

PREAMBLE

We, the people of the City of Sunny Isles Beach, in order to secure for ourselves the benefits and responsibilities of home rule, in order to provide a municipal government to serve our present and future needs, do hereby adopt this Charter.

CITY OF SUNNY ISLES BEACH – Municipal Charter

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 administration management, to make government more accountable, and to ensure to all persons fair and equitable treatment, the following rights are guaranteed:
1. **Convenient Access.** Every person has the right to transact City business with a minimum of personal inconvenience. It shall be the duty of the Mayor, the City Commission, the City Manager and all City employees to provide, within budget limitations, reasonably convenient times and places for registration and voting, 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 times 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 and resolutions listed by descriptive title. Written minutes of all meetings and the ordinance register shall be available for public inspection not later than 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 Commission or 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. The City Commission shall adopt agenda procedure and schedule hearings in a manner that will enhance the opportunity for public participation. Nothing herein shall prohibit any governmental entity or agency from imposing reasonable time limits and procedures 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 Mayor, City Commission, board or agency conducting such meeting, and then only on condition that the affected person shall, upon written request, receive mailed notice of

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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 written request from any interested party, and after presentation of the facts to and approval by the Commission, 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 nor to any body whose duties and responsibilities are solely advisory.

At any zoning or other hearing in which review is exclusively by certiorari, a party or his/her counsel shall be entitled to present his/her 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 such agency, board, department or authority must be based upon the facts in the record. Procedural rule 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 City 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. Managers' 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 areas of concern.

11. Budgeting. In addition to any budget required by state statute, the City Manager at the direction of the Mayor shall prepare a budget showing the cost of each department for each budget year. Prior to the City Commission'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 therefore, the estimated mileage cost of each department and the amount of any contingency and carryover funds for each department.

12. Quarterly Budget Comparisons. The City Manger 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. Representation of Public. The Mayor shall endeavor to designate one or more individuals to represent the City at all proceedings before County, State and Federal regulatory bodies, significantly affecting the City and its residents.

B. The foregoing enumeration of citizens' rights vests large and pervasive powers in the citizenry of the City of Sunny Isles Beach. Such power necessarily carries with it responsibility of equal magnitude for the successful operation of government in the City. The orderly, efficient and

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fair operation of government requires the intelligent 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 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/her office or employment.
- D. Construction.** All provisions of this Bill of Rights shall be construed to be supplementary to and not in conflict with the general laws of Florida. If any part of this Bill of Rights shall be declared invalid, it shall not affect the validity of the remaining provisions.

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**ARTICLE 1. CORPORATE EXISTENCE, FORM OF
GOVERNMENT, BOUNDARY AND POWERS**

Section 1.1 Corporate Existence.

A municipal corporation known as City of Sunny Isles Beach (the "City") is hereby created pursuant to the Constitution of the State of Florida (the "State") and the Home Rule Charter of Metropolitan Dade County (the "County"). The corporate existence of the City shall commence upon the adoption of this Charter.

Section 1.2 Form of Government.

The City shall have a "Mayor-Commission-Manager" form of government.

Section 1.3 Corporate Boundary.

The corporate boundary of the City shall be as follows:

A parcel of land lying in Sections 2, 11 and 14, Township 52 South, Range 42 East, Dade County, Florida; being more particularly described as follows:

BEGIN at the Northwest corner of Tract "B" of "GOLDEN GATE ESTATES AND MARINA", according to the plat thereof recorded in Plat Book 147 at Page 32 of the Public Records of Dade County, Florida, said point being on the South boundary of the TOWN OF GOLDEN BEACH; thence Westerly, along the Westerly extension of the North line of said plat of "GOLDEN GATES ESTATES AND MARINA", to its intersection with the centerline of the Intracoastal Waterway; thence Southerly, along said centerline of the Intracoastal Waterway, through said Sections 2, 11 and 14, to its intersection with the Westerly extension of the South line of the plat of "BAYVIEW POINT REVISED", according to the plat thereof recorded in Plat Book 82 at Page 99 of the Public Records of Dade County, Florida; thence Easterly, along said Westerly extension of said South line and along the South line of said plat of "BAYVIEW POINT REVISED", to its intersection with the West right of way line of Collins Avenue (State Road A1A); thence continue Easterly to its intersection with the East right of way line of Collins Avenue (State Road A1A), said point of intersection being on the South line of Lot 76 of "PLAT OF TATUM'S OCEAN BEACH PARK", according to the plat thereof recorded in Plat Book 5 at Page 35 of the Public Records of Dade County, Florida; thence continue Easterly along the South line of said Lot 76, and along its Easterly extension, to a point in the Atlantic Ocean, 1,100 feet Easterly of the STATE OF FLORIDA DEPARTMENT OF NATURAL RESOURCES DADE COUNTY COASTAL CONTROL LINE, according to the plat thereof recorded in Plat Book 74 at Page 26 of the Public Records of Dade County, Florida; thence Northerly along a line 1,100 feet Easterly of and parallel with said Coastal Control Line, through said Sections 14, 11 and 2, to its intersection with Easterly extension of the North line of Lot 1, Block 1 of "A REPLAT OF BLOCK 1 OF VENETIA BEACH", according to the plat thereof recorded in Plat Book 44 at Page 4 of the Public Records of Dade County, Florida; thence Westerly, along said Easterly extension of the North line and along the North

line of said Lot 1, also being the South boundary of the TOWN OF GOLDEN BEACH; thence continue Westerly along said North line of “GOLDEN GATE ESTATES AND MARINA”, being also the South boundary of the TOWN OF GOLDEN BEACH, to the POINT OF BEGINNING.

Section 1.4 Powers.

The City shall have and may exercise all available governmental, corporate and proprietary powers. Through the adoption of this Charter, it is the intent of the electors of the City to grant to the municipal government established herein the broadest exercise of home rule powers permitted under the Constitution and laws of the State, as fully and completely as though they were specifically enumerated in this Charter.

Section 1.5 Construction.

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

ARTICLE 2. CITY COMMISSION; MAYOR

Section 2.1 City Commission.

There shall be a City Commission (the “Commission”) vested with all legislative powers of the City including but not limited to the setting of policy, approval of budget, determination of tax rates, hiring and firing of the charter officers, and the development of community land policies. The Commission shall consist of four (4) members (“Commissioners”) and the Mayor. Commissioners shall occupy seats numbered 1 through 4. References in this Charter to the Commission and/or Commissioners shall include the Mayor unless the context dictates otherwise.

Section 2.2 Mayor and Vice Mayor.

(a) *Powers of the Mayor.* The Mayor shall preside at meetings of the Commission, be a voting member of the Commission, and may create and appoint subcommittees of the Commission. The Mayor shall be recognized as head of City Government for all ceremonial purposes and for purposes of military law, for service of process, execution of duly authorized contracts, deeds and other documents, and as the City official designated to represent the City in all dealings with other governmental entities. In addition, the Mayor shall have the following specific responsibilities:

i) The Mayor shall recommend the nomination of a City Manager in accordance with the terms of Section 3.1 hereinbelow.

ii) The Mayor shall appoint the Commissioners of all standing committees and the chairperson and vice chairperson of each committee. There shall be as many standing and special committees as deemed necessary by the Mayor.

iii) The Mayor shall prepare and deliver annually between November 1 and January 31 a report on the state of the City and annually between July 1 and September 30 a budgetary address to the people of the City.

(b) *Vice-Mayor.* During the absence or incapacity of the Mayor, the Vice-Mayor shall have all the powers, authority, duties and responsibilities of the Mayor. At the first Commission meeting after the 30th day following the day of the general or run-off election of the City Commission, or in any calendar year in which there is no regular City election, at the first Commission meeting in the month of November of such year, the Commission shall elect one of its members as Vice-Mayor.

Section 2.3 Election and Term of Office.

(a) *Election and Term of Office.* Each Commissioner and the Mayor shall be elected at-large for four year terms by the electors of the City in the manner provided in Article 5 of this Charter.

(b) *Residential Areas.* The City shall be divided into three (3) residence areas described as follows: the north area consisting of those portions of the City contained in Miami-Dade County Election Department Precinct No.001 [bounded on the north by the northern boundary of Dade County, bounded on the east by the Atlantic Ocean, bounded on the south by the centerline of Northeast 185th Street and its eastwardly and westwardly extension, and bounded on the west by the Intracoastal Waterway] and Precinct No. 002 [bounded on the north by the centerline of Northeast 185th Street and its eastwardly and westwardly extensions, bounded on the east by the Atlantic Ocean, bounded on the south by the Engineering Line of 175th Street, and bounded on the west by the Intracoastal Waterway] (hereinafter collectively referred to as the “Northern Area”); and the central area consisting of those portions of the City contained in Precinct No. 003 bounded on the north by the Engineering Line of 175th Street, bounded on the east by the Atlantic Ocean, bounded on the south by the south property line of the Winston Towers Complex and its westwardly and eastwardly extension, and bounded on the west by the Intracoastal Waterway (hereinafter referred to as the “Central Area”); and the south area consisting of those portions of the City contained within Precinct No. 004 [bounded on the north by the south property line of the Winston Towers Complex and its westwardly and eastwardly extension, bounded on the east by the Atlantic Ocean, bounded on the south by the centerline of Sunny Isles Boulevard and its eastwardly extension, and bounded on the west by the Intracoastal Waterway] and Precinct No. 005 [bounded on the north by the centerline of Sunny Isles Boulevard and its eastwardly extension, bounded on the east by the Atlantic Ocean, bounded on the south by the north municipal boundary of Bal Harbour, and bounded on the west by the Intracoastal Waterway] (hereinafter referred to as the “Southern Area”). Collectively, the Northern Area, the Central Area and the Southern Area are referred to as “Residential Areas”, individually each as a “Residential Area”. One Commissioner shall reside in the Northern Area (Seat 1), one Commissioner shall reside in the Central Area (Seat 2), and one Commissioner shall reside in the Southern Area (Seat 3); and one Commissioner shall be elected without regard to residence in any particular residential Area (Seat 4). Persons running from a particular Residential

Area must be a resident of the Residential Area which s/he proposes to represent on the Commission at the time of qualifying, at the time of his/her election and must continue to reside in such Residential Area during his/her term of office. Commissioners holding Seats 1, 2 or 3 are collectively referred to as the “Residential Area Commissioners”, individually as a “Residential Area Commissioner”; the Commissioner holding Seat 4 and the Mayor, as the context dictates, are collectively referred to as the “At-Large Commissioners, individually each as an “At-Large Commissioner”.

(c) *Limitations on Lengths of Service.* No person shall serve as Mayor for more than two elected terms. No person shall serve as a Commissioner for more than two elected terms. A “term” shall be deemed commenced upon election, whether or not it is actually completed, except that a vacancy being filled for less than two years remaining in the filling of that term shall not be counted as a “term” under this section.

Section 2.4 Qualifications.

Candidates for Commissioner or Mayor shall qualify for election by the filing of a written notice of candidacy with the Clerk of the City at such time and in such manner as may be prescribed by ordinance and payment to the City Clerk of the sum of one hundred dollars (\$100.00) as a qualifying fee. A person may not be a candidate for Commission and Mayor in the same election. Only electors of the City who have resided continuously in the City for at least one year preceding the date of such filing (and in the respective Residential Area from which the candidate may seek to qualify for election) shall be eligible to hold the Office of Commissioner, including Mayor.

Section 2.5 Vacancies; Forfeiture of Office; Filling of Vacancies.

(a) *Vacancies.* The office of a Commissioner (including the Mayor) shall become vacant upon his/her death, resignation, disability which in this case shall mean incapacity to perform the duties of office, suspension or removal from office in any manner authorized by law, or by forfeiture of his/her office.

