

**ORDINANCE NO. 2005-19**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, SUBMITTING TO REFERENDUM AN AMENDMENT TO ARTICLE II OF THE CITY CHARTER, ENTITLED "CITY COUNCIL; MAYOR," AND IN PARTICULAR SECTION 2.05 ENTITLED "VACANCY; FORFEITURE OF OFFICE; FILLING OF VACANCIES;" AMENDING SECTION 2.05(C)(III) PROVIDING THAT THE VICE MAYOR SERVES AS INTERIM MAYOR IF THE MAYOR'S POSITION BECOMES VACANT ONLY UNTIL THE NEXT SCHEDULED ELECTION IN THE CITY; PROVIDING FOR VICE MAYOR TO BE ABLE TO RETURN TO HIS/HER PREVIOUS COUNCIL SEAT FOR THE REMAINDER OF THE TERM; PROVIDING FOR A NOTICE OF AN ADVERTISEMENT OF THE REFERENDUM ELECTION BE PUBLISHED IN ACCORDANCE WITH APPLICABLE LAW; PROVIDING THAT THIS ORDINANCE, WHEN ADOPTED, SHALL BE SUBMITTED TO THE QUALIFIED ELECTORS OF THE CITY OF DORAL, FLORIDA ON THE JANUARY 24, 2006 SPECIAL ELECTION MUNICIPAL BALLOT AND SHALL BECOME EFFECTIVE AS PROVIDED BY LAW; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE**

WHEREAS, Chapter 166, Florida Statutes, as amended, provides for a methodology of Charter amendments supplementary to and not in conflict with the Charter of the City of Doral, Florida; and

WHEREAS, Section 5.03 of the Miami-Dade County Charter recognizes the authority of municipalities to amend their Charter; and

WHEREAS, Section 6.01 of the Charter of the City of Doral provides that the Council may, by ordinance, propose amendments to the Charter, subject to approval by the electorate at the next general election called for such purpose; and

WHEREAS, the City Council has created a Charter Review Committee to engage in a comprehensive review of the City Charter; and

WHEREAS, the Charter Review Committee completed its designated function on October 10, 2005 and has forwarded its recommendation to the City Council and one of the Committee's recommendation was to provide that compensation for Councilmembers and the Mayor shall not exceed certain thresholds and that the calculation of those thresholds will be all non-accountable expense allowances; and

WHEREAS, the Council has properly reviewed, considered and directed that this Ordinance be prepared and that the appropriate Charter referendum question be included herein and submitted to the qualified electors of the City of Doral, Florida at the January 24, 2006 special municipal election; now, therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA:

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

**Section 2.** Article II of the City Charter, entitled "City Council; Mayor," in particular Section 2.05 currently entitled "Vacancies; Forfeiture of Office; Filling of Vacancies," shall be amended to read as follows:

**Section 2.05. Vacancies; Forfeiture of Office; Filling of Vacancies.**

- (c) *Filling of vacancies.* A vacancy on the Council shall be filled as follows:
- (i) If the vacancy occurs in a Seat and six months or less remain in the unexpired term, the vacancy shall be filled by vote of the Council. If the vacancy occurs in the office of Mayor, the vacancy in the Mayor's position and the temporary vacancy on the Council during service by the Vice Mayor as Interim Mayor, shall be filled as provided by subparagraph (iii) below.
  - (ii) If more than six months remain in the unexpired term of a Councilmember and the vacancy is not the Vice-Mayor's position when the Vice-Mayor is serving as Interim Mayor, the vacancy shall be filled by a special election to be held not sooner than 45 days or more than 90 days following the occurrence of the vacancy, unless there is a City, County, State or a national election scheduled to

take place within 150 days, in which case the vacancy shall be filled by special election on the first such election date.

(iii) If the Mayor's position becomes vacant, the Vice-Mayor shall serve as Interim Mayor, with all powers of Mayor, until the next regularly scheduled federal, state, county, or City of Doral election. complete the term of Mayor. When the Vice Mayor becomes Interim Mayor, the Council, by majority vote shall appoint an interim Councilmember to fill the Vice Mayor's vacant seat only until the required election of the Mayor. The vacancy thus created on the Council shall be filled in the manner that the vacancy of a Councilmember is generally filled under the subsection (e). The Council shall then appoint a new Vice-Mayor within thirty days of the Vice-Mayor becoming Interim Mayor. The Councilmember serving as Interim Mayor shall serve as Mayor until the newly elected Mayor is sworn into office. Should the Interim Mayor seek election as Mayor, he or she shall declare for such and resign his or her Council seat as required for candidacy eligibility requirements of Florida law. Should the Interim Mayor not seek election as Mayor, the Interim Mayor shall return to the position of Councilmember previously held to serve the remainder of his or her unexpired term if any.

