

PART I – CHARTER OF THE CITY OF NORTH MIAMI BEACH

Preamble.

We, the people of the City of North Miami Beach, in order to secure for ourselves the benefits and responsibilities of home rule and in order to provide for a municipal government to serve our present and future needs, do hereby adopt this charter and as part thereof adopt the following Citizens' Bill of Rights.

Citizens' Bill of Rights.

(A) This government has been created to protect the governed, not the governing. In order to provide the public with full and accurate information, to promote efficient administrative management, to make government more accountable, and to insure to all persons fair and equitable treatment, the following rights are guaranteed:

1. Convenient access. Every person has the right to transact business with the City with a minimum of personal inconvenience. It shall be the duty of the City Manager and the City Council to provide, within the City's budget limitations, reasonable convenient times and places for required inspections, and for transacting business with the City.
2. Truth in government. No municipal official or employee shall knowingly furnish false information on any public matter, nor knowingly omit significant facts when giving requested information to members of the public.
3. Public records. All audits, reports, minutes, documents and other public records of the City and its boards, agencies, departments and authorities shall be open for inspection at reasonable time and places convenient to the public.
4. Minutes and ordinance register. The City Clerk shall maintain and make available for public inspection an ordinance register separate from the minutes showing the votes of each member on all ordinances (Ordinance means an official legislative action of the North Miami Beach Council, which action is a regulation of a general and permanent nature and enforceable as a local law), and resolutions (Resolution means an expression of the North Miami Beach Council concerning matters of administration, an expression of a temporary character, or a provision for the disposition of a particular item of the administrative business of the North Miami Beach Council) listed by descriptive title. Written minutes of all meetings and the ordinance register shall be available for public inspection not later than thirty (30) days after the conclusion of the meeting,
5. Right to be heard. So far as the orderly conduct of public business permits, any interested person has the right to appear before the City Council or any City agency, board or department for the presentation, adjustment or determination of an issue, request or controversy within the jurisdiction of the City. Matters shall be scheduled for the convenience of the public, and the agenda shall be divided into approximate time periods so that the public may know approximately when a matter will be heard. Nothing herein shall prohibit the City or any agency thereof from imposing reasonable time limits for the presentation of a matter.
6. Right to Notice. Persons entitled to notice of a City hearing shall be timely informed as to the time, place and nature of the hearing and the legal authority pursuant to which the hearing is

to be held. Failure by an individual to receive such notice shall not constitute mandatory grounds for canceling the hearing or rendering invalid any determination made at such hearing. Copies of proposed ordinances or resolutions shall be made available at a reasonable time prior to the hearing, unless the matter involves an emergency ordinance or resolution.

7. No unreasonable postponements. No matter once having been placed on a formal agenda by the City shall be postponed to another day except for good cause shown in the opinion of the City Council, or agency conducting such meeting, and then only on condition that any person so requesting is mailed adequate notice of the new date of any postponed meeting. Failure by an individual to receive such notice shall not constitute mandatory grounds for canceling the hearing or rendering invalid any determination made at such hearing.

8. Right to public hearing. Upon a timely request of any interested party a public hearing shall be held by any City agency, board, department or authority upon any significant policy decision to be issued by it, which is not subject to subsequent administrative or legislative review and hearing. This provision shall not apply to the law department of the City or to anybody whose duties and responsibilities are solely advisory. At any zoning or other hearing in which review is exclusively by certiorari, a party or his counsel shall be entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. The decision of any such agency, board, department or authority must be based upon the facts in the record. Procedural rules establishing reasonable time and other limitations may be promulgated and amended from time to time.

9. Notice of action and reasons. Prompt notice shall be given of the denial in whole or in part of a request of an interested person made in connection with any municipal administrative decision or proceeding when the decision is reserved at the conclusion of the hearing. The notice shall be accompanied by a statement of the grounds for denial.

10. Manager's and Attorneys' reports. The City Manager and City Attorney shall periodically make a public status report on all major matters pending or concluded within their respective jurisdictions.

11. Budgeting. In addition to any budget required by state statute, the City Manager shall prepare a budget showing the cost of each department for each budget year. Prior to the City Council's first public hearing on the proposed budget required by state law, the City Manager shall make public a budget summary setting forth the proposed cost of each individual department and reflecting the personnel for each department, the purposes therefor, the estimated millage cost of each department and the amount of any contingency and carryover funds for each department.

12. Quarterly budget comparisons. The City Manager shall make public a quarterly report showing the actual expenditures during the quarter just ended against one-quarter of the proposed annual expenditures set forth in the budget. Such report shall also reflect the same cumulative information for whatever portion of the fiscal year that has elapsed.

13. Adequate audits. An annual audit of the City shall be made by an independent certified public accounting firm in accordance with generally accepted auditing standards. The independent City Auditor shall be appointed by the City Council; both appointment and removal of the independent City Auditor shall be made by the City Council. A summary of the results of the independent City Auditor's annual audit, including any deficiencies found, shall be made public.

In making such audit, proprietary functions shall be audited separately and adequate depreciation on proprietary facilities shall be accrued so the public may determine the amount of any direct or indirect subsidy. Duties, method of selection, and method of compensation of the independent City Auditor shall be established by ordinance.

14. Representation of public. The City Council shall endeavor to provide representation at all proceedings significantly affecting the City and its residents before state and federal regulatory bodies.

15. Natural resources and scenic beauty. It shall be the policy of the City of North Miami Beach to conserve and protect its natural resources and scenic beauty.

(B) The foregoing enumeration of citizens' rights vests large and pervasive powers in the citizenry of the City of North Miami Beach. Such power necessarily carries with it responsibility of equal magnitude for the successful operation of government in the City. The orderly, efficient and fair operation of government requires the knowledgeable participation of individual citizens exercising their rights with dignity and restraint so as to avoid any sweeping acceleration in the cost of government because of the exercise of individual prerogatives, and for individual citizens to grant respect for the dignity of public office.

(C) Remedies for violations. In any suit by a citizen alleging a violation of this Bill of Rights filed in the Miami-Dade County circuit court pursuant to its general equity jurisdiction, the plaintiff, if successful, shall be entitled to recover costs as fixed by the court. Any public official or employee who is found by the court to have willfully violated this article shall forthwith forfeit his office or employment.

