 44-1 THROUGH 44-9 ENTITLED “CONSTRUCTION PARKING AND TRAFFIC MANAGEMENT PLAN”; PROVIDING FOR LEGISLATIVE INTENT; DEFINITIONS; CREATING REQUIREMENTS FOR CONTRACTORS TO PROVIDE CONSTRUCTION PARKING AND TRAFFIC MANAGEMENT PLANS PRIOR TO OBTAINING BUILDING PERMITS FOR PROJECTS OVER A CERTAIN CONSTRUCTION THRESHOLD; TO ENSURE THAT ALL EMPLOYEES, CONTRACTORS, SUBCONTRACTORS AND DELIVERIES ARE PART OF THE TRAFFIC MANAGEMENT AND PARKING PLAN; PROVIDING FOR PENALTIES, ENFORCEMENT PROCEDURES AND APPEALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, the City Code at Chapter 44 entitled “Traffic and Vehicles” regulates matters relating to traffic and vehicles within the City of Doral; and

**WHEREAS**, there exists in areas of the City, heavy concentration of construction activity and related employee vehicles that park for extended periods diminishing the availability of public parking which restricts access to patrons and visitors to commercial areas; and

**WHEREAS**, the presence of these vehicles causes vehicular traffic congestion on commercial and school zones and impede the movement of traffic; and

**WHEREAS**, vehicular congestion in these areas is further exacerbated by deliveries to the construction site during peak traffic hours; and

**WHEREAS**, the establishment of a requirement of a construction management plan for traffic and parking will preserve quality of life and support the commercial businesses and preserve the safety of children and other pedestrians; and

**WHEREAS**, the proposed amendments to Chapter 44 of the City Code is necessary to accomplish the above objectives.

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

**Section 1. RECITALS.** The recitals and findings contained in the Preamble to this Ordinance are adopted and incorporated as if fully set forth in this Section.

**Section 2. CODE AMENDED.** Chapter 44 Article I Sections 44-1-44-9 of the City Code, entitled "Construction Parking and Traffic Management Plan", is created to read as follows:

## **ARTICLE I. IN GENERAL**

### **CONSTRUCTION PARKING AND TRAFFIC MANAGEMENT PLAN**

#### **Sec. 44-1 - Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Commercial area* means a contiguous or nearly contiguous area containing public streets or parts thereof primarily abutted by commercial, or retail property. Commercial area shall contain at least half a city block bordered by three public streets, and, if there is an alleyway, also by the alleyway.

*Construction employee vehicle (CEV)* means a motor vehicle operated in or parked by an employee, day laborer or subcontractor of a construction contractor for extended periods of the day, which result in an impact on the community as identified below as a CEVI.

*Construction employee vehicle impact (CEVI)* means:

(1) A condition whereby:

- a. Municipal (on- and off-street) parking spaces are limited in quantities and for extended periods of the day factually occupied Monday through Saturday, of any month by construction employee, contractor or subcontractor vehicles; and

- b. CEVs park on municipal on and off-street parking spaces, intended for commercial or residential uses; or
- (2) A condition whereby any number of construction related vehicles are being driven into commercial or residential areas and the CEV drivers are creating traffic congestion and hazardous conditions in school zones during school drop off and pick-up hours.
- (3) The CEVI permit and plan shall be posted at the construction site.

Construction Management Plan (CMP) means a written plan that establishes uniform policies and procedures that will be used by construction management personnel to manage (1) Traffic management and (2) Parking.

Governmental Applicants means the City of Doral or its agents or agencies or Instrumentality thereof.

Law means all duly enacted and applicable federal, state, county and city laws, ordinances, codes, rules, regulations and orders.

Maintenance means the upkeep or preservation and acts of repair and other acts to prevent a decline, lapse or cessation from an existing state or condition; to keep from falling, declining or ceasing; to keep in good order; keep in proper condition; keep in repair, as it pertains to the private property and public right-of-way, as applicable, and as are encompassed by the provisions of this chapter.

Person means any individual, corporation, partnership, limited liability company, association, joint venture, for-profit organization, contractor, subcontractor, affiliate, agent, representative, governmental institution, not-for-profit organization, or other legal entity of any kind, any lawful trustee, successor, assignee, transferee, heir, or personal representative thereof, but shall not mean the city.

