

easterly right-of-way line of Florida East Coast Railway.

Sec. 4. Succession.

This municipality shall succeed to the title, rights and ownership of property, uncollected taxes, dues, claims, judgments, decrees and choses in action, held or owned by the City of North Miami Beach as created by Chapter 15824, Laws of Florida, Acts of 1931, as amended from time to time by the legislature, which rights shall pass to and be vested in the City of North Miami Beach as created in this charter. No obligations or contracts of the said City of North Miami Beach shall be impaired or voided by this charter, but such debts and obligations shall pass to and be binding upon the municipality of the City of North Miami Beach which is hereby organized and created.

Article II. Government

Sec. 5. Form of government.

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

Sec. 6. Officers.

The affairs of the City of North Miami Beach shall be conducted by the city council and city manager with the assistance of officers who shall be selected as provided herein and whose powers and duties shall be as prescribed in this charter. The city council shall appoint a full-time city attorney to serve at the pleasure of the council. The city council shall appoint a city clerk and the city manager shall appoint the heads of such departments as are provided for herein, or as shall be created by ordinance pursuant to authority granted in this charter. The salaries of elected officers shall not be reduced during the terms for which they were elected. (Ord. No. 79-31, § 2, 11-20-79)

Sec. 7. Council.

The city council shall be composed of seven members, elected as herein provided, one of whom shall be the mayor. The council shall be the legislative body of the City of North Miami Beach and shall have power to investigate any phase, function or operation of the city government in such manner and at such time as to it shall be deemed necessary to the determination by the council of the public policy of the city. It shall have such other powers as are hereinafter expressly or impliedly set forth, or inherent in the legislative department of government. (Res. No. 64-16, § 2, 2-13-64)

Editor's note—Res. No. 64-16, § 2 proposed the amendment of Art. II, § 3, codified as § 7 above, to read as set out. Said amendment was approved at referendum held April 14, 1964.

Sec. 8. Oath of office.

Members of the city council, members of appointive boards, the city manager, the city clerk, heads of departments, and the city attorney of the City of North Miami Beach, before entering upon their duties, shall take and subscribe to the following oath of office:

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

(Ord. No. 79-31, § 3, 11-20-79)

Article III. Elections*

Sec. 9. General elections.

Regular elections in the City of North Miami Beach shall be held biennially on the first Tuesday in May, except as otherwise provided herein. Candidates to office under this charter shall be elected by a majority of the votes cast in the election. If no candidate receives a majority of the votes cast for the office to be filled, then the two (2) candidates receiving the highest number of votes for such office shall be voted upon in an election to be held on the second Tuesday in May and the candidate receiving a majority of the votes in such election shall be declared elected. In the event of a tie vote for the purpose of any runoff election or in any runoff election, the candidate or the officer elected, as the case may be, shall be determined by lot in such manner as the city council shall by ordinance provide.

Sec. 10. Qualified electors.

Any citizen of the United States who is eighteen (18) years of age or older and who is duly registered with the clerk of the city, shall be a qualified elector, provided, such person shall not have been convicted of a felony and whose rights have not been restored; and, provided further, that such person has not been adjudicated insane or incompetent by a court of competent jurisdiction, which adjudication stands unrevoked. For the purpose of municipal elections and registration therefor, any territory incorporated into the City of North Miami Beach shall be deemed to have been so included for six (6) months at the time of such incorporation or annexation. (Ord. No. 79-31, § 4, 11-20-79)

*Cross references—Provisions relating to elections, generally, Ch. VII of the Code of Ordinances of the City of North Miami Beach.

Sec. 11. Qualification of councilman.

Candidates for the office of mayor and councilman of the City of North Miami Beach shall qualify with the clerk of the city not prior to the forty-third (43rd) day preceding the election provided for in Section 9 hereof not later than 12:00 noon, local time, on the thirty-eighth (38th) day preceding the election. A candidate shall qualify by taking and subscribing to an oath that he is qualified under the charter of the City of North Miami Beach to hold the office of councilman and mayor and by paying to said clerk a qualifying fee in the amount of four (4%) percent of the annual salary of the office, which fee shall be deposited in the general fund of the city. Candidates for the office of city councilman shall designate the group from which they desire to be elected. Each candidate, at the time of qualifying with the clerk, shall designate a campaign treasurer and a depository of campaign funds.