(iv) Persons filling vacancies shall meet the qualifications specified in this Article II.

~~(vi)~~(v) If no candidate for a vacancy meets the qualifications under this Article for that vacancy, the Council shall appoint a person qualified under this Article to fill the vacancy.

~~(vii)~~ (vi) Notwithstanding any quorum requirements established in this Charter, if at any time the full membership of the Council is reduced to less than a quorum, the remaining members may, by majority vote, appoint additional members to the extent otherwise permitted or required under this subsection (c).

~~(viii)~~(vii) In the event that all Members of the Council are removed by death, disability, recall, forfeiture of office and/or resignation, the Governor shall appoint an interim Council who shall call a special election within not less than 30 days or more than 60 days after such appointment. Such election shall be held in the same manner as the initial elections under this Charter; provided, however, that if there are less than six months remaining in any unexpired terms, those particular interim Members of the Council appointed by the Governor shall serve out the unexpired terms. Appointees shall meet the requirements for candidates specified in this Article.

**Section 3.** The ballot title shall be as follows:

**FILLING OF VACANCY OF MAYOR AND TEMPORARY VACANCY OF  
COUNCILMEMBER SERVING AS INTERIM MAYOR**

**Section 4.** The form of the ballot of the Charter amendment, which shall be placed on the ballot for consideration by the qualified electors of the City of Doral, Florida, at the January 24, 2006 special municipal election shall read as follows:

The current Charter provides that when the Mayor's position becomes vacant, the Vice-Mayor completes the Mayor's term. Shall the Charter be amended to provide that the Vice-Mayor shall serve as Interim Mayor until the next regularly scheduled election in the City, that Council appoint an interim Councilmember to serve only until the next regularly scheduled election, and that Interim Mayor may return to Council for unexpired term after election of Mayor?

Yes [ ]

No [ ]

**Section 5.** Charter Amendment to be Available for Public Inspection, and for the City Clerk to Utilize the Services of Miami-Dade County Supervisor of Elections.

The place, information and the full text of the proposed City Charter amendments are available at the office of the City Clerk located at 8300 NW 53 Street, Suite #100, Doral, Florida. Copies of this Ordinance providing for this Charter Amendment subject to this referendum approval is on file in the office of the City Clerk and available for public inspection during regular business hours. The City Clerk is authorized to utilize the services of Miami-Dade County Supervisor of Elections for any assistance required in the administration of the election.

**Section 6.** Providing for Inclusion in the Charter.

It is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Charter of the City of Doral, Florida, as to each Charter amendment measure approved by a majority of voters on such measure in such election; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and the word "Ordinance" shall be changed to "Section" or other appropriate word.

**Section 7.** Providing for Adoption of Enabling Resolution

The City Council shall provide for enactment of an enabling resolution submitting the proposed amendments to the electorate pursuant to Section 5.03 of the Miami-Dade County Charter.

**Section 8.**     Severability

The provisions of this Ordinance are declared to be severable and if any section, sentence, clause, or phrase of this Ordinance is 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 9.**     Effective Date

This Ordinance shall become effective upon adoption on second reading, and each of the Charter amendment measures provided herein shall be effective only upon approval of a majority of electors voting on the measure, effective upon certification of the election results. If conflicting amendments are adopted at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

The foregoing Ordinance was offered by Councilman DiPietro, who moved its adoption. The motion was seconded by Councilwoman Ruiz and upon being put to a vote, the vote was as follows:

Mayor Juan Carlos Bermudez	(Mayor had stepped out at the time the vote was taken)
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 18<sup>th</sup> day of October, 2005.

PASSED AND ADOPTED upon second reading the 9<sup>th</sup> day of November, 2005.

  
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JUAN CARLOS BERMUDEZ, MAYOR

ATTEST:

  
\_\_\_\_\_  
BARBARA HERRERA-HILL, CITY CLERK

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

  
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JOHN J. HEARN, CITY ATTORNEY