

ORDINANCE #2007- 13

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, CREATING AND ADOPTING A CODE SECTION ENTITLED "WATER RESTRICTIONS"; PROVIDING FOR INTENT AND PURPOSE; PROVIDING FOR DEFINITIONS; PROVIDING FOR APPLICABILITY; PROVIDING FOR AMENDMENTS TO WATER SHORTAGE PLAN; PROVIDING FOR DECLARATION OF WATER SHORTAGE; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR WATER USERS ACCEPTANCE; PROVIDING FOR CONFLICTS; PROVIDING FOR INCLUSION; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Doral is concerned about the water resources for the its residents and business owners; and

WHEREAS, the City of Doral believes that it is necessary to regulate the water usage during the time of a declared water shortage; and

WHEREAS, the City of Doral wishes to assist the South Florida Water Management District in the implementation of its water shortage plan; and

WHEREAS, the Mayor and City Council through the adoption of this ordinance seeks to protect the water resources of the City of Doral from harmful effects of over utilization during periods of water shortage;

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

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

Section 2. That a new ordinance of the City of Doral, entitled, "Water Shortages," shall be and it is hereby created to read as follows:

ARTICLE I. WATER SHORTAGES

Sec. 1-101. Intent and purposes.

It is the intent and purpose of this article to protect the water resources of City of Doral from the harmful effects of over-utilization during periods of water shortage and allocate available water supplies by assisting the South Florida Water Management District in the implementation of its water shortage plan.

Sec. 1-102. Definitions.

For the purpose of this article the following terms, phrases, words and their derivatives shall have the meaning given herein, when not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The word "shall" is always mandatory and not merely directory.

District is the South Florida Management District.

Person is any person, firm, partnership, association, corporation, company or organization of any kind.

Water resource means any and all water on or beneath the surface of the ground, including natural or artificial watercourses, lakes, ponds, or diffused surface water, and water percolating, standing, or flowing beneath the surface of the ground.

Water shortage condition is when sufficient water is not available to meet present or anticipated needs of persons using the water resource, or when conditions are such as to require temporary reduction in total water usage within a particular area to protect the water resource from serious harm. A water shortage usually occurs due to drought.

Water shortage emergency means that situation when the powers which can be exercised under part II of Chapter 40E-21, Florida Administrative Code, are not sufficient to protect the public health, safety or welfare, or the health of animals, fish or aquatic life, or a public water supply, or commercial, industrial, agricultural, recreational or other reasonable uses.

Sec. 1-103. Application of article.

The provisions of this article shall apply to all persons using the water resource within the geographical areas subject to the "water shortage" or "water shortage emergency," as determined by the district, whether from public or privately owned water utility system, private wells, or private connections with surface water bodies. This article shall not apply to persons using treated effluent or saltwater.

Sec. 1-104. Amendments to water shortage plan.

Chapter 40E-21, Florida Administrative Code, as same may be amended from time to time, is incorporated herein by reference as a part of the City of Doral Code.

Sec. 1-105. Declaration of water shortage; water shortage emergency.

The declaration of a water shortage or water shortage emergency within all or any part of the City of Doral by the South Florida Water Management District shall invoke the provisions of this article. Upon such declaration all water use restrictions or other measures adopted by the district applicable to City of Doral, or any portion thereof, shall be subject to enforcement action pursuant to this article. Any violation of the provisions of Chapter 40E-21, Florida Administrative Code or any other issued pursuant thereto shall be a violation of this article.

Sec. 1-106. Enforcement.

This article shall be enforced by the Code Compliance Department and the Doral Police Department. If a Code Compliance Officer finds a violation of this article, he shall issue a civil citation to the violator as provided in the Code Compliance Ordinance. The citation shall inform the violator of the nature of the violation, amount of fine for which the violator may be liable, instructions and due date for paying the fine, notice that the violation may be appealed by requesting an administrative hearing within 20 days after service of the violation, and that failure to do so shall constitute an admission of the violations and waiver of the right to a hearing. Each day in violation of this article shall constitute a separate offense. The City of Doral, in addition to the criminal sanctions contained herein, may take any other appropriate legal action, including but not limited to emergency injunctive action, to enforce the provisions of this article.

Sec. 1-107. Penalties.

Violation of any provisions of this article shall be subject to the following penalties:

TABLE INSET:

Phase I – Water Restrictions	Warning Notices
Phase II or Phase III First violation	Citation in the amount of \$50.00
Second violation	Citation in the amount of \$250.00
Third Violation	Citation in the amount \$500.00
Fourth and any subsequent violations	Fine not to exceed \$500.00 and /or imprisonment in the county jail not to exceed 60 days.

- 1) A violator who has been served with a citation shall elect either to:
 - a. Pay the citation in the manner indicated on the notice; or
 - b. Request an administrative hearing before a Special Magistrate appointed by the City Council upon recommendation of the City Manager to appeal decision of the Code Compliance Officer that resulted in the issuance of the citation.
- 2) The procedures for appeal by administrative hearing of the citation shall be set for in the Code Compliance Ordinance.
- 3) If the named violator after notice fails to pay the civil fine or fails to timely request an administrative hearing before a Special Magistrate, the Special Magistrate shall be informed of such failure by report of the Code Compliance Officer. Failure of the named violator to appeal the decision of the Code Compliance Officer within the prescribed time period shall constitute a waiver of the violator's right to an administrative hearing before the Special magistrate. A waiver of the right to an administrative hearing shall be treated as an admission of the violation, and penalties may be assessed accordingly.
- 4) Any party aggrieved by the decision of a Special Magistrate may appeal that decision to a court of competent jurisdiction.

Sec. 1-108. Water Users to Accept Provisions of Division

No water service shall be furnished to any person by a public or private utility unless such person agrees to accept all the provisions of this division. The acceptance of waters service shall be in itself the acceptance of the provisions of this division.

Section 3. Severability. That 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. That all ordinances or parts of ordinances or resolutions of the County Code made inconsistent or in conflict herewith shall be and they are hereby repealed in their entirety 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 Cabrera who moved its adoption.

The motion was seconded by Councilman Van Name and upon being put to a vote, the vote was as follows:

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

PASSED AND ADOPTED upon FIRST READING the 13th day of June, 2007.

PASSED AND ADOPTED upon SECOND READING the 8th day of August, 2007.



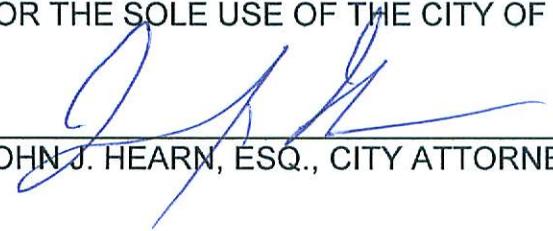
JUAN CARLOS BERMUDEZ, MAYOR

ATTEST:



BARBARA HERRERA, CITY CLERK

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



JOHN J. HEARN, ESQ., CITY ATTORNEY