

ORDINANCE No. 2021-43

AN ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, AMENDING ARTICLE VII OF THE CITY CODE OF ORDINANCES ENTITLED "CODE OF ETHICS", BY CREATING SECTION 2-399 ENTITLED "CHARTER ENFORCEMENT" AND DELEGATING TO THE INTERNAL AFFAIRS UNIT OF THE CITY OF DORAL POLICE DEPARTMENT THE RESPONSIBILITY FOR OVERSEEING THE INVESTIGATION OF COMPLAINTS BROUGHT AGAINST THE CITY COUNCIL, CHARTER OFFICIALS, CITY EMPLOYEES AND INDIVIDUALS DOING BUSINESS WITH THE CITY FOR MISCONDUCT AND VIOLATIONS OF THE CITY CHARTER; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Sec. 2.07. of the City Charter authorizes the creation of the Office of Charter Enforcement ("OCE") to investigate matters including, but not limited to, violations of Federal Law, State Law, County Law, this Charter, City Ordinances, and Regulations related to conduct, public decorum, and ethics; and;

WHEREAS, the requirements contained in the 2013 Charter Amendment for selecting the Charter Enforcement Official as well as the individuals qualified and willing to serve on the City of Doral OCE Selection and Oversight Committee has prevented the City from identifying candidates; and

WHEREAS, on January 9, 2019 the Mayor and City Council approved an ordinance appointing the Internal Affairs Unit of the Doral Police Department ("IAU") as the interim agency to investigate allegations of misconduct and alleged violations of the City Charter by elected officials, all Charter Officials, all employees of the City of Doral and appointed positions: and

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WHEREAS, the ordinance appointed the Internal Affairs Unit of the Doral Police Department as the interim unit responsible for investigating written complaints, making probable cause determinations, and forwarding violations to the appropriate civil, criminal or administrative agency with jurisdiction over the alleged violation; and

WHEREAS, the City has complied with the spirit of the Charter Amendment until such time as the Charter Enforcement Official is appointed and the OCE is operational; and

WHEREAS, the Ordinance appointing IAU to conduct investigations expired on September 30, 2021.

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

Section 1. Recitals. The above recitals are confirmed, adopted, and incorporated herein and made part hereof by this reference.

Section 2. Code Amended. Article VII, "CHARTER ENFORCEMENT," of the Code of Ordinances of the City of Doral is hereby amended as follows:

ARTICLE VII. – CHARTER ENFORCEMENT

* * *

Sec. 2-399

- (a) The Internal Affairs Unit of the Doral Police Department ("IAU") shall be responsible for making an initial determination of good cause for complaints filed with the City Clerk's Office in accordance Article III Section (b.). The IAU shall review complaints against elected City officials, all Charter Officials, all employees and appointed

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positions that allege violations of Federal Law, State Law, County Law, this Charter, City Ordinances, and Regulations related to conduct, public decorum, and ethics.

- (b) Individuals may file a written complaint with the IAU by filing a sworn statement with the City Clerk's Office, under seal. A complaint may only serve as a basis for a good cause finding if it is signed by an identified person who verifies the contents of the complaint by including the following statement: "Under penalties of perjury, I declare that I have read the foregoing complaint and that based on my personal knowledge the facts stated in it are true." The IAU shall develop a complaint form consistent with the requirements of this paragraph.

Upon the receipt of a complaint, or on his/her own initiative, the IAU shall conduct a preliminary investigation, and if the IAU determines there is good cause, the IAU shall, issue a statement of the facts upon which a good cause determination is based. The IAU's statement shall be filed with the City Clerk's Office and be part of the Public Record.

- (c) After completing his or her preliminary investigation and determining that there is probable cause to believe a violation has occurred, the IAU shall notify the appropriate civil, criminal, or administrative agencies charged with enforcement related to the alleged violation.

(1) The IAU shall refer findings of alleged criminal offenses to the Office of the State Attorney and/or the Office of the United States Attorney.

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(2) The IAU shall refer findings of alleged civil offenses involving a violation of Chapter 112, Part III, Florida Statutes, to the Florida Commission on Ethics.

(3) The IAU shall refer findings of alleged civil offenses involving a violation of the Miami-Dade County Code of Ethics to the Miami-Dade County Ethics Commission.

(4) The IAU shall refer findings of alleged violations of The Florida Elections Code, Chapters 97 through 106, Florida Statutes, to the Florida Elections Commission (except as to alleged violations that may be criminal in nature, which shall be referred to the Office of the State Attorney).

(5) The IAU shall refer other alleged violations to the appropriate civil, criminal, or administrative agency that would have jurisdiction over the same.

(d) In the event the facts lead to the conclusion that no violation has occurred, the City Clerk shall publish the findings of NO VIOLATION, on the City website. The IAU shall deliver copies of all final reports and findings to the City Clerk. The City Clerk shall deliver copies of all final reports and findings to the alleged violator, the complainant, if any, the members of the City Council, the City Manager, and the City Attorney.

(1) All preliminary investigations and an any referrals to law enforcement or Ethics Enforcement body where determinations of good cause are made shall be completed within six (6) months from the date of the complaint, or the date on which the IAU commenced its investigation when there was not a complaint filed by an individual.

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(e) By becoming a City elected official, appointed official, or employee, each individual submits to IAU oversight.

(f) Expiration Date. This ordinance shall expire on March 31, 2022.

Section 3. 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 4. 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 5. Conflicts. All ordinances or parts of ordinances, resolution or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

Section 6. Effective Date. This Ordinance shall become effective immediately upon adoption.

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The foregoing Ordinance was offered by Councilmember Cabrera who moved its adoption.

The motion was seconded by Vice Mayor Cabral upon being put to a vote, the vote was as

follows:

Mayor Juan Carlos Bermudez	Yes
Vice Mayor Digna Cabral	Yes
Councilman Pete Cabrera	Yes
Councilwoman Claudia Mariaca	Yes
Councilman Oscar Puig-Corve	Yes

PASSED AND ADOPTED on FIRST READING this 10 day of November, 2021.

PASSED AND ADOPTED on SECOND READING this 8 day of December, 2021.



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

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