

PART I - CHARTER

CITY OF NORTH MIAMI BEACH

Preamble.

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

Commented [JS1]: Renumbered from Article VII., Sec. 35.

Citizens' Bill of Rights.

Commented [JS2]: Renumbered from Article VII., Section 36.

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

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

7. No unreasonable postponements. No matter once having been placed on a formal agenda by the City shall be postponed to another day except for good cause shown in the opinion of the City Council, or agency conducting such meeting, and then only on condition that any person so requesting is mailed adequate notice of the new date of any postponed meeting. Failure by an individual to receive such notice shall not constitute mandatory grounds for canceling the hearing or rendering invalid any determination made at such hearing.
8. Right to public hearing. Upon a timely request of any interested party a public hearing shall be held by any City agency, board, department or authority upon any significant policy decision to be issued by it, which is not subject to subsequent administrative or legislative review and hearing. This provision shall not apply to the law department of the City or to anybody whose duties and responsibilities are solely advisory. At any zoning or other hearing in which review is exclusively by certiorari, a party or his counsel shall be entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. The decision of any such agency, board, department or authority must be based upon the facts in the record. Procedural rules establishing reasonable time and other limitations may be promulgated and amended from time to time.
9. Notice of action and reasons. Prompt notice shall be given of the denial in whole or in part of a request of an interested person made in connection with any municipal administrative decision or proceeding when the decision is reserved at the conclusion of the hearing. The notice shall be accompanied by a statement of the grounds for denial.
10. Manager's and Attorneys' reports. The City Manager and City Attorney shall periodically make a public status report on all major matters pending or concluded within their respective jurisdictions.
11. Budgeting. In addition to any budget required by state statute, the City Manager shall prepare a budget showing the cost of each department for each budget year. Prior to the City Council's first public hearing on the proposed budget required by state law, the City Manager shall make public a budget summary setting forth the proposed cost of each individual department and reflecting the personnel for each department, the purposes therefor, the estimated millage cost of each department and the amount of any contingency and carryover funds for each department.
12. Quarterly budget comparisons. The City Manager shall make public a quarterly report showing the actual expenditures during the quarter just ended against one-quarter of the proposed annual expenditures set forth in the budget. Such report shall also reflect the same cumulative information for whatever portion of the fiscal year that has elapsed.
13. Adequate audits. An annual audit of the City shall be made by an independent certified public accounting firm in accordance with generally accepted auditing standards. The independent City Auditor shall be appointed by the City Council; both appointment and removal of the independent City Auditor shall be made by the City Council. A summary of the results of the independent City Auditor's annual audit, including any deficiencies found, shall be made public. In making such audit, proprietary functions shall be audited separately and adequate depreciation on proprietary facilities shall be accrued so the public may determine the amount of any direct or indirect subsidy. Duties, method of selection, and method of compensation of the independent City Auditor shall be established by ordinance.
14. Representation of public. The City Council shall endeavor to provide representation at all proceedings significantly affecting the City and its residents before state and federal regulatory bodies.
15. Natural resources and scenic beauty. It shall be the policy of the City of North Miami Beach to conserve and protect its natural resources and scenic beauty.

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

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

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

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

Sec. 1.1 - Creation ~~Charter to prevail.~~

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

~~This charter, adopted by the people of the City of North Miami Beach, shall supersede [supersede] all previous charters of said city, and specifically Chapter 15824, Laws of Florida, Acts of 1931, as amended from time to time by the legislature of the State of Florida.~~

Sec. 1.2. - Creation, Form of government.

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

Sec. 1.3. - Boundaries.

Sec. 1.4. - Powers.

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.~~

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

Commented [JS3]: renumbered from Section 2 to Sec. 1.1.

Commented [SJ4]: Deleted language re: Acts of 1931 governed by MHRPA F.S. Section 166.

Commented [SJ5]: Format change -- no change to territorial limits.

Commented [JS6]: Renumbered from Section 5 to 1.2.

Commented [SJ7]: Format change -- renumbered to Section 1.3 from Section 3.

Commented [SJ8]: Deleted MHRPA, F.S. 166.021

Commented [JS9]: Deleted MHRPA, F.S. 166.021

home rule powers permitted under granted municipal corporations by the Constitution and General the Laws of the State 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 period of sixty (60) days or fine of five hundred dollars (\$500.00) or both.
- (13) — To prevent and punish disturbances of the peace.
- (14) — To establish rules and regulations respecting the poor, indigent, infirm [infirm] and insane; to provide for the support and care of such persons; and to fix the conditions upon which such person coming into the city shall be allowed to remain.
- (15) — To inspect and regulate the sale of milk, meats, fish, produce, bread and other items offered for human consumption.
- (16) — To provide for sanitary sewers and the compulsory use thereof by property owners.
- (17) — To prohibit and suppress bawdy houses, disorderly houses and any exhibition, show, circus, parade or amusement contrary to good morals.
- (18) — To prohibit and suppress the sale or distribution of obscene pictures and literature.

- (19) — To regulate, restrain or prevent the carrying on of dangerous manufactures tending to increase or produce fires.
- (20) — To license the sale of firearms.
- (21) — To regulate the storage of gunpowder, tar, pitch, rosin, salt peter, coal oil, kerosene, gasoline, or other combustible, explosive or inflammable material.
- (22) — To regulate the use of lights, candles, lamps and steam pipes in all places of business.
- (23) — To regulate and suppress the sale of firecrackers and other fireworks, toy pistols, air guns and sling shots.
- (24) — To inspect and regulate the sanitary conditions of dairies, butcher pens and slaughter houses.
- (25) — To establish, maintain and regulate markets.
- (26) — To prohibit vagrancy.
- (27) — To regulate the use of sidewalks and other public ways.
- (28) — To enclose, improve, or regulate public grounds of the city within or without its corporate limits.
- (29) — To provide for the working of lawful prisoners of the City of North Miami Beach on the public streets, grounds and other property thereof, and for credits against fines and penalties for work performed.
- (30) — To regulate, suppress or prohibit hawking or peddling upon the streets, sidewalks or other public places of the city.
- (31) — To protect and preserve peace and order upon all property owned, leased, managed or controlled by the City of North Miami Beach outside its corporate limits.
- (32) — To construct or purchase a telephone system.
- (33) — To erect or purchase a city hall, hospitals for the care or detention of the sick, jails, market houses or other buildings for municipal purposes, and to equip and furnish the same.
- (34) — To construct or purchase any street or local railway for the transportation of passengers or freight.
- (35) — To have the general power of eminent domain and in addition thereto to have the power to condemn any water, ice, gas, power or light plant, telephone system, street or local railway, ship channel, canal basin, waterway, wharf, dock, warehouse, lands, submerged lands, riparian rights or buildings, or any part thereof, together with any and all franchises, rights and easements thereunto belonging or appertaining.
- (36) — To destroy surface privies and cesspools or other forms of receptacles for sewage, other than sanitary service sewers.
- (37) — To issue bonds for municipal improvements.
- (38) — To zone property in the City of North Miami Beach in the manner provided in this charter, or as provided by state law.
- (39) — To establish and operate gas and waterworks as herein provided and issue revenue certificates therefor.

- (40) — To establish a civil service system for employees of the city as herein provided.
- (41) — To designate a depository for municipal funds.
- (42) — To license privileges, businesses, occupations and professions carried on or engaged in within the city, and fix the amounts of same.
- (43) — To license the erection of signboards, placards and advertising signs, the fee for which shall not exceed five hundred dollars (\$500.00).
- (44) — To establish quarantine and health regulations.
- (45) — To establish a police department and a fire department for the protection of the city.
- (46) — To construct, repair, grade, improve or vacate streets, alleys, avenues, lanes, wharves, landings, bridges, trenches, ditches, curverts, canals, streams, water courses, dock lines, sidewalks, curbs, viaducts and any and all thoroughfares.
- (47) — To bulkhead waterways.
- (48) — To establish storm sewers.
- (49) — To require that utility lines, pipes or other service media be laid underground.
- (50) — To construct tunnels under any waterway or railroad.
- (51) — To establish and construct ship channels, canals, basins, waterways and harbors in Biscayne Bay within the city limits and to contract with the United States Government for such work.
- (52) — To contract with Dade County or with any person, firm or corporation, for the payment of a portion of the costs of municipal improvements.
- (53) — To levy assessments for special benefits and have and enforce a lien therefor.
- (54) — To preserve the public peace and punish disturbances thereof.
- (55) — To establish city dumps, incinerators or other methods of waste disposal.
- (56) — To collect garbage and other waste and dispose of same or to grant franchises for such collection and disposal.
- (57) — To establish and operate sewer treatment plants.
- (58) — To prescribe and enforce standards of weights and measures in connection with any sale of commodities and inspect for compliance.
- (59) — To establish and maintain a public library and provide for the support of same 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.