(D) Construction. All provisions of this article shall be construed to be supplementary to and not in conflict with the general laws of Florida. If any part of this article shall be declared invalid, it shall not affect the validity of the remaining provisions.

Article I. Creation, Form of Government, Incorporation, Boundaries, Powers, and Oath of Office.

Sec. 1.1 Creation.

There is hereby created a municipality to be known as the City of North Miami Beach, the inhabitants of which shall be and constitute a body corporate and politic, with perpetual existence as a City under the laws of the State of Florida, the territorial limits of which shall be as set forth in section 1.3 hereof, as the same may be amended from time to time under the provisions of the constitution and laws of the State of Florida.

Sec. 1.2. Form of government.

The form of government of the City of North Miami Beach shall be that of council-manager, the powers of which City shall be exercised by a City Council and a City Manager, and other officers, as hereinafter set forth.

Sec. 1.3. Boundaries. *to be inserted later, existing language to remain.

Sec. 1.4. Powers.

The City of North Miami Beach shall have all available governmental, corporate and proprietary powers and may exercise them except when prohibited by law. Through the adoption of this Charter, it is the intent of the electors of the City to grant to the municipal government established by this Charter, the broadest exercise of home rule powers permitted under the Constitution and the Laws of the State of Florida.

Sec. 1.5 Construction.

This Charter and the powers of the City shall be construed liberally in favor of the City.

1.6 Oath of office.

Members of the City Council, members of appointive boards, the City Manager, the City Clerk, heads of departments, and the City Attorney of the City of North Miami Beach, before entering upon their duties, shall take and subscribe to the following oath of office:

"I do solemnly swear (or affirm) that I will support, protect and defend the Constitution and Government of the United States and of the State of Florida, and the Charter of the City of North Miami Beach; that I am duly qualified to hold office under the Constitution of the State and the Charter of the City of North Miami Beach and that I will, well and faithfully perform the duties of _____ (name of office) upon which I am now about to enter. So help me God."

Article II. Mayor, Vice-Mayor, City Council.

Sec. 2.1 Mayor and Vice Mayor.

The mayor shall preside over meetings of the council and shall cast his/her vote on any motion, resolution or ordinance submitted for consideration of the council. He/She shall be the titular head of the government of the City of North Miami Beach and shall represent the City in any function requiring that the City be represented. He/She shall perform such other duties as may be provided in this charter. The council shall elect from its membership a vice-mayor who shall act in the absence or disability of the mayor and who shall exercise the powers of the mayor when so acting.

Sec. 2.2 City Council.

The City Council shall be composed of seven members, elected as herein provided, one of whom shall be the mayor. The council shall be the legislative body of the City of North Miami Beach and shall have power to investigate any phase, function or operation of the City government in such manner and at such time as to it shall be deemed necessary to the determination by the council of the public policy of the City. It shall have such other powers as are hereinafter expressly or impliedly set forth, or inherent in the legislative department of government.

Sec. 2.3 Compensation.

Members of the City Council shall receive such compensation as shall be fixed by the council. The compensation of members of the City Council may be increased by the affirmative vote of five members of the council. The compensation shall be payable as other expenses of the City are paid. In addition to the compensation as provided herein, the mayor shall annually be provided with an expense fund of twelve hundred dollars (\$1200.00) to meet extraordinary expenses of his office as mayor, payable at the rate of one hundred dollars (\$100.00) per month. No accounting shall be required of expenditures by the mayor from such fund.

Insurance benefits provided to members of City Council shall only be paid for by the City during their actual term of service. After their term of service, councilpersons may be offered the opportunity to remain in the City's insurance plan(s) at their own expense. This provision shall not affect continuing City Council benefits previously established and available to active or former members of City Council elected for at least one (1) term of office prior to the election of May 2009. The salaries of elected officers shall not be reduced during the terms for which they were elected.

Sec. 2.4 Meetings.

The City Council shall hold at least 11 regular monthly meetings in each calendar year, at such times and places as the City Council may prescribe by Resolution. If such date falls upon a legal holiday recognized by the City of North Miami Beach, the regular meeting shall be held on the next day following the legal holiday. The legal holidays recognized by the City of North Miami Beach will be those enumerated in the employee contracts with the City or as subsequently provided by ordinance.

Special meetings shall be called by the mayor for the consideration of emergency matters upon the written request of the City Manager or upon the request of five members of the council other than the mayor. Notice of such special meetings shall be delivered to members of the council and shall be posted on the front door of the City hall at least twenty-four hours prior to the holding of same.

No business shall be transacted at any special meeting other than that for which the meeting was called.

Sec. 2.5 Quorum and Attendance of Councilmen.

A quorum of the City Council at any regular or special meeting shall consist of five members. The required number for a quorum at any regular or special meeting of the council shall be reduced by the number of vacancies on the City Council at the time of such meeting. The affirmative vote of a majority of the members present shall be required upon any matter submitted for consideration of the council. If any councilman has failed to attend a meeting of the City Council for a period of one hundred and twenty (120) days, the seat of such councilman shall automatically become vacant.

Sec. 2.6 Powers of the City Council.

The City Council shall have the power to adopt ordinances, resolutions, rules for the conduct of meetings and to take such other action as may be necessary to the full and complete exercise of powers herein vested in the City Manager and other officers provided for herein. The exercise of any power enforceable by the imposition of punishment by fine or imprisonment, the appropriation of any money, or the levy of any tax, shall be by ordinance only. Except as otherwise provided herein, any other power may be exercised by ordinance or resolution in the discretion of the council. The council shall exercise such other powers as are herein authorized. References in this Charter to the City Council and/or council members shall include the Mayor unless the context dictates otherwise. Any council-appointed officer of the City of North Miami Beach may be removed by a majority vote of the City Council.

Sec. 2.7 Ordinances

A. Method of adoption. An ordinance, prior to becoming effective, shall be submitted for consideration of the council in such manner as the rules of the council shall provide and in accordance with the Florida Statutes, and shall be read by title only. Further consideration, except as hereinafter provided for emergency passage of any ordinance, shall be deferred to a subsequent meeting of the City Council. Prior to consideration on second reading, other than emergency passage, the ordinance shall have been posted on the bulletin board of the City hall, and copies made available for examination in the office of the City Clerk. The second reading of any ordinance shall be by title only, except that no ordinance shall be revised or amended by reference to its title only and any ordinances to revise or amend shall set out in full the revised or amended act or section or subsection or paragraph of a section or subsection. The ordinance may be amended before or after such second reading, and shall be placed upon final passage by roll call vote recorded in the minutes of the council. Before becoming a law it shall be posted for twenty-four hours on the bulletin board of the City hall.