Public right-of-way as used in this article shall mean any dedicated or undedicated public street, highway, sidewalk, parkway or alley, public ways, public space(s) and other public places within the city.

Residential areas means a contiguous or nearly contiguous area containing public streets or parts thereof primarily abutted by residential property or residential and nonbusiness property such as schools, parks, churches, hospitals, and nursing homes. A residential area shall contain at least half a city block bordered by three public streets, and, if there is an alleyway, also by the alleyway.

School Zone means in, or on the grounds of, a public, parochial or private school; or within a distance of 1,000 feet from the grounds of a public, parochial or private school.

Street or streets means the surface, the air space above the surface and the area below the surface of any public street, highway, road, boulevard, concourse, driveway, freeway, thoroughfare, parkway, sidewalk, bridge, tunnel, park, waterway, dock, bulkhead, wharf, pier, court, lane, path, alley, way, drive, circle, easement, or any other

public right-of-way or public place, including public utility easements dedicated for compatible uses, or any other property in which the city holds any kinds of property interest or over which the city exercises any type of lawful control, and any temporary or permanent fixtures or improvements located thereon, as may be ordinarily necessary and pertinent to a permit for construction in or excavation of or use of the public right-of-way, but shall not include city-owned buildings or city private property.

Sec. 44-2. - Creation of Construction Management Plan (CMP).

(1) In order to obtain or maintain a building and/or grading and shoring permit for all projects with a value in excess of One Million Dollars (\$1,000,000.00,) with the exception of a single-family residence the contractor of record shall be required to provide to the city a CMP. The Public Works director shall review the CMP. Failure to provide the CMP or obtain director's approval of the CMP shall preclude the issuance of a building permit. The CMP shall minimize CEVI to the surrounding commercial or residential areas. The CMP must:

- (a) Reduce CEVI related to the proposed construction;
- (b) Contain construction related parking within the project site, whenever possible;
- (c) Document where the parking areas will be provided for the employees, subcontractors, and contractors, if not on site;
- (d) Include routes and time tables for the acceptance of deliveries of products and materials to the work site; and
- (e) The contractor and owner of the property, are required to sign, under oath, the proposed CMP, confirming their understanding of the plan, and the penalties associated with noncompliance.

Sec. 44-3. - Requirements of CMP.

(1) The CMP shall contain the following required elements to address the CEVI:

- (a) A copy of the current building permit application/processing number, that is not expired, with the building department.
- (b) A copy of the Master Development Agreement and approved site plan (if applicable).
- (b) A system to minimize the effect of CEV parking in commercial and residential neighborhoods and School Zones.
- (c) Document the number of potential workers; number of phases and a project timeline; identify by description and vehicle license plate number all vehicles that will be present on the site during various phases of construction; and indicate whether sufficient privately owned/operated off-street parking will be provided. Provide proof of such off-street private parking arrangements.

- (d) The construction contractor, owner/developer shall schedule a pre-construction meeting with city staff after permit issuance, but prior to start of work, to review CMP implementation.
- (2) The construction site parking and staging plan shall provide the following specific information:
- (a) All construction related parking (whether for employees, contractors, subcontractors, suppliers, etc.) shall be located on-site where the construction is to take place, or at an approved off-site locations, as approved by city staff. Swale right-of-way, or parking metered locations may be permitted, upon approval of the parking director, to be used for loading, deliveries, and supplies. However, this temporary authorization shall not be considered a proper parking area for employees, subcontractors or contractors under the CMP.
- (b) Delineate the details as to the number of proposed vehicles; type of vehicles accessing the construction site; maintain an accurate log of on-site vehicles with year, make, model, and Florida license plate number.
- (c) Identify where all on-site parking will be located (minimum 8.5 feet x 18 feet per stall) and how vehicles will enter and exit the construct site from or the street.
- (d) If off-site parking is required to accommodate employee, subcontractor or contractor parking needs, identify the off-site location to be used and how the employees, subcontractors or contractors will get to and from the construction site. Provide proof of lease, exclusive use, etc., to the parking director as park of the CMP.
- (e) identify any fencing around the construction site and all access points. A site plan approval together with permits for fencing and signage may be required.
- (f) Identify material staging area(s).
- (g) Provide any other notes necessary to clarify the CMP, as may be applicable.
- (h) Include a statement in the CMP that acknowledges that a condition of the building permit is an approved CMP and representation by the owner and subcontractor that they will not permit the construction employees to park in any areas not specifically designated in the CMP.