1.5 Construction.

Commented [JS10]: Governed by F.S. 166.021(4)

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

1.6 Oath of office.

Commented [SJ11]: Renumbered to 1.6 from Sec. 8.

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

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

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

Sec. 2.1 Mayor and Vice Mayor.

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

- Commented [SJ12]: Format change – retitled mayor, vice-mayor, and city council.
- Commented [JS13]: Renumbered from Section 23 to Sec. 2.1 and modified to add Vice Mayor.
- Commented [SJ14]: Same text-Renumbered from Sec. 23 to Sec. 2.1
- Commented [SJ15]: Title change to clarification.

Sec. 2.2 City Council.

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

- Commented [JS16]: Renumbered from Sec. 7 to Sect. 2.2
- Commented [SJ17]: Renumbered and added “city for format.

Sec. 2.3 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.

- Commented [JS18]: This is from sec. 20.
- Commented [SJ19]: Renumbered to 2.8 from Sec. 26.
- Commented [JS20]: Deleted - moot

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

- Commented [SJ21]: This is from sec. 6 “officers” renumbered.

Sec. 2.4 Sec. 24. Meetings.

~~The City Council shall hold at least 11 regular monthly meetings in each calendar year, at such times and places as the City Council may prescribe by Resolution. 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.~~

- Commented [SJ22]: Deletion of the language requiring meetings on the first and third Tuesday and beginning at 7:30pm.

Special meetings shall be called by the Mayor for the consideration of emergency matters upon the written request of the City Manager or upon the request of five members of the Council other than the Mayor. Notice of

such special meetings shall be delivered to members of the Council and shall be posted on the front door of the City hall at least twenty-four hours prior to the holding of same. No business shall be transacted at any special meeting other than that for which the meeting was called.

Sec. 2.5 25 Quorum and Attendance of Councilmen.

Commented [SJ23]: Renumbered to 2.5 from 25.

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.

Commented [SJ24]: Deleted MHRPA 166.021. Council has no authority to issue a "capias". Only the Clerk of Courts or a Judge may issue a "capias" upon filing of criminal charges. F.S. 932.48. In non-criminal matters the use of "capias" has been abolished. F.S 56.011.

Sec. 2.6 27 Powers of the City Council.

Commented [JS25]: Renumbered from Sec. 27 to Sec. 2.6

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. References in this Charter to the City Council and/or Council members shall include the Mayor unless the context dictates otherwise.

Commented [SJ26]: Deleted MHRPA 166.021

Commented [SJ27]: Added language for clarification.

~~Sec. 18. Power of council.~~

Commented [JS28]: This is redundant and included in 2.2.1 powers of City Council.

~~The city council shall have power to adopt such ordinances as in its opinion shall be necessary to the full and complete exercise of the powers herein granted.~~

~~Article IX. Sec. 2.7 Ordinances~~

A. ~~Sec. 49.~~—Method of adoption. An ordinance, prior to becoming effective, shall be submitted for consideration of the Council in such manner as the rules of the Council shall provide, in accordance with the Florida Statutes, and shall be read by title only. Further consideration, except as hereinafter provided for emergency passage of any ordinance, shall be deferred to a subsequent meeting of the City Council. Prior to consideration on second reading, other than emergency passage, the ordinance shall have been posted on the bulletin board of the City Hall, and copies made available for examination in the office of the City Clerk. The second reading of any ordinance shall be by title only, ~~except that no ordinance shall be revised or amended by reference to its title only and any ordinances to revise or amend shall set out in full the revised or amended act or section or subsection or paragraph of a section or subsection.~~ The ordinance may be amended before or after such second reading, and shall be placed upon final passage by roll call vote recorded in the minutes of the Council. Before becoming a law it shall be posted for twenty-four hours on the bulletin board of the City Hall.

Commented [JS29]: as preempted per Florida Statute section 166.041

~~B. Sec. 50. Title and enacting clause. Each ordinance shall contain a title which shall be a short statement of the subject matter of the ordinance, sufficient to place the public on notice of the nature of the contents thereof. The enacting clause of each ordinance shall be: "Be it ordained by the City Council of the City of North Miami Beach."~~

~~B. Sec. 52. General penalty. In the event the city council shall enact any ordinance, the violation of which is made unlawful, and shall fail to provide any penalty for the violation thereof, such violation shall be punishable by a fine not exceeding one hundred dollars (\$100.00) or by imprisonment not exceeding thirty (30) days, or by both such fine and imprisonment.~~

Commented [SJ30]: This is contrary to F.S. 162.09, fines must be set by ordinance.

~~Sec. 51. Sec. 2.8 Emergency ordinances.~~

The City Council may, by not less than the number of affirmative votes necessary to constitute a quorum under this Charter, in an emergency expressed in the preamble, enact any ordinance not inconsistent with the provisions hereof, at any meeting; in which event the two (2) readings provided herein may be had at one session. Provided, however, that such ordinance before becoming effective shall be posted as hereinabove required.

Sec. 2.9 Prohibitions of the City Council.

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

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

Commented [JS31]: This was included under existing section 28.

Commented [JS32]: This was included in existing section 28 - as a penalty for violation of subsection A herein.

Commented [SJ33]: Language is reformatted and included in new section 2.9 prohibitions. There is no removal of existing authority/limits.

~~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.~~

Commented [JS34]: This is included under 2.9(A)

Commented [JS35]: Included under 2.9(B)

~~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.~~

Commented [SJ36]: This is included in the powers of the City Council in art. 2

Commented [SJ37]: This is included in the powers of the City manager in section 3.1.2

Commented [SJ38]: This is deleted from this section and included in Article 3 under Legal Department.

Commented [SJ39]: This is deleted from this section and include in article 3 below.

Commented [SJ40]: The language about the city manager appointing dept. heads authority by ordinance is included in provided for sections in charter and below- language is redundant.

Commented [SJ41]: Language about salaries of elected officers is renumbered and included in sec. 2.8.

Article III. - Elections Administrative Personnel and Boards, Agencies and Committees.

Commented [JS42]: Renumbered - Elections is now Article 5.
Commented [JS43]: Renumbered from Article VI.

Sec. 3.1 City Manager: Appointment, and qualifications Removal.

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

Commented [SJ44]: Deleted language providing for city manager education/school/residency and experience requirements.
Commented [JS45]: This was included in existing Sec. 20 "any council appointed officer may be removed by a majority vote of the city council".

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.

Commented [SJ46]: Deleted provision about appointed interim city manager when needed and limiting interim appointments to no more than 3 months ***
Commented [SJ47]: Deleted language about provisional appointment and limitation on contract terms.

Sec. 33. Compensation.

The compensation of the city manager shall be fixed by the city council in the annual budget and may not be reduced during the year for which budget (budget) is prepared.

Commented [SJ48]: The language about compensation of the City manager being fixed is included in 3.1 – the prohibition on reducing the salary during a budget year is removed.

Sec. 3.1.1 Powers and Duties of the City Manager

The City Manager shall be responsible for the proper administration of all affairs of the city, except as otherwise provided herein, and to that end his powers and duties shall be:

Commented [JS49]: Renumbered from section 34 to 3.1.2
Commented [JS50]: title change from "Duties and Powers"

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

J. Perform such other duties as are specified in this Charter or as required by the City Council.

(1) To see that the laws and ordinances are enforced.

(2) To appoint all employees of the city, except as otherwise provided herein which appointments shall be made upon merit and fitness to perform the duties involved.

(3) To remove employees in his discretion, except as otherwise provided in the establishment of a civil service for municipal personnel.

(4) To exercise control and direct supervision over all divisions and departments of municipal government under this charter and over such others as may be created pursuant to the authority herein granted, including public utilities owned or operated by the City of North Miami Beach. Provided, however, the authority herein granted shall not extend to the legal department or the office of auditor employed or retained by the city council.