(b) *Forfeiture of Office.*

i) *Forfeiture by disqualification.* A Commissioner shall forfeit his/her office if at any time during his/her term s/he (1) ceases to maintain his/her permanent residence in the City, (2) in the case of a Residential Area Commissioner, upon his/her ceasing to reside in his/her respective Residential Area, or (3) otherwise ceases, to be a qualified elector of the City.

ii) *Forfeiture by absence.* A Commissioner shall be subject to forfeiture of his/her office, in the discretion of the remaining Commissioners, if s/he is absent with good cause from any (6) regular meeting of the Commission during any calendar year (provided such meetings do not occur in less than a three (3) month period), or if s/he absent without

good cause from any four (4), or three (3) as to the Mayor, consecutive regular meeting of the Commission, whether or not during the same calendar year.

iii) *Procedures.* The Commission shall be the sole judge of the qualifications of its members and shall hear all questions relating to forfeiture of a Commissioner's office, including whether or not good cause for absence has been or may be established. The burden of establishing good cause shall be on the Commissioner in question; provided, however, that any Commissioner may at any time during duly held meeting move to establish good cause for the absence of him/herself or the absence of any other Commissioner, from any past, present or future meeting(s), which motion, if carried, shall be conclusive. A Commissioner whose qualifications are in question, or, who is otherwise subject to forfeiture of his/her office, shall not vote on any such matters. The Commissioner in question shall be entitled to a public hearing(s) on request regarding an alleged forfeiture of office. If a public hearing is requested, notice thereof shall be published in one or more newspapers of general circulation in the City at least one week in advance of the hearing. Any final determination by the Commission that a Commissioner has forfeited his/he office shall be made by resolution. All votes and other acts of the Commissioner in question prior to the effective date of such resolution shall be valid regardless of the grounds of forfeiture.

(c) *Filling of vacancies.* A vacancy on the Commission shall be filled as follows:

i) If the Mayor's position becomes vacant, and no more than six (6) months remain in the unexpired term of the Mayor, the Vice-Mayor shall complete the term of Mayor. If more than six (6) months remain in the unexpired term of the Mayor, the vacancy shall be filled by a special election to be held not sooner than forty-five (45) days or more than ninety (90) days following the occurrence of the vacancy, unless there is a City, County or State or national election scheduled to take place not sooner than forty-five (45) or more than ninety (90) days following the occurrence of the vacancy, in which case the vacancy shall be filled by the scheduled election. The Vice-Mayor shall serve the term of the Mayor until the special election or scheduled election. A new Vice-Mayor shall serve until the election or scheduled election, unless reappointed.

ii) If the vacancy occurs on the Commission, and no more than six (6) months remain in the unexpired term, the vacancy shall be filled by a nominee of the Mayor, within thirty (30) days following the occurrence of the vacancy subject to confirmation of the Commission. If more than six months remains in the unexpired term of a Commissioner, the vacancy shall be filled by a special election to be held not sooner than forty-five (45) days or more than ninety (90) days following the occurrence of the vacancy, unless there is a City, County, State or national election scheduled to take place not sooner than forty-five (45) days or more than ninety (90) days following the occurrence of the vacancy, in which case the vacancy shall be filled by the scheduled election. The vacancy occurring on the Commission shall be filled by a nominee of the Mayor within thirty (30) days following the occurrence of the vacancy, subject to the confirmation of the

Commission. The nominee shall fill the vacancy until the special election or scheduled election.

iii) A vacancy in any Residential Area seat shall be filled by a qualified person residing in the respective Residential Area. A vacancy in an At-Large seat (4) shall be filled by any qualified elector of the City.

iv) Persons filling vacancies shall meet the qualifications specified in this Section 2.5.

v) If no candidate for a vacancy meets the qualifications under this Article for that vacancy, the Commission shall appoint a person qualified under this Article to fill the vacancy, who shall serve until the next regularly scheduled election for the balance of the original term, but only after a hearing and in addition to regular notice requirements, if such vacancy applies to a specific Residential Area, after ten (10) day mailed notice is given to all electors of that particular Residential Area.

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

vii) In the event that all members of the Commission are removed by death, disability, recall, forfeiture of office and/or resignation, the Governor shall appoint interim Commissioners 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 first elections under this Charter; provided, however, that if there are less than six months remaining in any of the unexpired terms, such interim Commission appointee(s) by the Governor shall serve out the unexpired terms. Appointees must meet all requirements for candidates provided for in Article 2.

Section 2.6 Compensation; reimbursement for expenses.

Commissioners (including the Mayor) shall receive compensation in the amount of \$1,000.00 per month and the Mayor shall receive compensation in the amount of \$1,250.00 per month. Compensation provided herein, shall be increased in accordance with the CPI Index. Further, the Mayor and City Commissioners shall receive reimbursement for business expenses in accordance with applicable law, or as may be otherwise provided by ordinance.

Section 2.7 Recall.

The electors of the City shall have the power to recall and to remove from office any elected official of the City to the extent permitted by the Constitution and the laws of the State of Florida. The minimum number of electors of the City which shall be required to initiate a recall petition shall be ten (10%) percent of the total number of electors of the

City as of the preceding City election and shall be accomplished in accordance with the procedures set forth in Section 5.2 hereinbelow.

ARTICLE 3. ADMINISTRATIVE

Section 3.1 City Manager

There shall be a City Manager (the "Manager") who shall be nominated by the Mayor and confirmed at the next Commission meeting by a majority of the Commission, including the Mayor for an indefinite term. The Manager shall be the chief administrative officer of the City and shall be appointed on the basis of his/her education, experience, executive and administrative qualifications. The Manager shall be responsible to the Mayor and the City Commission for the administration of all City affairs. The Manager shall be responsible for the administration of all departments and divisions of the City government (except the City Attorney) and for carrying out policies adopted by the City Commission. The compensation and benefits of the City Manger shall be set by the City Commission.

(a) No Commissioner shall be eligible for appointment as City Manager during the term for which s/he has been elected and until two (2) years after its expiration. The City Manager need not be a resident of the City.

(b) Removal. The Manager may be suspended with pay pending removal by a resolution approved by the majority of the total membership of the City Commission, which shall set forth the reasons for suspension and proposed removal. A copy of such resolution shall be served immediately upon the Manager. After full consideration, the City Commission by a majority vote of its total membership may adopt a final resolution of removal. The Manager shall continue to receive full compensation until the effective date of a final resolution of removal.

Section 3.2 Powers and Duties of the City Manager

The Manager shall:

- (1) Be responsible for the appointment, supervision and removal of all City employees except for the Office of the City Attorney and his/her staff;
- (2) Direct and supervise the administration of all departments and offices but not City boards or agencies, unless so directed by the Commission from time to time;
- (3) Attend all Commission meetings and have the right to take part in discussion but not the right to vote;
- (4) Ensure that all laws, provisions of this Charter and acts of the Commission, subject to enforcement and/or administration by him/her or by officers subject to his/her direction and supervision, are faithfully executed;

(5) Prepare and submit to the Commission a proposed annual budget and capital program;

(6) Submit to the Commission 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;

(7) Prepare such other reports as the Commission may require concerning the operations of City departments, offices, boards, and agencies;

(8) Keep the Commission fully advised as to the financial conditions and future needs of the City and make such recommendations to the Commission concerning the affairs of the City as s/he deems to be in the best interest of the City;

(9) Perform such other duties as are specified in this Charter or as may be required by the Commission.

Section 3.3 Acting City Manager

To perform his/her duties during his/her temporary absence, disability, or termination, the Manager may designate by letter filed with the Commission, a qualified City Administrative officer to exercise the powers and perform the duties of Manager during his/her absence or disability. During such absence or disability, the Mayor, with the approval of the Commission, may revoke such designation at any time and appoint another officer of the City to serve until the Manager shall return or his/her disability shall cease. The Acting City Manager may be paid, at such discretion of the City Commission.

Section 3.4 Bond of City Manager

The City Manager shall furnish a fidelity bond or such other insurance instrument of comparable protection to be approved by the Commission, and in such amount as the Commission may fix, with either instrument to be conditioned on the faithful performance of his/her duties. The premium of the bond shall be paid by the City.

Section 3.5 City Clerk

The City Manager shall appoint a City Clerk (the "Clerk"). The Clerk shall give notice of Commission meetings to its members and the public, shall keep the minutes of the City's proceedings which shall be a public record, and is authorized to administer oaths, attest to the Mayor's or Manager's signatures, and shall perform such other duties as the City Manager may prescribe from time to time. The City Clerk shall report to the City Manager and may be removed by the City Manager.

Section 3.6 City Attorney

The Mayor may nominate, and the Commission, including the Mayor, by majority shall confirm an individual attorney or a law firm to act as the City Attorney under such

by rule. Special meetings may be held on the call of the Mayor or of a majority of the Commissioners and upon no less than forty-eight (48) hours' notice to each member and the public, or such shorter time as a majority of the Commission shall deem necessary in case of an emergency affecting life, health, property or the public peace.

(b) **Rules and Journal.** The Commission shall determine its own rules of procedure and order of business and shall keep a journal open for public inspection.

(c) **Quorum and Voting.** A majority of the Commission shall constitute a quorum but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Commission. Voting on ordinances shall be by roll call on final reading and shall be recorded in the journal. All other matters shall be by voice vote unless a Commissioner or the City Clerk requests otherwise. No action of the Commission, except as otherwise provide in the Charter, shall be valid or binding unless adopted by the affirmative votes of at least three (3) Commissioners.

(d) **Meeting Time Limits.** No meeting of the Commission shall extend later than midnight except upon the affirmative vote of a majority of members present at the meeting.

Section 4.2 Prohibitions

(a) **Appointment and Removals.** Neither the Commission nor any of its members shall in any manner dictate the appointment or removal of any City Administrative officers or employees whom the Manager or any of his/her subordinates are empowered to appoint.

(b) **Interference With Administration.**

i) Except for the purpose of inquiries and investigations made in good faith and in accordance with a resolution adopted by the Commission, the Commission and any of its individual members shall deal with City officers and employees who are subject to the direction and supervision of the Manager solely through the Manager, and neither the Commission nor its members shall give orders to any such officer or employee, either publicly or privately. It is the express intent of this Charter that recommendations for improvement in City government operations by individual Commissioners be made solely to and through the Manager. No individual Commissioner shall give orders to the Manager.

ii) Any willful violation of this section 4.2 by the Mayor or any Commissioner shall be grounds for his/her removal from the office by an action brought in the Circuit Court by the State Attorney of Miami-Dade County.

(c) **Holding Other Office.** No elected City official shall hold any appointive City office or City employment while in office. No former elected City official shall hold

any compensated appointive City office or City employment until one (1) year after the expiration of his/her term.

Section 4.3 Ordinances.

(a) **Actions Requiring an Ordinance.** In addition to other acts required by law or by specific provision of this Charter to be affected or authorized by ordinance, those acts of the City Commission shall be by ordinance which:

- (1) Adopt or amend an administrative regulation or establish, alter or abolish any City office, department, board or agency;
- (2) Establish a rule or regulation the violation of which carries a penalty;
- (3) Levy taxes or appropriate funds;
- (4) Grant, renew or extend a franchise;
- (5) Set service or user charges for municipal services or grant administrative authority to set such charges;
- (6) Authorize the borrowing of money;
- (7) Convey or lease or authorize by administrative action the conveyance or lease of any lands of the City; or
- (8) Amend or repeal any ordinance previously adopted, except as otherwise provided in this Charter.

(b) **Procedure.** The City Commission shall adopt procedures with respect to the passage of ordinances in accordance with applicable law.