B. Title and enacting clause. Each ordinance shall contain a title which shall be a short statement of the subject matter of the ordinance, sufficient to place the public on notice of the nature of the contents thereof. The enacting clause of each ordinance shall be: "Be it ordained by the City Council of the City of North Miami Beach."

Sec. 2.8 Emergency ordinances.

The City Council may, by not less than the number of affirmative votes necessary to constitute a quorum under this charter, in an emergency expressed in the preamble, enact any ordinance not inconsistent with the provisions hereof, at any meeting; in which event the two (2) readings

provided herein may be had at one session. Provided, however, that such ordinance before becoming effective shall be posted as hereinabove required.

Sec. 2.9 Prohibitions of the City Council.

A. Appointment and Removals. Neither the City Council nor any of its members shall in any manner direct the appointment or removal of any City employees, whom the City Manager or any of his/her subordinates are empowered to appoint.

B. Any willful violation of this Section by the Mayor or any City Council member shall constitute misfeasance in office and grounds for his/her removal from office by recall, as herein provided.

Article III. Administrative personnel and Boards, Agencies and Committees.

Sec. 3.1 City Manager; Appointment, Removal.

The City Council shall appoint a City Manager as the chief administrative officer of the City, in the manner and at the time provided in this charter. The City Manager shall be responsible to the City Council for the administration of all City affairs and for carrying out policies adopted by the City Council. The City Council shall appoint the City Manager to serve at the pleasure of the City Council. The City Manager shall be removed by a majority vote of the City Council at any time. The term, conditions, and compensation of the City Manager shall be established by the City Council.

Sec. 3.1.1 Powers and Duties of the City Manager

- A. The City Manager shall be responsible for the appointing, hiring, promoting, supervising and removing of all City employees, except the City Attorney, the City Clerk, and all employees of the Office of the City Attorney.
- B. Direct and supervise the administration of all departments and offices but not City boards or committees, unless so directed by the City Council.
- C. Prepare such other reports as the City Council may require concerning the operations of City departments, offices, boards and committees.
- D. Ensure that all laws, provisions of this Charter and directives of the City Council, subject to enforcement and/or administration by him/her or by employees subject to his/her direction and supervision, are faithfully executed.
- E. Prepare and submit to the City Council a proposed annual budget and capital improvement program.
- F. Submit to the City Council and make available to the public an annual report on the finances and administrative activities of the City as of the end of each fiscal year.
- G. Attend all meetings of the City Council and of its committees, with the right to take part in discussion, but without a vote.
- H. Keep the City Council advised as to the financial condition and needs of the City and make such recommendations concerning the affairs of the City as she/he deems to be in the best interests of the City.
- I. Execute contracts and other documents on behalf of the City as authorized by the City Council.
- J. Perform such other duties as are specified in this Charter or as required by the City Council.

Sec. 3.1.3 Absence or Disability of City Manager.

To perform his/her duties during his/her temporary absence or disability, the City Manager may designate by letter filed with the City Clerk, a qualified administrative officer of the City. In the event of failure of the City Manager to make such designation, the City Council may by resolution appoint an officer of the City to perform the duties of the City Manager until she/he shall return or his/her disability shall cease

Sec. 3.2 City Clerk.

The City Council shall appoint the City Clerk to serve at the pleasure of the City Council. The City Clerk shall be removed by a majority vote of the City Council at any time. The term, conditions, and compensation of the City Clerk shall be established by the City Council.

Sec. 3.2.1 Powers and Duties of the City Clerk.

The City Clerk shall give notice of all City Council meetings to its members and the public, and shall keep minutes of the City Council's proceedings. The City Clerk shall perform such other duties as the City Council may prescribe. The City Clerk shall maintain the seal of the City and attest the Mayor's or City Manager's signature on all documents, if needed.

Sec. 3.3 City Attorney.

There shall be a City Attorney or law firm who shall be the head of the Office of City Attorney. The City Attorney or law firm shall be a member of the Florida Bar with at least five years' experience in the practice of law in Florida, and with limited applicability to the City Attorney (not the law firm) shall not, during his/her tenure of office, engage in any private practice of law. The City Council shall appoint the City Attorney or law firm to serve at the pleasure of the City Council. The City Attorney or law firm shall be removed by a majority vote of the City Council at any time. The term, conditions, and compensation of the City Attorney or law firm shall be established by the City Council.

Sec. 3.3.1 Powers and Duties of the City Attorney.

The City Attorney shall:

Act as the legal advisor for the City and all of its officers in all matters relating to their official powers and duties.

- A. Prepare or review all ordinances, resolutions, contracts, bonds and other documents in which the City is concerned, and shall endorse on each his/her approval of the form, language, and execution.
- B. Prosecute or defend, for and in behalf of the City, all complaints, suits and controversies in which the City is a party, before any court, or other legally constituted tribunal.
- C. Attend all meetings of the City Council.
- D. Recommend to the City Council for adoption, such measures as he/she may deem necessary or expedient.
- E. Render opinions and/or reports on legal matters affecting the City.
- F. Perform such other professional duties as may be required by ordinance or resolution of the City Council or by this Charter.
- G. Appoint and remove all unclassified personnel in the Legal Department.
- H. The City Council may, at the request of the City Attorney, retain other counsel in any matter in which the City of North Miami Beach has an interest, and pay the compensation of such counsel.

Sec. 3.4 City Boards, Agencies and Committees.

The City Council shall establish or abolish such boards, agencies and committees as it may deem desirable. Such boards, agencies and committees shall report to the City Council.

Sec. 3.5 Planning and Zoning Authority of City.

The City of North Miami Beach shall have the power to designate and establish restricted residence districts within the City, and to otherwise control the development of the City, by the enactment of reasonable rules and regulations relating to construction, reconstruction, alteration, repair, use and occupancy of buildings and other structures in the City of North Miami Beach, and the use of

vacant lands in said City. The City Council may declare any violation of such regulations a nuisance and proceed to abate the same.