(5) To see that all terms and conditions imposed in favor the City of North Miami Beach or its inhabitants in any public utility franchise are faithfully kept and performed.

(6) To report any violation of the terms and conditions of any utility franchise to the city council and to the city attorney.

(7) To attend all meetings of the city council and of its committees, with the right to take part in discussion, but without a vote.

(8) To recommend to the city council for adoption such measures as he may deem necessary or expedient in the best interests of the City of North Miami Beach.

(9) To keep the city council fully advised as to the financial condition and needs of the city, and to submit for its consideration an annual budget as herein further provided.

(10) To act as purchasing agent for the city and have exclusive control over the purchase of all supplies.

(11) To approve all vouchers for the payment for supplies purchased by him as purchasing agent.

(12) [Reserved.]

(13) [Reserved.]

(14) To do and perform such other duties and acts as may be prescribed in this charter, or by ordinance or resolution of the city council not inconsistent herewith.

A. ~~(15)~~ Notwithstanding the provisions of Section 34, subsection (12) hereof, a contract entered into by the city pursuant to competitive bids may be enlarged, changed, or extended; provided that the city manager shall find that the enlargement, change, or extension is in the best interests of the city and the interests of the city will best be served by contracting with the same person for such enlargement, change, or extension; and, provided further, that such enlargement, change, or extension shall not increase the total cost to the city by more than 10% of the original contract let pursuant to competitive bidding, or by fifty thousand dollars (\$50,000), whichever is the lesser. Provided, however, that the enlargement, change, or extension of any contract not in excess of \$2,000 may increase the total cost of the original contract let pursuant to competitive bidding by not more than 20%; and, provided further, that no change amounting to a material departure from the original purpose of the contract shall be authorized hereunder.

Commented [SJ51]: Removal into the code under purchasing guidelines.

Sec. 3.1.2 Absence or Disability of City Manager.

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

Sec. 3.2 City Clerk.

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

Commented [JS52]: This was included in existing Sec. 20 "any Council appointed officer may be removed by a majority vote of the City Council".

Sec. 3.2.1 Powers and Duties of the City Clerk.

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

Article VIII. --The Legal Department

Sec. 3.3.42. - City Attorney.

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

Commented [SJ53]: Renumbered from Article VIII and placed under Article 3, Sec. 3.3

Sec. 43. -- Compensation.

The compensation of the city attorney and all other personnel of the legal department shall be fixed by the council in the annual budget. It shall be paid by the city in the same manner as salaries of other city employees are paid.

Sec. 44. -- Assistants.

The city attorney shall have such clerical, stenographic and legal assistance as shall be approved by the council. Employees of the legal department, other than the city attorney, may be placed under civil service at the option of the city council.

Sec. 46. -- Tort claims.

No claims against the City of North Miami Beach, sounding in tort, shall be paid, and no action may be maintained thereon, unless notice of the circumstances under which the claim arose shall have been served on the mayor by certified mail with a copy to the city attorney. Notice shall be served within the time prescribed under the then-current state statute as it exists on the date of the alleged claim.

Commented [JS54]: This is not a new power and was formerly included in Section 20.

Commented [SJ55]: Included language about setting of compensation for City attorney in section 3.3. The fixing of compensation for the other personnel in the legal department and approval of positions (existing sec. 44.) has been interpreted as part of the annual budget approval process. The City Council retains the authority to approve the annual budget for the City in proposed Article VI.

Commented [JS56]: Deleted -- conflicts with Fla. Stat. 768.28

Sec. 47. Council meetings.

The city attorney shall attend meetings of the city council and shall perform such other duties as the council may by resolution or ordinance provide.

Commented [SJ57]: The responsibilities are included in section 3.3.1 and include the same substantive powers and duties.

Section 3.3.1 Powers and Duties of the City Attorney Sec. 45. Duties.

It shall be the duty of the city attorney to act as legal advisor to the city council, the city manager, and department heads in the City of North Miami Beach. He shall prepare all ordinances, resolutions or regulations submitted for consideration of the council. He shall examine and approve as to legal sufficiency all contracts, franchises, deeds or other undertakings of the City of North Miami Beach. He shall represent the city in bond validations, condemnations under eminent domain, and other legal proceedings in which the City of North Miami Beach is a party. Provided, however, the city council may, in its discretion, associate other counsel in any matter in which the City of North Miami Beach has an interest, and pay the compensation of such associate counsel. The city attorney or a duly appointed assistant shall prosecute cases in the county or circuit court.

Commented [JS58]: Included below in subsection A.

Commented [JS59]: Included below in subsection B

Commented [JS60]: Included in subsection H

Commented [JS61]: included in subsection b.

The City Attorney shall:

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

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

Section 3.4. City Boards, Agencies and Committees.

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

Sec. 3.5 Sec. 404. Planning and Zoning Authority of City.

The City of North Miami Beach shall have the power to designate and establish restricted residence districts within the City, and to otherwise control the development of the City, by the enactment of reasonable rules and regulations relating to construction, reconstruction, alteration, repair, use and occupancy of buildings and other structures in the City of North Miami Beach, and the use of vacant lands in said City. The City Council may declare any violation of such regulations a nuisance and proceed to abate the same.

~~Sec. 102~~ Sec. 3.5.1 **Type of Construction.**

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

~~Sec. 103~~ Sec. 3.5.2 **Location and Use.**

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

~~Sec. 106~~ Sec. 3.5.3 **Variances.**

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

~~Sec. 104.~~ **Sec. 3.5.4 Planning and Zoning Board.**

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

~~Sec. 105.~~ *Reserved.*

~~Sec. 107.~~ **Disqualification of members.**

- A. ~~A member of the planning and zoning board shall be disqualified and may not act in any matter in which such member has a direct or indirect pecuniary interest.~~

Commented [JS62]: Deleted MHRPA 166.021 and governed by Chapter 112.

Article IV. Election of City Council Members.

~~Sec. 9. — Sec. 4.1~~ **General elections.** Commencing in 2018, Regular general elections in the City of North Miami Beach shall be held biennially every even-numbered year on the first Tuesday following the first Monday in May November except as otherwise provided herein , with the candidate for each office (i.e., Mayor or Councilperson in each of the respective groups numbered 2 through 7) receiving the highest number of votes being elected to that respective office. 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 General 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. In order to accomplish the election date revision made pursuant to this Charter section, the four-year term length of office that is provided for in Charter section 4.2 shall be extended on the following limited basis: the term of office of the Mayor and of Councilperson groups 3, 5, and 7, which would otherwise expire in May 2019 shall instead expire in November 2020, and the terms of office of Councilperson groups 2, 4, and 6, which would otherwise expire in May 2017 shall instead expire in November 2018.

~~Sec. 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. Sec. 11. -

~~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. 4.2 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. At the City's general election on the first Tuesday after the first Monday in November 2018

Commented [A63]: This charter section reflects language contained in prior Charter section 9.

Commented [A64]: Superfluous—addressed by Florida Statute 97.041 "Qualifications to register or vote".

Commented [A65]: Obsolete—City Charter's language providing for 6-month durational residency for qualified elector status was repealed years ago, making this language obsolete. Also, matters related to registration of persons desiring to vote in City elections is governed by Florida Statutes 97.053, 97.055 and 97.0555.

Commented [A66]: These Charter sections regarding conduct of City elections are superfluous—unless City opts out, NMB is bound by State Election Code per Florida Statute sec. 100.3605 "Conduct of municipal elections".

Commented [A67]: Renumbered to Sec. 4.2 from Sec. 22.

and at each general election every four years thereafter, the members of City Council running from groups 2, 4, and 6 shall be elected for four (4) year terms. At the City's general election on the first Tuesday after the first Monday in November 2020 and at each general election every four years thereafter, the members of City Council running from groups 1, 3, 5, and 7 shall be elected for four (4) year terms. Commencing with the May 2011 general elections for groups 1, 3, 5, and 7 and with the May 2013 general elections for groups 2, 4, and 6, no person may serve as Councilperson or Mayor or any combination thereof for more than eight (8) consecutive years in office, not including time served as a member of the Council as a result of having filled a vacancy in the Council pursuant to Section 194.5 of the North Miami Beach City Charter, so long as such time served in filling a vacancy does not exceed 50% of that subject term. Service by a Council member in excess of 50% of any term of office shall be considered a full term for purposes of the term limit provisions in this section. After being out-of-office for two (2) years, he/she may run again. Members of the Council shall serve until their successors are elected and qualified. 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.