Section 4.4 Emergency Ordinances

To meet a public emergency affecting life, health, property or the public peace, the Commission may adopt, in the manner provided in this Section, one or more emergency ordinances, but such ordinances may not: levy taxes, grant, renew or extend any municipal franchise; set service or user charges for any municipal services; or authorize the borrowing of money except as provided under the emergency appropriations provisions of this Charter if applicable.

(a) **Form.** An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated in a preamble as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms.

(b) **Procedure.** An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which is introduced and shall be enacted by no less than three members of the Commission. After its adoption, the ordinance shall be published and printed as prescribed for other ordinances.

(c) **Effective Date.** An emergency ordinance shall become effective upon adoption or at such other date as may be specified in the ordinance.

(d) **Repeal.** Every emergency ordinance except emergency appropriation ordinances shall automatically be repealed as of the sixty-first (61st) day following its effective date, but this shall not prevent re-enactment of the ordinance under regular procedures, or if the emergency still exists, in the manner specified in this Section. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same specified in this Section for adoption of emergency ordinances.

(e) **Emergency Appropriations.** The Commission may make emergency appropriations in the manner provided in this Section. To the extent that there are no available unappropriated revenues to meet such appropriations, the Commission may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes, including renewals thereof, shall be payable not later than the last day of the fiscal year next succeeding the fiscal year in which the emergency appropriation ordinance was originally adopted. All emergency appropriations shall be subject to the independent audit set forth in Section 4.10 below.

Section 4.5 Annual Budget Adoption

(a) **Balanced Budget.** Each annual budget adopted by the Commission shall be a balanced budget.

(b) **Budget Adoption.** The Commission shall by ordinance adopt the annual budget on or before the thirtieth (30th) day of September of each year. If it fails to adopt the annual budget by this date, the Commission may by resolution direct that the amounts appropriated for current operations for the current fiscal year shall be deemed adopted for the ensuing fiscal year for a period of fifteen (15) days and renewed by resolution each fifteen (15) days, with all items in it prorated accordingly, until such time as the Commission adopts an annual budget for the ensuing fiscal year. An ordinance adopting an annual budget shall constitute appropriation of the amounts specified therein.

(c) **Specific Appropriation.** The budget shall be specific as to the nature of each category of appropriations therein. Reasonable appropriations may be made for contingencies, but only within defined spending categories.

Section 4.6 Fiscal Year

The fiscal year of the City government shall begin on the first day of October and shall end on the last day of September of the following calendar year. Such fiscal year shall also constitute the annual budget and accounting year.

Section 4.7 Appropriation Amendments During the Fiscal Year

(a) **Supplemental Appropriations.** If, during any fiscal year, revenues in excess of those estimated in the annual budget are available for appropriation, the Commission may by ordinance make supplemental appropriations for the fiscal year up to the amount of such excess.

(b) **Reduction of Appropriations.** If, at any time during the fiscal year, it appears probable to the Manager that the revenues available will be insufficient to meet the amount appropriated, he/she shall report in writing to the Commission without delay, indicating the estimate amount of the deficit, and his/her recommendations as to the remedial action to be taken. The Commission shall then take such action as it deems appropriate to prevent any deficit spending.

**Section 4.8 Authentication, Recording and Disposition of Ordinances;
Resolutions and Charter Amendments**

(a) **Authentication.** The Mayor and the Clerk shall authenticate by their signature all ordinances and resolutions adopted by the Commission. In addition, when Charter amendments have been approved by the electors, the Mayor and the Clerk shall authenticate by their signatures the Charter amendment, such authentication to reflect the approval of the Charter amendment by the electorate.

(b) **Recording.** The Clerk shall keep properly indexed books in which shall be recorded, in full, all ordinances and resolutions passed by the Commission. Ordinances shall, at the direction of the Commission, be periodically codified. The clerk shall also maintain the City Charter in current form and shall enter all Charter amendments.

(c) **Record Availability.** The commission shall, by ordinance, establish procedures for making all resolutions, ordinances, technical Codes adopted by reference, and this Charter available to the people of the City for public inspection and available for purchase at a reasonable price.

Section 4.9 Annual Tax Levy

The City shall have the right to levy, assess and collect all such taxes as are permitted by law, including without limitation ad valorem, excise, franchise or privilege taxes on services and utilities.

Section 4.10 Independent Audit.

The City Commission shall provide for an annual independent audit of all City accounts and may provide more frequent audits as it deems necessary. Those audits shall be made in accordance with generally accepted auditing standards by a certified public accountant or firm of such accountants (hereinafter referred to as the “auditors”), designated annually, who have no personal interest in the fiscal affairs of the City government or any of its officers. (Residency, per se, shall not constitute a direct or indirect interest.) A summary of the results, including any deficiencies found, shall be made public. In making such audit, proprietary functions shall be audited separately and adequate depreciation on propriety facilities shall be accrued so the public may determine the amount of any direct or any indirect subsidy. If a designated auditor has conducted the annual independent audit of the City for a period of three consecutive years, the City Commission shall review, either through the appointment of a citizen’s committee, and individual, or other certified public accountant or firm of such accounts, the adequacy of the auditors’ performance.

ARTICLE 5. ELECTIONS

Section 5.1 Elections

(a) **Electors.** Any person, who is a resident of the City, has qualified as an elector of the State and registers to vote in the manner prescribed by law shall be an elector of the City.

(b) **Nonpartisan Elections.** All elections for the City Commission and Mayor shall be conducted on a non-partisan basis and no ballot shall show the party designation of any candidate.

(c) **Election Dates.** A general election shall be held in each odd-numbered year, on the second Tuesday following the first Monday in November. A run-off election, if necessary, shall be held on the second Tuesday following the first Monday of December. In the event an election date falls on a religious holiday, the City Commission may, by ordinance, change the dates for qualifying and for the election.

(d) **General Election.** The ballot for the general election shall contain the names of all qualified candidates for Mayor, if the Mayor’s term is expiring, and for each of the two (2) Commission positions which are to be filled as a result of two (2) members’ terms expiring, and shall instruct electors to cast one (1) vote for Mayor, if applicable, and one vote for each Commission seat, with a maximum of one (1) vote per candidate. If any candidate for Mayor receives a number of votes greater than fifty percent (50%) of the total number of ballots cast, such candidate shall be the duly elected mayor. If any candidate(s) for Commission receive(s) a number of votes greater than fifty percent (50%) of the total number of ballots cast, such candidate(s) shall be duly elected to the Commission.

(e) **Run-off Election.** The ballot for the run-off election shall contain the names of the two (2) candidates for Mayor, if applicable, and the names of the two candidates for each Commission seat who received the most votes in the general election. The ballot shall instruct electors to cast one vote for Mayor and to cast one vote for each Commission seat, with a maximum of one (1) vote per candidate. The candidate for Mayor receiving the most votes shall be duly elected Mayor. The candidates for each Commission seat receiving the most votes shall be duly elected to that Commission seat.

(f) **Special Elections.** Special elections, when required, shall be scheduled by the Commission at such times and in such manner as shall be consistent with this Charter.

(g) **Single Candidates.** No election for Mayor or any Commission seat shall be required in any election if there is only one duly qualified candidate for Mayor or for any Commission seat. That candidate shall be considered elected automatically.

(h) **Absentee Votes.** Absentee voting will be permitted as provided by the laws of the State and under such conditions as may be prescribed by ordinance from time to time; *provided, however,* that no ordinance shall limit the right to vote by absentee ballot available under State law.

(i) **Commencement of Terms.** The term of office of any elected official will commence on the 30th day following the day of the general or run-off election in which he/she is elected, unless that day falls on a Saturday or Sunday, in which case it shall be the next Monday immediately following at 12 o'clock noon ("commencement term"), and will end at midnight of the day before the commencement term.

Section 5.2 Initiative and Referendum

(a) **Power to Initiate and Reconsider Ordinances.**

i) **Initiative.** The electors of the City shall have power to propose ordinances to the Commission and, if the Commission fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a City election, *provided* that such power shall not extend to the annual budget or capital program or any ordinance appropriating money, levying taxes or setting salaries of City officers or employees, pursuant to such annual budget.

ii) **Referendum.** The electors of the City shall have power to require reconsideration by the Commission of any adopted ordinance and, if the Commission fails to repeal an ordinance so reconsidered, to approve or reject it at a City election, *provided* that such power shall not extend to the annual budget or capital program or any ordinance appropriating money, levying taxes or setting salaries of City officers or employees, pursuant to such annual budget.

(b) **Commencement of Proceedings.** Any twenty-five (25) electors may commence initiative or referendum proceedings by filing with the Clerk an affidavit stating

they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered. Promptly after the affidavit of the petitioners' committee is filed, the Clerk shall at the committee's request, issue the appropriate petition blanks to the petitioners' committee at the committee's expense. Petitioners' proposed ordinance shall be approved as to legal sufficiency by the City Attorney prior to circulation.

(c) Petitions.

i) Number of Signatures. Initiative and referendum petitions must be signed by electors of the City equal in number to at least ten percent (10%) of the total number of electors registered to vote at the last regular City election.

ii) Form and Content. All papers of a petition shall be assembled as one instrument of filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the printed name of signature and the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.

iii) Affidavit of Circulator. Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that s/he personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his/her presence that s/he believes them to be the genuine signatures of the persons whose names they purport to be and that each signer has an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

iv) Filing Deadline. All initiative and referendum petitions must be filed within sixty (60) days of the date on which proceedings with respect to such initiative or referendum are commenced.

(d) Procedure for Filing.

i) Certificate of Clerk: Amendment. Within twenty (20) days after initiative petition is filed or within five (5) days after a referendum petition is filed, the Clerk shall complete a certificate as to its sufficiency ("the Certificate") specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the Certificate to the petitioners' committee by registered mail. Grounds for insufficiency are only those specified in subsection (c) of this Section. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the Clerk within two (2) business days after receiving the copy of the Certificate and files a supplementary petition upon additional papers within ten (10) days after receiving the copy of such Certificate. Such supplementary petition shall comply with the requirements of paragraphs (i), (ii) and (iii) of subsection (c) of this Section, and within five (5) days after it is filed the Clerk shall

complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' committee by registered mail as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request Commission review under paragraph (ii) of this subsection (d) within the time required, the Clerk shall promptly present his/her certificate to the Commission and within sixty (60) days the Certificate shall then be a final determination as to the sufficiency of the petition.

ii) Commission Review. If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within two (2) business days after receiving the copy of such certificate, file a request that it be reviewed by the Commission. The Commission shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and the Commission's determination shall then be a final determination as to the sufficiency of the petition.

(e) Action on Petitions.

i) Action by Commission. When an initiative or referendum petition has been finally determined sufficient, the Commission shall promptly consider the proposed initiative ordinance or reconsider the referred ordinance by voting its repeal, all in the manner provided in Article 4. If the Commission fails to adopt a proposed initiative ordinance without any change in substance within forty-five (45) days or fails to repeal the referred ordinance within thirty (30) days, it shall submit the proposed or referred ordinance to the electors of the City. If the Commission fails to act on a proposed initiative ordinance or a referred ordinance within the time period contained in paragraph (i) of subsection (e) of this Section, the Commission shall be deemed to have failed to adopt the proposed initiative ordinance or failed to repeal the referred ordinance on the last day that the Commission was authorized to act on such matter.

ii) Submission to Electors. The vote of the City on a proposed or referred ordinance shall be held not less than thirty (30) or more than sixty (60) days from the date the Commission acted or was deemed to have acted pursuant to paragraph (i) of this subsection (e) that the petition was determined sufficient. If no regular election is to be held within the period described in this paragraph, the Commission shall provide for a special election, except that the Commission may, in its discretion, provide for a special election at an earlier date within the described period. Copies of the proposed or referred ordinance shall be made available at the polls.

iii) Withdrawal of Petitions. An initiative or referendum petition may be withdrawn at any time prior to the fifteenth (15th) day preceding the day scheduled for a vote by the City by filing with the Clerk a request for withdrawal signed by at least eighteen members of the petitioners' committee. Upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

(f) **Results of Election.**

i) **Initiative.** If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict. If the proposed initiative ordinance fails, it or any ordinance that is substantially similar, may not be submitted in accordance with this Article for at least a period of one (1) year from the election.

ii) **Referendum.** If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

Section 5.3 Form of Ballots

A Charter amendment, ordinance or other ballot issue to be voted on by the electors shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: “Shall the above described [amendment/ordinance/proposal] be adopted?” Immediately below such question shall appear, in the following order, the word “YES” and also the word “NO”.