Sec. 44.4. - Review and approval.

The CMP shall be reviewed and require the approval of the public works director.

Sec. 44.5. - Issuance of permit.

- (1) A CMP permit shall be issued upon approval of the CMP and payment of fees.

- (2) A CMP permit fee in the amount of \$500.00 shall be assessed for each CMP and related building permit.
- (3) Failure to obtain public works department authorization of a CMP permit shall preclude the issuance of building permit.
- (4) The CMP permit fee shall not apply to Governmental Applicants. The City Manager may waive the CMP permit fee for applications submitted by federal, state and county agencies.

Sec. 44.6 - Parking in designated areas.

- (1) Pursuant to the requirements of section 44.3, contractors, subcontractors and construction employees shall register and provide vehicle make, model, year, color, and license plate to the public works department.
- (2) CEVs shall prominently display a parking permit for the corresponding parking facility(ies) related to the building permit/construction project identified in the underlying CMP. Such parking permit shall be displayed so as to be clearly visible to the city's enforcement personnel.
- (3) CEVs found at any location other than those stipulated in the CMP shall be in violation of this section.

Sec. 44-7. - Enforcement.

- (1) A city code compliance inspector may issue a citation for a violation of this chapter. Whenever a code compliance officer determines that contractors, subcontractors and construction employees are parking outside of the designated areas in violation of the CMP or deliveries of products and materials to the work site fail to comply with the routes and timetables in the CMP the code compliance officer is authorized to give, or cause to be given, a stop work order and the issuance of a Notice of Violation.
- (2) All violations of this chapter are civil infractions. Each violation of this chapter shall constitute a separate offense. Violations of this Chapter will be punished as follows:
  - (a) For a first offense: A \$1,000.00 fine issued to both contractor and/or property owner/tenant.
  - (b) For a second offense: A \$3,000.00 fine issued to both contractor and/or property owner/tenant.
  - (c) For a third offense: A \$5,000.00 fine issued to both contractor and/or property owner/tenant.
  - (d) For each additional/subsequent offense: A one-day stop work order issued by the city's building official.
  - (e) For purposes of this section, an offense shall be deemed to have occurred on the date that the violation occurred.

(f) The failure of any person to pay the appropriate fine within the time allowed or to appeal the violation shall constitute a waiver of the right to an administrative hearing before the special master and fines may be assessed accordingly.

(g) A certified copy of an order imposing a fine may be recorded in the public records and thereafter shall constitute a lien upon any real or personal property owned by the violator and it may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the violator's personal property, but shall not be deemed to be a court judgment except for enforcement purposes. After two months from the recording of any such lien that which remains unpaid, the city may foreclose or otherwise execute upon the lien.

#### Sec. 44-8 - Revocation of permits and other penalties.

Any contractor, subcontractor, property owner or tenant who has obtained a valid citation under section 44.7, and who has failed to pay the fine, and failed to cure the violation, shall have the building permit revoked. Failure to comply shall subject such participant to enforcement procedures by the city and may result in fines of up to an additional \$500.00, per day, and liens as provided by law.

#### Sec. 44-9 - Appeals.

(a). An appeal must be filed with the special magistrate via the code compliance department within 30 days of the date of the citation for a violation of this Chapter. Any appeal not timely filed as set forth in this section shall be waived. The special magistrate shall consider the appeal. The hearing shall occur within 30 days of the receipt of the appeal, unless waived by the registrant, and a written decision shall be rendered within 20 days of the hearing.

(b) Nothing in this article shall affect or limit the remedies the city has available under applicable law

**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 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.

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

Mayor Juan Carlos Bermudez	Yes
Vice Mayor Claudia Mariaca	Yes
Councilwoman Digna Cabral	Yes
Councilman Pete Cabrera	Yes
Councilwoman Christi Fraga	Yes

PASSED AND ADOPTED on FIRST READING this 9 day of January, 2019.

PASSED AND ADOPTED on SECOND READING this 13 day of February, 2019.

  
\_\_\_\_\_  
JUAN CARLOS BERMUDEZ, 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:

  
\_\_\_\_\_  
LUIS FIGUEREDO, ESQ.  
CITY ATTORNEY