Sec. 4.3 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)~~ seventy-eighth day preceding the election provided for in Section ~~4.19~~ hereof not later than 12:00 noon, local time, on the ~~thirty-eighth (38th)~~ seventy-third (73) day preceding the election. A candidate shall qualify by taking and subscribing to an oath that he is qualified under the charter of the City of North Miami Beach to hold the office of Councilman and Mayor and by paying to said Clerk a qualifying fee in the amount of four (4%) percent of the annual salary of the office, which fee shall be deposited in the general fund of the City. Candidates for the office of City Councilman shall designate the group from which they desire to be elected. Each candidate, at the time of qualifying with the Clerk, shall designate a campaign treasurer and a depository of campaign funds. Each candidate, at the time of qualifying with the Clerk, must have continuously resided in the City of North Miami Beach for at least one (1) full year ~~shall at the time of qualifying and at the time of election be a qualified elector of the City of North Miami Beach, and shall not, within five years next preceding the date of his qualification, have been convicted in this or any other state of any offense involving moral turpitude.~~

Sec. 4.4 Conduct of Elections; Canvass of Returns, and Commencement of Terms.

A. The City Council shall provide by ordinance for the conduct of elections, and the establishment of polling places, one of which shall be at the City Hall, ~~and - The council shall provide, by ordinance, for the opening and closing of the polls and for the establishment of election boards and inspectors the City's Canvassing Board.~~ 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.

Commented [A68]: Language in last line moved to new Charter section 4.3 below.

Commented [A69]: Renumbered to sec. 4.3 from Sec. 11 - time for qualifying change to coincide with change to November election and County requirements-retain qualifying period.

Commented [A70]: Last sentence retained from existing Charter section 22.

Commented [A71]: Charter section 16 renumbered to Section 4.4.

Commented [A72]: Preemption per Florida Election Code re: poll operations.

Commented [A73]: Preemption: If voters approve moving City election to November of even-numbered years, County CB automatically serves as City's CB. City will still need CB for potential stand-alone elections (to be addressed in future City Ordinance).

Commented [A74]: Superfluous-if City's General Election is moved to November, the County Canvassing Board will serve as the City's CB (and, no City CB if no Runoff). If voters do not approve above, then CB provisions remain in Charter.

(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.

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

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) —

Commented [A75]: Florida Statutes control requirement for legal authority to formally administer oath of office.

Commented [A76]: Obsolete—This language change provides for City's acceptance of election returns after election day instead of on election day in order to conform to current administrative process of Miami-Dade County Election Department whereby its final certification of election results are not certified as final until after the election, in order to allow for provisional ballots, etc.

Commented [A77]: ALTERNATIVE LANGUAGE IN EVENT VOTERS DO NOT APPROVE CHANGE IN GENERAL ELECTION DATE AND RUNOFF ELECTION IS THUS RETAINED:
"If however a Run-Off Election is necessary, all new officers shall be declared elected subsequent to the City Council's acceptance of final Run-Off Election returns on the second business day immediately following the County Elections Supervisor's issuance of such final election results, at which time the new officers shall be installed and shall enter upon the discharge of their duties, and at which Council meeting no other business other than emergencies shall be taken up unless the Council decides to do so by unanimous consent. Moreover, if a Run-Off Election is necessary, the Council meeting occurring between the date of General Election and the Council's acceptance of final Run-Off Election returns shall occur for the limited purpose of accepting the returns of such general election, and/or to address any emergency."²¹

Commented [A78]: Superfluous per Florida's Municipal Home Rule Powers Act; also, preempted by State Division of Elections penalties for violations of State Election Code.

Commented [A79]: Preempted by Fla.Stat. sec. 100.361.

Sec. 4.5 Vacancies.

Vacancies in elective offices of the City of North Miami Beach shall be filled by the City Council pending the next general election, at which time an election to fill the vacancy shall be held for any remainder of the unexpired term. Provided, however, that should any vacancy occur more than one year prior to the next general election, the Council shall have no power to fill the same; it shall be filled by a special election to fill the vacancy for the unexpired term, to be held not less than 35 days nor more than ~~60~~ 90 days after such vacancy has occurred, with provisions concerning said Special Election to be established by Resolution of the City Council. When a vacancy is filled by the City Council, it shall be done in such manner as shall be provided by the rules of the Council, or as provided by separate ordinance.

~~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.~~

Commented [A80]: Renumbered from Sec. 19 to Sec. 4.5.

Commented [A81]: Obsolete—This provision changing time for City's call of election to fill vacancy from 35-60 days to 35-90 days conforms to current administrative timelines established by Miami-Dade County Election Department with regard to deadline dates by which DOE requires receipt of municipal resolutions scheduling City elections.

Commented [A82]: Language moved from Charter section 20 to proposed Charter section 2.6 Powers of the City Council, 3.1-City Manager, 3.2-City Clerk, and 3.3-City Attorney.

Article V. Initiative and Referendum.

Sec. 53. Sec. 5.1 Initiated ordinances.

- A. ~~(1)~~ The duly qualified electors of the City of North Miami Beach shall have the power to propose any ordinance, except an ordinance appropriating money or levying a tax, in the manner herein provided.
- B. ~~(2)~~ The power of initiative shall be exercised by petition signed by not less than two per cent (2%) of the qualified electors executed in such form and in the manner as shall be provided by ordinance of the City of North Miami Beach, which ordinance shall provide that each petition circulated shall contain the full text of the proposed ordinance.
- C. ~~(3)~~ Upon certification by the Clerk within ten (10) days of the filing of the petition, executed in the manner provided, the City Council shall at its next regular meeting proceed to consider the proposed ordinance. The City Council shall within twenty (20) days from the certification by the clerk adopt such ordinance in the manner provided for the adoption of ordinances generally, with the right to amend in a manner germane to the proposed ordinance. If amended, or upon adoption without amendment in the discretion of the City Council, the ordinance before becoming effective shall be submitted for approval of the qualified electors in any general election held within sixty (60) days of the passage of such ordinance. If amended, the ordinance as amended and the ordinance as initiated shall be submitted on the same ballot. The ordinance receiving the highest number of affirmative votes, if such number shall constitute a majority of the votes cast, shall be deemed adopted. If no general election shall be held within sixty (60) days of the passage of the ordinance, then such ordinance or ordinances shall be submitted for approval of the qualified electors of the City of North Miami Beach at a special election called for that purpose not less than thirty (30) or more than sixty (60) days from the date of final passage by the City Council.

Sec. 54. Sec. 5.2 Referendum.

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

Sec. 20. 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, willful 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.~~

Commented [SJ83]: Redundant-included in bill of rights and governed by Fla. Stat. 218.39 and Fla. Stat. 11.45

~~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.~~

Commented [JS84]: F.S. 112 and Miami-Dade Conflict of Interest and Code of Ethics governs.

ARTICLE VI Budget and Finance.

Sec. 6.1 Article X. — The Budget and Finance.

- A. General Power. The City of North Miami Beach shall have the power to borrow money, contract loans, and issue bonds, notes, and other obligations or evidences of indebtedness in accordance with Florida law.
- B. Budget. In accordance with Florida law, the City Council shall adopt an annual budget.
- C. Sec. 55. Fiscal year. The fiscal year for the City of North Miami Beach shall commence on October 1st of each calendar year and end September 30th of the succeeding year

Sec. 6.2 Taxation

- A. Sec. 93. Ad valorem taxes. The Director of the Department of Finance shall, except as otherwise provided herein, be the assessor and collector of taxes for the City of North Miami Beach. The assessment rolls of Dade County, as equalized in the manner provided by law, shall be the assessment rolls of the City of North Miami Beach for all purposes of taxation and as to all property subject to taxation within the limits of the City of North Miami Beach. The City Manager shall, by and with the consent of the proper authorities of Dade County, enter into such contracts as may be necessary to provide for the assessment of property for the purpose of levying ad valorem taxes of the City of North Miami Beach by Dade County, and the collection of such taxes by Dade County for use and benefit of the City of North Miami Beach. Taxes of the City of North Miami Beach shall be assessed and collected as provided by the Charter of Dade County and ordinances adopted pursuant thereto.
- B. Sec. 94. Levy of taxes. The City Council shall by ordinance levy taxes on all real and personal property subject to taxation in the City of North Miami Beach. ~~The levy shall be sufficient to meet the needs of the budget adopted by the city council, but in no event shall the levy exceed twenty five mills on each dollar of valuation. Provided, however, a greater levy may be made for the purpose of paying interest and principal on the public debt of the City of North Miami Beach; and, provided further, a greater levy may be made on property in any borough heretofore recognized, for the purpose of retiring bonds of such borough.~~ Upon its adoption, the ordinance shall be certified to the proper authorities of Dade County for the purpose of preparing and mailing tax bills.
- C. Sec. 95. Delinquent taxes. Taxes shall be enforceable in the manner provided by law for the enforcement of county taxes.
- D. Sec. 96. Other taxes. The Director of the Department of Finance shall collect other taxes, levies, excises, imposts, special assessments and exactions as may be provided by ordinance, and shall issue his/her receipt therefor. The collection of such items shall be enforced in the manner provided by ordinance.