ARTICLE 6. CHARTER AMENDMENTS

Section 6.1 Procedure to Amend

The Charter may be amended in accordance with these provisions:

(a) **Initiation by Ordinance.** The Commission may, by ordinance, propose amendments to this Charter and upon passage of the initiating ordinance shall submit the proposed amendment to a vote of the electors at the next general election held within the City or at a special election called for such purpose.

(b) **Initiation by Petition.** The elector of the City may propose amendments to this Charter by petition. Each petition proposing amendments to this Charter shall be commenced, in the form, filed, certified as to its sufficiency and/or withdrawn in the same manner as an ordinance proposed by initiative pursuant to Section 5.2.

(c) **Submission to Electors.** Upon certification of the sufficiency of the petition, the Commission shall submit the proposed amendment to a vote of the electors at the next general election if such election is scheduled to be held not less than sixty (60) days or more than one hundred and twenty (120) days from the date on which the petition was certified or at a special election called for that purpose. A special election, if necessary, shall be held

not less than sixty (60) days or more than one hundred and twenty (120) days from the date on which the petition was certified.

(d) **Results of Election.** If a majority of the qualified electors voting on a proposed amendment vote for its adoption, it shall be considered adopted 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.

Section 6.2 Form of Ballot

Any Charter amendment ballot issue to be voted on by the electors shall be presented on the ballot in the form required by Section 5.3 of this Charter.

ARTICLE 7. GENERAL PROVISIONS

Section 7.1 Severability

If any section or part of a section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter or the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

Section 7.2 Conflicts of Interest; Ethical Standards

All Commissioners, officials and employees of the City shall be subject to the standards of conduct for public officers and employees set by law. In addition, the Commission may, by ordinance, establish a Code of ethics for Commissioners, officials and employees of the City which may be supplemental to law, but in no case may such an ordinance diminish the provisions of this Section or of general law.

Without in any way limiting the generality of the foregoing, no Commissioners shall have a financial interest, direct or indirect, or by reason of ownership of stock or other equity ownership in any corporation or entity, in any contract or in the sale to the City or to a contractor supplying the City of any land or rights or interests in any land, material supplies, or services unless, after full disclosure to the City Commission of the nature and extent of such interest, the same is authorized by the Commission before the event. No member of the City Commission who possesses such a financial interest shall vote on, or participate in the Commission deliberations concerning, any such contract or sale. Any violation of this section with the knowledge of the person or entity contracting with the City may render the contract null and void.

Section 7.3 City Personnel System

All new employments, appointments and promotions of City officers and employees shall be made pursuant to personnel procedures to be established by the Manager from time to time.

Section 7.4 Charter Revision

At its first regular meeting in December of the fifth (5th) year after the adoption of this Charter, in December 2002, and thereafter every tenth (10) year commencing December 2012, the Commission shall appoint a Charter revision commission ("Commission") consisting of five (5) persons including three (3) from the Residential Areas from which the Commissioners were elected, except in the case of the At-Large Commissioner in which case the Commission member may reside any where in the City. Each Commissioner shall be entitled to appoint one Charter Revision Commission member from his or her district but that appointee shall be ratified by a majority of the Commission. In addition, the Mayor may appoint (1) person to the Commission who is a member of the Commission serving a second consecutive term as Commissioner but who shall be a non-voting Commission member. The Mayor him/herself shall not be eligible for appointment to the revision commission. The revision Commission shall commence its proceedings within forty-five (45) days after appointment by Commission. If the Commission determines that a revision is needed, including but not limited to a change in the boundaries or number of Residential Areas, it shall draft such amendments to this charter as it deems appropriate and submit the same to the City Commission no later than the ninetieth (90) day after their appointment by the Commission. The Commission shall, not less than thirty (30) days or more than sixty (60) days after submission of the proposed amendments to Commission, submit them to the electors of the City in accordance with the provisions of Section 6.1 except that the provisions of subsections (a) and (b) of such Section shall not apply.

Section 7.5 Variation of Pronouns.

All pronouns and any variation thereof used in this Charter shall be deemed to refer to masculine, feminine, neutral, singular or plural as the identity of the person or persons shall require and are not intended to describe, interpret, define or limit the scope, extent, or intent of this Charter.

Section 7.6 Charitable Contributions.

The City shall not make any charitable contributions to any person or entity except if such contribution is approved by the affirmative votes of at least four (4) Commissioners.

Section 7.7 Precedence over Related Laws.

In case of a conflict between the provisions of this Charter and the provisions of the Code to be adopted pursuant thereto and /or the Citizen's Bill of Rights, the Charter terms

shall control. Moreover, nothing in this Charter shall be construed to alter, abolish, affect or amend the general laws of this State, now in force, or which hereinafter may be enacted relative to or affecting this city, except where such laws are in direct conflict in which case the provisions of this Charter or Code adopted pursuant thereto shall supersede and be in full force and effect.

Section 7.8 Fire Rescue Service

The City shall utilize the services of the Miami-Dade Fire Rescue Department to provide fire and rescue services to the City.

Section 7.9 Lobbyist Disclosure

(a) The City Commission shall pass, maintain and enforce an ordinance, which requires all lobbyists as may be defined by the Miami-Dade County Code and as may be made more stringent by the City Commission.

(b) In addition to compliance with all other local and state laws must:

- (i) Submit a full disclosure of the comprehensive terms of all compensation, including contingency or successor fees, or other consideration the lobbyist is receiving for such lobbying activities.
- (ii) Direct the City Clerk to disseminate to the City Commission, prior to any public hearing, on the event or matter for which such lobbyist may appear, all disclosures required herein or as otherwise required by State or County law.

Any violation of this section shall render the issue being lobbied voidable.

ARTICLE 8. TRANSITION PROVISIONS

Section 8.1 Interim Adoption of Codes and Ordinances

Until otherwise modified or replaced by this Charter or legislation of the City Commission, all Codes, ordinances and resolutions in effect on the date of adoption of this Charter shall, to the extent applicable to the City, remain in full force and effect as municipal Codes, ordinances and resolutions of the City.

SUNNY ISLES BEACH
CHARTER REVISION COMMISSION CERTIFICATION

The undersigned, members of the Sunny Isles Beach Charter Revision Commission who were duly appointed on December 12, 2002, pursuant to Ordinance No. 2003-168 of the Charter Revision Commission, hereby certify the foregoing Revised Municipal Charter for the City of Sunny Isles Beach, that it has been prepared by the Sunny Isles Beach Charter Revision Commission pursuant to Section 6.2 of the Charter of the City of Sunny Isles Beach and that the same was submitted to the electors of Sunny Isles Beach on June 10, 2003, as required by Section 7.4 of the Charter of the City of Sunny Isles Beach.

Ordinance No. 2003-174 was adopted on July 17, 2003 accepting the results of the June 10, 2003 Special Election.

IRVING DIAMOND

MARY ANN EICKE

ARNOLD KLEIN

MARTIN LIVINGSTON

GEORGE "BUD" SCHOLL

Attested to:

CHARTER

ARTICLE 1 CORPORATE EXISTENCE, FORM OF GOVERNMENT, BOUNDARY AND POWERS

- § C-1.1. Corporate Existence.
- § C-1.2. Form of Government.
- § C-1.3. Corporate Boundary.
- § C-1.4. Powers.
- § C-1.5. Construction.

ARTICLE 2 CITY COMMISSION; MAYOR

- § C-2.1. City Commission.
- § C-2.2. Mayor and Vice Mayor.
- § C-2.3. Election and Term of Office.
- § C-2.4. Qualifications.
- § C-2.5. Vacancies; Forfeiture of Office;
Filling of Vacancies
- § C-2.6. Compensation; reimbursement
for expenses.
- § C-2.7. Recall.

ARTICLE 3 ADMINISTRATIVE

- § C-3.1. City Manager.
- § C-3.2. Powers and Duties of the City
Manager.
- § C-3.3. Acting City Manager.
- § C-3.4. Bond of City Manager.
- § C-3.5. City Clerk.
- § C-3.6. City Attorney.
- § C-3.7. City Code of Administrative
Regulations.
- § C-3.8. Expenditure of City Funds.
- § C-3.9. City Boards and Agencies.

- § C-3.10. Competitive Bid
Requirement/Purchasing.

ARTICLE 4 LEGISLATIVE

- § C-4.1. Commission Meeting
Procedure.
- § C-4.2. Prohibitions.
- § C-4.3. Ordinances.
- § C-4.4. Emergency Ordinances.
- § C-4.5. Annual Budget Adoption.
- § C-4.6. Fiscal Year.
- § C-4.7. Appropriation Amendments
During the Fiscal Year.
- § C-4.8. Authentication, Recording and
Disposition of Ordinances;
Resolutions and Charter
Amendments.
- § C-4.9. Annual Tax Levy.
- § C-4.10. Independent Audit.

ARTICLE 5 ELECTIONS

- § C-5.1. Elections.
- § C-5.2. Initiative and Referendum.
- § C-5.3. Form of Ballots.

ARTICLE 6 CHARTER AMENDMENTS

- § C-6.1. Procedure to Amend.
- § C-6.2. Form of Ballot.

ARTICLE 7 GENERAL PROVISIONS

- § C-7.1. Severability.

SUNNY ISLES BEACH CODE

§ C-7.2. Conflicts of Interest; Ethical Standards.	§ C-8.2. (Reserved)
§ C-7.3. City Personnel System.	§ C-8.3. (Reserved)
§ C-7.4. Charter Revision.	§ C-8.4. (Reserved)
§ C-7.5. Variation of Pronouns.	§ C-8.5. (Reserved)
§ C-7.6. Charitable Contributions.	§ C-8.6. (Reserved)
§ C-7.7. Precedence over Related Laws.	§ C-8.7. (Reserved)
§ C-7.8. Fire Rescue Service.	§ C-8.8. (Reserved)
§ C-7.9. Lobbyist Disclosure.	§ C-8.9. (Reserved)
	§ C-8.10. (Reserved)

ARTICLE 8
TRANSITION PROVISIONS

§ C-8.1. Interim Adoption of Codes and Ordinances.

[HISTORY: Submitted to the electors of the City of Sunny Isles Beach 6-3-1997; adopted by the City Commission of the City of Sunny Isles Beach 6-16-1997. Amendments noted where applicable.]

PREAMBLE

We, the people of the City of Sunny Isles Beach, in order to secure for ourselves the benefits and responsibilities of home rule, in order to provide a municipal government to serve our present and future needs, do hereby adopt this Charter.

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 administration 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 City business with a minimum of personal inconvenience. It shall be the duty of the Mayor, the City Commission, the City Manager and all City employees to provide, within budget limitations, reasonably convenient times and places for registration and voting, 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 times and places convenient to the public.