Each candidate, at the time of qualifying with the clerk, must have continuously resided in the City of North Miami Beach for at least one (1) full year.

(Ord. No. 79-31, § 5, 11-20-79, Res. No. R88-9, § 3, 1-19-88; Res. No. R2009-12, § 2, approved by the electorate at the election of 5-5-09)

Sec. 12. Campaign treasurer and depository.

Chapter 106, Florida Statutes, titled "Campaign Financing", is incorporated in this Charter. (Res. No. R88-9, § 4, 1-19-88)

Sec. 13. Campaign contributions.

Chapter 106, Florida Statutes, titled "Campaign Financing", is incorporated in this Charter. (Res. No. R88-9, § 5, 1-19-88)

Sec. 14. Campaign expenditures.

Chapter 106, Florida Statutes, titled "Campaign Financing", is incorporated in this Charter. (Res. No. R88-9, § 6, 1-19-88)

Sec. 15. Reports.

Chapter 106, Florida Statutes, titled "Campaign Financing", is incorporated in this Charter. (Res. No. R88-9, § 7, 1-19-88)

Sec. 16. Conduct of elections; canvass of returns, and commencement of terms.

(1) The city council shall provide by ordinance for the conduct of elections and the establishment of polling places, one of which shall be at the city hall. The council shall provide, by ordinance, for the opening and closing of the polls and the establishment of election boards and inspectors. No qualified elector shall be denied the right to vote because of the closing of the polls if he is standing in line waiting to cast his vote at the time for such closing as may be prescribed in the ordinance. The polls shall remain open at least 12 hours on the day of election. The council may by reference adopt all of the applicable provisions of state law governing the conduct of elections and not in conflict with the provisions of this charter.

(2) Upon the closing of the polls and the casting of a ballot by the last person then entitled to vote, the election officials shall, in the presence of the poll watchers, publicly record the results of the election and certify such results to the canvassing committee composed of the city manager, the city clerk and the city attorney, who shall immediately proceed publicly to tabulate the absentee ballots and certify the results of the election to the city council.

(3) The city council at the meeting of the council on the first Tuesday in May in which a general election is held shall receive the certification of the canvassing committee and declare the results of the election then completed. At a special meeting to be held by the city council commencing at 8:00 p.m. on the third Tuesday in May of the year in which a general election is held the city council shall receive the certification of the canvassing committee and shall declare the result of the runoff election. At such special meeting the member of the city council from group one, then elected, shall be administered the oath of office by the city clerk and the newly elected

mayor or city clerk shall, in turn, administer the oath of office to other councilmen then elected. The council shall conduct no other or further business at such special meeting. The newly elected council may conduct other business by unanimous consent of the members of the council present at such meeting. The term of office of members of the council shall commence with the declaration of the election results on the third Tuesday of May of the year in which the councilman was elected and shall terminate with the declaration of the results of the election of a successor on the second Tuesday in May in the year in which such successor, including any councilman elected to office, was elected as provided in this charter. (Res. No. 64-16, § 3, 2-13-64; Res. No. R88-9, §§ 2, 9, 10, 1-19-88)

Editor's note—Res. No. 64-16, § 3 proposed on amendment to Art. III § 8, codified as § 16 above, to read as there set out. Said amendment was approved at referendum April 14, 1964.

Sec. 17. Violations.

The city council shall provide by ordinance for the punishment of violations of the election provisions of this charter and for the violation of any ordinance enacted pursuant thereto. Any candidate convicted of a violation shall be ineligible to take office under this charter and the office to which he was elected shall be deemed vacant.

Sec. 18. Recall elections.

Any elected officer of the City of North Miami Beach may be recalled and removed from office pursuant to Florida Statutes, Chapter 100, section 100.361 (Res. No. R88-9, § 11, 1-19-88)

Sec. 19. Vacancies.