Commented [JS85]: Governed by F.S. 200.081

Sec. 56. Departmental estimates.

~~Each department head shall, no later than ninety (90) days prior to the end of the fiscal year, submit to the city manager an estimate of the needs of his department for the ensuing fiscal year, together with an estimate of the anticipated receipts of the department from sources other than ad valorem taxes. For the purposes of this article, the city attorney shall be deemed to be a department head. It shall be the duty of the city manager to prepare all estimates not otherwise provided for herein, including expenses of his office and those of the city council and auditor, as well as provision for the retirement of the public debt of the City of North Miami Beach.~~

Commented [SJ86]: Repealed by F.S. 218.33

Sec. 57. Contents of estimates.

~~The estimates shall include items for salaries and the name of each employee in the department, together with a statement of the amount of salary to be paid such employee in the ensuing fiscal year, as well as the amount of~~

salary paid and payable to each employee during the current fiscal year. Positions provided for in the estimate but not filled in the current year shall indicate the amount of salary to be paid in the ensuing fiscal year. The estimates shall also include a statement of the length of employment in the current year as well as in the ensuing fiscal year. The estimates shall show actual and estimated expenses of the department, other than salaries, for the current fiscal year and estimated expenses for the ensuing fiscal year presented in such manner as the city council shall by resolution prescribe. The city manager may require that the estimates show separately the sums requested for current operations and capital improvements of the City of North Miami Beach, including anticipated improvements.

~~Sec. 58. — Preparation of the budget.~~

The city manager shall, no later than sixty (60) days prior to the end of the fiscal year, submit a budget to the city council containing the estimates for the operation of each department of the government of the City of North Miami Beach, together with his recommendations thereon. In such budget he shall submit a statement of the actual and estimated expenditures for the current fiscal year as prepared by the department of finance, together with an estimate of receipts from all sources other than ad valorem taxes. He shall estimate the amount of money required to be raised by ad valorem taxes and include such item in the budget.

Commented [JS87]: Repealed by F.S 218.33 and F.S. 166.24 governs

~~Sec. 59. — Budget hearings.~~

Upon presentation of the budget to the city council together with the recommendations of the city manager, the council shall fix a date or dates for public hearings thereon, which hearings shall be held at any regular or special meeting occurring not less than thirty (30) days prior to the end of the fiscal year. At such hearings the city council may call upon the city manager or the head of any department of the city to explain any item or items in the budget; and any citizen of North Miami Beach shall be given a reasonable opportunity to express his views thereon. Notice of such hearings shall be posted on the bulletin board of the city hall at least five days prior to the holding of such hearings, and copies of such budget shall be available in the office of the city clerk for public inspection at the time of the posting of such notice.

Commented [JS88]: Repealed by F.S 218.33

~~Sec. 60. — Adoption of budget.~~

Upon the hearing, as provided herein, the council may accept, increase, decrease or abolish any item in the budget. However, reasonable provision shall be made for the operation of the departments provided for in this charter. Upon adoption, by ordinance, of the budget as finally approved by the council, the same shall constitute an appropriation of the amounts set forth therein and may not be changed except as otherwise provided for the transfer of funds by the city manager with the consent of the council. No moneys shall be expended by the City of North Miami Beach except as appropriated in the budget unless otherwise specifically provided for herein.

Commented [SJ90]: Governed by F.S 200.065 and F.S 166.241

~~Sec. 61. — Contingency and transfers.~~

The budget shall contain an item or items for contingencies in such reasonable amount as the council shall approve. This item may be used by the city manager for the payment of unanticipated expenditures for any department where no surplus of funds regularly appropriated to such department shall be available. Any surplus appropriation made to one department may by the city manager by and with the consent of the council be transferred for use in any other department. Money appropriated to a department for a specific use may be used for any of the lawful purposes of the department with the consent of the city manager where not needed for the purpose for which appropriated.

~~Sec. 62. — Funds.~~

Commented [JS91]: Repealed by F.S 218.33

There shall be no more than three separate funds maintained in the city treasury, which shall be a general fund, an interest and sinking fund, and a trust fund. The general fund shall consist of all revenues of the city received from ad valorem taxes, other than taxes imposed for debt retirement and interest, licenses, fees, fines, forfeitures and other penalties and any and all miscellaneous receipts, including payments from other governments not specifically earmarked, not otherwise provided for herein. The interest and sinking fund shall consist of taxes and other receipts specifically allocated for the payment of principal, interest and other costs of the public debt of the City of North Miami Beach. The trust fund shall consist of all receipts of the City of North Miami Beach received for specific purposes, other than funds allocated to the interest and sinking fund. The city manager shall require the establishment in each fund of as many accounts as shall be necessary to reflect accurately the financial condition of the City of North Miami Beach and the current status of the annual budget.

~~Sec. 62.1. Maximum unbudgeted expenditure on single capital improvement.~~

~~No expenditure in excess of seventy-five thousand dollars (\$75,000) for any one capital improvement, as defined in Article XI hereof, shall be made or authorized unless the amount thereof shall have been included in the annual budget or the expenditure had previously been approved at a referendum thereon.~~

~~Sec. 63. Capital improvement.~~

~~Capital improvement shall mean any physical public betterment or improvement and acquisition of any property of a permanent nature, including preliminary studies and surveys relating thereto and equipment for such improvement upon its erection or acquisition.~~

~~Sec. 64. Bonds.~~

~~Bonds. The city council may by resolution provide for the acquisition, construction, reconstruction, or other betterment, of any capital improvement and for the manner of payment therefor. The city council may by ordinance issue bonds of the city for the payment of all or any part of such costs, including reimbursement of any funds of the city used to pay any part thereof. Bonds may be issued for the payment of one or more capital improvements; provided that any referendum thereon shall permit a qualified elector to vote for or against each proposed improvement, or bonds thereof, separately. The bonds shall be payable in the manner prescribed in the ordinance and shall mature at the end of not more than thirty-one years from the date of issuance. The bonds shall bear interest at such rate or rates as shall be established by ordinance, not exceeding 6% per annum. They shall be issued in such denominations, not less than \$500 each, as the council may by ordinance determine and shall be signed by the mayor and attested by the city clerk, and sealed with the seal of the City of North Miami Beach. Coupons shall be attached thereto to evidence the installments of interest, which coupons shall be signed by the city clerk whose signature may be a facsimile.~~

~~Sec. 65.—Referendum. Before the issuance of any bonds, the bond ordinance shall have been approved by a majority of the votes cast in an election thereon. Such election shall be called by the city council pursuant to notice posted on the bulletin board at the city hall and published one time in a newspaper of general circulation in the City of North Miami Beach which publication shall be had not less than ten (10) nor more than twenty (20) days prior to the election, which election shall be held not less than thirty (30) nor more than ninety (90) days after the adoption of the ordinance. Provided, however, the provision relating to a referendum shall not apply to the issuance of any bonds for payment of the costs of any project approved in a referendum held at the time of the adoption of this provision; nor shall the provisions of this section apply to the issuance of any refunding bonds which refunding is independent of any additional financing or is in connection with one or more capital improvements approved in a referendum. And, provided, further, nothing in this section shall be construed as authorizing the issuance of any bonds contrary to the provisions of the Constitution of the State of Florida requiring freeholder elections.~~

Commented [SJ92]: Repealed by F.S 218.33 & F.S 166.241

Commented [SJ93]: Repealed by F.S 218.33 & F.S 166.241

Commented [SJ94]: Repealed limitation on expenditure for capital improvement invalid limit on authority granted by Fla. Const.