CHARTER

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 and resolutions listed by descriptive title. Written minutes of all meetings and the ordinance register shall be available for public inspection not later than 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 Commission or 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. The City Commission shall adopt agenda procedure and schedule hearings in a manner that will enhance the opportunity for public participation. Nothing herein shall prohibit any governmental entity or agency from imposing reasonable time limits and procedures 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 Mayor, City Commission, board or agency conducting such meeting, and then only on condition that the affected person shall, upon written request, receive mailed 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 written request from any interested party, and after presentation of the facts to and approval by the Commission, 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 nor to any body whose duties and responsibilities are solely advisory.

At any zoning or other hearing in which review is exclusively by certiorari, a party or his/her counsel shall be entitled to present his/her 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 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 City

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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. Managers' 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 areas of concern.
 11. Budgeting. In addition to any budget required by state statute, the City Manager at the direction of the Mayor shall prepare a budget showing the cost of each department for each budget year. Prior to the City Commission'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 therefore, 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 $\frac{1}{4}$ 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. Representation of Public. The Mayor shall endeavor to designate one or more individuals to represent the City at all proceedings before County, State and Federal regulatory bodies, significantly affecting the City and its residents.
- B. The foregoing enumeration of citizens' rights vests large and pervasive powers in the citizenry of the City of Sunny Isles 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 intelligent 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 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/her office or employment.
- D. Construction. All provisions of this Bill of Rights shall be construed to be supplementary to and not in conflict with the general laws of Florida. If any part of this Bill of Rights shall be declared invalid, it shall not affect the validity of the remaining provisions.

ARTICLE 1
**CORPORATE EXISTENCE,
 FORM OF GOVERNMENT, BOUNDARY AND POWERS**

§ C-1.1. Corporate Existence.

A municipal corporation known as City of Sunny Isles Beach (the “City”) is hereby created pursuant to the Constitution of the State of Florida (the “State”) and the Home Rule Charter of Metropolitan Dade County (the “County”). The corporate existence of the City shall commence upon the adoption of this Charter.

§ C-1.2. Form of Government.

The City shall have a “Mayor-Commission-Manager” form of government.

§ C-1.3. Corporate Boundary.

The corporate boundary of the City shall be as follows:

A parcel of land lying in Sections 2, 11 and 14, Township 52 South, Range 42 East, Dade County, Florida; being more particularly described as follows:

BEGIN at the Northwest corner of Tract “B” of “GOLDEN GATE ESTATES AND MARINA”, according to the plat thereof recorded in Plat Book 147 at Page 32 of the Public Records of Dade County, Florida, said point being on the South boundary of the TOWN OF GOLDEN BEACH; thence Westerly, along the Westerly extension of the North line of said plat of “GOLDEN GATE ESTATES AND MARINA”, to its intersection with the centerline of the Intracoastal Waterway; thence Southerly, along said centerline of the Intracoastal Waterway, through said Sections 2, 11 and 14, to its intersection with the Westerly extension of the South line of the plat of “BAYVIEW POINT REVISED”, according to the plat thereof recorded in Plat Book 82 at Page 99 of the Public Records of Dade County, Florida; thence Easterly, along said Westerly extension of said South line and along the South line of said plat of “BAYVIEW POINT REVISED”, to its intersection with the West right of way line of Collins Avenue (State Road A1A); thence continue Easterly to its intersection with the East right of way line of Collins Avenue (State Road A1A), said point of intersection being on the South line of Lot 76 of “PLAT OF TATUM’S OCEAN BEACH PARK”, according to the plat thereof recorded in Plat Book 5 at Page 35 of the Public Records of Dade County, Florida; thence continue Easterly along the South line of said Lot 76, and along its Easterly extension, to a point in the Atlantic Ocean, 1,100 feet Easterly of the STATE OF FLORIDA DEPARTMENT OF NATURAL RESOURCES DADE COUNTY COASTAL CONTROL LINE, according to the plat thereof recorded in Plat Book 74 at Page 26 of the Public Records of Dade County, Florida; thence Northerly along a line 1,100 feet Easterly of and parallel with said Coastal Control Line, through said Sections 14, 11 and 2, to its intersection with Easterly extension of the North line of Lot 1, Block 1 of “A REPLAT OF BLOCK 1 OF VENETIA BEACH”, according to the plat thereof recorded in Plat Book 44 at Page 4 of the Public Records of Dade County, Florida; thence Westerly, along said Easterly extension of the North line and along the North line of said Lot 1, also being the

South boundary of the TOWN OF GOLDEN BEACH; thence continue Westerly along said North line of "GOLDEN GATE ESTATES AND MARINA", being also the South boundary of the TOWN OF GOLDEN BEACH, to the POINT OF BEGINNING.

§ C-1.4. Powers.

The City shall have and may exercise all available governmental, corporate and proprietary powers. Through the adoption of this Charter, it is the intent of the electors of the City to grant to the municipal government established herein the broadest exercise of home rule powers permitted under the Constitution and laws of the State, as fully and completely as though they were specifically enumerated in this Charter.

§ C-1.5. Construction.

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

ARTICLE 2 CITY COMMISSION; MAYOR

§ C-2.1. City Commission. [Amended 7-15-2003 by Ord. No. 2003-174¹]

There shall be a City Commission (the "Commission") vested with all legislative powers of the City including but not limited to the setting of policy, approval of budget, determination of tax rates, hiring and firing of the charter officers, and the development of community land policies. The Commission shall consist of four members ("Commissioners") and the Mayor. Commissioners shall occupy seats numbered 1 through 4. References in this Charter to the Commission and/or Commissioners shall include the Mayor unless the context dictates otherwise.

§ C-2.2. Mayor and Vice Mayor.

- (a) Powers of the Mayor. The Mayor shall preside at meetings of the Commission, be a voting member of the Commission, and may create and appoint subcommittees of the Commission. The Mayor shall be recognized as head of City government for all ceremonial purposes and for purposes of military law, for service of process, execution of duly authorized contracts, deeds and other documents, and as the City official designated to represent the City in all dealings with other governmental entities. In addition, the Mayor shall have the following specific responsibilities:
 - i) The Mayor shall recommend the nomination of a City Manager in accordance with the terms of § C-3.1 hereinbelow.

¹ Editor's Note: This ordinance is retroactive to 6-10-2003, its date of passage at special election.

- ii) The Mayor shall appoint the Commissioners of all standing committees and the chairperson and vice chairperson of each committee. There shall be as many standing and special committees as deemed necessary by the Mayor.
 - iii) The Mayor shall prepare and deliver annually between November 1 and January 31 a report on the state of the City and annually between July 1 and September 30 a budgetary address to the people of the City.
- (b) Vice-Mayor. During the absence or incapacity of the Mayor, the Vice-Mayor shall have all the powers, authority, duties and responsibilities of the Mayor. At the first Commission meeting after the 30th day following the day of the general or run-off election of the City Commission, or in any calendar year in which there is no regular City election, at the first Commission meeting in the month of November of such year, the Commission shall elect one of its members as Vice-Mayor.

§ C-2.3. Election and Term of Office.

- (a) Election and Term of Office. Each Commissioner and the Mayor shall be elected at-large for four-year terms by the electors of the City in the manner provided in Article 5 of this Charter.
- (b) Residential Areas. The City shall be divided into three residence areas described as follows: the north area consisting of those portions of the City contained in Miami-Dade County Election Department Precinct No. 001 (bounded on the north by the northern boundary of Dade County, bounded on the east by the Atlantic Ocean, bounded on the south by the centerline of Northeast 185th Street and its eastwardly and westwardly extension, and bounded on the west by the Intracoastal Waterway) and Precinct No. 002 (bounded on the north by the centerline of Northeast 185th Street and its eastwardly and westwardly extensions, bounded on the east by the Atlantic Ocean, bounded on the south by the Engineering Line of 175th Street, and bounded on the west by the Intracoastal Waterway) (hereinafter collectively referred to as the “Northern Area”); and the central area consisting of those portions of the City contained in Precinct No. 003 bounded on the north by the Engineering Line of 175th Street, bounded on the east by the Atlantic Ocean, bounded on the south by the south property line of the Winston Towers Complex and its westwardly and eastwardly extension, and bounded on the west by the Intracoastal Waterway (hereinafter referred to as the “Central Area”); and the south area consisting of those portions of the City contained within Precinct No. 004 (bounded on the north by the south property line of the Winston Towers Complex and its westwardly and eastwardly extension, bounded on the east by the Atlantic Ocean, bounded on the south by the centerline of Sunny Isles Boulevard and its eastwardly extension, and bounded on the west by the Intracoastal Waterway) and Precinct No. 005 (bounded on the north by the centerline of Sunny Isles Boulevard and its eastwardly extension, bounded on the east by the Atlantic Ocean, bounded on the south by the north municipal boundary of Bal Harbour, and bounded on the west by the Intracoastal Waterway) (hereinafter referred to as the “Southern Area”). Collectively, the Northern Area, the Central Area and the Southern Area are referred to as “Residential Areas”, individually each as a “Residential Area”. One

Commissioner shall reside in the Northern Area (Seat 1), one Commissioner shall reside in the Central Area (Seat 2), and one Commissioner shall reside in the Southern Area (Seat 3); and one Commissioner shall be elected without regard to residence in any particular Residential Area (Seat 4). Persons running from a particular Residential Area must be a resident of the Residential Area which s/he proposes to represent on the Commission at the time of qualifying, at the time of his/her election and must continue to reside in such Residential Area during his/her term of office. Commissioners holding Seats 1, 2 or 3 are collectively referred to as the "Residential Area Commissioners", individually as a "Residential Area Commissioner"; the Commissioner holding Seat 4 and the Mayor, as the context dictates, are collectively referred to as the "At-Large Commissioners, individually each as an "At-Large Commissioner".

- (c) Limitations on Lengths of Service. No person shall serve as Mayor for more than two elected terms. No person shall serve as a Commissioner for more than two elected terms. A "term" shall be deemed commenced upon election, whether or not it is actually completed, except that a vacancy being filled for less than two years remaining in the filling of that term shall not be counted as a "term" under this section. [Amended 7-15-2003 by Ord. No. 2003-174²; 6-3-2004 by Ord. No. 2004-207³]

§ C-2.4. Qualifications.

Candidates for Commissioner or Mayor shall qualify for election by the filing of a written notice of candidacy with the Clerk of the City at such time and in such manner as may be prescribed by ordinance and payment to the City Clerk of the sum of \$100 as a qualifying fee. A person may not be a candidate for Commission and Mayor in the same election. Only electors of the City who have resided continuously in the City for at least one year preceding the date of such filing (and in the respective Residential Area from which the candidate may seek to qualify for election) shall be eligible to hold the Office of Commissioner, including Mayor.

§ C-2.5. Vacancies; Forfeiture of Office; Filling of Vacancies

- (a) Vacancies. The office of a Commissioner (including the Mayor) shall become vacant upon his/her death, resignation, disability which in this case shall mean incapacity to perform the duties of office, suspension or removal from office in any manner authorized by law, or by forfeiture of his/her office.
- (b) Forfeiture of Office.
- i) Forfeiture by disqualification. A Commissioner shall forfeit his/her office if at any time during his/her term s/he (1) ceases to maintain his/her permanent residence in the City, (2) in the case of a Residential Area Commissioner,

² Editor's Note: This ordinance is retroactive to 6-10-2003, its date of passage at special election.

³ Editor's Note: This ordinance passed at referendum 11-2-2004.

upon his/her ceasing to reside in his/her respective Residential Area, or (3) otherwise ceases, to be a qualified elector of the City.