Sec. 3.5.1 Type of Construction. The City of North Miami Beach shall have the power to regulate and determine the manner and type of construction, the height and bulk and the location and use of buildings, walls, fences, signboards and structures of all kinds hereafter erected, altered or reconstructed, whether permanently located or movable, and to regulate and determine the location and area of yards, courts and other open spaces, the subdividing and platting of land into lots, and the location and laying out of streets, alleys, parks and playgrounds in said City; the City may be divided into districts of such shape and area as may be deemed best suited to carry out the purposes of this section; the regulation shall be uniform for each class of buildings, walls, fences, signboards, structures of any kind, yards, courts and other open spaces, throughout each district, but the regulations in one or more districts may differ from those in other districts; such regulations shall be designed to secure safety from fire and other dangers and to promote the public health and general welfare, including provisions for adequate lights, air and convenience of access. In the making of regulations the City shall have reasonable regard for the character of buildings and other structures in each district, and the use for which the land is suitable, to the end that the economic and industrial prosperity and the enhancement of the health, comfort and convenience of the people generally may be promoted.

Sec. 3.5.2 Location and Use.

The City shall also have the power to restrict the location of such buildings and structures of all kinds designed for specific uses, as well as the location of trades and industries, and may divide the City into districts of such proper shape and area as may be deemed to be the best suited to carry out the purposes of this section. For each such district, regulations may be imposed designating the uses for which such building and structures of all kinds may be erected, altered or reconstructed, and designating the trades and industries that may be excluded or subjected to special regulations and designating the purposes for which they may be used. Such regulations may be designed to promote the public health, safety and general welfare. The City shall give reasonable consideration, among other things, to the character of the districts, their peculiar suitability for particular uses, the conservation of property values and the direction of building development.

Sec. 3.5.3 Variances.

Variances from compliance with any of the provisions of the codes relating to building, planning or zoning may be allowed by the affirmative vote of two-thirds (2/3) of the members of the planning and zoning board present, only for the purpose of preventing hardship or inequities not self-imposed, or for the purpose of preserving the constitutional rights of the applicant, which variance is subject to the approval of the City Council. Application for variance shall first be submitted to the planning and zoning board in the manner prescribed by ordinance, upon payment of such reasonable fee as may be established by ordinance. The City Council may by ordinance provide for public hearing and procedure connected therewith, including notice and determination of persons entitled to notice. The decision of the planning and zoning board shall be submitted to the City Council at a regular or special meeting occurring more than five days after the meeting of the planning and zoning board at which the decision was made. Recommendation for approval of variance requests by the planning and zoning board must receive a majority vote of those council members present in order to be sustained and granted. Recommendation for denial of variance

requests by the planning and zoning board must receive a two-thirds (2/3) affirmative vote of those members of the City Council present and voting in order to overrule the recommendation of denial by the planning and zoning board and grant the variance request. The City Council may impose conditions upon the variance approval.

Sec. 3.5.4 Planning and Zoning Board.

The powers herein granted shall be exercised by the adoption by ordinance of a building code and a zoning plan delineating the various zoning districts into which the City is divided and prescribing the use regulations in each such district. There shall be a planning and zoning board composed of seven members appointed by the City Council for staggered terms of two years, (such appointments to be made as the terms of members currently serving expire). Any changes in the zoning code or zoning plan of the City of North Miami Beach shall be made only by the City Council acting in its legislative capacity. The City Council may provide by ordinance that changes be initiated by application to the planning and zoning board for advisory action by it in recommending the adoption or rejection of the proposal.

Article IV. Election of City Council Members.

Sec. 4.1 General Elections. Commencing in 2018, General Elections in the City of North Miami Beach shall be held every even-numbered year on the first Tuesday following the first Monday in November, with the candidate for each office (i.e., Mayor or Councilperson in each of the respective groups numbered 2 through 7) receiving the highest number of votes being elected to that respective office. In the event of a tie vote in any General election, the candidate elected shall be determined by lot. In order to accomplish the election date revision made pursuant to this Charter section, the four-year term length of office that is provided for in Charter section 4.2 hereinbelow shall be extended on the following limited basis: the term of office of the Mayor and of Councilperson groups 3, 5, and 7, which would otherwise expire in May 2019 shall instead expire in November 2020, and the terms of office of Councilperson groups 2, 4, and 6, which would otherwise expire in May 2017 shall instead expire in November 2018.

Sec. 4.2 Election and term of office.

The members of the City Council shall be elected from groups numbered One through Seven. The groups shall be elected Citywide by the qualified electors of the City of North Miami Beach. The member in Group One shall be the mayor. At the City's general election on the first Tuesday after the first Monday in November 2018 and at each general election every four years thereafter, the members of City Council running from groups 2, 4, and 6 shall be elected for four (4) year terms. At the City's general election on the first Tuesday after the first Monday in November 2020 and at each general election every four years thereafter, the members of City Council running from groups 1, 3, 5, and 7 shall be elected for four (4) year terms. Commencing with the 2011 general elections for groups 1, 3, 5, and 7 and with the 2013 general elections for groups 2, 4, and 6, no person may serve as councilperson or mayor or any combination thereof for more than eight (8) consecutive years in office, not including time served as a member of the Council as a result of having filled a vacancy in the Council pursuant to Section 4.5 of the North Miami Beach City Charter, so long as such time served in filling a vacancy does not exceed 50% of that subject term. Service by a Council member in excess of 50% of any term of office shall be considered a full term for purposes of the term limit provisions in this section. After being out-of-office for two (2) years, he/she may run again. Members of the council shall serve until their successors are elected and qualified.

Sec. 4.3 Qualifying for Office.

Candidates for the office of mayor and councilman of the City of North Miami Beach shall qualify with the Clerk of the City not prior to the seventy-eighth day preceding the election provided for herein and not later than 12:00 noon, on the seventy-third (73) day preceding the election. A candidate shall qualify by taking and subscribing to an oath that he is qualified under the charter of the City of North Miami Beach to hold the office of councilman and mayor and by paying to said Clerk a qualifying fee in the amount of four (4%) percent of the annual salary of the office, which fee shall be deposited in the general fund of the City. Candidates for the office of City Councilman shall designate the group from which they desire to be elected. Each candidate, at the time of qualifying with the Clerk, shall designate a campaign treasurer and a depository of campaign funds. Each candidate, at the time of qualifying with the Clerk, must have continuously resided in the City of North Miami Beach for at least one (1) full year, shall at the time of qualifying and at the time of election be a qualified elector of the City of North Miami Beach, and shall not,

within five years next preceding the date of his qualification, have been convicted in this or any other state of any offense involving moral turpitude.