Commented [JS95]: Deleted MHRPA Fla. Stat. 166.021

Commented [JS96]: Obsolete, repealed per Fla. Stat. 166.021.

Sec. 66. — Sale and redemption of bonds. Bonds approved as herein provided may be sold by the city council at public or private sale, in the discretion of the council. If sold at public sale, the sale shall be made pursuant to advertisement published in a newspaper of general circulation in Dade County which publication shall be made once each week for three weeks, the sale to be had on a date and at a time fixed in the notice, not less than ten (10) days nor more than thirty (30) days from the date of the last publication. Such bonds shall be sold to the highest and best bidder for cash, but in any event at a price not less than ninety-seven per cent (97%) of face value plus accrued interest. If sold at private sale, the bonds shall be sold for cash at not less than face value plus accrued interest. Such bonds may, in the discretion of the city council, provide for redemption prior to maturity at par plus accrued interest. The interest and principal on such bonds shall be payable at some responsible bank or trust company designated by the city council as fiscal agent.

Sec. 67. — Taxes for payment of bonds. The city council shall levy an annual tax upon all the taxable property in the City of North Miami Beach sufficient to pay the principal of such bonds as they mature and interest on outstanding bonds.

Article XI. — Borrowing for Capital Improvements

Article XII. — Finance Department

Sec. 68. — Director of finance.

The city manager shall appoint a qualified director of finance who shall also be the city tax assessor and the city tax collector. The director of finance shall be the head of the finance department of the City of North Miami Beach. He shall perform such other duties and make such reports as the city council may require. He shall post such bond payable to the City of North Miami Beach conditioned upon the faithful performance of his duties, as the city council, upon recommendation of the city manager, shall require. The premium on such bond shall be deemed an expense of the City of North Miami Beach.

Sec. 69. — Reports.

In addition to the duties as may be prescribed herein, the director of finance shall submit monthly to the city manager a full and complete statement of all receipts and disbursements of the city. He shall maintain the accounts and financial records of the city.

Sec. 70. — Safekeeping of funds.

The director of finance shall collect all funds payable to the City of North Miami Beach and issue his receipt therefor. Moneys received by the finance director shall be deposited in such depository as shall have been selected by the city council. The deposit shall be made no later than the next banking day after the receipt of such funds by the finance director. The city council may insure funds received by the finance director against loss by fire, theft or other cause not covered in the bond of the director, in such reasonable amount as shall take into consideration the sums of money maintained in the office prior to deposit being made as herein required.

Sec. 71. — Depositories.

The city council shall designate one or more banks or trust companies doing business in Dade County as the depository or depositories of the funds of the City of North Miami Beach. Each depository shall give bond, or other security to be approved by the city council, securing the safekeeping of the funds of the city and the prompt payment of same upon demand. At the time of each deposit, the director of finance shall prepare an abstract showing the amount to be credited to each of the city funds herein authorized, and the depository shall

Commented [SJ97]: This is to be removed from the Charter and placed into the Code.

prepare deposit receipts in triplicate, two of which shall be delivered to the director of finance. One receipt shall, by the director of finance, be preserved for the use of the auditor appointed by the city council.

Sec. 72.—Warrants.

The director of finance shall issue all warrants for the payment of the just obligations of the city, signed by him and countersigned by the city manager, pursuant to vouchers certified as the city council may require. No warrant shall be issued unless an appropriation has been made therefor and there is money in the city treasury from which to make the payment.

Article XIXVII. - Public Utilities

Sec. 1087.1. - Water and Gas Works.

Commented [JS98]: Outside bond and election counsel have advised that this section should be retained in the Charter b/c of outstanding bonds.

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

Sec. 1097.2. - Revenue Bonds.

- A. ~~(a)~~ All such revenue bonds shall be authorized by ordinance adopted by the City Council of said City, may bear such date or dates, may mature at such time or times not exceeding thirty (30) years from their respective dates, may bear interest at such rate or rates not exceeding five per cent (5%) per annum payable semi-annually, may be in such form, may carry such registration privileges, may be executed in such manner, may be payable at such place or places, may be made subject to redemption in such manner and upon such terms with or without premium, may be authenticated in such manner and may contain such terms and covenants, all as may be provided in such ordinance.
- B. ~~(b)~~ The sale and award of such bonds shall be negotiated and made in such manner and upon such terms as may be prescribed by resolution of the City Council.
- C. ~~(c)~~ Notwithstanding the form or tenor thereof, and in the absence of an express recital on the face thereof that it is nonnegotiable, all such revenue bonds shall be negotiable instruments.
- D. ~~(d)~~ Each such ordinance may contain and express such covenants and undertakings on behalf of the City as may be deemed proper or advantageous by the City Council for the purpose of assuring efficient operation of said works and systems and for the purpose of requiring proper fixing, collecting and accounting and revenues from such operation and application of the necessary portions thereof to the payment of such revenue bonds; provided, that no lien upon any physical property of the City shall be created hereunder and payment of all such revenue bonds shall be secured by and payable solely from revenues to be derived from the operation of the particular works and system financed thereby.
- E. ~~(e)~~ The remedy for any breach or default of any such covenants or undertakings may be by mandamus proceedings in any court of competent jurisdiction to compel performance and compliance therewith, and by appointment of a receiver by any such court.

- F. ~~(f)~~ Under no circumstances shall any such revenue bonds be or become an indebtedness of the City within the meaning of any constitutional, statutory or charter limitations, and it shall be plainly stated on the face of each such revenue bond that it does not constitute such indebtedness but is payable solely from revenues of said works and systems.
- G. ~~(g)~~ The City is hereby further authorized and empowered in like manner to issue its refunding revenue bonds for the purpose of refunding at maturity or pursuant to redemption provisions, or at any time before maturity with the consent of the holders thereof, any outstanding revenue bonds which have theretofore been issued under the provisions of this article.

Sec. ~~1107.3~~ - Sinking fund.

- A. ~~(a)~~ The ordinance authorizing the issuance of any revenue bonds under the provisions of this article may provide for a sinking fund to pay the interest on and principal of such bonds out of the net revenues of said works and system, and may provide that out of said revenues remaining after the payment of the reasonable expenses of operation, repair and maintenance, a fixed amount or a fixed percentage of said net revenues shall be set aside into said sinking fund and into any reserve funds provided for by the ordinance at stated intervals, which shall be used and pledged for the payment of the interest upon such revenue bonds and the payment of retirement thereof at or prior to maturity, in the manner provided by the ordinance.
- B. ~~(b)~~ Provision may be made in and by such ordinance for the use, transfer or payment at stated intervals of all or any part of the balance of the net revenues after making the above prescribed payments into the sinking fund and reserve funds into a special fund to be available for and used for the payment of the principal and interest of the bonds authorized by such ordinance, for making any agreed tax equivalent payments to municipalities in which a part of said works and system may be located, or for any other corporate purpose of the City, in the manner and subject to such limitations as may be prescribed in the ordinance.
- C. ~~(c)~~ The City, acting through the City Council, is hereby further authorized and empowered to maintain, charge and collect in the area served by each of such works and systems reasonable and uniform rates to be determined exclusively by it for the services and facilities furnished and rendered by such works and system, and may readjust such rates or charges from time to time, but such rates or charges shall be fixed and maintained at all times so that the revenues from said works and system shall be sufficient for the payment of the proper and reasonable expenses of operation, repair, replacement and maintenance of said works and system, for the payment of the specified amounts into the sinking fund to pay or retire the principal of all revenue bonds that may be issued with respect to said system under the provisions of this article, for the payment of the amounts required by the ordinance authorizing such bonds into any reserve funds and otherwise to fulfill the terms and provisions of any agreements made with the purchasers or holders of any such bonds, and a reasonable return to said City upon the cost of said works and system, which shall never be less than the annual interest upon the full amount of revenue bonds originally issued with respect to said system.
- D. ~~(d)~~ Any person questioning the reasonableness or uniformity of any rate fixed by said City for such purposes may bring suit against the City in the circuit court of Dade County, which court shall have exclusive jurisdiction to determine the reasonableness and uniformity of such rates.

Sec. ~~1117.4~~ - Water Board.

- A. ~~(a)~~ The City of North Miami Beach, acting by and through the City Council, is authorized and empowered by ordinance to create a separate department or board to manage, control, operate and maintain said works

and system on behalf of the City, the members of which board shall consist of five persons designated and appointed by ordinance adopted by the City Council.

- B. ~~(b)~~ The presently existing Water Board shall be the Board as herein authorized.
- C. ~~(c)~~ Upon the expiration of the terms of any appointee, a successor shall be appointed by the Board with the consent and approval of the City Council for a term of two (2) years, and in the event of a vacancy for any cause at any time it shall be filled in like manner for the unexpired term. All appointments shall continue until the successors have qualified. Each person appointed to the board shall be a representative business or professional person, a bona fide owner of real property in the City, but no person holding an elective office of the City shall be eligible to appointment until at least one year following termination of his last elective office. Any member may be appointed to succeed himself, and may be removed and disqualified at any time by the affirmative vote of five members of the City Council, after being given an opportunity to be openly heard on the charges against him, and any member shall also be subject to recall and removal upon petition of the qualified voters in the same manner provided herein for the recall and removal of an elective officer of the City.
- D. ~~(d)~~ The members of the board shall receive such compensation as may be fixed from time to time by the City Council and all such compensation shall be paid monthly as an operating expense of said works and system; provided, however, that any member of the Board who may be employed as a manager, engineer, attorney, or other operating officer of said works and system shall not be entitled to receive additional compensation as a member of the Board.
- E. ~~(e)~~ The Board shall designate one of its members to act as its chairman and may select and designate a secretary and a treasurer or the same person may be selected and designated to perform the duties of secretary and treasurer. The Board shall have power to establish by-laws, rules and regulations for its own government and procedure and may make and enter into all contracts and agreements deemed necessary or incident to the performance of its duties and the execution of its powers; provided, however, that all contracts or obligations of the Board shall be payable solely from funds realized through the issuance of revenue bonds or through the collection revenues from said works and system.
- F. ~~(f)~~ The Board may employ by contract for a term of years, or otherwise, a general manager, engineer, attorney and other persons deemed necessary, any of which may be a member of the Board, and fix the duties and compensation thereof, as well as the compensation of the person or persons performing the duties of secretary and treasurer, and the Board may contract with and employ an experienced utility management corporation and fix its duties and compensation in the management and operation of said works and system consistent with this article and the ordinance or ordinances authorizing the issuance of revenue bonds payable from the revenues of said works and system.
- G. ~~(g)~~ The Water Board may, at its option, use the services of the City Attorney pursuant to such conditions as may be agreed upon between the Water Board and the City Council.
- H. ~~(h)~~ The Water Board is authorized, empowered and permitted to provide for life, health, accident and hospitalization or annuity insurance, or all of any kind of such insurance for the officers and employees thereof and their dependents, upon a group Insurance plan, and to that end to enter into agreements with insurance companies to provide such insurance. Upon the approval of any plan of insurance, the Water Board shall make same effective by resolution recorded in the minutes of the Board. Premiums payable by an employee may be deducted from the salary payable to such employee and remitted by the Water Board to the insurance company issuing such group insurance. The participation in such group insurance by an employee shall be voluntary at all times and any employee may withdraw from any such plan upon any pay day, upon written notice to the Water Board directing discontinuance of deductions from wages in payment of premiums.
- I. ~~(i)~~ Provisions may be made by ordinance adopted by the City Council for a pension plan for the benefit of employees engaged in the operation of said works and system, and the cost thereof shall be paid from the moneys of the surplus fund of said works and system.

- J. ~~(+)~~ So long as the management, control, operation and maintenance of said work and system invested in a separate board created under the provision of this article, the schedule of rates and charges for the services and facilities of said works and system shall not be reduced unless such reduction is first recommended by the board and approved by the City Council, but the Board and all persons or corporations employed by the Board shall at all times manage, control, operate and maintain said works and system, consistent and in accordance with the provisions of this article and with covenants and undertakings of the City as expressed in the proceedings for the issuance of the revenue bonds and in the ordinances adopted by the City Council specifying the powers and duties of the Board.
- K. ~~(*)~~ All revenues and other income of said works and system shall be collected and accounted for by the Board if there be one, and in such case the City Council may by ordinance provide that all or any particular class of disbursements of such revenues may be made upon order of the board and may require all such disbursements by the board for operation and maintenance be predicated upon an annual budget prepared by the Board and approved by the City Council.
- L. ~~(+)~~ Subject to covenants made with the holders of revenue bonds issued with respect to any system, all contracts and obligations of the board, extending or having a duration beyond twelve months, shall be approved by the City Council.
- M. ~~(+)~~ The City, acting by and through the City Council, is hereby further authorized and empowered in cooperation and conjunction with all or any of the other municipalities in which any part of said works and system is located, to create an advisory board to assist and cooperate in solving any problems and outlining matters of general policy and interest to consumers in all of the municipalities served by said works and system.

Sec. ~~1127.5~~ - Fiscal Agent.

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

Sec. ~~1137.6~~ - Sale of Utilities.

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

~~ARTICLE XIII~~ ARTICLE VIII - DEPARTMENT OF PERSONNEL - Civil Service Board; Pensions.

~~Sec. 73.~~ Director.

~~The city council shall establish a department of personnel, the director of which may be the city manager, or the city manager may appoint a qualified person as such director.~~

~~Sec. 74.~~ Duties.

~~The department of personnel shall maintain records relating to the employees of the City of North Miami Beach, including qualifications, employment classification, salary, leave and attendance and such other information as the city manager or the city council may require. It shall provide for the giving of examinations or other determination of qualifications as herein provided, and shall make periodic reports as may be required by the city manager, the city council or the civil service board. The department shall administer the provisions of the civil service system of the City of North Miami Beach.~~

~~Sec. 75.~~ Civil service.

~~The civil service of the City of North Miami Beach shall be divided into the classified and the unclassified service. The unclassified service shall consist of the city manager and one secretary of his choosing, heads of departments herein provided, or as hereafter created by the city council, the city attorney, the city auditor appointed by the city council, all elected officials, members of appointive boards, and employees of the legal department; provided, however, that employees of the legal department, other than the city attorney, may be included in the classified service by and with the consent of the city council. All other employees of the city shall be members of the classified service. Department heads, other than those persons to be selected by the city council as herein authorized, shall be appointed by the city manager. For the first six (6) months any such appointment shall be provisional only and thereafter department heads shall be appointed for one year and may be reappointed for successive periods of one year each during which time they shall be removable only for cause. Provided, however, a city manager and a department head who has served the City of North Miami Beach as such for a period of five (5) or more years at the time of any reappointment hereunder shall be reappointed for a term of two (2) years during which time he may be removed only for cause, notwithstanding the provisions of section 32 of this Charter.~~

~~Sec. 76.~~ Classified service.

~~The classified service shall be divided into a competitive class, a noncompetitive class and a labor class. The competitive class shall include all positions and employment for which it is practicable to determine the relative fitness of applicants by competitive examination. The noncompetitive class shall consist of all positions requiring peculiar and exceptional qualifications of a scientific, managerial, professional, or educational nature as determined by the rules of the civil service board. The labor class shall consist of ordinary unskilled labor. Any person promoted from classified service to the position of department head shall maintain all of his rights under civil service and retain the highest rating achieved by him prior to such promotion, and shall be entitled to reemployment at such rating upon ceasing to be a department head, unless removed for cause authorizing removal under civil service.~~

~~Sec. 77~~ Sec. 8.1. - Civil Service Board - Created.

There shall be a Civil Service Board composed of seven (7) members selected as herein provided. The Board shall make and adopt reasonable rules and regulations governing the administration of civil service of the City of North

Commented [JS99]: Renamed and numbered to Article VIII from Article XIII.

Commented [JS100]: Charter provisions pertaining to City Departments (except Police Department and City Attorney) moved to City Code.

Commented [A101]: . Moved to City Code.

Commented [A102]: . Moved to City Code.

Miami Beach, including but not limited to, provision for appointments to the classified service, suspension, removal, leave, merit rating, promotion, demotion, appeals and other such matters as the Board may deem necessary to the operation of the civil service. ~~The board shall provide for the giving of examinations and for promotions based on records or merit, ability, efficiency, character, conduct and seniority.~~ Rules and regulations adopted by the Board shall be submitted for approval by the City Council. If approved, the rules and regulations shall become effective immediately or as otherwise provided therein. Should the City Council object to any rule or regulation, such objection shall be stated in writing and the rule or regulation shall be returned to the Board together with the objections of the City Council for further consideration of the Board. The Board shall revise such rules or regulations and resubmit same for approval of the City Council. Should the City Council again refuse to approve same, it shall not become effective. All rules and regulations must receive final approval by the City Council before becoming effective. The Board shall provide a method of selection of personnel to the noncompetitive classified service based on qualifications relating to education, experience, character and such other factors as the Board may by regulation determine.

~~See 78--~~ **Sec. 8.1.1 Composition of Board.**

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

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

~~(c) The chief examiner shall be chosen by the members of the civil service board from among the members of the board, excluding the employee representatives. The term of the chief examiner shall be one year commencing on May 1 of each year. Should a vacancy occur in the chief examiner's position prior to the expiration of a term, the board shall make an appointment for the balance of that term. Should an appointment be made for a period of less than nine months, the chief examiner shall be eligible for reappointment for the succeeding one year term. If the chief examiner serves for a period of nine months or more, he or she shall not be eligible for reappointment as chief examiner for a succeeding term.~~

~~See 79--~~ **Sec. 8.1.2 Appeals.**

Pursuant to regulations of the Board, the City Manager may suspend, demote or otherwise discipline any employee in the classified service, except employees in the legal department, who may be disciplined by the City Attorney. Such action shall be for cause only as specified in writing and delivered to the employee. Within thirty (30) days of such action, the employee may appeal the action of the City Manager or the City Attorney to the Civil Service Board and a hearing shall be afforded by the Board within ~~fifteen (15)~~ thirty (30) days from the taking of the appeal, unless further time be requested by the employee and allowed by the Board. The Board shall review the causes for such action and if the charges, in the opinion of the Board, be sustained as sufficient and established, action shall be affirmed.

If the charges shall be deemed insufficient or unfounded, the employee shall be reinstated with no loss of pay or other rights. The Board shall have the power to issue subpoenas to witnesses, require the production of books and other records and administer oaths to persons testifying in any proceedings hereunder. The provisions of this section shall apply to matters of demotion, salary decrease or any other matter concerning which an employee may feel himself aggrieved. The Board shall have the power to modify any decision of the City Manager or City Attorney and impose such punishment for violation of its rules as may be in such ruler provided. ~~The board shall have the power to punish for contempt committed in its presence, which power may be enforced in the county court as for a violation of a city ordinance.~~

~~Sec. 80. — Political activity:~~

~~No person in the classified service, or seeking admission thereto, shall be appointed, promoted, demoted, removed, or in any way favored or discriminated against because of political opinion or affiliation. No officer or employee of the city shall directly or indirectly solicit or receive any assessment, subscription or contribution for any candidate for political office in the City of North Miami Beach. No person holding a position in the classified service shall take part in any political campaign for election to office in the City of North Miami Beach in any manner whatsoever, other than to cast his vote or express privately his opinion. Provided, however, the provisions of this section shall not apply to elected officials of the City of North Miami Beach.~~

Commented [A103]: Moved to City Code.

~~Sec. 81. Sec. 8.2 - Pensions.~~

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

~~Article XIV. — Department of Recreation~~

~~Sec. 82. — Recreation director.~~

~~The city council shall create a recreation department for the City of North Miami Beach. The city manager, subject to the provisions relating to personnel, shall appoint a director of the department of recreation.~~

Commented [SJ104]: This shall be removed from the Charter and placed into the Code.

~~Sec. 83. — Duties and functions.~~

~~The recreation department shall be responsible for the administration of the public parks, beaches, playgrounds, nursery schools, day schools and other recreational facilities provided for the health, comfort, and convenience of the citizens of the City of North Miami Beach, in accordance with such regulations or ordinances as the city council in its discretion may adopt.~~

~~Sec. 84. — Budget.~~

~~Upon its creation, adequate provision shall be made by the city council in the annual budget for the maintenance of the department of recreation.~~

~~Sec. 85. Personnel.~~

~~The director and other employees of the department of recreation shall have such qualifications as shall be established by the civil service board of the City of North Miami Beach.~~

~~Article IX XV. - Police and Fire Departments~~

~~See Sec. 869.1. - Police Department.~~

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

~~Sec. 879.1.1. - Personnel.~~

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

~~Sec. 889.1.2. - Functions.~~

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

~~Sec. 899.1.3. - Powers.~~

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

~~Sec. 90. Fire department.~~

~~The city council may provide for the creation, operation, and maintenance of a fire department for the City of North Miami Beach. The fire chief shall be head of the department. He shall be appointed by the city manager.~~

~~Sec. 91. Powers.~~

~~The fire chief and the fire department shall have such powers relating to fire prevention, fire detection and the fighting of fires anywhere in the City of North Miami Beach, or in adjacent areas threatening the safety and well being of the citizens of the City of North Miami Beach, as the city council may by ordinance provide.~~

~~Sec. 92. Fire department budget.~~

~~The city council, in the annual budget, shall make adequate provision for the maintenance of the fire department, in accordance with recommendations of the city manager.~~

~~Article XVII. - Public Works~~

~~Sec. 97. Department created.~~

~~There is created a department of public works of the City of North Miami Beach, to be headed by a director selected by the city manager in the same manner as other department heads, and possessing the same rights and privileges granted department heads in this charter.~~

Commented [SJ105]: The section for the Police Dept is being kept in the Charter at the recommendation of the City Manager and Attorney- the Fire Department shall be moved and placed into the City Code.

Commented [JS106]: Fire Department moved into City Code.

Commented [JS107]: Moved to City Code-Public Works.

~~Sec. 98. — Functions.~~

~~The department of public works shall be responsible, subject to the powers of the city manager, for trash and garbage collection, street maintenance and repair, maintenance of public alleys and bridges, and such other functions as the city council may authorize by resolution, ordinance, or in the annual budget.~~

~~Sec. 99. — Council to provide funds.~~

~~The city council shall make adequate provision in the annual budget for the operation of the department of public works.~~

~~Sec. 100. — Reserved.~~

~~Article Xv. -- Transition~~ Article X, Effective Date, Preservation of Rights and Obligations, etc.

Sec. 10.1 Effective Date.

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

~~Sec. 114.~~ Sec. 10.2 -- Ordinances Preserved.

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

Sec. 10.3 Officers, Employees and Agents.

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

Sec. 10.4 Repeal of Former Charter Provisions.

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

Commented [A108]: Confirm with City Clerk.

Sec. 10.5 Debts, Contracts and Assessments Preserved.

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

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

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

All ordinances of the City of North Miami Beach in effect as of the date of the adoption of this charter shall remain in full force and effect, except to the extent that same conflict with the provisions of this charter, until changed by the city council in the manner provided herein.

~~Sec. 115. -- Reserved.~~

~~Sec. 116. -- Zoning.~~

All zoning regulations of North Miami Beach shall remain in effect until superseded by the planning and zoning and building codes herein provided.

~~Sec. 117. -- Civil service.~~

~~The civil service board and regulations thereof shall remain in effect until the new board shall have been chosen as herein provided and new regulations promulgated as herein required.~~

Sec. ~~118~~10.7. - Severability.

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

~~It is hereby declared to be the intent of the people of the City of North Miami Beach to establish for themselves and their posterity an efficient and responsive form of government in the manner herein prescribed. If any article, section, clause or phrase of this charter, or if the application of any provision hereof to any person or class, is declared to be unconstitutional or otherwise void, it shall not affect other articles, sections, clauses or phrases of this charter, or the application of any provision hereof to other persons or classes, it being the intent of the people to adopt this charter without any such unconstitutional provisions.~~

~~Secs. 119, 120. -- Reserved.~~

Sec. ~~121~~10.8. - Charter Review.

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

~~Sec. 122. -- Effective date.~~

~~This charter shall become effective sixty (60) days after its adoption by the people of the City of North Miami Beach.~~

~~[This Charter became effective on March 9, 1958.]~~