- ii) Forfeiture by absence. A Commissioner shall be subject to forfeiture of his/her office, in the discretion of the remaining Commissioners, if s/he is absent with good cause from any six regular meetings of the Commission during any calendar year (provided such meetings do not occur in less than a three-month period), or if s/he is absent without good cause from any four, or three as to the Mayor, consecutive regular meetings of the Commission, whether or not during the same calendar year.
 - iii) Procedures. The Commission shall be the sole judge of the qualifications of its members and shall hear all questions relating to forfeiture of a Commissioner's office, including whether or not good cause for absence has been or may be established. The burden of establishing good cause shall be on the Commissioner in question; provided, however, that any Commissioner may at any time during any duly held meeting move to establish good cause for the absence of him/herself or the absence of any other Commissioner, from any past, present or future meeting(s), which motion, if carried, shall be conclusive. A Commissioner whose qualifications are in question, or, who is otherwise subject to forfeiture of his/her office, shall not vote on any such matters. The Commissioner in question shall be entitled to a public hearing(s) on request regarding an alleged forfeiture of office. If a public hearing is requested, notice thereof shall be published in one or more newspapers of general circulation in the City at least one week in advance of the hearing. Any final determination by the Commission that a Commissioner has forfeited his/her office shall be made by resolution. All votes and other acts of the Commissioner in question prior to the effective date of such resolution shall be valid regardless of the grounds of forfeiture.
- (c) Filling of Vacancies of Mayor and Commissioners. **[Amended 6-3-2004 by Ord. No. 2004-207⁴]**
- i) If the Mayor's position becomes vacant, and no more than six (6) months remain in the unexpired term of the Mayor, the Vice-Mayor shall complete the term of Mayor. If more than six (6) months remain in the unexpired term of the Mayor, the vacancy shall be filled by a special election to be held not sooner than forty-five (45) days or more than ninety (90) days following the occurrence of the vacancy, unless there is a City, County or State or national election scheduled to take place not sooner than forty-five (45) or more than ninety (90) days following the occurrence of the vacancy, in which case the vacancy shall be filled by the scheduled election. The Vice-Mayor shall serve the term of the Mayor until the special election or scheduled election. A new Vice-Mayor shall serve until the election or scheduled election, unless reappointed.

⁴ Editor's Note: This ordinance passed at referendum 11-2-2004.

- ii) If the vacancy occurs on the Commission, and no more than six (6) months remain in the unexpired term, the vacancy shall be filled by a nominee of the Mayor, within thirty (30) days following the occurrence of the vacancy subject to confirmation of the Commission. If more than six months remain in the unexpired term of a Commissioner, the vacancy shall be filled by a special election to be held not sooner than forty-five (45) days or more than ninety (90) days following the occurrence of the vacancy, unless there is a City, County, State or national election scheduled to take place not sooner than forty-five (45) days or more than ninety (90) days following the occurrence of the vacancy, in which case the vacancy shall be filled by the scheduled election. The vacancy occurring on the Commission shall be filled by a nominee of the Mayor within thirty (30) days following the occurrence of the vacancy, subject to the confirmation of the Commission. The nominee shall fill the vacancy until the special election or scheduled election.
- iii) (Reserved)
- iv) A vacancy in any Residential Area seat shall be filled by a qualified person residing in the respective Residential Area. A vacancy in an At-Large seat (4) shall be filled by any qualified elector of the City.
- v) Persons filling vacancies shall meet the qualifications specified in this § C-2.5.
- vi) If no candidate for a vacancy meets the qualifications under this article for that vacancy, the Commission shall appoint a person qualified under this article to fill the vacancy, who shall serve until the next regularly scheduled election for the balance of the original term, but only after a public hearing and in addition to regular notice requirements, if such vacancy applies to a specific Residential Area, after 10 day mailed notice is given to all electors of that particular Residential Area.
- vii) Notwithstanding any quorum requirements established herein, if at any time the full membership of the Commission is reduced to less than a quorum, the remaining members may, by unanimous vote, appoint additional members to the extent otherwise permitted or required under this subsection (c).
- viii) In the event that all members of the Commission are removed by death, disability, recall, forfeiture of office and/or resignation, the Governor shall appoint interim Commissioners 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 first elections under this Charter; provided, however, that if there are less than six months remaining in any of the unexpired terms, such interim Commission appointee(s) by the Governor shall serve out the unexpired terms. Appointees must meet all requirements for candidates provided for in Article 2.

§ C-2.6. Compensation; reimbursement for expenses. [Amended 6-3-2004 by Ord. No. 2004-207⁵]

City Commissioners, including the Vice-Mayor, shall receive compensation in the amount of \$1000 per month and the Mayor shall receive compensation in the amount of \$1,250 per month. Compensation provided herein shall be increased in accordance with the cost of living adjustment provided to employees of the City. Further, the Mayor and City Commissioners shall receive reimbursement for business expenses in accordance with applicable law, or as may be otherwise provided by ordinance.

§ C-2.7. Recall.

The electors of the City shall have the power to recall and to remove from office any elected official of the City to the extent permitted by the Constitution and the laws of the State of Florida. The minimum number of electors of the City which shall be required to initiate a recall petition shall be 10% percent of the total number of electors of the City as of the preceding City election and shall be accomplished in accordance with the procedures set forth in § C-5.2 hereinbelow.

ARTICLE 3
ADMINISTRATIVE

§ C-3.1. City Manager. [Amended 7-15-2003 by Ord. No. 2003-174]

There shall be a City Manager (the “Manager”) who shall be nominated by the Mayor and confirmed at the next Commission meeting by a majority of the Commission, including the Mayor for an indefinite term. The Manager shall be the chief administrative officer of the City and shall be appointed on the basis of his/her education, experience, executive and administrative qualifications. The Manager shall be responsible to the Mayor and the City Commission for the administration of all City affairs. The Manager shall be responsible for the administration of all departments and divisions of the City government (except the City Attorney) and for carrying out policies adopted by the City Commission. The compensation and benefits of the City Manager shall be set by the City Commission.

- (a) No Commissioner shall be eligible for appointment as City Manager during the term for which s/he has been elected and until two years after its expiration. The City Manager need not be a resident of the City.⁶
- (b) Removal. The Manager may be suspended with pay pending removal by a resolution approved by the majority of the total membership of the City Commission which shall set forth the reasons for suspension and proposed removal. A copy of such resolution shall be served immediately upon the Manager. After full consideration, the City Commission by a majority vote of its total membership may

⁵ Editor’s Note: This ordinance passed at referendum 11-2-2004.

⁶ Editor’s Note: See also § C-4.2(e) for additional restrictions on appointive offices for former elective officers.

adopt a final resolution of removal. The Manager shall continue to receive full compensation until the effective date of a final resolution of removal.

§ C-3.2. Powers and Duties of the City Manager.

The Manager shall:

- (1) Be responsible for the appointment, supervision and removal of all City employees except for the Office of the City Attorney and his/her staff; **[Amended 7-15-2003 by Ord. No. 2003-174⁷]**
- (2) Direct and supervise the administration of all departments and offices but not City boards or agencies, unless so directed by the Commission from time to time;
- (3) Attend all Commission meetings and have the right to take part in discussion but not the right to vote;
- (4) Insure that all laws, provisions of this Charter and acts of the Commission, subject to enforcement and/or administration by him/her or by officers subject to his/her direction and supervision, are faithfully executed;
- (5) Prepare and submit to the Commission a proposed annual budget and capital program;
- (6) Submit to the Commission 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;
- (7) Prepare such other reports as the Commission may require concerning the operations of City departments, offices, boards and agencies;
- (8) Keep the Commission fully advised as to the financial condition and future needs of the City and make such recommendations to the Commission concerning the affairs of the City as s/he deems to be in the best interests of the City;
- (9) Perform such other duties as are specified in this Charter or as may be required by the Commission.

§ C-3.3. Acting City Manager.

To perform his/her duties during his/her temporary absence, disability, or termination, the Manager may designate by letter filed with the Commission, a qualified City administrative officer to exercise the powers and perform the duties of Manager during his/her absence or disability. During such absence or disability, the Mayor, with the approval of the Commission, may revoke such designation at any time and appoint another officer of the City to serve until the Manager shall return or his/her disability shall cease. The Acting City Manager may be paid, as such, at the discretion of the City Commission.

⁷ Editor's Note: This ordinance is retroactive to 6-10-2003, its date of passage at special election.

§ C-3.4. Bond of City Manager. [Amended 7-15-2003 by Ord. No. 2003-174⁸]

The City Manager shall furnish a fidelity bond or such other insurance instrument of comparable protection to be approved by the Commission, and in such amount as the Commission may fix, with either instrument to be conditioned on the faithful performance of his/her duties. The premium of the bond shall be paid by the City.

§ C-3.5. City Clerk. [Amended 7-15-2003 by Ord. No. 2003-174⁹]

The City Manager shall appoint a City Clerk (the "Clerk"). The Clerk shall give notice of Commission meetings to its members and the public, shall keep the minutes of the City's proceedings which shall be a public record, and is authorized to administer oaths, attest to the Mayor's or Manager's signatures, and shall perform such other duties as the City Manager may prescribe from time to time. The City Clerk shall report to the City Manager and may be removed by the City Manager.

§ C-3.6. City Attorney.

The Mayor may nominate, and the Commission, including the Mayor, by majority shall confirm an individual attorney or a law firm to act as the City Attorney under such terms and conditions as may be established by the Commission, from time to time, consistent with this Charter. The City Attorney shall report to the Commission and, after full consideration, may be removed by a majority vote of the total membership of the Commission.

§ C-3.7. City Code of Administrative Regulations.

The Manager shall maintain a City Code of administrative regulations. The Commission shall, by ordinance, establish appropriate procedures for reasonable notice and public comment on proposed administrative regulations prior to taking final action on the same.

§ C-3.8. Expenditure of City Funds.

No funds of the City shall be expended except pursuant to duly approved appropriations.

§ C-3.9. City Boards and Agencies.

The Commission shall establish or terminate such boards and agencies as it may deem advisable from time to time. The boards and agencies shall report to the Commission.

⁸ Editor's Note: This ordinance is retroactive to 6-10-2003, its date of passage at special election.

⁹ Editor's Note: This ordinance is retroactive to 6-10-2003, its date of passage at special election.

§ C-3.10. Competitive Bid Requirement/Purchasing.

- (a) Except as otherwise provided by law, contracts for public improvements and purchases of supplies, materials or services shall be awarded or made on the basis of clearly drawn specifications and competitive bids, except in cases where the Commission, based on the written recommendation of the City Manager, specifically determines by a majority vote of the Commission that it is impracticable or not advantageous to the City to do so. The City Commission shall have the power to reject all bids and advertise again.
- (b) The City Manager, by ordinance, may be granted purchasing power without competitive bidding.
- (c) No contract or order shall be issued to any vendor unless or until the Director of Finance or the City Manager certifies that there is to the credit of such office, department or agency a sufficient unencumbered budget appropriation to pay for the supplies, materials, equipment or contractual services for which the contract or order is to be issued.

ARTICLE 4
LEGISLATIVE

§ C-4.1. Commission Meeting Procedure.

- (a) Meetings. The Commission shall hold at least 11 regular monthly meetings in each calendar year, at such times and places as the Commission may prescribe by rule. Special meetings may be held on the call of the Mayor or of a majority of the Commissioners and upon no less than 48 hours' notice to each member and the public, or such shorter time as a majority of the Commission shall deem necessary in case of an emergency affecting life, health, property or the public peace.
- (b) Rules and Journal. The Commission shall determine its own rules of procedure and order of business and shall keep a journal open for public inspection.
- (c) Quorum and Voting. A majority of the Commission shall constitute a quorum but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Commission. Voting on ordinances shall be by roll call on final reading and shall be recorded in the journal. All other matters shall be by voice vote unless a Commissioner or the City Clerk requests otherwise. No action of the Commission, except as otherwise provided in the Charter, shall be valid or binding unless adopted by the affirmative votes of at least three Commissioners.
- (d) Meeting Time Limits. No meeting of the Commission shall extend later than midnight except upon the affirmative vote of a majority of members present at the meeting.