Sec. 4.4 Conduct of elections; canvass of returns, and commencement of terms.

A. The City Council shall provide by ordinance for the conduct of elections, the establishment of polling places (one of which shall be at the City Hall), and for the establishment of the City's Canvassing Board.

B. On the second business day immediately following the County Elections Supervisor's issuance of final election results, the City Council shall meet for the purpose of accepting the returns of such election(s) and ascertaining the results thereof. New officers shall be declared elected subsequent to the City Council's acceptance of final General (or Special, as the case may be) Election returns at which time the new officers shall be installed and shall enter upon the discharge of their duties¹; the Council shall conduct no other or further business other than emergencies at such meeting unless they choose to do so by unanimous consent.

Sec. 4.5 Vacancies.

Vacancies in elective offices of the City of North Miami Beach shall be filled by the City Council pending the next general election, at which time an election to fill the vacancy shall be held for any remainder of the unexpired term. Provided, however, that should any vacancy occur more than one year prior to the next general election, the council shall have no power to fill the same; it shall be filled by a special election to fill the vacancy for the unexpired term, to be held not less than 35 days nor more than 90 days after such vacancy has occurred, with provisions concerning said Special Election to be established by Resolution of the City Council. When a vacancy is filled by the City Council, it shall be done in such manner as shall be provided by the rules of the council, or as provided by separate ordinance.

¹ ALTERNATIVE LANGUAGE TO BE INCLUDED IN CHARTER IN EVENT VOTERS DO NOT APPROVE CHANGE IN GENERAL ELECTION DATE AND RUNOFF ELECTION IS THUS RETAINED:

"If however a Run-Off Election is necessary, all new officers shall be declared elected subsequent to the City Council's acceptance of final Run-Off Election returns on the second business day immediately following the County Elections Supervisor's issuance of such final election results, at which time the new officers shall be installed and shall enter upon the discharge of their duties, and at which Council meeting no other business other than emergencies shall be taken up unless the Council decides to do so by unanimous consent.

Article V. Initiative and Referendum.

Sec. 5.1 Initiated ordinances.

A. The duly qualified electors of the City of North Miami Beach shall have the power to propose any ordinance, except an ordinance appropriating money or levying a tax, in the manner herein provided.

B. The power of initiative shall be exercised by petition signed by not less than two per cent (2%) of the qualified electors executed in such form and in the manner as shall be provided by ordinance of the City of North Miami Beach, which ordinance shall provide that each petition circulated shall contain the full text of the proposed ordinance.

C. Upon certification by the Clerk within ten (10) days of the filing of the petition, executed in the manner provided, the City Council shall at its next regular meeting proceed to consider the proposed ordinance. The City Council shall within twenty (20) days from the certification by the Clerk adopt such ordinance in the manner provided for the adoption of ordinances generally, with the right to amend in a manner germane to the proposed ordinance. If amended, or upon adoption without amendment in the discretion of the City Council, the ordinance before becoming effective shall be submitted for approval of the qualified electors in any general election held within sixty (60) days of the passage of such ordinance. If amended, the ordinance as amended and the ordinance as initiated shall be submitted on the same ballot. The ordinance receiving the highest number of affirmative votes, if such number shall constitute a majority of the votes cast, shall be deemed adopted. If no general election shall be held within sixty (60) days of the passage of the ordinance, then such ordinance or ordinances shall be submitted for approval of the qualified electors of the City of North Miami Beach at a special election called for that purpose not less than thirty (30) or more than sixty (60) days from the date of final passage by the City Council.

Sec. 5.2 Referendum.

The qualified electors of the City of North Miami Beach may by petition of not less than ten per cent (10%) of their number call for a referendum on the repeal of any ordinance, other than an ordinance not subject to the initiative, adopted by the City Council, to be circulated, executed and submitted as the City Council shall by ordinance provide. Upon certification by the Clerk of the proper execution of the required petition, the City Council shall refer such proposed repeal for the approval of the qualified electors at an election as provided for initiated ordinances. If a majority of the votes cast in the election shall favor such repeal, then the ordinance shall stand repealed and may not be reenacted by the City Council, except subject to a referendum as herein provided. The City Council may, on its own motion, submit any ordinance, or the repeal of any ordinance, to a referendum as herein provided, except such ordinances as are not subject to the initiative proceedings.

Article VI. Budget and Finance.

Sec. 6.1 Budget and Finance.

General Power. The City of North Miami Beach shall have the power to borrow money, contract loans, and issue bonds, notes, and other obligations or evidences of indebtedness in accordance with Florida law.

- A. Budget. In accordance with Florida law, the City Council shall adopt an annual budget.
- B. Fiscal year. The fiscal year for the City of North Miami Beach shall commence on October 1st of each calendar year and end September 30th of the succeeding year

Sec. 6.2 Taxation

A. Ad valorem taxes. The director of the department of finance shall, except as otherwise provided herein, be the assessor and collector of taxes for the City of North Miami Beach. The assessment rolls of Dade County, as equalized in the manner provided by law, shall be the assessment rolls of the City of North Miami Beach for all purposes of taxation and as to all property subject to taxation within the limits of the City of North Miami Beach. The City Manager shall, by and with the consent of the proper authorities of Dade County, enter into such contracts as may be necessary to provide for the assessment of property for the purpose of levying ad valorem taxes of the City of North Miami Beach by Dade County, and the collection of such taxes by Dade County for use and benefit of the City of North Miami Beach. Taxes of the City of North Miami Beach shall be assessed and collected as provided by the charter of Dade County and ordinances adopted pursuant thereto.

B. Levy of taxes. The City Council shall by ordinance levy taxes on all real and personal property subject to taxation in the City of North Miami Beach. Upon its adoption, the ordinance shall be certified to the proper authorities of Dade County for the purpose of preparing and mailing tax bills.

C. Delinquent taxes. Taxes shall be enforceable in the manner provided by law for the enforcement of county taxes.

D. Other taxes. The director of the department of finance shall collect other taxes, levies, excises, imposts, special assessments and exactions as may be provided by ordinance, and shall issue his receipt therefor. The collection of such items shall be enforced in the manner provided by ordinance.

Article VII. Public Utilities

Sec. 7.1 Water and Gas Works.

- A. The City of North Miami Beach is hereby authorized and empowered to construct or acquire, own and operate on a self-sustaining basis a municipal water works system in and surrounding the City, and to construct or acquire, own and operate on a self-sustaining basis a gas works and/or transmission and distribution system for the purpose of supplying gas for public, domestic, commercial and industrial uses, in and surrounding the City and including other municipalities and unincorporated territory within Dade and Broward Counties, Florida, and thereafter to construct additions, extensions and improvements to said works and systems within and without the territorial limits of the City of North Miami Beach, and for the purpose of paying the cost of construction or purchasing said works and systems and appurtenances thereto and expenses incident to such construction or purchase and also for the purpose of thereafter constructing any authorized additions, extensions and improvements to such works and systems, said City is hereby further authorized and empowered to borrow money and in evidence thereof to issue and sell from time to time its revenue bonds payable solely from the revenues of the water works system or the gas system to be financed thereby, all in the manner and subject to the conditions and limitations contained in this article.
- B. The City is hereby further authorized and empowered to negotiate and procure and take assignment of any franchises and operating rights for the operation and maintenance of any portion of said works and systems located outside said City of North Miami Beach.
- C. In connection with the ownership and operation of said works and systems, said City shall have the continuing rights to install, maintain and operate water mains and gas transmission and distribution pipe lines along and across streets, roads and highways within and without the territorial limits of the City of North Miami Beach, but the same shall be so installed, maintained and operated so as not to interfere with or unnecessarily interrupt normal use and traffic on any street, road or highway.

Sec. 7.2 Revenue Bonds.

- A. All such revenue bonds shall be authorized by ordinance adopted by the City Council of said City, may bear such date or dates, may mature at such time or times not exceeding thirty (30) years from their respective dates, may bear interest at such rate or rates not exceeding five per cent (5%) per annum payable semi-annually, may be in such form, may carry such registration privileges, may be executed in such manner, may be payable at such place or places, may be made subject to redemption in such manner and upon such terms with or without premium, may be authenticated in such manner and may contain such terms and covenants, all as may be provided in such ordinance.
- B. The sale and award of such bonds shall be negotiated and made in such manner and upon such terms as may be prescribed by resolution of the City Council.
- C. Notwithstanding the form or tenor thereof, and in the absence of an express recital on the face thereof that it is nonnegotiable, all such revenue bonds shall be negotiable instruments.
- D. Each such ordinance may contain and express such covenants and undertakings on behalf of the City as may be deemed proper or advantageous by the City Council for the purpose of assuring efficient operation of said works and systems and for the purpose of requiring proper fixing, collecting and accounting and revenues from such operation and application

of the necessary portions thereof to the payment of such revenue bonds; provided, that no lien upon any physical property of the City shall be created hereunder and payment of all such revenue bonds shall be secured by and payable solely from revenues to be derived from the operation of the particular works and system financed thereby.

- E. The remedy for any breach or default of any such covenants or undertakings may be by mandamus proceedings in any court of competent jurisdiction to compel performance and compliance therewith, and by appointment of a receiver by any such court.
- F. Under no circumstances shall any such revenue bonds be or become an indebtedness of the City within the meaning of any constitutional, statutory or charter limitations, and it shall be plainly stated on the face of each such revenue bond that it does not constitute such indebtedness but is payable solely from revenues of said works and systems.
- G. The City is hereby further authorized and empowered in like manner to issue its refunding revenue bonds for the purpose of refunding at maturity or pursuant to redemption provisions, or at any time before maturity with the consent of the holders thereof, any outstanding revenue bonds which have theretofore been issued under the provisions of this article.

Sec. 7.3 Sinking Fund.

- A. The ordinance authorizing the issuance of any revenue bonds under the provisions of this article may provide for a sinking fund to pay the interest on and principal of such bonds out of the net revenues of said works and system, and may provide that out of said revenues remaining after the payment of the reasonable expenses of operation, repair and maintenance, a fixed amount or a fixed percentage of said net revenues shall be set aside into said sinking fund and into any reserve funds provided for by the ordinance at stated intervals, which shall be used and pledged for the payment of the interest upon such revenue bonds and the payment of retirement thereof at or prior to maturity, in the manner provided by the ordinance.
- B. Provision may be made in and by such ordinance for the use, transfer or payment at stated intervals of all or any part of the balance of the net revenues after making the above prescribed payments into the sinking fund and reserve funds into a special fund to be available for and used for the payment of the principal and interest of the bonds authorized by such ordinance, for making any agreed tax equivalent payments to municipalities in which a part of said works and system may be located, or for any other corporate purpose of the City, in the manner and subject to such limitations as may be prescribed in the ordinance.
- C. The City, acting through the City Council, is hereby further authorized and empowered to maintain, charge and collect in the area served by each of such works and systems reasonable and uniform rates to be determined exclusively by it for the services and facilities furnished and rendered by such works and system, and may readjust such rates or charges from time to time, but such rates or charges shall be fixed and maintained at all times so that the revenues from said works and system shall be sufficient for the payment of the proper and reasonable expenses of operation, repair, replacement and maintenance of said works and system, for the payment of the specified amounts into the sinking fund to pay or retire the principal of all revenue bonds that may be issued with respect to said system under the provisions of this article, for the payment of the amounts required by the

ordinance authorizing such bonds into any reserve funds and otherwise to fulfill the terms and provisions of any agreements made with the purchasers or holders of any such bonds, and a reasonable return to said City upon the cost of said works and system, which shall never be less than the annual interest upon the full amount of revenue bonds originally issued with respect to said system.

- D. Any person questioning the reasonableness or uniformity of any rate fixed by said City for such purposes may bring suit against the City in the circuit court of Dade County, which court shall have exclusive jurisdiction to determine the reasonableness and uniformity of such rates.

Sec. 7.4 Water Board.