Vacancies in elective offices of the City of North Miami Beach shall be filled by the city council pending the next general election, at which an election to fill the vacancy shall be held for the unexpired term. Provided,

however, that should any vacancy occur more than one year prior to the next general election, the council shall have no power to fill the same; it shall be filled by a special election to fill the vacancy for the unexpired term, to be held not less than 35 days nor more than 60 days after such vacancy has occurred. When a vacancy is filled by the city council, it shall be done in such manner as shall be provided by the rules of the council, or as provided by separate ordinance. (Res. No. 64-16, § 4, 2-13-64)

Editor's note—Res. No. 64-16, § 4 proposed the amendment of Art. III, § 11, codified as § 19, to read as set out above. Said amendment was approved at referendum April 14, 1964.

Sec. 20. Removal of officer.

Any council-appointed officer of the City of North Miami Beach may be removed by a majority vote of the city council. (Res. No. 65-27, § 2, 2-23-65; Res. No. R81-19, § 3, 2-17-81)

Editor's note—Resolution No. 65-27, § 2, proposed an amendment to § 20. Said amendment was approved at referendum on April 27, 1965. Resolution No. R61-19, § 3, proposed amending § 20 to read on hereinabove set forth. Said amendment was approved at referendum on April 21, 1961.

Article IV. Powers

Sec. 21. Enumerated powers.

The City of North Miami Beach shall have all the powers granted municipal corporations by the Constitution and General Laws of Florida, and such powers as are incidental to the exercise of the powers granted herein and by general law, and in addition thereto shall have the following specific powers, as well as powers otherwise set forth in this charter:

(1) To sue, and be sued in the manner provided by law and the provisions of this charter.

(2) To exercise (exercise) the police power for the benefit of the health, convenience, safety, comfort and general welfare of the inhabitants of the City of North Miami Beach.

(3) To acquire property, real and personal, for municipal purposes, and to dispose of property not needed for such purposes.

(4) To define, prevent and abate nuisances.

(5) To restrain and punish gambling or other disorderly conduct.

(6) To prevent the running at large of cattle, horses, hogs, sheep, goats and other livestock as well as dogs or fowl and other animals or birds, on the streets of the city or within the city limits, and to impound the same and provide for their disposition.

(7) To regulate the speed at which vehicles of any kind or description may be operated on the streets of the city.

(8) To assess and collect taxes for municipal purposes.

(9) To publicize and advertise the advantages of the City of North Miami Beach as a municipal purpose and to levy a tax for such purpose not exceeding 2 mills of the assessed valuation of the real and personal property subject to taxation.

(10) To prohibit the sale of intoxicating liquors, wines and beers within the city.

(11) To inspect gas, electric and water meters.

(12) To enact ordinances in the exercise of the powers granted herein and provide punishment for the violation of same, not exceeding imprisonment in the city jail for a

through taxation, gifts, grants, donations or other means.

(60) To assess and collect reasonable fees for inspections or other services authorized or required by this charter.

(61)* (a) To enter upon improved or unimproved properties in the city and clean up the same of weeds, trees, debris, trash, or other unsightly or unsanitary matter, or to fill in excavations or depressions wherein water may accumulate, and other like matter whenever the owner or occupant of such property has neglected to do these things and has been given fifteen (15) days registered notice in which to do so and has failed.

(b) To impose penalties for the non-payment of charges and fees incurred by it in cleaning up improved or unimproved property in the City of weeds, trees, debris, trash, or other unsightly or unsanitary matter, or to fill excavations or depressions wherein water may accumulate, and other like matter whenever the owner or occupant thereof has neglected to do such and has been given fifteen (15) days registered notice in which to do so and has failed.

(c) To declare such unpaid charges and fees to be a lien against the property served.

(d) To provide methods for collection of such fees and charges.

(e) To have the right to declare such unpaid fees and charges a lien against the real and personal property of the owner and

occupant of such property, collectible in the same manner as unpaid liens for special assessments are collectible.

(f) To provide and declare that the powers granted in this subsection are cumulative in addition to any other powers which the City of North Miami Beach now has or may hereafter have.

Article V. City Council

Sec. 22. Election and term of councilman.