§ C-4.2. Prohibitions.

- (a) Appointment and Removals. Neither the Commission nor any of its members shall in any manner dictate the appointment or removal of any City administrative officers or employees whom the Manager or any of his/her subordinates are empowered to appoint.
- (b) Interference With Administration.
 - i) Except for the purpose of inquiries and investigations made in good faith and in accordance with a resolution adopted by the Commission, the Commission and any of its individual members shall deal with City officers and employees who are subject to the direction and supervision of the Manager solely through the Manager, and neither the Commission nor its members shall give orders to any such officer or employee, either publicly or privately. It is the express intent of this Charter that recommendations for improvement in City government operations by individual Commissioners be made solely to and through the Manager. No individual Commissioners shall give orders to the Manager.
 - ii) Any willful violation of this § C-4.2 by the Mayor or any Commissioner shall be grounds for his/her removal from office by an action brought in the Circuit Court by the State Attorney of Miami-Dade County.
- (c) Holding Other Office. No elected City official shall hold any appointive City office or City employment while in office. No former elected City official shall hold any compensated appointive City office or City employment until one year after the expiration of his/her term.¹⁰

§ C-4.3. Ordinances.

- (a) Actions Requiring an Ordinance. In addition to other acts required by law or by specific provision of this Charter to be effected or authorized by ordinance, those acts of the City Commission shall be by ordinance which:
 - (1) Adopt or amend an administrative regulation or establish, alter or abolish any City office, department, board or agency;
 - (2) Establish a rule or regulation the violation of which carries a penalty;
 - (3) Levy taxes or appropriate funds;
 - (4) Grant, renew or extend a franchise;
 - (5) Set service or user charges for municipal services or grant administrative authority to set such charges;
 - (6) Authorize the borrowing of money;

¹⁰ Editor's Note: See also § C-3.1(a) for additional restrictions on former Commissioners' eligibility for appointment as City Manager.

- (7) Convey or lease or authorize by administrative action the conveyance or lease of any lands of the City; or
- (8) Amend or repeal any ordinance previously adopted, except as otherwise provided in this Charter.
- (b) Procedure. The City Commission shall adopt procedures with respect to the passage of ordinances in accordance with applicable law.

§ C-4.4. Emergency Ordinances.

To meet a public emergency affecting life, health, property or the public peace, the Commission may adopt, in the manner provided in this section, one or more emergency ordinances, but such ordinances may not: levy taxes, grant, renew or extend any municipal franchise; set service or user charges for any municipal services; or authorize the borrowing of money except as provided under the emergency appropriations provisions of this Charter if applicable.

- (a) Form. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated in a preamble as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms.
- (b) Procedure. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced and shall be enacted by no less than three members of the Commission. After its adoption, the ordinance shall be published and printed as prescribed for other ordinances.
- (c) Effective Date. An emergency ordinance shall become effective upon adoption or at such other date as may be specified in the ordinance.
- (d) Repeal. Every emergency ordinance except emergency appropriation ordinances shall automatically be repealed as of the 61st day following its effective date, but this shall not prevent re-enactment of the ordinance under regular procedures, or if the emergency still exists, in the manner specified in this section. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.
- (e) Emergency Appropriations. The Commission may make emergency appropriations in the manner provided in this section. To the extent that there are no available unappropriated revenues to meet such appropriations, the Commission may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes, including renewals thereof, shall be payable not later than the last day of the fiscal year next succeeding the fiscal year in which the emergency appropriation ordinance was originally adopted. All emergency appropriations shall be subject to the independent audit set forth in § C-4.10 below.

§ C-4.5. Annual Budget Adoption.

- (a) **Balanced Budget.** Each annual budget adopted by the Commission shall be a balanced budget.
- (b) **Budget Adoption.** The Commission shall by ordinance adopt the annual budget on or before the 30th day of September of each year. If it fails to adopt the annual budget by this date, the Commission may by resolution direct that the amounts appropriated for current operations for the current fiscal year shall be deemed adopted for the ensuing fiscal year for a period of 15 days and renewed by resolution each 15 days, with all items in it prorated accordingly, until such time as the Commission adopts an annual budget for the ensuing fiscal year. An ordinance adopting an annual budget shall constitute appropriation of the amounts specified therein.
- (c) **Specific Appropriation.** The budget shall be specific as to the nature of each category of appropriations therein. Reasonable appropriations may be made for contingencies, but only within defined spending categories.

§ C-4.6. Fiscal Year.

The fiscal year of the City government shall begin on the first day of October and shall end on the last day of September of the following calendar year. Such fiscal year shall also constitute the annual budget and accounting year.

§ C-4.7. Appropriation Amendments During the Fiscal Year.

- (a) **Supplemental Appropriations.** If, during any fiscal year, revenues in excess of those estimated in the annual budget are available for appropriation, the Commission may by ordinance make supplemental appropriations for the fiscal year up to the amount of such excess.
- (b) **Reduction of Appropriations.** If, at any time during the fiscal year, it appears probable to the Manager that the revenues available will be insufficient to meet the amount appropriated, he/she shall report in writing to the Commission without delay,

indicating the estimated amount of the deficit, and his/her recommendations as to the remedial action to be taken. The Commission shall then take such action as it deems appropriate to prevent any deficit spending.

§ C-4.8. Authentication, Recording and Disposition of Ordinances; Resolutions and Charter Amendments.

- (a) **Authentication.** The Mayor and the Clerk shall authenticate by their signature all ordinances and resolutions adopted by the Commission. In addition, when Charter amendments have been approved by the electors, the Mayor and the Clerk shall

authenticate by their signatures the Charter amendment, such authentication to reflect the approval of the Charter amendment by the electorate.

- (b) **Recording.** The Clerk shall keep properly indexed books in which shall be recorded, in full, all ordinances and resolutions passed by the Commission. Ordinances shall, at the direction of the Commission, be periodically codified. The Clerk shall also maintain the City Charter in current form and shall enter all Charter amendments.
- (c) **Record Availability.** The Commission shall, by ordinance, establish procedures for making all resolutions, ordinances, technical Codes adopted by reference, and this Charter available to the people of the City for public inspection and available for purchase at a reasonable price.

§ C-4.9. Annual Tax Levy.

The City shall have the right to levy, assess and collect all such taxes as are permitted by law, including without limitation ad valorem, excise, franchise or privilege taxes and taxes on services and utilities.

§ C-4.10. Independent Audit.

The City Commission shall provide for an annual independent audit of all City accounts and may provide more frequent audits as it deems necessary. Those audits shall be made in accordance with generally accepted auditing standards by a certified public accountant or firm of such accountants (hereinafter referred to as the "auditors"), designated annually, who have no personal interest in the fiscal affairs of the City government or any of its officers. (Residency, per se, shall not constitute a direct or indirect interest.) A summary of the results, 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 any indirect subsidy. If a designated auditor has conducted the annual independent audit of the City for a period of three consecutive years, the City Commission shall review, either through the appointment of a citizens' committee, an individual, or other certified public accountant or firm of such accounts, the adequacy of the auditors' performance.

ARTICLE 5 ELECTIONS

§ C-5.1. Elections.

- (a) **Electors.** Any person who is a resident of the City, has qualified as an elector of the State and registers to vote in the manner prescribed by law shall be an elector of the City.
- (b) **Nonpartisan Elections.** All elections for the City Commission and Mayor shall be conducted on a nonpartisan basis and no ballot shall show the party designation of any candidate.

- (c) Election Dates. A general election shall be held in each odd-numbered year on the second Tuesday following the first Monday in November. A run-off election, if necessary, shall be held on the second Tuesday following the first Monday of December. In the event an election date falls on a religious holiday, the City Commission may, by ordinance, change the dates for qualifying and for the election. **[Amended 6-3-2004 by Ord. No. 2004-207¹¹]**
- (d) General Election. The ballot for the general election shall contain the names of all qualified candidates for Mayor, if the Mayor's term is expiring, and for each of the two Commission positions which are to be filled as a result of two members' terms expiring, and shall instruct electors to cast one vote for Mayor, if applicable, and one vote for each Commission seat, with a maximum of one vote per candidate. If any candidate for Mayor receives a number of votes greater than 50% of the total number of ballots cast, such candidate shall be the duly elected mayor. If any candidate(s) for Commission receive(s) a number of votes greater than 50% of the total number of ballots cast, such candidate(s) shall be duly elected to the Commission.
- (e) Run-off Election. The ballot for the run-off election shall contain the names of the two candidates for Mayor, if applicable, and the names of the two candidates for each Commission seat who received the most votes in the general election. The ballot shall instruct electors to cast one vote for Mayor and to cast one vote for each Commission seat, with a maximum of one vote per candidate. The candidate for Mayor receiving the most votes shall be duly elected Mayor. The candidates for each Commission seat receiving the most votes shall be duly elected to that Commission seat.
- (f) Special Elections. Special elections, when required, shall be scheduled by the Commission at such times and in such manner as shall be consistent with this Charter.
- (g) Single Candidates. No election for Mayor or any Commission seat shall be required in any election if there is only one duly qualified candidate for Mayor or for any Commission seat. That candidate shall be considered elected automatically.
- (h) Absentee Votes. Absentee voting will be permitted as provided by the laws of the State and under such conditions as may be prescribed by ordinance from time to time; provided, however, that no ordinance shall limit the right to vote by absentee ballot available under State law.
- (i) Commencement of Terms. The term of office of any elected official will commence on the 30th day following the day of the general or run-off election in which he/she is elected, unless that day falls on a Saturday or Sunday, in which case it shall be the next Monday immediately following, at 12 o'clock noon ("commencement term"), and will end at midnight of the day before the commencement term. **[Amended 7-15-2003 by Ord. No. 2003-174¹²]**

¹¹ Editor's Note: This ordinance passed at referendum 11-2-2004.

¹² Editor's Note: This ordinance is retroactive to 6-10-2003, its date of passage at special election.

§ C-5.2. Initiative and Referendum.