- A. The City of North Miami Beach, acting by and through the City Council, is authorized and empowered by ordinance to create a separate department or board to manage, control, operate and maintain said works and system on behalf of the City, the members of which board shall consist of five persons designated and appointed by ordinance adopted by the City Council.
- B. The presently existing water board shall be the board as herein authorized.
- C. Upon the expiration of the terms of any appointee, a successor shall be appointed by the board with the consent and approval of the City Council for a term of two (2) years, and in the event of a vacancy for any cause at any time it shall be filled in like manner for the unexpired term. All appointments shall continue until the successors have qualified. Each person appointed to the board shall be a representative business or professional person, a bona fide owner of real property in the City, but no person holding an elective office of the City shall be eligible to appointment until at least one year following termination of his last elective office. Any member may be appointed to succeed himself, and may be removed and disqualified at any time by the affirmative vote of five members of the City Council, after being given an opportunity to be openly heard on the charges against him, and any member shall also be subject to recall and removal upon petition of the qualified voters in the same manner provided herein for the recall and removal of an elective officer of the City.
- D. The members of the board shall receive such compensation as may be fixed from time to time by the City Council and all such compensation shall be paid monthly as an operating expense of said works and system; provided, however, that any member of the board who may be employed as a manager, engineer, attorney, or other operating officer of said works and system shall not be entitled to receive additional compensation as a member of the board.
- E. The board shall designate one of its members to act as its chairman and may select and designate a secretary and a treasurer or the same person may be selected and designated to perform the duties of secretary and treasurer. The board shall have power to establish by-laws, rules and regulations for its own government and procedure and may make and enter into all contracts and agreements deemed necessary or incident to the performance of its duties and the execution of its powers; provided, however, that all contracts or obligations of the board shall be payable solely from funds realized through the issuance of revenue bonds or through the collection revenues from said works and system.
- F. The board may employ by contract for a term of years, or otherwise, a general manager,

engineer, attorney and other persons deemed necessary, any of which may be a member of the board, and fix the duties and compensation thereof, as well as the compensation of the person or persons performing the duties of secretary and treasurer, and the board may contract with and employ an experienced utility management corporation and fix its duties and compensation in the management and operation of said works and system consistent with this article and the ordinance or ordinances authorizing the issuance of revenue bonds payable from the revenues of said works and system.

- G. The water board may, at its option, use the services of the City Attorney pursuant to such conditions as may be agreed upon between the water board and the City Council.
- H. The water board is authorized, empowered and permitted to provide for life, health, accident and hospitalization or annuity insurance, or all of any kind of such insurance for the officers and employees thereof and their dependents, upon a group Insurance plan, and to that end to enter into agreements with insurance companies to provide such insurance. Upon the approval of any plan of insurance, the water board shall make same effective by resolution recorded in the minutes of the board. Premiums payable by an employee may be deducted from the salary payable to such employee and remitted by the water board to the insurance company issuing such group insurance. The participation in such group insurance by an employee shall be voluntary at all times and any employee may withdraw from any such plan upon any pay day, upon written notice to the water board directing discontinuance of deductions from wages in payment of premiums.
- I. Provisions may be made by ordinance adopted by the City Council for a pension plan for the benefit of employees engaged in the operation of said works and system, and the cost thereof shall be paid from the moneys of the surplus fund of said works and system.
- J. So long as the management, control, operation and maintenance of said work and system invested in a separate board created under the provision of this article, the schedule of rates and charges for the services and facilities of said works and system shall not be reduced unless such reduction is first recommended by the board and approved by the City Council, but the board and all persons or corporations employed by the board shall at all times manage, control, operate and maintain said works and system, consistent and in accordance with the provisions of this article and with covenants and undertakings of the City as expressed in the proceedings for the issuance of the revenue bonds and in the ordinances adopted by the City Council specifying the powers and duties of the board.
- K. All revenues and other income of said works and system shall be collected and accounted for by the board if there be one, and in such case the City Council may by ordinance provide that all or any particular class of disbursements of such revenues may be made upon order of the board and may require all such disbursements by the board for operation and maintenance be predicated upon an annual budget prepared by the board and approved by the City Council.
- L. Subject to covenants made with the holders of revenue bonds issued with respect to any system, all contracts and obligations of the board, extending or having a duration beyond twelve months, shall be approved by the City Council.
- M. The City, acting by and through the City Council, is hereby further authorized and empowered in cooperation and conjunction with all or any of the other municipalities in which any part of said works and system is located, to create an advisory board to assist and cooperate in solving any problems and outlining matters of general policy and interest

to consumers in all of the municipalities served by said works and system.

Sec. 7.5 Fiscal Agent.

The City may, in and by the ordinance authorizing the issuance of revenue bonds as authorized by this article, contract for the deposit of the sinking fund, reserve funds or other funds provided for in said ordinance with a fiscal agent which shall be a bank or trust company within or without the State of Florida, and may require the fiscal agent to keep such deposits to the extent the same are not insured, continuously secured by a pledge of direct obligations of the United States of America having an aggregate market value, exclusive of accrued interest, at all times at least equal to the balance on deposit in such funds or otherwise as may be provided in said ordinance. Such securities shall either be deposited with the treasurer of the board or be held by a trustee or agent satisfactory to the City. All banks and trust companies are authorized to give such security for such deposits.

Sec. 7.6 Sale of Utilities.

The City is hereby further authorized and empowered to sell, transfer or lease, all or any portion of any works and system acquired as aforesaid for such price and upon such terms as may be approved by ordinance adopted by the City Council; provided, however, that each such sale, transfer, or lease shall be made consistent with terms and provisions of the ordinance or ordinances pursuant to which any then outstanding revenue bonds have been issued. When any portion of said works and system shall have been so sold and transferred, the City of North Miami Beach is hereby authorized and empowered, pursuant to ordinance adopted by the City Council, to contract to supply such portion or portions and extensions thereto with a supply of gas or water for a period of not exceeding twenty (20) years.

Article VIII. Civil Service Board; Pensions.

Sec. 8.1. - Civil Service Board, created.

There shall be a civil service board composed of seven (7) members selected as herein provided. The board shall make and adopt reasonable rules and regulations governing the administration of civil service of the City of North Miami Beach, including but not limited to, provision for appointments to the classified service, suspension, removal, leave, merit rating, promotion, demotion, appeals and other such matters as the board may deem necessary to the operation of the civil service. Rules and regulations adopted by the board shall be submitted for approval by the City Council. If approved, the rules and regulations shall become effective immediately or as otherwise provided therein. Should the City Council object to any rule or regulation, such objection shall be stated in writing and the rule or regulation shall be returned to the board together with the objections of the City Council for further consideration of the board. The board shall revise such rules or regulations and resubmit same for approval of the City Council. Should the City Council again refuse to approve same, it shall not become effective. All rules and regulations must receive final approval by the City Council before becoming effective. The board shall provide a method of selection of personnel to the noncompetitive classified service based on qualifications relating to education, experience, character and such other factors as the board may by regulation determine.

Sec. 8.1.1 Composition of Board.

A. Five (5) members of the civil service board shall be appointed by the City Council, and shall be qualified electors of the City of North Miami Beach. They shall not, during the term for which they are appointed, be employed in any manner by the City of North Miami Beach. Two (2) employees of the classified service in the City of North Miami Beach shall be elected in the manner provided by regulations of the board to serve as members of the board. A quorum of the board for any purpose shall consist of four (4) members, at least three (3) of whom shall be members appointed by the City Council. Members shall be appointed for staggered terms of two (2) years each. Appointments to fill vacancies shall be for the unexpired term only. Members shall serve until their successors are appointed and qualified.

B. The employee members shall each be elected from different departments under the government of the City and shall serve for terms of two (2) years, and until their successors are elected and qualified. Any vacancy in employee membership shall be filled by special election in the manner provided by regulations of the board, if such vacancy shall occur more than three (3) months prior to the end of the term. Terms of appointed and elected members shall commence on June 1st of the year in which appointed or elected and end May 31st of the year in which such terms are scheduled to expire. The personnel aide to the director of personnel or employee serving in that capacity or function, shall also be the secretary for the civil service commission or board.

Sec. 8.1.2 Appeals.

Pursuant to regulations of the board, the City Manager may suspend, demote or otherwise discipline any employee in the classified service, except employees in the legal department, who may be disciplined by the City Attorney. Such action shall be for cause only as specified in writing and delivered to the employee. Within thirty (30) days of such action, the employee may appeal the action of the City Manager or the City Attorney to the civil service board and a hearing shall be afforded by the board within thirty (30) days from the taking of the appeal, unless further time be requested by the employee and

allowed by the board. The board shall review the causes for such action and if the charges, in the opinion of the board, be sustained as sufficient and established, action shall be affirmed. If the charges shall be deemed insufficient or unfounded, the employee shall be reinstated with no loss of pay or other rights. The board shall have the power to require the production of books and other records and administer oaths to persons testifying in any proceedings hereunder. The provisions of this section shall apply to matters of demotion, salary decrease or any other matter concerning which an employee may feel himself aggrieved. The board shall have the power to modify any decision of the City Manager or City Attorney and impose such punishment for violation of its rules as may be in such ruler provided.

Sec. 8.2 Pensions.

The City Council shall by ordinance provide for a pension and retirement system for employees of the City in the classified service. The fund established for such purpose may receive gifts, devises, bequests or other donations for the benefit of the fund. The City Council may provide for the administration of the fund and the rate of contribution thereto by employees, and may make such contribution from public money of the City as it may deem necessary or appropriate. The City Council shall have the power to make contracts of insurance with any insurance company, authorized to do business in the State of Florida, insuring the employees of the City, or any class or classes thereof, under a policy or policies of group insurance covering life, health, accident, and annuity insurance, or any of them. Premiums on any such contract shall be deemed paid for a municipal purpose.

Article IX- Police Department.

Sec. 9.1. - Police department.

The City Council shall provide for a police department to [be] headed by a Chief of Police appointed by the City Manager.

Sec. 9.1.1. - Personnel.

There shall be as many officers, patrolmen, and other personnel as the City Council shall approve, pursuant to recommendation of the Chief of Police and the City Manager.

Sec. 9.1.2. - Functions.

The Chief of Police shall be responsible to the City Manager for the proper performance of his/her duties and for the administration of the affairs and duties of the police department. It shall be the duty of the department to enforce the ordinances of the City of North Miami Beach and to maintain and preserve order therein.

Sec. 9.1.3. - Powers.

Members of the police department shall enjoy and possess such powers as may be authorized by the general laws of the State of Florida, this Charter, and ordinances of the City of North Miami Beach, not inconsistent therewith.

Article X. Effective date, Preservation of Rights and Obligations, etc.

Sec. 10.1 Effective Date.

Upon approval by the City's electorate, this Charter shall become effective on the date of the City Council's acceptance of final election returns, pursuant to the City's Special Election held on the 8th day of November 2016.

Sec. 10.2 Ordinances Preserved.

All ordinances in effect upon the adoption of this Charter, to the extent not inconsistent herewith, shall remain in full force and effect until amended or repealed.

Sec. 10.3 Officers, Employees and Agents.

The adoption of this Charter, except as otherwise specifically provided, shall not affect or impair the rights, privileges or immunities of persons who are City officers, employees or agents at the time of adoption of this Charter. All elected officers holding office on the effective date of this Charter shall continue in office for the terms to which elected.

Sec. 10.4 Repeal of Former Charter Provisions.

Subject to Sections 10.5 and 10.6 below, all Charter provisions in effect prior to the effective date of this Charter, including but not limited to those contained in Chapter ____, Special Acts of Florida 19____, as amended, are expressly repealed.

Sec. 10.5 Debts, Contracts and Assessments Preserved.

No debt or obligation of contract of, or assessment by the City shall be impaired as a result of the adoption of this Charter, but all such debts, obligations and assessments shall pass to and be binding upon the City and other parties thereto in accordance with their terms and, to the extent applicable, the Charter of the City as in existence at the time of their incurrence or imposition, as applicable. All obligations and rights arising in connection with projects financed pursuant to former City Charter Article XI shall be unaffected and shall remain in full force and effect as if said Article had survived the adoption of this Charter.

Sec. 10.6 Existing Rights, Obligations, Duties and Relationships.

All rights, obligations, duties and relationships now existing by law or agreement between the City of North Miami Beach and other parties (including but not limited to other governmental units) shall be unaffected and shall remain in full force and effect.

Sec. 10.7 Severability.

If any section, sentence, clause or phrase of this Charter is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Charter.

Sec. 10.8 Charter Review.

The City Council shall appoint a Charter Review Committee composed of residents of the City of North Miami Beach to review this Charter and make recommendations to the City Council regarding necessary or desired amendments no less than once every ten (10) years.