The members of the city council shall be elected from groups numbered One through Seven. The groups shall be elected citywide by the qualified electors of the City of North Miami Beach. The member in Group One shall be the mayor. Commencing with the year 1981, the mayor and all members of the city council shall be elected for terms of two years.

Commencing with the city elections to be held in May 2011, and at each general election each four (4) years thereafter, the members of city council running from groups 1, 3, 5, and 7 shall be elected for four (4) year terms.

Commencing with the city elections to be held in May 2013, and at each general election each four (4) years thereafter, the members of city council running from groups 2, 4, and 6 shall be elected for four (4) year terms.

Commencing with the May 2011 elections for groups 1, 3, 5, and 7 and with the May 2013 elections for groups 2, 4, and 6, no person may serve as councilperson or mayor or any combination thereof for more than eight (8) consecutive years in office, not including time served as a member of the Council as a result of having filled a vacancy in the council pursuant to Section 19 of the

*Editor's Note—Subsection 61 is derived from Resolution No. 60-85 adopted December 20, 1960, which amended this charter to add said subsection. The resolution also provided that the provisions be submitted to the electorate for a referendum vote at the general election of April 18, 1961. On that date the electors voted in favor of said provisions.

Code reference—See Ch. XVI § 16-2 for effectuation of this authority.

North Miami Beach City Charter. After being out-of-office for two (2) years, he/she may run again.

Members of the council shall serve until their successors are elected and qualified. A candidate for the office of city councilman shall at the time of qualifying for the election and at the time of election be a qualified elector of the City of North Miami Beach, and shall not, within five years next preceding the date of his qualification, have been convicted in this or any other state of any offense involving moral turpitude. (Res. No. 64-16, § 5, 2-13-64; Res. No. R80-1, § 2, 1-2-80; Res. No. R80-81, §§ 2(a), 3(a), 8-19-80; Res. R2009-12, § 2, approved by the electorate at the election of 5-5-09)

Sec. 23. Mayor.

The mayor shall preside over meetings of the council and shall cast his vote on any motion, resolution or ordinance submitted for consideration of the council. He shall be the titular head of the government of the City of North Miami Beach and shall represent the city in any function requiring that the city be represented. He shall perform such other duties as may be provided in this charter. The council shall elect from its membership a vice-mayor who shall act in the absence or disability of the mayor and who shall exercise the powers of the mayor when so acting. (Res. No. 64-16, § 6, 2-13-64).

Sec. 24. Meetings.

Regular meetings of the council shall be held in the city hall of the City of North Miami Beach commencing at 7:30 p.m. on the first and third Tuesdays of each month. If such date falls upon a legal holiday recognized by the City of North Miami Beach, the regular meeting shall be held on the next day following the legal holiday. The legal holidays recognized by the City of North Miami Beach will be those enumerated in the employee

contracts with the city or as subsequently provided by ordinance.

Special meetings shall be called by the mayor for the consideration of emergency matters upon the written request of the city manager or upon the request of five members of the council other than the mayor. Notice of such special meetings shall be delivered to members of the council and shall be posted on the front door of the city hall at least twenty-four hours prior to the holding of same. No business shall be transacted at any special meeting other than that for which the meeting was called. (Res. No. 64-16, § 7, 2-13-64; Res. No. R80-1, § 2, 1-2-80)

Sec. 25. Quorum and attendance of councilmen.

A quorum of the city council at any regular or special meeting shall consist of five members. The required number for a quorum at any regular or special meeting of the council shall be reduced by the number of vacancies on the city council at the time of such meeting. The affirmative vote of a majority of the members present shall be required upon any matter submitted for consideration of the council. Any number less than a quorum may convene any regular or duly called special meeting and compel the attendance of absent members of the council by capias directed to the chief of police and signed by the mayor, or, in his absence, by the other members of the council present, which capias may be executed anywhere in the City of North Miami Beach. If any councilman has failed to attend a meeting of the city council for a period of one hundred and twenty (120) days, the seat of such councilman shall automatically become vacant. (Res. No. 64-16, § 8, 2-13-64)

Sec. 26. Compensation.

Members of the city council shall receive such compensation as shall be fixed by the council. Provided, however, that until after

the election and qualification of members of the city council in the year 1961 such compensation may not exceed two hundred dollars (\$200.00) per month. After said election in the year 1961 the compensation of members of the city council may be increased by the affirmative vote of five members of the council. The compensation shall be payable as other expenses of the city are paid. In addition to the compensation as provided herein, the mayor shall annually be provided with an expense fund of twelve hundred dollars (\$1200.00) to meet extraordinary expenses of his office as mayor, payable at the rate of one hundred dollars (\$100.00) per month. No accounting shall be required of expenditures by the mayor from such fund.

Insurance benefits provided to members of city council shall only be paid for by the city during their actual term of service. After their term of service, councilpersons may be offered the opportunity to remain in the city's insurance plan(s) at their own expense. This provision shall not affect continuing city council benefits previously established and available to active or former members of city council elected for at least one (1) term of office prior to the election of May 2009. (Res. No. R2009-12, § 2, approved by the electorate at the election of 5-5-09)

Sec. 27. Powers of the city council.

The city council shall have the power to adopt ordinances, resolutions, rules for the conduct of meetings and to take such other action as may be necessary to the full and complete exercise of powers herein vested in the city manager and other officers provided for herein. The exercise of any power enforceable by the imposition of punishment by fine or imprisonment the appropriation of any money, or the levy of any tax, shall be by

ordinance only. Except as otherwise provided herein, any other power may be exercised by ordinance or resolution in the discretion of the council. The council shall have the power to punish for a contempt committed in its presence at any regular or special meeting, which punishment shall be by a fine not exceeding fifty dollars (\$50.00) or imprisonment in the city jail not exceeding seventy-two (72) hours, or both such fine and imprisonment. The council shall exercise such other powers as are herein authorized.

Sec. 28. Personnel under the city manager.

Neither the mayor nor any other member of the city council shall suggest or recommend any person for appointment or employment by the city manager for any position under the exclusive control of the city manager. Any such suggestion or recommendation shall constitute misfeasance in office and grounds for removal by recall as herein provided.

Sec. 29. Auditor.

The city council may employ and fix the compensation of a qualified auditor to post audit the financial records of the City of North Miami Beach and report to it as [at] such intervals as the council may by resolution determine. In lieu of the employment of a full time auditor, the council may retain a certified public accountant to make such audits. The auditor shall have access to the records of the City of North Miami Beach under such terms and conditions as the council shall by ordinance provide, wilful violation of which by any employee shall be grounds for instant dismissal from service by the city council, notwithstanding any other provision of this charter.

Sec. 30. Conflict of interest.

No officer or employee of the City of North Miami Beach shall have any pecuniary interest, directly or indirectly, in any contracts with the City of North Miami Beach

except such contracts for the sale or purchase of property, or the performance of services, as shall be let pursuant to sealed bids and advertising therefor.

Article VI. City Manager

Sec. 31. Appointment and qualifications.

The city council shall appoint a city manager in the manner and at the time provided in this charter. The city manager shall be graduate of a recognized school of public administration with not less than three years experience in the administration of municipal affairs, or shall have not less than seven years experience in the administration of municipal affairs. He shall have such residency qualifications as may be established by the city council. In the event of a vacancy in the office of city manager, the city council may appoint an acting city manager until such time as a qualified manager may be selected, but no acting city manager may be appointed for a period exceeding three months. (Res. No. 64-16, § 20, 2-13-64)

Editor's note—Res. No. 64-16, § 20 proposed the amendment of Art. VI, § 1, codified as § 31, to read as set out above. Said amendment was approved at referendum April 14, 1964.

Sec. 32. Tenure.

The city manager shall be appointed by the city council, which appointment shall be provisional for the first six months thereof. Thereafter, the city manager shall be appointed for a period of one year and may be reappointed for successive periods of one year each, during which time he may be removed by a majority vote of the city council. (Res. No. R81-19, § 4, 2-17-81)

Editor's note—Resolution No. R81.19, § 4, proposed that § 32 be amended to read as hereinabove set forth. Said proposal was approved at referendum on April 21, 1981.