- (a) Power to Initiate and Reconsider Ordinances.
 - i) Initiative. The electors of the City shall have power to propose ordinances to the Commission and, if the Commission fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a City election, provided that such power shall not extend to the annual budget or capital program or any ordinance appropriating money, levying taxes or setting salaries of City officers or employees, pursuant to such annual budget.
 - ii) Referendum. The electors of the City shall have power to require reconsideration by the Commission of any adopted ordinance and, if the Commission fails to repeal an ordinance so reconsidered, to approve or reject it at a City election, provided that such power shall not extend to the annual budget or capital program or any ordinance appropriating money, levying taxes or setting salaries of City officers or employees, pursuant to such annual budget.
- (b) Commencement of Proceedings. Any 25 electors may commence initiative or referendum proceedings by filing with the Clerk an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered. Promptly after the affidavit of the petitioners' committee is filed, the Clerk shall at the committee's request, issue the appropriate petition blanks to the petitioners' committee at the committee's expense. Petitioners' proposed ordinance shall be approved as to legal sufficiency by the City Attorney prior to circulation.
- (c) Petitions.
 - i) Number of Signatures. Initiative and referendum petitions must be signed by electors of the City equal in number to at least 10% of the total number of electors registered to vote at the last regular City election.
 - ii) Form and Content. All papers of a petition shall be assembled as one instrument of filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the printed name of signature and the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.
 - iii) Affidavit of Circulator. Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that s/he personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his/her presence that s/he believes them to be the genuine signatures of the persons whose names they purport to be and that each signer has an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

- iv) Filing Deadline. All initiative and referendum petitions must be filed within 60 days of the date on which proceedings with respect to such initiative or referendum are commenced.
- (d) Procedure for Filing.
- i) Certificate of Clerk; Amendment. Within 20 days after initiative petition is filed or within five days after a referendum petition is filed, the Clerk shall complete a certificate as to its sufficiency (“the Certificate”) specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the Certificate to the petitioners’ committee by registered mail. Grounds for insufficiency are only those specified in subsection (c) of this section. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners’ committee files a notice of intention to amend it with the Clerk within two business days after receiving the copy of the Certificate and files a supplementary petition upon additional papers within 10 days after receiving the copy of such Certificate. Such supplementary petition shall comply with the requirements of paragraphs (i), (ii) and (iii) of subsection (c) of this section, and within five days after it is filed the Clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners’ committee by registered mail as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners’ committee does not elect to amend or request Commission review under paragraph (ii) of this subsection (d) within the time required, the Clerk shall promptly present his/her certificate to the Commission and within 60 days the Certificate shall then be a final determination as to the sufficiency of the petition.
 - ii) Commission Review. If a petition has been certified insufficient and the petitioners’ committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within two business days after receiving the copy of such certificate, file a request that it be reviewed by the Commission. The Commission shall review the certificate as its next meeting following the filing of such request and approve or disapprove it, and the Commission’s determination shall then be a final determination as to the sufficiency of the petition.
- (e) Action on Petitions.
- i) Action by Commission. When an initiative or referendum petition has been finally determined sufficient, the Commission shall promptly consider the proposed initiative ordinance or reconsider the referred ordinance by voting its repeal, all in the manner provided in Article 4. If the Commission fails to adopt a proposed initiative ordinance without any change in substance within 45 days or fails to repeal the referred ordinance within 30 days, it shall submit the proposed or referred ordinance to the electors of the City. If the Commission fails to act on a proposed initiative ordinance or a referred

ordinance within the time period contained in paragraph (i) of subsection (e) of this section, the Commission shall be deemed to have failed to adopt the proposed initiative ordinance or failed to repeal the referred ordinance on the last day that the Commission was authorized to act on such matter.

- ii) **Submission to Electors.** The vote of the City on a proposed or referred ordinance shall be held not less than 30 or more than 60 days from the date the Commission acted or was deemed to have acted pursuant to paragraph (i) of this subsection (e) that the petition was determined sufficient. If no regular election is to be held within the period described in this paragraph, the Commission shall provide for a special election, except that the Commission may, in its discretion, provide for a special election at an earlier date within the described period. Copies of the proposed or referred ordinance shall be made available at the polls.
 - iii) **Withdrawal of Petitions.** An initiative or referendum petition may be withdrawn at any time prior to the 15th day preceding the day scheduled for a vote by the City by filing with the Clerk a request for withdrawal signed by at least 18 members of the petitioners' committee. Upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.
- (f) **Results of Election.**
- i) **Initiative.** If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict. If the proposed initiative ordinance fails, it or any ordinance that is substantially similar, may not be submitted in accordance with this article for at least a period of one year from the election.
 - ii) **Referendum.** If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

§ C-5.3. Form of Ballots.

A Charter amendment, ordinance or other ballot issue to be voted on by the electors shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described [amendment/ordinance/proposal] be adopted?" Immediately below such question shall appear, in the following order, the word "YES" and also the word "NO".

ARTICLE 6
CHARTER AMENDMENTS

§ C-6.1. Procedure to Amend.

The Charter may be amended in accordance with these provisions:

- (a) **Initiation by Ordinance.** The Commission may, by ordinance, propose amendments to this Charter and upon passage of the initiating ordinance shall submit the proposed amendment to a vote of the electors at the next general election held within the City or at a special election called for such purpose.
- (b) **Initiation by Petition.** The electors of the City may propose amendments to this Charter by petition. Each petition proposing amendments to this Charter shall be commenced, in the form, filed, certified as to its sufficiency and/or withdrawn in the same manner as an ordinance proposed by initiative pursuant to § C-5.2.
- (c) **Submission to Electors.** Upon certification of the sufficiency of the petition, the Commission shall submit the proposed amendment to a vote of the electors at the next general election if such election is scheduled to be held not less than 60 days or more than 120 days from the date on which the petition was certified or at a special election called for that purpose. A special election, if necessary, shall be held not less than 60 days or more than 120 days from the date on which the petition was certified.
- (d) **Results of Election.** If a majority of the qualified electors voting on a proposed amendment vote for its adoption, it shall be considered adopted 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.

§ C-6.2. Form of Ballot.

Any Charter amendment ballot issue to be voted on by the electors shall be presented on the ballot in the form required by § C-5.3 of this Charter.

ARTICLE 7
GENERAL PROVISIONS

§ C-7.1. Severability.

If any section or part of a section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter or the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

§ C-7.2. Conflicts of Interest; Ethical Standards.

All Commissioners, officials and employees of the City shall be subject to the standards of conduct for public officers and employees set by law. In addition, the Commission may, by ordinance, establish a Code of ethics for Commissioners, officials and employees of the City which may be supplemental to law, but in no case may such an ordinance diminish the provisions of this section or of general law.¹³

Without in any way limiting the generality of the foregoing, no Commissioners shall have a financial interest, direct or indirect, or by reason of ownership of stock or other equity ownership in any corporation or entity, in any contract or in the sale to the City or to a contractor supplying the City of any land or rights or interests in any land, material supplies, or services unless, after full disclosure to the City Commission of the nature and extent of such interest, the same is authorized by the Commission before the event. No member of the City Commission who possesses such a financial interest shall vote on, or participate in the Commission deliberations concerning, any such contract or sale. Any violation of this section with the knowledge of the person or entity contracting with the City may render the contract null and void.

§ C-7.3. City Personnel System.

All new employments, appointments and promotions of City officers and employees shall be made pursuant to personnel procedures to be established by the Manager from time to time.

§ C-7.4. Charter Revision. [Amended 7-15-2003 by Ord. No. 2003-174¹⁴]

At its first regular meeting in December of the fifth year after the adoption of this Charter, in December 2002, and thereafter every 10th year commencing December 2012, the Commission shall appoint a Charter revision commission ("Commission") consisting of five persons including three from the Residential Areas from which the Commissioners were elected, except in the case of the At-Large Commissioner in which case the Commission member may reside anywhere in the City. Each Commissioner shall be entitled to appoint one Charter Revision Commission member from his or her district but that appointee shall be ratified by a majority of the Commission. In addition, the Mayor may appoint one person to the Commission who is member of the Commission serving a second consecutive term as Commissioner but who shall be a non-voting Commission member. The Mayor him/herself shall not be eligible for appointment to the revision commission. The revision Commission shall commence its proceedings within 45 days after appointment by Commission. If the Commission determines that a revision is needed, including but not limited to a change in the boundaries or number of Residential Areas, it shall draft such amendments to this Charter as it deems appropriate and submit the same to the City Commission no later than the 90th day after their appointment by the Commission. The Commission shall, not less than 30 days or more than 60 days after submission of the proposed amendments to Commission, submit them to the electors of the

¹³ Editor's Note: See also Ch. 33, Ethics, Code of.

¹⁴ Editor's Note: This ordinance is retroactive to 6-10-2003, its date of passage at special election.

City in accordance with the provisions of § C-6.1 except that the provisions of subsections (a) and (b) of such section shall not apply.

§ C-7.5. Variation of Pronouns.

All pronouns and any variation thereof used in this Charter shall be deemed to refer to masculine, feminine, neutral, singular or plural as the identity of the person or persons shall require and are not intended to describe, interpret, define or limit the scope, extent, or intent of this Charter.

§ C-7.6. Charitable Contributions.

The City shall not make any charitable contributions to any person or entity except if such contribution is approved by the affirmative votes of at least four Commissioners.

§ C-7.7. Precedence over Related Laws.

In case of a conflict between the provisions of this Charter and the provisions of the Code to be adopted pursuant thereto and/or the Citizen's Bill of Rights, the Charter terms shall control. Moreover, nothing in this Charter shall be construed to alter, abolish, affect or amend the general laws of this State, now in force, or which hereinafter may be enacted relative to or affecting this City, except where such laws are in direct conflict in which case the provisions of this Charter or Code adopted pursuant thereto shall supersede and be in full force and effect.

§ C-7.8. Fire Rescue Service.

The City shall utilize the services of the Miami-Dade Fire Rescue Department to provide fire and rescue services to the City.

§ C-7.9. Lobbyist Disclosure. [Added 7-15-2003 by Ord. No. 2003-174¹⁵]

- (a) The City Commission shall pass, maintain and enforce an ordinance,¹⁶ which requires all lobbyists as may be defined by the Miami-Dade County Code and as may be made more stringent by the City Commission.
- (b) In addition to compliance with all other local and state laws must:
 - (i) Submit a full disclosure of the comprehensive terms of all compensation, including contingency or successor fees, or other consideration the lobbyist is receiving for such lobbying activities.
 - (ii) Direct the City Clerk to disseminate to the City Commission, prior to any public hearing, on the event or matter for which such lobbyist may appear,

¹⁵ Editor's Note: This ordinance is retroactive to 6-10-2003, its date of passage at special election.

¹⁶ Editor's Note: See the provisions of Ord. No. 2003-175, included in Ch. 33, Ethics, Code of, § 33-2, Lobbying.

all disclosures required herein or as otherwise required by State or County law.

Any violation of this section shall render the issue being lobbied voidable.

ARTICLE 8
TRANSITION PROVISIONS
[Amended 7-15-2003 by Ord. No. 2003-174¹⁷]

§ C-8.1. Interim Adoption of Codes and Ordinances.

Until otherwise modified or replaced by this Charter or legislation of the City Commission, all Codes, ordinances and resolutions in effect on the date of adoption of this Charter shall, to the extent applicable to the City, remain in full force and effect as municipal Codes, ordinances and resolutions of the City.

§ C-8.2. (Reserved)

§ C-8.3. (Reserved)

§ C-8.4. (Reserved)

§ C-8.5. (Reserved)

§ C-8.6. (Reserved)

§ C-8.7. (Reserved)

§ C-8.8. (Reserved)

¹⁷ Editor's Note: This ordinance is retroactive to 6-10-2003, its date of passage at special election.

§ C-8.9. (Reserved)

§ C-8.10. (Reserved)

**SUNNY ISLES BEACH
CHARTER REVISION COMMISSION CERTIFICATION**

The undersigned, members of the Sunny Isles Beach Charter Revision Commission who were duly appointed on December 12, 2002, pursuant to Ordinance No. 2003-168 of the Charter Revision Commission, hereby certify that the foregoing Revised Municipal Charter for the City of Sunny Isles Beach, that it has been prepared by the Sunny Isles Beach Charter Revision Commission pursuant to Section 6.2 of the Charter of the City of Sunny Isles Beach and that the same was submitted to the electors of Sunny Isles Beach on June 10, 2003, as required by Section 7.4 of the Charter of the City of Sunny Isles Beach.

Ordinance No. 2003-174 was adopted on July 17, 2003 accepting the results of the June 10, 2003 Special Election.

IRVING DIAMOND

MARY ANN EICKE

ARNOLD KLEIN

MARTIN LIVINGSTON

GEORGE "BUD" SCHOLL

Attested to: