ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING THE CHARTER OF THE CITY OF NORTH MIAMI, PURSUANT TO SECTIONS 166.021 AND 166.031, FLORIDA STATUTES, AND SECTION 6.03, MIAMI-DADE COUNTY CODE OF ORDINANCES, AND IN ACCORDANCE WITH THE COMPREHENSIVE REVIEW AND RECOMMENDATIONS OF THE CITY OF NORTH MIAMI CHARTER REVIEW BOARD, TO UPDATE AND CLARIFY SECTIONS OF THE CITY CHARTER BY PROVIDING NON-SUBSTANTIVE STYLISTIC AND ORGANIZATIONAL CHANGES, INCLUDING STATUTORY REFERENCES, CONSISTENT USAGE OF NAMES, TERMS AND REFERENCES, GENDER DIVERSITY, AND FOR CORRECTIONS OF SCRIVENER'S ERRORS AND REDUNDANT LANGUAGE; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of North Miami ("City") Charter is the supreme legal document of the City, serving as a framework of laws and principles that establish the function, nature, offices, powers, and limits of City government, as prescribed by the Florida Constitution; and

WHEREAS, recent memory may not reveal the last time the City Charter was comprehensively reviewed, as a majority of the provisions were adopted in 1958 and which today remain stagnant, increasingly obscured and obsolete; and

WHEREAS, there is a vital need to update the City Charter by ordinance in accordance with Section 6.03, Miami-Dade County Code of Ordinances and Section 166.021, Florida Statutes; and

WHEREAS, the Office of the City Attorney, in conjunction with City of North Miami Charter Review Board, recommend a number of non-substantive stylistic, organizational and technical changes without the requirement of a referendum, which if approved by the Mayor and City Council, is bound to greatly improve the clarity, effectiveness, understanding, and the relevancy of the City Charter to all concerned; and

WHEREAS, the Mayor and City Council have weighed and considered the information, recommendations and comments from City administration, the Charter Review Board, City

residents and other interested parties, many of which participated in the Charter Review Workshop held on November 19, 2012; and

WHEREAS, the Mayor and City Council have determined that the proposed amendments to the City Charter preserve and enhance the spirit of the City Charter, and find that the adoption of the proposed amendments will induce positive results to the health, safety and welfare of all City residents and business community.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, THAT:

Section 1. Amendment to City of North Miami Charter. The Mayor and City Council of the City of North Miami, Florida, hereby amend the Charter of the City of North Miami, pursuant to Sections 166.021 and 166.031, Florida Statutes, and Section 6.03, Miami-Dade County Code of Ordinances, and in accordance with the comprehensive review and recommendations of the City of North Miami Charter Review Board, to update and clarify sections of the City Charter by providing non-substantive stylistic and organizational changes, including statutory references, consistent usage of names, terms and references, gender diversity, and for corrections of scrivener's errors and redundant language, as follows:

** * * * ** * * * *

~~**PART I**~~

CHARTER OF THE CITY OF NORTH MIAMI

ARTICLE I. ~~IN~~ GENERAL

Sec. 1. Preamble.

The citizens of the City of North Miami, in order to protect the health, welfare and safety of its residents, and promote honorable, efficient and responsive government, hereby adopt this charter amending, replacing and superseding all of its former charters, in accordance with the Constitution and laws of the State of Florida.

Sec. ~~194~~ 2. Effect of this charter on existing law.

(a) All laws and parts of laws relating to or affecting the City of North Miami in force when this charter shall take effect are hereby repealed and superseded to the extent that the same are inconsistent with the provisions of this charter.

(b) Insofar as the provisions of this charter are the same in terms or in substance and effect

as provisions of law in force when this charter shall take effect, relating to or affecting the City of North Miami, the provisions of this charter are intended to be not a new enactment but a continuation of such provisions of law, and this charter shall be so construed and applied.

Sec. ~~196~~ 3. Severability clause.

If any section or part of section of this charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this charter nor the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

Sec. ~~196.1~~ 4. Construction of gender.

The use of masculine or feminine gender throughout the charter is used only for stylistic convenience, and is to be interpreted as including the female gender as well as the masculine gender.

Sec. ~~1~~ 5. Incorporation.

There is hereby created, ~~within the territorial limits as hereinafter fixed,~~ a municipal corporation to be known as the City of North Miami.

Sec. ~~2~~ 6. Form of government.

The municipal government provided by this ~~Charter~~ charter shall be known as the "council-manager government." Pursuant to its provisions and subject only to the limitations imposed by the state Constitution and by this ~~Charter~~ charter, all powers of the city shall be vested in an elective council~~, hereinafter referred to as "the council," which shall enact local legislation, adopt budgets, determine policies, and appoint the city manager, who shall execute the laws and administer the government of the city. All powers of the city shall be exercised in the manner prescribed by this Charter, or if the manner be not prescribed, then in such manner as may be prescribed by ordinance~~.

~~**Sec. 3. Powers of the city.**~~

~~(a) The city shall have all the powers granted to municipal corporations and to cities by the Constitution and general laws of the state, together with all the implied powers necessary to carry into execution all the powers granted. The city may acquire property within or without its corporate limits for any city purpose, in fee simple or any lesser interest or estate, by purchase, gift, devise, lease or condemnation, and may sell, lease, mortgage, hold, manage, and control such property as its interests may require. No property of the city shall be sold for less than ninety (90) percent of the appraised value of the property as determined by a city secured MAI appraisal. Except as prohibited by the Constitution of this State or restricted by this Charter, the city shall and may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever. The enumeration of particular powers by this Charter shall not be deemed to be exclusive, and in addition to the powers enumerated therein or implied thereby, or appropriate to the exercise of such powers, it is intended that the city shall have and~~

~~may exercise all powers, which, under the Constitution of this State, it would be competent for this Charter specifically to enumerate.~~

~~(b) Said city shall have and is granted the rights and powers:~~

~~(1) To establish, lay out, open, grade, pave, curb, widen, maintain, and keep clean and sanitary, and otherwise improve and to abandon or vacate, streets, alleys, bridges, sidewalks, parks, parkways, promenades, and other public places and ways.~~

~~(2) To prevent obstructions in and regulate travel, trade and traffic in, over or upon any or all such ways including the power to regulate the weight, equipment, operation and speed of engines, trains, motor and other vehicles operating in or through the city.~~

~~(3) To require any and all wires, pipes and other facilities to be placed and maintained underground.~~

~~(4) To require carriers to install and maintain at their expense adequate warning lights, gates and signals or watchmen, where deemed necessary.~~

~~(5) To exercise all powers, the object of which is to promote the public health, public safety, public morals and public welfare; and no ordinance enacted hereunder shall be held to be void unless plainly shown to be unrelated to such ends.~~

~~(6) To license upon such terms and conditions as the council may from time to time determine, and to tax, regulate, or prohibit within the city, such businesses, professions, pursuits, occupations and devices as the council may from time to time designate by ordinance.~~

~~a. To license, tax and regulate carriers;~~

~~b. To license and, for revenue or regulation, to tax businesses, professions and occupations generally, including nonprofit corporations;~~

~~c. To collect and enforce all licenses, excise, privilege and regulatory or revenue taxes in general by levy and sale under a collector's warrant, property used in the business, profession, or occupation or owned by the person, firm or corporation, subject to such tax or excise, such levy and sale to be made in such manner and after such notice as the council may prescribe.~~

~~(7) To impose and collect special taxes or assessments for the use of streets, collection of garbage, and for other privileges and protection, including police and fire protection, and to impose such taxes per capita, or by dwellings, or otherwise, and to classify persons and properties by residences, locations, or otherwise, for the assessment of such taxes or special assessments, provided that the rates of such taxes or special assessment[s], shall be uniform and equal against all persons and properties in the respective classes and under substantially the same circumstances.~~

~~(8) Subject to the provisions in Article I, Section 3(a) to acquire operate, mortgage, lease, sell or otherwise dispose of all kinds of public improvements, conveniences and facilities, including:~~

~~a. Sanitary and storm sewers;~~
~~b. A water system;~~
~~c. Fire prevention and extinguishing equipment;~~
~~d. Facilities for furnishing light, power, heat and refrigeration (to the inhabitants, either by electricity, gas or other means);~~
~~e. Buildings for City of North Miami offices and administration;~~
~~f. Public markets;~~
~~g. Incinerators;~~
~~h. Dumping grounds;~~
~~i. Auditoriums;~~
~~j. Amphitheaters;~~
~~k. Parks;~~
~~l. Playgrounds;~~
~~m. Golf courses;~~
~~n. Athletic and recreational fields;~~
~~o. Parking lots;~~
~~p. A public library, (according to the provisions of the general law as contained in Sections 167.30 to 167.39 inclusive of Florida Statutes 1941).~~

~~(9) To enact ordinances defining offenses against the city and to provide the punishments therefor, but in such cases, the maximum fine to be imposed shall not exceed five hundred dollars ($500.00), and imprisonment shall not exceed sixty (60) days.~~

~~(10) To levy, assess and collect such general and special taxes on all property within the city, and such special assessment for special or local improvements, and such excise and privilege taxes, as shall be lawful for carrying out the purpose and powers of the city, provided that no taxes in excess of two (2) mills shall be levied for the benefit of a public library.~~

~~(11) To adopt group insurance plans affording such coverage to such officers and employees of the city as the council may authorize by ordinance and to participate therein by contributing to the payment of premiums from any moneys appropriated and to such extent as may be authorized by the city council in the ordinance adopting such plan or plans.~~

Sec. 4~~-7~~. Boundaries.

The corporate limits of the City of North Miami in Miami-Dade County, Florida are hereby fixed, defined and established so as to include the following lands and territories in said County of Miami-Dade in the State of Florida, to wit:

~~[~~The boundary description of the city, which may be amended from time to time, is not printed herein, but is on file in the city clerk's office.~~]~~

Sec. ~~3~~ 8. Powers of the city.

(a) The city shall have all the powers granted to municipal corporations and to cities by the Constitution and general laws of the state, together with all the implied powers necessary to carry into execution all the powers granted. The city may acquire property within or without its corporate limits for any city purpose, in fee simple or any lesser interest or estate, by purchase, gift, devise, lease or condemnation, and may sell, lease, mortgage, hold, manage, and control such property as its interests may require. No property of the city shall be sold for less than ninety (90) percent of the appraised value of the property as determined by a city secured MAI appraisal. Except as prohibited by the Constitution of this state or restricted by this charter, the city shall and may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever. The enumeration of particular powers by this charter shall not be deemed to be exclusive, and in addition to the powers enumerated therein or implied thereby, or appropriate to the exercise of such powers, it is intended that the city shall have and may exercise all powers, which, under the Constitution of this state, it would be competent for this charter specifically to enumerate.

(b) Said city shall have and is granted the rights and powers:

(1) To establish, lay out, open, grade, pave, curb, widen, maintain, and keep clean and sanitary, and otherwise improve and to abandon or vacate, streets, alleys, bridges, sidewalks, parks, parkways, promenades, and other public places and ways.

(2) To prevent obstructions in and regulate travel, trade and traffic in, over or upon any or all such ways including the power to regulate the weight, equipment, operation and speed of engines, trains, motor and other vehicles operating in or through the city.

(3) To require any and all wires, pipes and other facilities to be placed and maintained underground.

(4) To require carriers to install and maintain at their expense adequate warning lights, gates and signals or watchmen, where deemed necessary.

(5) To exercise all powers, the object of which is to promote the public health, public safety, public morals and public welfare; and no ordinance enacted hereunder shall be held to be void unless plainly shown to be unrelated to such ends.

(6) To license upon such terms and conditions as the council may from time to time determine, and to tax, regulate, or prohibit within the city, such businesses, professions, pursuits, occupations and devices as the council may from time to time designate by ordinance.

a. To license, tax and regulate carriers;

b. To license and, for revenue or regulation, to tax businesses, professions and occupations generally, including nonprofit corporations;

c. To collect and enforce all licenses, excise, privilege and regulatory or revenue

taxes in general by levy and sale under a collector's warrant, property used in the business, profession, or occupation or owned by the person, firm or corporation, subject to such tax or excise, such levy and sale to be made in such manner and after such notice as the council may prescribe.

(7) To impose and collect special taxes or assessments for the use of streets, collection of garbage, and for other privileges and protection, including police and fire protection, and to impose such taxes per capita, or by dwellings, or otherwise, and to classify persons and properties by residences, locations, or otherwise, for the assessment of such taxes or special assessments, provided that the rates of such taxes or special assessment[s], shall be uniform and equal against all persons and properties in the respective classes and under substantially the same circumstances.

(8) Subject to the provisions in Article I, Section 8(a) to acquire operate, mortgage, lease, sell or otherwise dispose of all kinds of public improvements, conveniences and facilities, including:

a. Sanitary and storm sewers;

b. A water system;

c. Fire prevention and extinguishing equipment;

d. Facilities for furnishing light, power, heat and refrigeration (to the inhabitants, either by electricity, gas or other means);

e. Buildings for City of North Miami offices and administration;

f. Public markets;

g. Incinerators;

h. Dumping grounds;

i. Auditoriums;

j. Amphitheaters;

k. Parks;

l. Playgrounds;

m. Golf courses;

n. Athletic and recreational fields;

o. Parking lots;

p. A public library, (according to the provisions of the general law as contained in Sections 167.30 to 167.39 inclusive of Florida Statutes 1941).

(9) To enact ordinances defining offenses against the city and to provide the punishments therefor, but in such cases, the maximum fine to be imposed shall not exceed five hundred dollars ($500.00), and imprisonment shall not exceed sixty (60) days.

(10) To levy, assess and collect such general and special taxes on all property within the city, and such special assessment for special or local improvements, and such excise and privilege taxes, as shall be lawful for carrying out the purpose and powers of the city, provided that no taxes in excess of two (2) mills shall be levied for the benefit of a public library.

(11) To adopt group insurance plans affording such coverage to such officers and employees of the city as the council may authorize by ordinance and to participate therein by contributing to the payment of premiums from any moneys appropriated and to such extent as may be authorized by the city council in the ordinance adopting such plan or plans.

ARTICLE II. CITIZENS' BILL OF RIGHTS

Sec. ~~211~~ 9. Citizens' Bill of Rights.

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

1. *Convenient access.* Every person has the right to transact business with the city with a minimum of personal inconvenience. It shall be the duty of the city manager and the city council to provide, within the city's budget limitations, reasonably 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 and resolutions 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 shall prohibit the city or any agency 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 Office of the City Attorney of the city nor 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 a 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. *Managers' and attorneys' reports.* The city manager and city attorney shall periodically make a public status report on all major matters pending or concluded within their respective offices, except as to any matters which may be privileged, pursuant to law.

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, the purposes and the estimated cost of each department.

12. *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.

13. *Representation of public.* The city council shall endeavor to provide representation at all proceedings significantly affecting the city and its residents before state, federal or county regulatory bodies.

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

(c) Remedies for violations. In any suit by a citizen alleging a violation of this Bill of Rights filed in 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 such 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 ~~II~~ III. THE COUNCIL

Sec. ~~5~~ 10. Number; selection; term.

(1) The ~~City~~ city shall be governed by a mayor and city council. The council shall consist of four (4) ~~councilpersons~~ councilmembers and a mayor. Four (4) single member districts shall be created for the election of four (4) ~~councilpersons~~ councilmembers, with such districts to be determined by ~~City~~ city ordinance.

(2) Each candidate for council shall run in one (1) of four (4) districts designated as Districts 1, 2, 3, and 4. The mayor shall be elected at large. The terms of the ~~councilpersons~~ councilmembers shall end on the fourth Tuesday of May of the fourth year of their term or when their successors in office are elected and sworn into office beginning with the election in 2013.

(3) On the second Tuesday in May of each odd-numbered year, two (2) ~~councilpersons~~ councilmembers shall be elected for a four-year term. No ~~councilperson~~ councilmember including the ~~Mayor~~ mayor shall serve more than two (2) consecutive terms beginning with the election in 2013. The mayor shall be elected for a two-year term. Service will be deemed consecutive unless there is a two-year period during which the individual does not serve as ~~Council Member~~ councilmember or ~~Mayor~~ mayor ("Break in Service"). Any person serving the maximum amount of years as ~~Mayor~~ mayor must have a two-year Break in Service before serving as ~~Council Member~~ councilmember. Any person serving the maximum amount of years as ~~Council Member~~ councilmember is not mandated to have a two-year Break in Service before

serving as ~~Mayor~~ mayor. A ~~councilperson~~ councilmember candidate must continuously reside in the district for which the candidate is seeking election for a period of one (1) year prior to the time of qualification and thereafter. A ~~councilperson~~ councilmember who changes residence to a location outside of the district shall immediately vacate such office, and such vacancy shall be filled pursuant to this ~~Charter~~ charter. The mayor shall not serve as mayor for more than two (2) consecutive terms and must be a continuous resident of the ~~City~~ city for one year prior to the time of qualification and thereafter. ~~Councilpersons~~ Councilmembers serving an unexpired term who desire to run for the office of mayor or in another district shall resign as required by ~~State~~ state law. Whenever the term council or ~~councilperson~~ councilmembers is used in this ~~Charter~~ charter, it shall be deemed to mean and include the mayor unless otherwise specifically provided.

Sec. ~~6~~ 11. Qualifications.

~~Councilmen~~ Councilmembers and mayor shall be qualified electors of the city and shall hold no other elective public office. If a ~~councilman~~ councilmember or mayor shall cease to possess any of these qualifications or shall be convicted of crime involving moral turpitude, his office shall immediately become vacant.

Sec. ~~7~~ 12. ~~Salary.~~ Compensation.

~~The mayor shall receive the sum of three hundred and fifty dollars ($350.00) per month and each councilman shall receive three hundred dollars ($300.00) per month. The mayor and councilmen shall receive actual expenses incurred in the performance of their duties of office, providing they are reasonable and necessary.~~ The city council determines the annual salary of the mayor and councilmembers by resolution and cannot exceed the budgeted amount. Business expenses must be in the annual budget and cannot exceed the budgeted amount unless there is good cause shown.

Sec. ~~8~~ 13. Presiding officer; mayor.

The mayor shall preside at the meetings of the council and shall be recognized as the head of the city government for all ceremonial purposes and by the governor for purposes of military law, and shall have a voice and vote in the proceedings of the council, but shall have no regular administrative duties. The council shall elect a~~n assistant~~ vice-mayor who shall act as mayor during the absence or disability of the mayor. The ~~assistant~~ vice-mayor shall be elected from among the ~~councilmen~~ councilmembers.

Sec. ~~9~~ 14. Powers.

All powers of the city and the determination of all matters of policy shall be vested in the council. Without limitation of the foregoing, the council shall have power to:

(1) Appoint and remove the city manager;

(2) Establish other administrative departments and distribute the work of divisions;

(3) Adopt the city budget;

(4) Authorize the issuance of bonds by a bond ordinance;

(5) Inquire into the conduct of any office, department or agency of the city and make investigations as to municipal affairs;

(6) Appoint such boards as may be necessary to perform the duties of this ~~Charter~~ charter;

(7) Adopt plats;

(8) Adopt and modify the official map of the city;

(9) Regulate and restrict the height and number of stories of buildings and other structures, the size of yards and courts, the density of populations and the location and use of buildings for trade, business, residence or other purpose in total conformity with the Comprehensive Plan, as may be amended from time to time.

(10) Provide for safe and sanitary housing accommodations for families of low income;

(11) Create a housing authority;

(12) Adopt, modify and carry out plans proposed by the planning commission for the clearance of slum districts and rehabilitation of blighted areas;

(13) Adopt, modify and carry out plans proposed by the planning commission for the replanning, improvement and redevelopment of any area or district which may have been destroyed in whole or in part by disaster;

(14) Provide for an independent audit;

(15) The council shall have and exercise all powers of the city not specifically conferred upon other officers and employees. It may delegate any powers except the power to fix the rate of taxes, enact ordinances and resolutions, adopt a budget and tax roll, or appropriate money;

(16) The council shall have the power of granting franchises for public utilities by ordinance.

~~**Sec. 10. Appointment of city manager.**~~

~~The council shall appoint an officer of the city who shall have the title of city manager and who shall have the powers and perform the duties in this Charter provided. No councilman or member of the charter board shall receive such appointment during the term which he shall have been elected nor within two (2) years after the expiration of his term of office.~~

~~**Sec. 11. Removal of city manager.**~~

~~The council shall appoint the city manager for an indefinite term and may remove him by a majority vote of its members. At least thirty (30) days before such removal shall become effective, the council shall by a majority vote of its members adopt a preliminary resolution stating the reasons for his removal. The manager may reply in writing and may request a public hearing, which shall be held not earlier than twenty (20) days nor later than thirty (30) days after the filing of such request. After such public hearing, if one be requested, and after full consideration, the council by majority vote of its members may adopt a final resolution of removal. By the preliminary resolution the council may suspend the manager from duty, but shall in any case cause to be paid him forthwith any unpaid balance of his salary and his salary for the next three (3) calendar months following the adoption of the preliminary resolution.~~

~~**Sec. 12. Council not to interfere in appointments or removals.**~~

~~Neither the council nor any of its members shall direct or request the appointment of any person to, or his removal from, office by the city manager or by any of his subordinates, or in any manner take part in the appointment or removal of officers and employees in the administrative service of the city. Except for the purpose of inquiry, the council and its members shall deal with the administrative services solely through the city manager and neither the council nor any member thereof shall give orders to any subordinates of the city manager, either publicly or privately. Any councilman violating the provisions of this section, or voting for a resolution or ordinance in violation of this section, shall be guilty of a misdemeanor and upon conviction thereof shall cease to be a councilman.~~

Sec. ~~13~~ 15. Vacancies ~~in~~ on the council.

~~Vacancies in the council shall be filled as hereafter provided in this Charter.~~

Vacancies on the council shall be filled for the remainder of the unexpired term of the councilmember whose seat becomes vacant in the following manner:

(1) If the vacancy occurs because of resignation by a councilmember who is seeking other elective office, the election for which office includes the electors of the City of North Miami, such councilmember must file a written resignation with the city clerk at least ten (10) days prior to the earliest qualifying date for such other elective office (the resignation to become effective upon a successor's being sworn into office) and a successor shall be elected in the same election with qualifying concurrent with the qualifying dates of the office sought by the resigning councilmember.

(2) All other vacancies shall be filled in the next election being held in the City of North Miami whether a city election or general election if the election occurs more than forty-five (45) days and less than one hundred twenty (120) days after the occurrence of the election vacancy. Otherwise, any vacancy on the city council shall be filled by majority vote of the remaining members of the city council within sixty (60) days after the occurrence of the vacancy, or the city council may notify the city clerk or deputy city clerk to call a special election, in no less than sixty (60) days more than one hundred twenty (120) days after the occurrence of the vacancy. The person appointed to fill the office vacated must at the time of appointment be a qualified elector of the City of North Miami as required in Article II, Section 5 of the city charter. A person appointed shall serve only until the next election, whether regular city council election, special city election or any county-wide or general election. A person so elected shall serve for the remainder of the unexpired term of office.
(2) If the office of a councilmember becomes vacant on or before the councilmember has served one half of his or her term plus one day, a special election shall be held within sixty (60) days to fill the vacancy for the balance of the term. If the office of a councilmember becomes vacant more than one half of his or her term plus one day after the councilmember takes office, then the remaining members of the council shall choose a successor and such appointee shall fill the vacancy for the balance of the term.

(3) In accordance with subsection 171 (1) or (2), if a vacancy is to be filled at other than a regular city election, and the city clerk certifies that the city candidates cannot be included

on the ballot, then the vacancy shall be filled as provided in subsection (2) as though there were no other election being held.

(4) Nominations and the conduct of the election shall be as otherwise provided in this charter and by law, and notice of election shall be posted in the city hall and published in a newspaper of general circulation in the City of North Miami once a week for four (4) consecutive weeks preceding the holding of the election.

Sec. ~~14~~ 16. Creation of new departments or offices; changes of duties.

The council by ordinance may create, change, and abolish offices, departments or agencies, other than the offices, departments and agencies established by this ~~Charter~~ charter. The council by ordinance may assign additional functions or duties to offices, departments or agencies established by this ~~Charter~~ charter, but may not discontinue or assign to any other office, department or agency any function or duty assigned by this ~~Charter~~ charter to a particular office, department or agency.

~~**Sec. 15. Reserved.**~~

~~**Sec. 16. Induction of council into office; meetings of council.**~~

~~The first meeting of each newly elected council for induction into office shall be held at 7:00 o'clock in the evening on the second Tuesday next following the general election (the first Tuesday after the runoff, if any) after which the council shall meet regularly at such times as may be prescribed by ordinance, but no less frequently than once each month. All meetings of the council shall be open to the public. No council meeting shall be held on the day or evening of a general city election nor of a city runoff election, if any.~~

~~**Sec. 17. Council to be judge of qualifications of its members.**~~

~~The council shall be the judge of the election and qualifications of its members and for such purpose shall have power to subpoena witnesses and require the production of records, but the decision of the council in any such case shall be subject to review by the courts.~~

Sec. ~~18~~ 17. Procedures for passing ordinances generally.

The ~~City~~ city ~~Council~~ council shall have the power to make and establish for the government of the City of North Miami and the officers of the ~~City~~ city, ordinances in writing not inconsistent with this ~~Charter~~ charter, the Constitution and laws of the State of Florida and of the United States, as it may deem necessary.

Each ordinance shall be introduced in writing and shall embrace one subject and matters properly connected with the ordinance. The subject shall be clearly stated in the title. The enacting clause shall be "BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL ...." No ordinance shall be revised or amended by reference to its title only. 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. A proposed ordinance may be read by title, or in full, on at least two (2) separate dates and shall, at least ten (10) days prior to adoption, be noticed once in a newspaper of general circulation in the municipality. The notice of proposed enactment shall state the date,

time, and place of the meeting, the title or titles of proposed ordinances, and the place or places within the municipality where the proposed ordinance may be inspected by the public. The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance. No ordinance shall be declared invalid by reason of any defect in publication or title if the published summary gives reasonable notice of its intent. At the time and place advertised, or at any time and place to which such public hearing may, from time to time, be continued, the ordinance shall be read by title and a public hearing shall be held. After the hearing, the ~~City~~ city ~~Council~~ council may pass the ordinance with or without amendment. The effective date shall not be earlier than ten (10) days after its enactment, or as provided in the ~~Ordinance~~ ordinance.

Proposed ordinances which enact or amend the ~~City~~ city's ~~Zoning~~ zoning ~~Ordinance~~ ordinance or comprehensive ~~Plan~~ plan of the City of North Miami shall be adopted according to the requirements set forth in the ~~City~~ city's ~~Zoning~~ zoning ~~Ordinance~~ ordinance. All other ~~Ordinances~~ ordinances or ~~Resolutions~~ resolutions or other official action shall require three affirmative votes of the entire ~~Council~~ council.

To meet a public emergency affecting life, health, property or public safety, the ~~City~~ city ~~Council~~ council by a four-fifths (4/5) vote of the entire ~~Council~~ council may adopt an emergency ordinance at the meeting at which it is introduced and may make it effective immediately. After adoption of an emergency ordinance, the ~~City~~ city ~~Council~~ council shall cause it to be published in full within ten (10) days in a newspaper of general circulation in the municipality. No emergency ordinance shall be enacted which enacts or amends a land use plan or which rezones private property.

~~Sec. 19. Reserved.~~

~~Sec. 20. Reserved.~~

~~Sec. 21. Reserved.~~

~~Sec. 22. Reserved.~~

Sec. ~~23~~ 18. Independent annual audit.

Prior to the end of each fiscal year the council shall designate qualified public accountants who, as of the end of the fiscal year, shall make an independent audit of accounts and other evidences of financial transactions of the city government and shall submit their report to the council and to the city manager. Such accountants shall have no personal interest, direct or indirect, in the fiscal affairs of the city government or of any of its officers. They shall not maintain any accounts or records of the city business, but, within specifications approved by the council, shall post-audit the books and documents kept by the department of finance and any separate or subordinate accounts kept by any other office, department or agency of the city government.

ARTICLE ~~III~~ IV. THE CITY MANAGER

Sec. ~~10~~ 19. Appointment of city manager.

The council shall appoint an officer of the city who shall have the title of city manager and who shall have the powers and perform the duties in this charter provided. No councilmember or member of the charter board shall receive such appointment during the term which he shall have been elected nor within two (2) years after the expiration of his term of office.

Sec. ~~11~~ 20. Removal of city manager.

The council shall appoint the city manager and may remove him by a majority vote of its members. At least thirty (30) days before such removal shall become effective, the council shall by a majority vote of its members adopt a preliminary resolution stating the reasons for his removal. The manager may reply in writing and may request a public hearing, which shall be held not earlier than twenty (20) days nor later than thirty (30) days after the filing of such request. After such public hearing, if one be requested, and after full consideration, the council by majority vote of its members may adopt a final resolution of removal. By the preliminary resolution the council may suspend the manager from duty, but shall in any case cause to be paid him forthwith any unpaid balance of his salary and his salary for the next three (3) calendar months following the adoption of the preliminary resolution.

Sec. ~~12~~ 21. Council not to interfere in appointments or removals.

Neither the council nor any of its members shall direct or request the appointment of any person to, or his removal from, office by the city manager or by any of his subordinates, or in any manner take part in the appointment or removal of officers and employees in the administrative service of the city. Except for the purpose of inquiry, the council and its members shall deal with the administrative services solely through the city manager and neither the council nor any member thereof shall give orders to any subordinates of the city manager, either publicly or privately. Any councilmember violating the provisions of this section, or voting for a resolution or ordinance in violation of this section, shall be guilty of a misdemeanor and upon conviction thereof shall cease to be a councilmember.

Sec. ~~24~~ 22. Qualifications.

The city council ~~by a majority vote of its total membership~~ shall appoint a city manager ~~for an indefinite term~~ and fix the manager's compensation. The city manager shall be appointed solely on the basis of executive and administrative qualifications. ~~The manager need not be a resident of the city or state at the time of appointment but may reside outside the city while in office only with the approval of the council.~~

Sec. ~~25~~ 23. Powers and duties.

The city manager shall be the chief administrative officer of the city, responsible to the council for the administration of all city affairs placed in the manager's charge by or under this charter.

~~The city manager shall:~~

~~(1) Appoint and, when necessary for the good of the service, suspend or remove all city employees and appointive administrative officers provided for by or under this charter, except as otherwise provided for by law, this charter or personnel rules adopted pursuant to this charter. The city manager may authorize any administrative officer subject to the manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency;~~

~~(2) Direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided by this charter or by law;~~

~~(3) *Attend all city council meetings.* The city manager shall have the right to take part in discussion but shall not vote;~~

~~(4) See that all laws, provisions of this charter and acts of the city council, subject to enforcement by the city manager or by officers subject to the manager's direction and supervision, are faithfully executed;~~

~~(5) Prepare and submit the annual budget and capital program to the city council;~~

~~(6) Submit to the city council and make available to the public a complete report on the finances and administrative activities of the city as of the end of each fiscal year;~~

~~(7) Make such other reports as the city council may require concerning the operations of city departments, offices and agencies subject to the city manager s direction and supervision;~~

~~(8) Keep the city council fully advised as to the financial condition and future needs of the city;~~

~~(9) Make recommendations to the city council concerning the affairs of the city;~~

~~(10) Provide staff support services for the mayor and councilmembers; and~~

~~(11) Perform such other duties as are specified in this charter or may be required by the city council.~~

The powers and duties of the city manager shall be:

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

(2) To appoint and remove all employees.

(3) To exercise control of all departments that may be created by the council.

(4) To recommend to the council for adoption such measures as he or she may deem necessary or expedient.

(5) To keep the council fully advised as to the financial condition of the city.

(6) To inquire into the conduct of any office, department, agency, or officer of the city and to make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers, and other evidence. Failure to obey such subpoena or to produce books, papers, or other evidence as ordered under the provisions of this section shall constitute a misdemeanor and shall be punishable by a fine not to exceed one hundred fifty dollars ($150), or by imprisonment not to exceed sixty (60) days or both.

(7) To perform such other duties as may be required of him by resolution or ordinances of the council.

Sec. ~~26~~ 24. Absence of city manager.

To perform his duties during his temporary absence or disability, the manager may designate ~~by letter filed with the city clerk~~ a qualified administrative officer of the city. In the event of failure of the manager to make such designation, the council may by resolution appoint an officer of the city to perform the duties of the manager until he shall return or his disability shall cease.

~~**Sec. 27. - Administrative departments.**~~

~~There shall be a department of finance, department of personnel, department of water, police department and such other departments as may be established by ordinance upon the recommendation of the manager.~~

~~**Sec. 28. - Directors of departments.**~~

~~(a) At the head of each department there shall be a director, who shall be an officer of the city and shall have supervision and control of the department subject to the city manager. In the case of the head of the water department in addition to his other qualifications, he shall at the time of his appointment, be the holder of at least a class B certificate of water works operators as issued by the board of health of the State of Florida.~~

~~(b) Two (2) or more departments may be headed by the same individual, and directors of departments may also serve as chiefs of divisions.~~

~~**Sec. 29. - Departmental divisions.**~~

~~The work of each department may be distributed among such divisions thereof as may be established by ordinance upon the recommendation of the manager. Pending the passage of an ordinance or ordinances distributing the work of departments under the supervision and control of the manager among specific divisions thereof, the manager may establish temporary divisions.~~

ARTICLE ~~IV~~ V. – BUDGET, TAXATION AND FINANCE

Sec. ~~30~~ 25. Fiscal year.

The fiscal year of the city government shall begin on the first day of October and shall end on the last day of September of each calendar year, of the following year, which also constitutes the budget and accounting year. As used in this ~~Charter~~ charter, the term "budget year" shall mean the fiscal year for which any particular budget is adopted and in which it is administered.

Sec. ~~31~~ 26. Preparation and submission of budget.

The city manager, at least thirty-five (35) days prior to the beginning of each budget year, shall submit to the council a budget and an explanatory budget message ~~in the form and with the contents provided by section 42.~~ The city manager's budget message shall explain the budget, describe the important features of the budget, indicate major changes from the current year, and include such other materials as the city manager deems desirable.

For such purpose, at such date as he shall determine, he, or an officer designated by him, shall obtain from the head of each office, department or agency estimates of revenue and expenditure of that office, department or agency, detailed by organization units and character and object of expenditure, and such other supporting data as he may request; together with an estimate of all capital projects pending or which such department head believes should be undertaken (a) within the budget year and (b) within the five (5) next succeeding years. In preparing the budget, the city manager shall review the estimates, shall hold hearings thereon and may revise the estimates, as he may deem advisable.

Sec. ~~32~~ 27. Budget a public record.

The budget and all supporting schedules shall be a public record in the office of thee city clerk open to public inspection by anyone. The city manager shall cause sufficient copies of the budget to be prepared for distribution to interested persons.

Sec. ~~33~~ 28. Publication of notice of public hearing(s).

At a meeting of the council, the council shall determine the place and time of the public hearing(s) on the budget, in accordance with state law, and shall cause to be posted in the city hall of North Miami a notice of the time and place of the budget hearing(s).

Sec. ~~34~~ 29. Public hearing(s) on budget.

At the time and place so advertised, or at any time and place to which such public hearing(s) shall from time to time be adjourned, the council shall hold public hearing(s) on the budget as submitted, at which all interested persons shall be given an opportunity to be heard on any item thereof.

~~Secs. 35, 36. - Reserved.~~

Sec. 37 30. Vote required for adoption.

The budget shall be adopted by the favorable votes of at least a majority of all the members of the council.

Sec. ~~38~~ 31. Date of final adoption; failure to adopt.

The council shall adopt a final budget and thereupon shall fix the millage, or rate of taxation and levy taxes sufficient to pay the amounts included in the budget so adopted. The budget shall be finally adopted not later than the twenty-seventh day of the last month of the current fiscal year. Should the council take no final action on or prior to such day, the budget, as submitted, shall be deemed to have been finally adopted by the council.

Sec. ~~39~~ 32. Effective date of budget; copies made available.

Upon final adoption, the budget shall be in effect for the budget year. A copy of the budget, as finally adopted, shall be filed in the office of the city clerk. The budget so adopted shall be printed, mimeographed or otherwise reproduced and sufficient copies thereof shall be made available for the use of all offices, departments and agencies and for the use of interested persons and civic organizations.

Sec. ~~40~~ 33. Budget establishes appropriations.

From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes therein named.

Sec. ~~41~~ 34. Budget establishes amount to be raised by property tax; certification to taxing authority.

From the effective date of the budget, the amount stated therein as the amount to be raised by property tax shall constitute a determination of the amount of the levy for the purposes of the city, in the corresponding tax year. The city manager or designee shall file the required documents in accordance with applicable law.

~~**Sec. 42. - Budget message.**~~

~~The city manager's budget message shall explain the budget. It shall describe the important features of the budget; indicate major changes from the current year; and include such other materials as the city manager deems desirable.~~

~~**Secs. 43—45. - Reserved.**~~

Sec. ~~46~~ 35. Budget.

The budget shall provide a complete financial plan for the upcoming fiscal year and shall be in such form as the city manager deems desirable. It shall include, at least the following information:

(1) Fund summary. A summary of the amounts proposed in each of the funds;

(2) Anticipated income. Estimates of all anticipated income from all sources, showing the amounts received by the city from each of the same or similar sources for the last preceding and current fiscal years;

(3) Proposed expenditures. Estimates of all proposed expenditures, showing the expenditures for corresponding items for the last preceding and current fiscal years;

(4) Tax rate. Summary of the tax rate by fund including the debt service;

(5) Capital program. A list of proposed new capital items and their respective amounts and a separate plan for a five-year capital improvement program, prepared by the planning commission, for the five (5) fiscal years next succeeding the budget year;

(6) Such other supporting schedules as the manager deems necessary.

Total anticipated revenues shall equal total proposed expenditures.

~~**Secs. 47—57. - Reserved.**~~

Sec. ~~188~~ 36. Contracts extending beyond one year.

No contract involving the payment of money out of the appropriations of more than one (1) year shall be made for a period of more than five (5) years; nor shall any such contract be valid unless made or approved by ordinance.

Sec. ~~192~~ 37. Official bonds.

The city manager, the director of finance and such other officers or employees as the council may by general ordinance require so to do, shall give bond in such amount and with such surety as may be approved by the council. The premiums on such bonds shall be paid by the city.

Sec. ~~101~~ 38. Property subject to tax.

All real property and personal property within the city not expressly exempted by law shall be subject to annual taxation at its true value.

Sec. ~~109~~ 39. Taxes, state law to apply.

The general law of the State of Florida upon the subject of taxation shall apply to and govern in the assessment, levy and collection of taxes in the City of North Miami and in the return and sale of property delinquent therefor; and in the penalties for the nonpayment thereof, and shall also apply and govern in respect to the powers, duties and liabilities of persons and property touching and concerning such taxes, and shall have full force and effect in said city as far as same may be applicable, except as herein otherwise provided.

Sec. ~~59~~ 40. Power to incur indebtedness by issuing bond and notes.

The city may incur indebtedness by issuing its negotiable bonds, and notes in anticipation of bonds, pursuant to this charter, to finance any capital project which it may lawfully construct or acquire.

Sec. ~~60~~ 41. Bond ordinance; vote required.

The city shall authorize the issuance of bonds by a "bond ordinance" passed by the affirmative votes of at least three-fifths of all the members of its council, as provided by this charter.

~~ARTICLE V. - BORROWING FOR CAPITAL IMPROVEMENTS~~

~~**Sec. 58. Definitions.**~~

~~As used in this Charter:~~

~~The word capital project, or project," means: (a) any physical public betterment or improvement and any preliminary studies and surveys relative thereto; (b) the acquisition of property of a permanent nature; (c) the purchase of equipment for any public betterment or improvement when first erected or acquired.~~

~~The word "pending," when applied to capital project, means authorized, but not yet completed.~~

~~Sec. 59. Power to incur indebtedness by issuing bond and notes.~~

~~The city may incur indebtedness by issuing its negotiable bonds, and notes in anticipation of bonds, pursuant to this Charter, to finance any capital project which it may lawfully construct or acquire.~~

~~Sec. 60. Bond ordinance; vote required.~~

~~The city shall authorize the issuance of bonds by a "bond ordinance" passed by the affirmative votes of at least three-fifths of all the members of its council, as provided by this Charter.~~

~~Sec. 61. Form and content of bond ordinance.~~

~~A bond ordinance shall contain in substance at least the following provisions:~~

~~(1) An appropriation of a sum of money for a capital project, described in brief and general terms sufficient for reasonable identification;~~

~~(2) To finance the said appropriation, an authorization of the incurring of indebtedness by the issuance of bonds in a stated amount, pursuant to this Charter;~~

~~(3) A statement of the estimated maximum cost of the capital project, including any sums theretofore or thereby appropriated;~~

~~(4) A statement of the amount of the down payment appropriated in the budget of that year in anticipation of such bond issue;~~

~~(5) A determination of the period of usefulness of the project, within the limitations of sections 76 and 77 of this Charter;~~

~~(6) A determination of the net debt of the city after issuance of the bonds thereby authorized, together with a declaration that the bonds thereby authorized will be within all debt and other limitations prescribed by the Constitution and laws of this state.~~

~~Sec. 62. Title of bond ordinance; citation.~~

~~The title of a bond ordinance shall state the amount appropriated for an indicated project and the amount of bonds authorized to finance the appropriation. Bond ordinances shall be cited in bonds and notes by title and date of final passage.~~

~~Sec. 63. Combination of projects forbidden.~~

~~A bond ordinance shall not combine two (2) or more projects.~~

~~Sec. 64. Procedure for passage of bond ordinance; publication after final passage.~~

~~The procedure for passage of a bond ordinance shall be the same as that prescribed by section 20 of this Charter for other ordinances of the city, except that when published after final passage, each bond ordinance shall be accompanied by a notice in substantially the following form:~~

NOTICE

The bond ordinance published herewith has been finally passed and the twenty-day period of limitation within which a suit, action or proceeding questioning the validity of such Ordinance can be commenced as provided in the city Charter has begun to run from the date of the first publication of this notice.

_____

City Clerk.

Sec. 65. Referendum on bond ordinance.

All bonds or other evidence of indebtedness issued hereunder shall be subject to referendum unless the bonds are authorized solely for a capital purpose made necessary as the result of fire, flood, or other disaster, or are revenue bonds which are payable exclusively from the revenues to be derived from the operation of property which the city proposes to acquire, or as the result of an activity in which the city proposes to engage.

Sec. 66. Effective date of bond ordinance.

Each bond ordinance shall take effect on the twenty First day after its first valid publication after final passage, unless it be submitted to referendum, in which event it shall not take effect unless it be approved by the favorable vote of at least a majority of those voting thereon.

Secs. 67, 68. Reserved.

Sec. 69. Other proceedings by resolution.

All matters in connection with the authorization, sale and issuance of the bonds or notes not specifically required to be provided in the bond ordinance may be determined or provided by subsequent resolutions adopted by the affirmative votes of at least a majority of the members of the council.

Sec. 70. Special debt statement.

In connection with any bond ordinance and prior to the date of introduction thereof, the director of finance shall prepare, swear to and file for public inspection in the office of the city clerk, a special debt statement which shall set forth:

(1) The aggregate principal amount of all outstanding bonds and notes of the city;

(2) Deductions permitted by the Constitution and general laws;

(3) The amount of the existing net indebtedness;

(4) The amount of the net indebtedness after the issuance of the bonds authorized by such bond ordinance; and.

(5) The aggregate principal amount of bonds and notes which the city may issue, pursuant to law, provided that the failure to file such statement for public inspection shall not invalidate any bonds which may be issued hereunder.

Sec. 71. Special debt statement presumed to be accurate.

If the special debt statement provided for by section 70 of this article be filed pursuant to the said section and be approved by resolution of the council adopted prior to the final passage of the bond ordinance by the affirmative vote of at least a majority of all the members of the council, and be published with the bond ordinance after final passage thereof, such special debt statement shall be presumed to be accurate.

Sec. 72. Legal effect of special debt statement.

After the issuance of any bonds or notes in reliance on a special debt statement made, filed, approved and published in accordance with the provisions of sections 70 and 71 of this Charter, the accuracy and sufficiency of such special debt statement shall not be contested in any suit, action or proceeding relating to the validity of such bonds or notes and such bonds or notes shall be conclusively presumed to be within all debt or other limitations prescribed by this Charter or any law of this state.

Sec. 73. All bonds paid in annual installments.

All bonds issued pursuant to this Charter shall be paid in consecutive annual installments no one of which shall be more than fifty (50) per centum in excess of the smallest prior installment.

Sec. 74. First annual installment.

The first annual installment shall be paid not more than one (1) year, or if the bonds are issued to fund notes, not more than two (2) years, after the date of final passage of the bond ordinance by virtue of which they are issued.

Sec. 75. Last annual installment.

The last annual installment of each authorized issue of bonds shall be paid not later than the date of expiration of the period of usefulness of the project for the financing of which such bonds are issued, as determined in the bond ordinance authorizing the issuance of the bonds.

Sec. 76. Period of usefulness computed from date of passage.

The period of usefulness of each project shall be computed from the date of final passage of the bond ordinance by virtue of which the bonds are issued.

Sec. 77. Period of usefulness.

Bonds may be issued for terms not exceeding the maturities herein provided and the proceeds of the sale thereof may be expended for the purposes herein provided, unless a shorter period is fixed by applicable law:

(1) Maximum maturity - thirty (30) years; the supply and distribution of water, the acquisition of real property; construction of sewers, construction and equipment when first constructed of any plant or structure for the treatment, disposal or filtration of sewage, intercepting sewers and all necessary accessories thereof;

(2) Maximum maturity - twenty (20) years; heating, lighting, plumbing, ventilating, elevator and power plants and systems and other permanent equipment in new fireproof buildings or additions thereto; construction of fireproof buildings or additions thereto;

(3) Maximum maturity ten (10) years; any public improvements of a permanent character not expressly provided for in this section.

Sec. 78. Determination of period of usefulness.

Within the foregoing maximum periods, bonds shall mature not later than the expiration of the period of the probable usefulness of the capital project for which they are issued, as determined by certificate of the engineer or architect, approved by the city manager, and stated in the bond ordinance.

Sec. 79. Determination of council conclusive.

The determination of the council, in the bond ordinance, as to the classification of the projects for which bonds are authorized and as to the period of usefulness or average period, shall be conclusive in any action or proceeding involving the validity of the bonds.

Sec. 80. Public sale.

All bonds issued under this Charter shall be sold at public sale upon sealed proposals after at least ten (10) days' notice published at least once in a publication carrying municipal bond notices and devoted primarily to financial news or to the subject of state and municipal bonds published in New York, New York, and at least ten (10) days' notice published at least once in a qualified newspaper published in the county and having a general circulation in the city.

Sec. 81. Short period of limitations.

When twenty (20) days shall have elapsed after the publication after final passage of a bond ordinance as provided by this Charter:

(1) Any recitals or statements of fact contained in such bond ordinance, or in the preambles or recitals thereof, shall be deemed to be true for the purpose of determining the validity of the bonds thereby authorized and the city and all others interested shall forever thereafter be estopped from denying the same;

(2) Such bond ordinance shall be conclusively presumed to have been duly and regularly passed by the city and to comply with the provisions of this Charter and of all laws; and

(3) The validity of such bond ordinance shall not thereafter be questioned by either a party plaintiff or a party defendant, except in a suit, action or proceeding commenced prior to the expiration of such twenty (20) days.

Sec. 82. Payment of bonds and notes.

The power and obligation of the city to pay any and all obligations hereafter issued by it pursuant to this Charter shall be unlimited and the city shall levy ad valorem taxes upon all the taxable property within the city for the payment of such obligations and interest thereon, without limitation of rate or amount. The faith and credit of the city is hereby pledged for the payment of the principal of and the interest on all obligations of the city hereafter issued pursuant to this Charter, whether or not such pledge be stated in said obligations, or in the ordinance authorizing

~~their issuance, unless such obligations are revenue bonds within the meaning of section 67 [repealed] hereof.~~

~~ARTICLE VI. - RESERVED [5]~~

~~Sec. 83. Reserved.~~

ARTICLE ~~VII~~ VI. - DEPARTMENT OF LAW

Sec. 84 42. Legal department; city attorney, appointment.

There shall be a department of law, the head of which shall be the city attorney, who shall be appointed by the council and who shall have practiced law in the State of Florida for three (3) years before his or her appointment. Said attorney shall receive a salary which shall be fixed in advance by the council by ordinance and shall be included in the budget for the succeeding year as provided for in Article IV.

Sec. ~~85~~ 43. Powers and duties of the city attorney.

The city attorney shall be the chief legal advisor to the council and all officers, agents, and employees of the city in all matters relating to their official powers and duties. He or she shall represent the city in all legal proceedings.

~~ARTICLE VIII. - DEPARTMENT OF FINANCE~~

~~Sec. 86. Director of finance; appointment.~~

~~The city manager shall appoint a director of finance. Such director shall receive a salary which shall be fixed in advance by the city council by ordinance and which salary shall be included in the budget.~~

~~Sec. 87. Director of finance; qualifications.~~

~~The director of finance shall have knowledge of municipal accounting and taxation.~~

~~Sec. 88. Director of finance; powers and duties.~~

~~The director of finance shall have charge of the administration of the financial affairs of the city. He shall perform the following enumerated duties and such others as may be required of him by the city manager or by ordinance:~~

~~(1) Supervise and be responsible for the disbursement of all moneys and have control over all expenditures to ensure that budget appropriations are not exceeded;~~

~~(2) Supervise and be responsible for all special assessments for the city government, prepare tax maps and give such notice of special assessments as may be required by law;~~

~~(3) Collect all taxes, special assessments, license fees and other revenues of the city or for whose collection the city is responsible and receive all money receivable by the city from the state of [or] federal government, or from any court, or from any office, department, or agency of the city;~~

~~(4) Have custody of all public funds belonging to or under the control of the city, or any office, department or agency of the city government, and deposit all funds coming into his hands in such depositories as may be designated by resolution of the council, or, if no such resolution be adopted, by the city manager, subject to the requirements of law as to surety and the payment of interest on deposits, but all such interest shall be the property of the city and shall be accounted for and credited to the proper account;~~

~~(5) Have custody of all investments and invested funds of the city government, or in possession of such government in a fiduciary capacity, and have the safekeeping of all bonds and notes of the city and the receipt and delivery of city bonds and notes for transfer, registration or exchange;~~

~~(6) Supervise and be responsible for the purchase, storage and distribution of all supplies, materials, equipment and other articles used by any office, department or agency of the city government;~~

~~(7) Approve all proposed expenditures; unless he shall certify that there is an unencumbered balance of appropriation and available funds, no appropriation shall be encumbered and no expenditure shall be made;~~

~~(8) Prescribe the forms of receipts, vouchers, bills or claims to be used by all the offices, departments and agencies of the city government.~~

~~(9) Examine and approve all contracts, orders and other documents by which the city government incurs financial obligations, having previously ascertained that moneys have been appropriated and allotted and will be available when the obligations shall become due and payable;~~

~~(10) Audit and approve before payment all bills, invoices, payrolls, and other evidences of claims, demands or charges against the city government and with the advice of the departments of law determine the regularity, legality and correctness of such claims, demands or charges;~~

~~(11) Inspect and audit any accounts or records of financial transactions which may be maintained in any office, department or agency of the city government apart from or subsidiary to the accounts kept in his office.~~

~~Secs. 89, 90. Reserved.~~

~~Sec. 91. Transfers of appropriations.~~

~~The city manager may at any time transfer any unencumbered appropriation balance or portion thereof between general classifications of expenditures within an office, department or agency. At the request of the city manager and within the last three (3) months of the budget year, the council may by resolution transfer any unencumbered appropriation balance or portion thereof from one office, department or agency to another. No transfer shall be made from the appropriations required by subsections (a), (b), (c), (d), (e), (f), (g) and (h) of section 54 [repealed] of this Charter.~~

~~Sec. 92. When contracts and expenditures prohibited.~~

No officer, department, or agency shall, during any budget year, expend or contract to expend any money or incur any liability, or enter into any contract which by its terms involves the expenditure of money, for any purpose, in excess of the amounts appropriated for that general classification of expenditure pursuant to this Charter. Any contract, verbal or written, made in violation of this Charter shall be null and void. Any officer or employee of the city who shall violate this section shall be discharged and cease to hold his office or employment.

Sec. 93. Appropriations lapse at end of year.

All appropriations shall lapse at the end of the budget year to the extent that they shall not have been expended or lawfully encumbered.

Sec. 94. Fees shall be paid to city government.

All fees received by any officer or employee shall belong to the city government and shall be paid daily to the department of finance.

Sec. 95. Competitive bidding.

The council shall provide by ordinance for the purchase of or contract for supplies, material or equipment by competitive bidding and shall prescribe the rules and regulations under which such bids shall be asked and accepted.

Sec. 96. Contracts for city improvement.

Any city improvement costing more than five thousand dollars ($5,000.00) shall be accomplished by contract, except where such improvement is authorized by the council to be accomplished directly by a city departments in conformity with detailed plans, specifications, and estimates. All such contracts for more than five thousand dollars ($5,000.00) shall be awarded to the lowest responsible bidder after public notice and competition as may be prescribed by ordinance, providing the city manager shall have the power to reject all bids and advertise again. Alterations may be made when authorized by the council upon the written recommendation of the city manager.

Sec. 97. No contract executed until bond ordinance effective.

No contract shall be executed for the acquisition of any property or the construction of any improvement or betterment to be financed by the issuance of bonds until the ordinance authorizing the issuance of such bonds shall have taken effect and any contract executed before such day shall be unenforceable in any court of law.

Sec. 98. Emergency appropriations.

At any time in any budget year, the council may, pursuant to this election, make emergency appropriations to meet a pressing need for public expenditure, for other than regular or recurring requirement, to protect the public health, safety or welfare. Such appropriation shall be by resolution adopted by the favorable votes of at least four-fifths of the members of the council, and shall be made only upon recommendation of the city manager. The total amount of all emergency appropriations made in any budget year shall not exceed three (3) per centum of the total operating appropriations made in the budget for that year.

Sec. 99. Borrowing to meet emergency appropriations.

In the absence of unappropriated available revenues to meet emergency appropriations under the provisions of section 98, the council may by resolution authorize the issuance of notes, each of which shall be designated "emergency note" and may be renewed from time to time, but all such notes of any fiscal year and any renewals thereof shall be paid not later than the last day of the fiscal year next succeeding the budget year in which the emergency appropriation was made.

Sec. 100. Reserved.

Sec. 101. Property subject to tax.

All real property and personal property within the city not expressly exempted by law shall be subject to annual taxation at its true value.

Secs. 102—108. - Reserved.

Sec. 109. Taxes, state law to apply.

The general law of the State of Florida upon the subject of taxation shall apply to and govern in the assessment, levy and collection of taxes in the City of North Miami and in the return and sale of property delinquent therefor; and in the penalties for the nonpayment thereof, and shall also apply and govern in respect to the powers, duties and liabilities of persons and property touching and concerning such taxes, and shall have full force and effect in said city as far as same may be applicable, except as herein otherwise provided.

Sec. 110. Reserved.

ARTICLE IX. - RESERVED

ARTICLE X. - LOCAL IMPROVEMENTS

Sec. 111. Definitions.

(a) As used in this section, the following words and terms shall have the following meanings, unless some other meaning is plainly intended:

(1) A "local improvement" is an improvement defined by this Charter and made under the provisions thereof;

(2) A "street" is a public way embracing a street, boulevard, avenue, land [lane], alley, parkway, court, terrace and place but not embracing a sidewalk;

(3) A "sidewalk" is a path for pedestrians along a street;

(4) A "storm sewer" is a conduit above or below ground for the passage of stormwater, and may embrace a pumping station and outlet where deemed necessary, and culverts over streams and stream enclosures where necessary or advisable to carry off stormwater;

~~(5) A "water main" is a pipe for the passage of water for public hydrants and private and public use and consumption;~~

~~(6) A "lateral" is a pipe connecting a sewer or water main with the line of adjacent property or the curbline, as the council may prescribe, being either a sewer lateral or a water lateral, but does not include a building connection, that is, a pipeline extending from a lateral at the property line or curbline to the house or pumping fixtures on the property to be served;~~

~~(7) The word "cost" as applied to a local improvement shall include: Labor and material;~~

~~(8) In street acquisition, the cost of any property purchased, condemned or otherwise acquired including court costs and other expense incident to such acquisition;~~

~~(9) Damages paid or to be paid for injury to property by change or [of] grade or drainage, including court costs and other expense incidental to the determination of damage. The cost of retaining walls, sidewalks or fences built or altered in lieu of cash payment for such property damage or acquisition, including the cost of moving or altering any structure;~~

~~(10) The cost, whether in the nature of damages or otherwise, of establishing a building setback line or lines.~~

~~(11) The term "incidental expense" embraces the following items, including reasonable sums paid or credited to the city or any department thereof for services rendered by a department or officer or clerk thereof in connection with any such items:~~

~~Preliminary and other surveys.~~
~~Inspection and superintendence of work.~~
~~Preparations of plans and specifications and estimates.~~
~~Printing and publishing of notices and proceedings.~~
~~Preparation of bonds.~~
~~Interest during construction.~~
~~Legal services, abstracts, etc.~~
~~Any other expense necessary or proper in conducting the proceedings and work herein provided for.~~

~~(12) Improvements authorized to be made under the provisions of this Charter are divided into four (4) classes, as follows:~~

~~Class 1. Street improvements embrace the grading, paving, repaving, macadamizing, and remacadamizing of streets, with necessary drainage, sewer inlets, manholes and catch basins, and, if the council orders, curbs and gutters.~~

~~Class 2. Sidewalk improvements embrace the grading and construction of sidewalks, and, if the council so orders, curbs and gutters.~~

~~Class 3. Storm sewer improvements embrace the construction of storm sewers, the relaying where necessary of streets and sidewalks necessarily torn up or damaged, and, if the council so orders, the laying of sewer laterals as a separate improvement or as a part~~

~~of the main improvement. Storm sewer improvements may also embrace the building of culverts over or enclosing the streams where necessary or advisable to carry off stormwater.~~

~~Class 4. Water main improvements embrace the laying of water mains, the relaying where necessary of streets and sidewalks necessarily torn up or damaged, and, if the council so orders, the laying of water laterals as a separate improvement or as a part of the main improvement.~~

~~Sec. 112. Local improvements and their financing authorized.~~

~~The city is hereby authorized to make local improvements and provide for paying the cost thereof as herein provided, but only in the event that fifty-one (51) percent of the owners of affected abutting property consent in writing to the proceedings as herein set forth.~~

~~Sec. 113. Initial proceeding.~~

~~The initial proceeding for a local improvement hereunder shall be the passage at any lawful meeting of the council of a resolution ordering the same to be made under and subject to the provisions of this Charter, indicating the location by terminal points and route, and either giving a description of the improvement by its material, nature, character and size, or giving two (2) or more such descriptions with the direction that the material, nature, character and size be subsequently determined in conformity with one (1) of such descriptions. A single resolution may embrace one (1) improvement only or one (1) improvement of each of two (2) or more classes of improvements. An improvement need not be continuous and may be in more than one (1) locality or street, but a street or sidewalk improvement shall be practically uniform in cost and kind throughout the improvement. If the resolution shall order a storm sewer improvement, it shall designate the property which the council deems will be specially benefited thereby, and, if a water main improvement be ordered, the resolution shall indicate the proportion of the cost thereof which shall be borne by the city at large and the proportion thereof which shall be specially assessed. A resolution may give any short and convenient designation to each improvement ordered thereby, and the property against which assessments are to be made for the cost of such improvement shall be designated as a district, followed by a letter or number or name to distinguish it from other districts, after which it shall be sufficient to refer to such improvement and property by such designations in all proceedings, assessments, bonds and warrants, except in the notices provided by paragraphs 115 and 120 of this article.~~

~~Sec. 114. Plans, specifications, estimates and tentative apportionment of cost.~~

~~As soon as may be after the passage of such resolution the city manager shall prepare and file in his office, plans and specifications of each improvement ordered thereby and an estimate of the cost thereof, including an estimate of the cost of each kind of improvement if the resolution provides alternative descriptions of material, nature, character and size, which estimate shall show the estimated amount of cost and incidental expense to be apportioned to the city and the estimated amount of cost and incidental expense to be assessed against property benefited thereby, and, except in the case of a storm sewer improvement, the estimated amount to be assessed against each foot of abutting property.~~

~~Sec. 115. Notice of hearing upon initial resolution.~~

~~The city manager, upon the filing of such plans, specifications, estimates and tentative apportionment of cost, shall publish once in a daily newspaper published in Dade County and of general circulation in the city a notice stating that at a meeting of the council on a certain day and our, not earlier than ten (10) days from such publication, the council will hear objection of all persons to the confirmation of such resolution which notice shall state in brief and general terms and description of the proposed improvement with the location thereof, and shall also state that plans, specifications, estimates and a tentative apportionment of the cost thereof are on file in the office of the city manager. Such notice in the case of a resolution for a storm sewer improvement shall describe the property declared by such resolution to be specifically benefited by a description sufficient to identify the property.~~

~~Sec. 116. Hearing.~~

~~At the time named in such notice or to which an adjournment may be taken by the council, the council shall receive any objection of interested persons and may then or thereafter repeal or confirm such resolution with such amendments, if any, as may be desired by the council and which do not cause any additional property to be specially assessed; provided, however, that such resolution shall not then or thereafter be confirmed containing items which cannot be properly assessed against property or if, because of any default or defect in the passage or character of the resolution, estimate or apportionment, it is void or voidable in whole or in part, or if it exceeds the power of the council.~~

~~Sec. 117. Objections.~~

~~All objections to any such resolution on the ground that it contains items which cannot be properly assessed against property, or that, because of any default or defect in the passage or character of the resolution, estimate or apportionment, it is void or voidable in whole or in part, or that it exceeds the power of the council, shall be made in writing, in person or by attorney, and filed with the city manager at or before the time of adjourned time of such hearing. Any objections against the making of an improvement not so made shall be considered as waived, and if an objection shall be made and overruled or shall not be sustained, the confirmation of the resolution shall be the final adjudication of the issues presented unless proper steps shall be taken in a court of competent jurisdiction to secure relief within ten (10) days.~~

~~Sec. 118. Contract for work.~~

~~As soon as practicable after the confirmation of any such initial resolution ordering work to be constructed and the authorization of bonds under the provisions of this Charter the city manager shall publish at least once in a newspaper published in Dade County and of general circulation in the city and, if the estimated cost exceeds five thousand dollars ($5,000.00), in a newspaper of general circulation in the State of Florida, a notice calling for sealed bids to be received by the council on a date not earlier than fifteen (15) days from the first publication, for the construction of the work, unless in the initial resolution the council shall have declared its intention to have the work done by city forces without contract. The notice shall refer in general terms to the extent and nature of the improvement or improvements and may identify the same by the short designation indicated in the initial resolution and by reference to the plans and specifications on file. If the initial resolution shall have given two (2) or more alternative~~

descriptions of the improvement as to its material, nature, character and size, and if the council shall not have theretofore determined upon a definite description, the notice shall call for bids upon each of such descriptions. Bids may be requested for the work as a whole or for any part thereof separately and bids may be asked for any one (1) or more improvements authorized by the same or different resolutions, but any bid covering work upon more than one (1) improvement shall be in such form as to permit a separation of cost as to each improvement. The notice shall require bidders to file with their bids either a certified check upon an incorporated bank or trust company for two and one-half (2½) percent of the amount of their respective bids or a bid bond in like amount with corporate surety satisfaction to the city manager to insure the execution of a contract to carry out the work in accordance with such plans and specifications and to insure the filing, at the making of such contract, of a bond in the amount of the contract price with corporate sureties satisfactory to the city manager conditioned for the performance of the work in accordance with such contract. The council shall have the right to reject any or all bids, and if all bids are rejected the council may readvertise or may determine to do the work by city forces without contract.

Sec. 119. Preliminary assessment roll.

(a) Promptly after the completion of the work, the city manager shall cause to be; prepared a 20 preliminary assessment roll and file the same in his office, which roll shall contain the following:

(1) A description of the lots and parcels of land within the district, which in the case of storm sewer improvements shall include all property declared by the council in the initial resolution therefor to be specially benefited thereby, and in the case of other improvements shall include the lots and lands which abut upon the sides of that part of any street to be improved or in which a water main is to be laid, and the lots and lands which abut upon that side or sides of any street in or along which side or sides a sidewalk is to be constructed. Such property, lots and lands shall include city property and the property of the county and of any school district or other political subdivision. There may also be given, in the discretion of the city manager, the name of the owner of record of each lot or parcel, where practicable, and in all cases except storm sewer improvements a statement of the number of feet of property so abutting, which number of feet shall be known as the frontage.

(2) The total of the improvement, and the amount of incidental expense.

(3) An apportionment, as between the city and property, of the cost of each improvement, to be computed as follows, incidental expense to be apportioned in the same proportion:

IN STREET IMPROVEMENTS:

(1) To the city shall be apportioned that part of the cost of street improvements at intersections. The word "intersection" shall be deemed to include not only that part of a street which is common to another street, but also that portion of a street which would be embraced within the extension of another street entering into it or meeting it if such other street should be extended.

(2) To abutting property shall be apportioned all the remaining cost of street improvements.

IN SIDEWALK IMPROVEMENTS:

(3) To abutting property shall be apportioned all the cost of sidewalk improvement, the lots within a block being deemed to abut upon a sidewalk although the sidewalk extends beyond the lots to the curbline of an intersecting street.

IN STORM SEWER IMPROVEMENTS:

(4) To the city shall be apportioned one-third of the cost of storm sewers, including any pumping station and outlet but excluding sewer laterals.

(5) To the lots and parcels within the district shall be apportioned two-thirds of the cost of storm sewers, including any pumping station and outlet but excluding laterals.

(6) To each lot or parcel to the property or curbline of which a storm sewer lateral is laid shall be apportioned the cost of that lateral.

IN WATER MAIN IMPROVEMENTS:

(8) To the city shall be apportioned such part of the cost of water main improvements as may have been determined by the initial resolution; provided, however, that the entire cost of water main improvements at intersections shall be apportioned to the city.

(9) To each lot or parcel to the property or curbline of which a water lateral is laid shall be apportioned the cost of that lateral.

(10) To abutting property shall be apportioned the remaining cost of the water main improvement.

ASSESSMENT OF INDIVIDUAL LOTS:

(11) The amount of the cost of each storm sewer improvement, excluding storm sewer laterals, so apportioned to lots and parcels of land shall in said roll be assessed to the several lots and parcels within the district m the proportion which the city manager deems to be the proportion of special benefits each such lot or parcel will receive, and the amount of the cost of each street, side walk, and water main improvements, except water laterals so apportioned to abutting property shall be assessed in said roll against such abutting property according to frontage.

(b) The preliminary roll shall be advisory only and shall be subject to the action of the council as hereinafter provided.

Sec. 120. Notice of hearing upon assessment roll.

Upon the filing in the office of the city manager of the preliminary assessment roll required by this Charter, the city manager shall publish once in each of two (2) successive weeks in a daily newspaper published in Dade County and of general circulation in the city, a notice stating that at a regular meeting of the council to be held on a certain day and hour, not less than twelve (12) days from the date of the first publication, all interested persons may appear and file written

~~objections to the confirmation of such roll. Such notice shall state the class of the improvement and the location thereof by terminal points and route.~~

~~Sec. 121. Hearing and confirmation of assessment roll.~~

~~At the time and place stated in such notice the council shall meet and receive the objections in writing of all interested persons as stated in such notice. The council may adjourn the hearing from time to time. After the completion thereof the council shall either annul or sustain or modify in whole or in part the prima facie assessment as indicated on such roll, either by confirming the prima facie assessment against any or all lots or parcels described therein, or by canceling, increasing or reducing the same, according to the special benefits which the council decides each such lot or parcel has received or will receive on account of such improvement If any property which may be chargeable under this Charter shall have been omitted from the preliminary roll or if the prima facie assessment shall not have been made against it, the council may place on such roll an apportionment to such property. The council shall not confirm any assessment in excess of the special benefits to the property assessed, and the assessments so confirmed shall be in proportion to the special benefits. The assessments so made shall be final and conclusive as to each lot or parcel assessed unless proper steps be taken within ten (10) days in a court of competent jurisdiction to secure relief. If the assessment against any property shall be sustained or reduced or abated by the court, the city manager shall note that fact on the assessment roll opposite the description of the property affected thereby. The amount of the special assessment against any lot or parcel which may be abated by the court, unless the assessment upon the entire district is abated, or the amount by which such assessment is so reduced, may by resolution of the council be made chargeable against the city at large, or, in the discretion of the council, a new assessment roll may be prepared and confirmed in the manner hereinabove provided for the preparation and confirmation of the original assessment roll.~~

~~Sec. 122. Payment of assessments.~~

~~Any assessment may be paid at the office of the director of finance within thirty (30) days after the confirmation thereof, without interest. Thereafter all assessments shall be payable in equal installments, with interest at six (6) percent per annum from the expiration of said thirty (30) days in each of the succeeding fifteen (15) calendar years at the time or times in each year at which general city taxes are payable; provided, however, that any assessment may be paid at any time before due, together with interest accrued thereon to the date of payment.~~

~~Sec. 123. Lien and enforcement.~~

~~All assessments made under the provisions of this article shall constitute a lien upon the property so assessed from the date of the confirmation of the resolution ordering the improvement, of the same nature and to the same extent as the lien for general city taxes falling due in the same year or years in which such assessment or installments thereof fall due, and any assessment or installment not paid when due shall be collectible in the same manner and at the same time as such general taxes are or may be collectible, with the same attorney's fee, interest and penalties and under the same provisions as to forfeiture and the right of the city to purchase the property assessed as are or may be provided by law in the case of city taxes; provided, however, that no such sale of any property for general city taxes or for an installment or installments of any such assessment and no perfecting of title under any such sale shall divest the~~

~~lien of any installment of such assessment not due at the time of sale. Collection of such assessments, with such interest and with a reasonable attorney's fee and costs, but without penalties, may also be made by the city by proceedings in a court of equity to foreclose the lien of assessments as a lien for mortgages is or may be foreclosed under the laws of the state. Any such proceedings to foreclose shall embrace all installments of principal remaining unpaid with accrued interest thereon, which installments shall, by virtue of the institution of such proceedings, immediately become due and be due and payable. Nevertheless, if prior to any sale of the property under decree of foreclosure in such proceedings, payment be made of the installment or installments which are shown to be due under the provisions of any resolution passed pursuant to section 122 of this article, with interest as required by said section 122 and by this section 123 and all costs including attorney's fee, such payment shall have the effect of restoring the remaining installments to their original maturities as provided by such resolution passed pursuant to said section 122, and the proceeding shall be dismissed. It shall be the duty of the city to enforce the prompt collection of assessments by one (1) or the other of the means herein provided, and such duty may be enforced at the suit of any holder of bonds issued under this article in a court of competent jurisdiction by mandamus or other appropriate proceedings or action. Not later than thirty (30) days after the annual sale of property for delinquent taxes of the city it shall be the duty of the council to direct the city attorney or an attorney or attorneys whom the council shall then designate, to institute action within three (3) months after such direction to enforce the collection of all special assessments for local improvements made under this Charter and remaining due and unpaid at the time of such direction (unless such property has theretofore been sold at tax sale). Such action shall be prosecuted in the manner and under the condition in and under which mortgages are foreclosed under the laws of the state. It shall be lawful to join in one (1) action the collection of assessments against any or all property assessed by virtue of the same assessment roll unless the court shall deem such joinder prejudicial to the interests of any defendant. The court shall allow a reasonable attorney's fee for the attorney or attorneys of the city, and the same shall be collectible as a part of or in addition to the costs of the action. At any sale pursuant to a decree in any such action, the city may be a purchaser to the same extent as an individual person or corporation, except that the part of the purchase price represented by the assessments sued upon and the interest thereon need not be paid in cash. Property so acquired by the city, including the certificate of sale thereof, may be sold or otherwise disposed of, for cash or upon terms, the proceeds of such disposition to be placed in the fund provided by this section; provided, however, that no sale or other disposition thereof shall be made unless notice calling for bids therefor to be received at a stated time and place shall have been published in a newspaper published in Dade County and of general circulation in the city once in each of four (4) successive weeks prior to such disposition.~~

~~Sec. 124. Issuance of bonds.~~

~~(a) On or after the confirmation of the resolution ordering a local improvement or improvement the council may by resolution issue bonds of the city for the payment of the entire cost of any such improvement or improvement or any part of such cost, including incidental expense, and for the reimbursement of any fund of the city from which any part of such cost shall have theretofore been paid, in an amount not greater than the estimate herein provided of the cost and incidental expense, which estimate, if the initial resolution shall have given two (2) or more alternative descriptions of the improvement by its material, nature, character and size, with estimates as to each description shall be the lowest of such estimates, but no bonds be~~

~~issued in excess of the contract price and the cost of incidental expenses unless such bonds shall have been delivered or sold or advertised for sale prior to the making of such contract. If bonds shall be authorized after such contract is made, they may be issued to the full amount of such contract and the amount paid, or the amount awarded in eminent domain proceedings, for any land, rights and easements necessary to be acquired for the improvement, and the estimated incidental expense, and a finding by the council of the amount of a contract, or the amount so paid or awarded for land, rights or easements, or the amount of incidental expense, shall be conclusive for the purposes of this section. Such bonds shall be issued only in denominations of five hundred dollars ($500.00) or one thousand dollars ($1,000.00), or both, as shall be determined by the council, and the foregoing limitations upon the amount of bonds may be exceeded to such extent as may be necessary in order that bonds of the denomination or denominations determined by the council may be issued, and to such extend [extent] as may be necessary to pay interest upon the bonds at the rate borne thereby (or at the rate of six (6) percent per annum if the interest rate upon the bonds is not to be determined until the sale thereof) for a period of not more than eighteen (18) months. An issue of bonds need not be limited to one (1) improvement, and bonds may be issued in one (1) or more series for all or a part of the cost of any one (1) or more improvements. Bonds may be issued under the provisions of this Charter beyond the general limits of indebtedness prescribed by law and shall not be included in the amount of bonds which the city may be authorized to issue under any other law.~~

~~(b) Each series of bonds shall mature at such time or times as the council may determine, not more than twenty (20) years from their date, and may be made redeemable before maturity, at the option of the city, at such price or prices and under such terms and conditions as may be fixed by the council prior to the issuance of the bonds. Such bonds shall bear interest at a rate not greater than six (6) percent per annum, payable semiannually, and the principal and interest shall be made payable in such medium and at such place as the council may determine. Such bonds shall be sold by the council after publishing, at least ten (10) days before receipt of bids therefor, a notice calling for such bids; provided, however, that by unanimous vote of all members of the council they may be sold at private sale without advertisement and at a price of not less than ninety-seven cents ($0.97) on the dollar and accrued interest. Such bonds may be made registerable as to principal alone, or as to both principal and interest, under such conditions as the council may determine, and shall, with the coupons thereto attached, be executed as provided by the council.~~

~~(c) Such bonds shall be general obligations of the city but no such bonds shall be issued unless the issuance thereof shall have been approved by a majority of the votes cast in an election in which a majority of the freeholders who are qualified electors residing in the city shall participate. Such election shall be called, noticed and conducted and the result thereof determined and declared in the manner required by law for the issuance of bonds of the city. For the payment of the principal of and the interest on such bonds the council is hereby authorized and required annually to levy a special tax upon all taxable property within the city, over and above all taxes authorized or limited by this Charter or other laws, sufficient, with any other funds available for such purpose, to pay the interest on and principal of all such bonds at their several dates of maturity.~~

~~Sec. 125. Proceedings by resolution.~~

All proceedings of the council provided for in this section may be taken by resolution, which shall be in force from and after its passage.

Sec. 126. Surplus of bond proceeds.

Where the proceeds of bonds issued under this article shall be found to exceed the cost of the improvements for which such bonds are issued, such excess shall be paid into the appurtenant fund created by section 136 of this article.

Sec. 127. Acceptance of improvement.

As soon as any improvement shall have been completed, the council shall cause a notice to be published in a newspaper published in Dade County and of general circulation in the city, stating that at a meeting of the council to be held at a certain day and hour, not less than ten (10) days from the publication of such notice, the council will hear any objections of persons interested in or affected by the said improvements as to the acceptance thereof by the council. At the time and place mentioned in such notice the council shall hear such objections, if any, and may then or thereafter accept the said improvement.

Sec. 128. Credit for prior improvements.

The council may make allowances and grant credit to property owners for improvements previously made by such property owners to the extent, and only to that extent, that such existing improvements shall be of value and utility as a part of the improvements for which such assessment is made, and may prescribe a plan for fixing and determining such allowance and credits.

Sec. 129. Description of property.

In fixing and enforcing the assessments herein provided for, whenever any land shall have [been] surveyed or subdivided and platted into small tracts designated as lots or blocks or otherwise, and the owner of any land embraced in the said survey or subdivision shall have recognized such survey or subdivision by reference thereto in making or accepting any conveyance of land therein, or by selling any land therein by reference thereto, then, and in that event, the land embraced in such subdivision may be described by reference to such survey or subdivision whether any plat thereof shall have been recorded or not.

Sec. 130. Division of assessments.

If the owner or owners of any lot or parcel of land assessed under the provisions of this Charter and all those having any interest therein by way of mortgage or other lien or lease hold rights or otherwise shall in writing request that such assessment be divided so that a part of the same shall be the assessment on and constitute a lien on one (1) portion of such lot or parcel and the remainder shall be the assessment on and constitute a lien or liens against the remainder of such parcel or separate parts thereof, the council, in its discretion, shall have power to divide such assessments in accordance with such request, and thereafter the separate parts of such assessment shall be the assessments and constitute separate liens upon the parts of the lot or parcel, respectively, into which the same shall have been so divided; any ordinance or resolution

making such division shall recite a finding of the council that such division is equitable and will not impair the collectibility of any part of the assessments so divided.

Sec. 131. Liberal construction.

The purpose of this article being to provide an economical method by which local improvements may be made, it is hereby declared that no irregularity or illegality in connection with any of the proceedings herein authorized shall in any way affect the validity of the orders for the improvements or the special assessments or the bonds or contracts, unless such irregularity or illegality shall substantially affect the rights of the city or is inhabitants or the owners of property assessed for such improvements.

Sec. 132. Omissions, errors and mistakes.

In case of any omissions, errors and mistakes in making the assessments, or in case of deficiencies or otherwise, then, unless the council or a court shall have determined that the assessments already made fully equal the amount of special benefits, a supplemental assessment may be made for such deficiencies, errors, omissions or mistakes; and such supplemental assessments shall be made in the same manner and after the same notice hereinabove provided for the original assessments, and shall be a lien to the same extent and be payable in the same manner, draw the same rate of interest, and be subject to the same penalties, and be in force and collectible in the same manner as such original assessments.

Sec. 133. Proof of assessments.

A copy of any assessments certified as correct by the city manager of the city shall be admissible in evidence and shall be prima facie proof of amount of the assessment and the property which such assessment is levied.

Sec. 134. Assessments on public property.

Dade County, and any school district or other political subdivision wholly or partly within the city, shall possess the same power and be subject to the same duties and liabilities in respect of assessment under this Charter affecting their real estate that private owners of real estate possess or are subject to hereunder, and such real estate of said county, school districts and political subdivisions shall be subject to liens for said assessments in all cases where the same property would be subject had it at the time the lien attached been owned by a private owner.

Sec. 135. Alternative method.

This article shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing.

Sec. 136. Pledge of special assessments.

All assessments and charges made under this Charter on account of the construction of any local improvement or improvements may be pledged to the payment of the principal of and the interest on bonds issued to pay the whole or any part of the cost of such improvement or

~~improvements, and shall when collected be placed in a separate fund, properly designated, which fund shall be used for no other purpose.~~

ARTICLE ~~XI~~ VII. DEPARTMENT OF PERSONNEL

Sec. ~~137~~ 44. Merit basis of appointment.

Appointments and promotions in the administrative service of the city shall be made according to merit and fitness to be ascertained, so far as practicable, by competitive examination.

~~Sec. 138. [Reserved.]~~

Sec. ~~139~~ 45. Personnel director; qualifications.

The personnel director shall have had training and experience in personnel administration.

Sec. ~~140~~ 46. Personnel director; powers and duties.

The personnel director shall have power and shall be required to:

(1) Hold all competitive examinations required under section ~~137~~ 44 of the ~~Charter~~ charter, given for appointments in the classified service, (except for the position of personnel director, which competitive examination, when given, shall be administered as directed by the city council), restricted to persons reasonably qualified to perform the duties of the position;

(2) Give wide publicity through appropriate channels in each case to all announcements of competitive examinations to the end of encouraging qualified persons to take such examinations;

(3) Prepare and recommend to the personnel board such rules as he may consider necessary, appropriate or desirable to carry out the provisions of this article as provided in section ~~145~~ 51 of this ~~Charter~~ charter;

(4) Prepare, install, and maintain a classification plan based on the duties, authority and responsibility of positions in the city service;

(5) Prepare and maintain a pay plan in the city service;

(6) Establish and maintain a roster of all persons in the municipal service in which there shall be set forth, as to each officer and employee, (a) the class title of the position held, (b) salary or pay, (c) any changes in class title, pay or status, (d) such other data as may be deemed desirable or useful to produce significant facts pertaining to personnel administration;

(7) Certify all payrolls for persons in the classified service. No payment for personnel service to any person in the classified service of the city shall be made unless the vouchers bear the certification of the personnel director or his authorized agent that the persons mentioned therein have been appointed and employed in accordance with the provisions of this article;

(8) Develop and establish training and educational programs for persons in the municipal service;

(9) Investigate periodically the operation and effect of the personnel provisions of this ~~Charter~~ charter and the rules promulgated thereunder, and report annually his findings and recommendations to the city manager;

(10) Perform such other and different lawful acts and functions as he may deem necessary or desirable to enforce the purposes and provisions of this article.

Sec. ~~141~~ 47. Personnel board; appointment.

(a) There shall be a personnel board consisting of six (6) members who shall be appointed as follows: One (1) member by the mayor (without approval of the city council) designated as Group A; one (1) member by the city council designated as Group B; one (1) member by the city council designated as Group C; one (1) member elected by the employees designated as Group D; one (1) member elected by the employees designated as Group E; and one (1) member by the mayor with the approval of the city council who shall be designated the "alternate". No member of the personnel board shall be an employee of the City of North Miami. "Employee" shall mean the employees of the City of North Miami with civil service status. The terms of office of the personnel board members shall run from the second Tuesday in June commencing in 1971 and the initial term for Group A shall be one (1) year; Group B, two (2) years; Group C, three (3) years; Group D, two (2) years; Group E, three (3) years, with all successive appointments for three (3) years. The alternate shall be appointed for a term of three (3) years which shall commence on _____, 2008.

(b) The personnel director shall prescribe rules, regulations and procedures in connection with election of the two (2) members to the board by the City of North Miami employees.

(c) Vacancies shall be filled in the same manner as original appointments were made and shall be for the unexpired term of the member whose position is vacated.

Sec. ~~142~~ 48. Personnel board; qualifications.

Each member shall be a qualified elector of the city and shall be known to be in sympathy with the merit principle as applied to the civil service.

Sec. ~~143~~ 49. Personnel board; compensation.

Members of the board may be allowed compensation as shall be determined by ordinance for each meeting devoted to the work of the board.

Sec. ~~144~~ 50. Personnel board; powers and duties.

The board shall have power and shall be required to:

(1) Advise the personnel director on problems concerning personnel administration;

(2) Advise and assist the director in fostering the interest of institutions of learning, civic, professional and employee organizations in the improvement of personnel standards in the municipal service;

(3) Make any investigation which it may consider desirable concerning the administration of personnel in the municipal service, and report to the city manager, at least once each year, its findings, conclusions and recommendations;

(4) Hear appeals in case any officer or employee in the classified service is suspended, reduced or removed and report in writing to the city manager its findings and recommendations;

(5) Review the activities of the personnel director and recommend changes in accordance with their findings.

Sec. ~~145~~ 51. Rules.

(a) Within six (6) months after the appointment of the first director under this article, the director shall prepare and recommend to the board such rules as he may consider necessary, appropriate or desirable to carry out the provisions of this article. After a public hearing thereon, the board shall approve or reject the rules wholly or in part, or may modify them, and approve them as so modified. Rules and amendments thereto which are approved by the board or on which the board takes no action within sixty (60) days after they are recommended by the director, shall be transmitted to the city manager for filing with the council. Rules and amendments thereto shall become effective when approved by the council or on the tenth day after submission if prior thereto the council shall not have rejected them by resolution. Thereafter the board shall have power to amend, repeal or add to the rules on the recommendation of the director or on its own initiative, subject to the requirement of a public hearing and all the other subsequent steps of procedure required herein for adoption of the original set of rules.

(b) Rules adopted hereunder shall have the force and effect of law. They shall provide for the method of holding competitive examinations, the establishment, maintenance, consolidation and cancellation of eligible lists, administration of classification plan and the pay plan, the application of service ratings, the hours of work, attendance regulation and leaves of absence for employees in the classified service, the order and manner in which layoffs shall be effected, and similar matters of personnel administration.

(c) The powers herein conferred upon the director shall be subject only to the provisions of this article and of the rules adopted hereunder, and may be exercised by regulation or by order as the director sees fit.

Sec. ~~146~~ 52. Unclassified and classified service.

The civil service of the city shall be divided into the unclassified and the classified service.

(a) The unclassified service shall comprise the following offices and positions:

(1) Members of the city council and other elective officers, and persons appointed to fill vacancies in elective offices;

(2) The city clerk;

(3) The city manager and the assistant manager, if any;

(4) The directors of departments;

(5) One (1) principal assistant or deputy and one (1) private secretary to the city manager;

(6) Members of boards and commissions in the city's service;

(7) Those positions which are either of a temporary nature or which require peculiar and exceptional qualifications of a specific, managerial, professional or educational character which positions do not fall within any existing classification and the duties of which do not fall within the scope of the specifications set up for any existing classification, and which do not warrant the establishment of a new classification or the expansion of the specifications in an existing classification because of the temporary nature of the employment.

(b) The classified service shall comprise all positions not specifically included by this section in the unclassified service.

Sec. ~~147~~ 53. Classification.

(a) The director of personnel shall prepare and maintain and up to date record of the authority, duties and responsibilities of each position in the classified service. Within one (1) year after the appointment of the first director under this article, the director shall prepare and submit to the personnel board a plan of classification and grading of all such positions according to similarity of authority, duties and responsibilities. The city manager shall submit the classification plan to the council with such changes as he deems desirable and such plan shall take effect when adopted by the personnel board or on the thirtieth day after it is submitted to the personnel board if prior thereto the personnel board has not disapproved it by resolution.

(b) Changes in the classification plan which the director deems desirable may be recommended and adopted from time to time in the same manner as herein provided for the original adoption of the plan.

(c) As promptly as practicable after the adoption of the classification plan, and after any amendment thereof, the director shall, with the approval of the city manager, allocate each position in the classified service to the appropriate class therein on the basis of its authority, duties and responsibilities. Thereafter, as new positions are created or additional classes are established, or existing classes are divided, combined, altered or abolished, the director shall make such allocations or reallocations of positions to new or existing classes as are necessitated thereby.

(d) Following the adoption of the classification plan and the allocation to classes therein of positions in the classified service, the class titles set forth therein shall be used to designate such positions in all official records, documents, vouchers and communications, and no person shall be appointed to or employed in a position in the classified service under any class title which has not been approved by the director as appropriate to the duties to be performed.

(e) Employees affected by the allocation or reallocation of a position to a class, or by changes in the classification plan, shall be afforded a reasonable opportunity to be heard thereon after filing with the director a written request for a hearing.

Sec. ~~148~~ 54. Promotions.

Vacancies in higher positions in the classified service of the city shall, as far as practicable, be filled by promotion from lower classes following competitive tests; provided, that in case the civil service board so directs, such positions shall be filled by competitive tests open not only to city officers and employees serving in lower classes, but also to persons not in the service of the city. A change from a position in any class to a position in another class for which a higher maximum rate of pay is prescribed shall be considered a promotion. The director of personnel shall, to the extent he considers such action desirable, indicate the principal or normal lines of promotion from and to each class in the class specifications or in regulation.

Sec. ~~149~~ 55. Pay plan.

The director of personnel shall prepare for the city manager a standard schedule of pay for each position in the classified service: The city manager shall submit the pay plan to the council with such changes as he deems desirable and such plan shall take effect when adopted by the council or on the thirtieth day after it is submitted if prior thereto the council has not disapproved it by resolution. The pay plan adopted by the council shall include a minimum and maximum and such intermediate rates as may be deemed desirable for each class of position. Amendments to the pay schedule may be adopted by the council, from time to time, upon recommendation of the city manager. In increasing or decreasing times in the city budget, the council shall not increase or decrease any individual salary items but shall act solely with respect to classes of positions as established in the classification and pay plans. In no event shall the council reduce the salary of a class below the minimum or raise it above the maximum salary established by the pay plan except by amendment of the pay plan.

Sec. ~~150~~ 56. Pension and retirement system.

The council shall have authority to establish a pension and retirement system for any or all groups of officers and employees in service of the city. Any such pension and retirement system shall be established on a jointly contributory basis. The cost of the system shall be determined actuarially on the basis of such mortality and service tables as the council shall approve and shall be calculated and contributed as a uniform or decreasing percentage of the payroll of members. No system requiring an increasing percentage of the payroll to be paid as the contribution of either the members or the city shall be established. The provisions of the ordinance establishing such a pension and retirement system shall require periodic actuarial evaluations which shall serve as the basis of any changes in the rates of contributions and shall also provide for the maintenance at all times of adequate reserves. Any officer or employee of the city at the time of the establishment of such system shall have for a reasonable time thereafter the privilege of becoming a member of the system so established and to share its benefits. Officers and employees thereafter appointed in the classified service shall be required to join the system as a condition of employment. Existing local pension and relief funds under the provisions of the state law shall continue as long as such laws are in effect or until the beneficiaries thereof have elected to become members of the system set up in conformity with the provisions of this section; but the beneficiaries of any system under state law may be limited by the provisions of the pension and retirement system created under this section to those officers and employees who were the beneficiaries of such funds at the time of the adoption of a pension and retirement

system as herein authorized. No officer or employee of the city may be a beneficiary of a local pension or relief fund established under state law and at the same time a member of a pension and retirement system established hereunder, except Federal Social Security if such is in existence at the time the pension plan is set up. Any pension and retirement system established or administered under the provisions of this section shall be administered by a board of trustees, subject to the approval of the city council.

Sec. ~~151~~ 57. Oaths.

For the purpose of the administration of the personnel provisions of this ~~Charter~~ charter, any member of the personnel board and personnel director shall have the power to administer oaths.

Sec. ~~152~~ 58. Prohibitions.

(a) No person in the classified service of the city or seeking admission thereto shall be appointed, promoted, reduced, removed, or in any way favored or discriminated against because of his race or his political or religious opinions or affiliations. No person shall willfully or corruptly make any false statement, certificate, mark, rating or report in regard to any test, certification, or appointment held or made under the personnel provisions of this ~~Charter~~ charter or in any manner commit or attempt to commit any fraud preventing the impartial execution of such personnel provisions or of the rules and regulations made thereunder. No officer or employee in the classified service of the city shall continue in such position after becoming a candidate for nomination or election to any public office. No person seeking appointment to or promotion in the classified service of the city shall either directly or indirectly give, render or pay any money, service or other valuable thing to any person for or on account of or in connection with his test, appointment, proposed appointment, promotion or proposed promotion. No person shall orally, by letter, or otherwise solicit or be in any manner concerned in soliciting any assessment, subscription or contribution for any political party or political purpose whatever from any person holding a position in the classified service of the city. No person holding a position in the classified service of the city shall make any contribution to the campaign funds of any political party or any candidate for public office or take any part in the management, affairs or political campaign of any political party, further than in the exercise of his rights as a citizen to express his opinion and to cast his vote.

(b) Any person who by himself or with others willfully or corruptly violates any of the provisions of this section shall be guilty of a misdemeanor and shall upon conviction thereof be punished by a fine of not less than fifty dollars ($50.00) nor more than five hundred dollars ($500.00), or by imprisonment for a term not exceeding two (2) months, or by both such fine and imprisonment. Any person who is convicted under this section shall for a period of five (5) years be ineligible for appointment to or employment in a position in the city service, and shall, if he be an officer or employee of the city, immediately forfeit the office or position he holds.

~~ARTICLE XII. - [PARKS AND] RECREATION DEPARTMENT~~

~~**Sec. 153. - Director.**~~

~~There shall be a department of [parks and] recreation, the head of which shall be a [parks and] recreational director who shall be appointed by the city manager. Such director shall have~~

had either sufficient experience or knowledge of various forms of recreation as shall equip him to perform the duties of his office.

Sec. 154. - Duties of director.

The director shall, during the first year of his appointment, cause to be submitted to the city council through the city manager a plan for the development of recreational facilities in the city, including such facilities as swimming pools, ball diamonds, and similar projects, together with his recommendations as to the location and cost thereof, and each year thereafter he shall make further reports as to the need of the city for additional facilities. He shall also cooperate, as far as possible, with all departments of the city, such as the planning and zoning departments, and shall perform such other duties as may be provided by law.

Sec. 155. - Reserved.

Sec. 156. - Revenues from facilities.

In the event that any charge is imposed by law for use of the recreational facilities of the city, the proceeds thereof shall be deposited with the director of finance and shall be used solely for the purpose of paying the principal, interest, and sinking fund requirements of any bonds or evidences of the indebtedness as may have been issued by the city for the use and benefit of the [parks and] recreation department, and if any surplus shall accrue from such proceeds, the same shall be used to defray the operation of the department and for no other purpose.

ARTICLE XIII. - PUBLICITY

Sec. 157. - Publicity department.

In order to give publicity to the city's attractions and its desirability as a place for the establishment of businesses, the city shall have the power to establish a department of publicity. The department shall handle all advertising for the city under an ordinance which shall specify the method in which such advertising and publicizing shall be conducted, and to accomplish this purpose, the council shall include in each annual budget a sum sufficient to defray the expenses of such department and the cost of such publicity and advertising. In lieu of such department, the council may designate an agency which is engaged in the business of handling publicity or advertising for state or municipal purposes to perform the functions of such department.

ARTICLE XIV. - DEPARTMENT OF HEALTH

Sec. 158. - Reserved.

ARTICLE XV. - PLANNING, ZONING, LICENSING

Sec. 159. - Condemnation of unsafe buildings.

The city shall have power, to be exercised by ordinance, to prohibit the erection of, and to condemn and require the destruction of, any structure which may be dangerous, unsafe, or unsanitary, to compel the abatement and removal of nuisances, to require all lands within the city to be kept clean and sanitary, and to make and enforce all sanitary and other regulations as the council may deem necessary for the improvement or protection of the city or its inhabitants. It

~~shall also have such power as may be necessary to enforce such regulations at the expense of the owners or occupants of premises in the city which are maintained in a manner contrary to the terms of an ordinance enacted hereunder and to have a lien upon such property for such expenses as the city may be put to in enforcing such ordinance against any property offending the terms of the ordinance.~~

~~Sec. 160. - General law of state in effect.~~

~~In addition to the foregoing, said city shall have and is granted the right to exercise all powers now or hereafter granted to municipalities under the general law, and to make and enforce ordinances, rules and regulations necessary or expedient for effectuating the powers hereby or by the general laws conferred.~~

~~Sec. 161. - General welfare clause.~~

~~Said city shall have and is granted the right and power to exercise all powers the object of which is to promote the public health, public safety, public morals and public welfare; and no ordinance enacted hereunder shall be held to be void unless plainly shown to be unrelated to such ends.~~

~~Sec. 162. - Subdivisions.~~

~~The council shall have power to approve, upon such terms and conditions as may be fixed by ordinance, any map or plat of a proposed subdivision or rearrangement of lands, streets, or ways within the city.~~

~~Sec. 163. - City map.~~

~~The council may by ordinance establish an official map of the city and may modify the same as the occasion may warrant.~~

ARTICLE ~~XVI~~ VIII. - ELECTIONS

Sec. ~~164~~ 59. Municipal elections.

The regular election for ~~councilmen~~ councilmembers, mayor and city clerk when applicable shall be held on the second Tuesday in May in odd-numbered years.

Should the council determine that by reason of the happening of a disaster or of an impending disaster, such election should not be held, it may by resolution authorize the mayor by proclamation to postpone the holding of the election for a period not to exceed fourteen (14) days. Such proclamation shall be posted in the city hall not less than ten (10) hours prior to the opening of the polling place or places for such elections and shall specify the time to which the election is to be postponed. The term "qualified elector" as used in this ~~Charter~~ charter shall mean a citizen having the qualifications required by law to vote in the city who is at the time registered to vote, or, if no later complete registration is in effect at the time, was registered to vote in the city at the last preceding general election. Any special election of the council shall be held as nearly as practicable according to provisions for a regular election.

Sec. ~~16~~ 60. Induction of council into office; meetings of council.

The first meeting of each newly elected council for induction into office shall be held at 7:00 o'clock in the evening on the second Tuesday next following the general election (the first Tuesday after the runoff, if any) after which the council shall meet regularly at such times as may be prescribed by ordinance, but no less frequently than once each month. All meetings of the council shall be open to the public. No council meeting shall be held on the day or evening of a general city election nor of a city runoff election, if any.

Sec. ~~165~~ 61. Selection of candidates.

In any election held hereunder, candidates for council, mayor or city clerk receiving at least fifty (50) percent plus one (1) of the votes cast in their respective groups shall be deemed elected to the vacancies to be filled. Where no candidate receives a least fifty (50) percent plus one (1) of the votes cast in his/her group or for mayor, a runoff election between the two (2) highest candidates in the group or for mayor shall be held on a date established by the city council, by ordinance, which shall not be more than three (3) weeks after the regular election and the candidates receiving at least fifty (50) percent plus one (1) of [the] votes in the runoff election shall be deemed elected to the vacancy in that group or for mayor. In the event that the two (2) candidates in the runoff receive an equal number of votes, then there shall be another runoff election on a date established by the city council, by ordinance, which shall not be more than three (3) weeks after the previous runoff election, until a candidate shall have received at least fifty (50) percent plus one (1) vote of the people.

Sec. ~~166~~ 62. Regulations of elections.

The council shall provide by ordinance for the supervision and conduct of the elections. It shall make all regulations not inconsistent herewith for the conduct of such elections and the recount of ballots in case of doubt or fraud.

Sec. ~~167~~ 63. Qualification of candidates.

(a) Any qualified elector, as described in Article ~~II~~ III, Sec~~[~~tion~~]~~ ~~5~~ 10 above, of the city may qualify and run for a single council district seat, for mayor, or for city clerk by filing such intention in writing with the city election authorities not earlier than forty-three (43) days nor later than thirty-five (35) days before the election, such intention to be in substantially the following form:

(b) I, the undersigned, an elector of the City of North Miami, whose residence is _____ hereby announce my candidacy for the office of (~~Councilperson~~ councilmember, District No. _____ (for ~~Mayor~~ mayor), (for ~~City Clerk~~ city clerk) to be voted for at the election to be held on the day of _____ 20, _____ and I hereby agree to serve if elected.

Signature of candidate _____
Date and hour filing _____

Received by _____
(signature of election official)

(c) No intention or announcement of candidacy shall be accepted by the election authorities unless accompanied by a qualifying fee to be paid by the candidate in the sum of five (5) percent of the yearly salary which a ~~councilperson~~ councilmember is then entitled to receive. The officer who receives the qualifying fee shall issue a receipt. Such qualifying fee shall be returned to the candidate if the candidate becomes ineligible or withdraws such candidacy not later than the close of qualifying. Any candidate may withdraw such candidacy not later than the last day for filing same by filing a notice of withdrawal with the city clerk.

Sec. ~~168~~ 64. Council ballots.

(a) The full names of all candidates nominated for the council as hereinbefore provided, except such as may have withdrawn, died or become ineligible, shall be printed on the official ballots. If two (2) candidates with the same surname, or with names so similar as to be likely to cause confusion, are qualified, some differentiation between the two (2) shall be placed on the ballot.

(b) The names of the candidates shall be arranged in the alphabetical order of their surnames within each group and for mayor.

Sec. ~~169~~ 65. Voting machines.

The council shall have the power to provide for the use of mechanical or other devices for voting ~~r~~counting the votes in accordance with ~~the principles set forth in this Charter.~~ Chapter 101, Florida Statutes.

Sec. ~~170~~ 66. Public supervision and information.

(a) At each election of the council any regularly nominated candidate shall be entitled upon written application to the election authorities at least five (5) days before the election:

(1) To appoint one (1) person and one (1) alternate to represent him as watcher and challenger at each polling place. Any person so appointed shall have all the rights and privileges prescribed by law for other watchers and challengers at any election in the same place, but a watcher and his alternate shall not have the right both to remain within the voting place at the same time.

(2) To appoint one (1) representative at the count in the central counting place, who shall have full authority to move anywhere within the central counting quarters and to inspect all activities of the count without interfering therewith.

(b) The election authorities shall permit candidates to make substitutions for persons originally appointed as watchers, challengers, representatives or observers.

(c) The candidates, representatives of the press and, so far as may be consistent with good order and convenience, the public shall be afforded every facility for being present and witnessing the count.

~~**Sec. 171. - Vacancies on the council.**~~

~~Vacancies on the council shall be filled for the remainder of the unexpired term of the councilperson whose seat becomes vacant in the following manner:~~

~~(1) If the vacancy occurs because of resignation by a councilperson who is seeking other elective office, the election for which office includes the electors of the City of North Miami, such councilperson must file a written resignation with the city clerk at least ten (10) days prior to the earliest qualifying date for such other elective office (the resignation to become effective upon a successor's being sworn into office) and a successor shall be elected in the same election with qualifying concurrent with the qualifying dates of the office sought by the resigning councilperson.~~

~~(2) All other vacancies shall be filled in the next election being held in the City of North Miami whether a city election or general election if the election occurs more than forty-five (45) days and less than one hundred twenty (120) days after the occurrence of the election vacancy. Otherwise, any vacancy on the city council shall be filled by majority vote of the remaining members of the city council within sixty (60) days after the occurrence of the vacancy, or the city council may notify the city clerk or deputy city clerk to call a special election, in no less than sixty (60) days more than one hundred twenty (120) days after the occurrence of the vacancy. The person appointed to fill the office vacated must at the time of appointment be a qualified elector of the City of North Miami as required in Article II, Section 5 of the City Charter. A person appointed shall serve only until the next election, whether regular city council election, special city election or any county-wide or general election. A person so elected shall serve for the remainder of the unexpired term of office.~~

~~(3) In accordance with subsection 171(1) or (2), if a vacancy is to be filled at other than a regular city election, and the city clerk certifies that the city candidates cannot be included on the ballot, then the vacancy shall be filled as provided in subsection 171(2) as though there were no other election being held.~~

~~(4) Nominations and the conduct of the election shall be as otherwise provided in this Charter and by law, and notice of election shall be posted in the city hall and published in a newspaper of general circulation in the City of North Miami once a week for four (4) consecutive weeks preceding the holding of the election.~~

Sec. ~~172~~ 67. Recall of elected officials.

(a) The city council shall, within sixty (60) days after the effective date of this section, adopt an ordinance providing for the adoption of Florida Statute section 100.361, entitled "Municipal Recall" so that the provisions of section 100.361, F.S. (1983) shall apply to the city council of the City of North Miami.

(b) Said ordinance described in section ~~172~~ 67(a) above, shall also contain provisions making the substance of section 100.361, F.S. (1983), as embodied in said ordinance, applicable to the city clerk position, as long as said position is an elected one. Said ordinance shall provide that if the elected official sought to be recalled is the city clerk, then the mayor and council shall request that the chief judge of the circuit court appoint an individual to perform the duties of the clerk set forth with regard to recall procedures, and that if the chief judge should decline to so do, the mayor and council shall request that the governor appoint such an individual.

(c) The city council shall review any changes made from time to time in section 100.361, [F.S.] and may adopt by ordinance enacted by four-fifths of the membership of the city council any revisions to the provisions of section 100.361, F.S. (1983) which are not otherwise applicable to the city.

~~ARTICLE XVII. - INITIATIVE AND REFERENDUM~~

Sec. ~~173~~ 68. Power of initiative.

The electors shall have power to propose any ordinance except an ordinance appropriating money or authorizing the levy of taxes, and to adopt or reject the same at the polls, such power being known as the initiative. Any initiated ordinance may be submitted to the council by a petition signed by qualified electors of the city equal in number to at least ten (10) percent of the registered voters at the last regular municipal election.

Sec. ~~174~~ 69. Power of referendum.

The electors shall have power to approve or reject at the polls any ordinance passed by the council, or submitted by the council to a vote of the electors~~, except as provided in section 65, such power being known as the referendum~~. Ordinances submitted to the council by initiative petition and passed by the council without change shall be subject to the referendum in the same manner as other ordinances. Within twenty (20) days after the enactment by the council of any ordinance which is subject to a referendum, a petition signed by qualified electors of the city equal in number by at least ten (10) percent of the registered voters at the last preceding regular municipal election may be filed with the city clerk requesting that any such ordinance be either repealed or submitted to a vote of the electors.

Sec. ~~175~~ 70. Form of petitions; committee of petitioners.

All petition papers circulated for the purposes initiative or referendum shall be uniform in and style. Initiative petition papers shall contain the full text of the proposed ordinance. The signatures to initiative or referendum petition need not all be appended to one (1) paper, but each separate petition there shall be attached to a statement of the circulator thereof as provided by this section. Each signer of any such petition paper shall sign his name in ink or indelible pencil and shall indicate after his name his place of residence by street and number, or other description sufficient to identify the place. There shall appear on each petition the names and addresses of the same five (5) electors, who, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition. Attached to each separate petition paper there shall be an affidavit of the circulator thereof that he, and he only, personally circulated the foregoing paper, that it bears a stated number of signatures, that all the signatures appended

thereto were made in his presence, and that he believes them to be the genuine signatures of the persons whose names they purport to be.

Sec. ~~176~~ 71. Filing, examination and certification of petitions.

All petition papers comprising an initiative or referendum petition shall be assembled and filed with the city clerk as one (1) instrument. Within twenty (20) days after a petition is filed, the city clerk shall determine whether each paper of the petition has a proper statement of the circulator and whether petition is signed by a sufficient number of qualified electors. The city clerk shall declare any petition paper entirely invalid which does not have attached thereto an affidavit signed by the circulator thereof. If a petition paper is found to be signed by more persons than the number of signatures certified by the circulator, the last signatures in excess of the number certified shall be disregarded If a petition paper is found to be signed by fewer persons than the number certified, the signatures shall be accepted unless void on other grounds. After completing his examination of the petition, the city clerk shall certify the result thereof to the council at its next regular meeting. If he shall certify that the petition is insufficient he shall set forth in his certificate the particulars in which it is defective and shall at once notify the committee of the petitioners of his findings.

Sec. ~~177~~ 72. Amendment of petitions

An initiative or referendum petition may be amended at any time within ten (10) days after the notification of insufficiency has been sent by the city clerk, by filing a supplementary petition upon additional papers signed and filed as provided in case of an original petition. The city clerk shall, within five (5) days after such an amendment is filed, make examination of the amended petition and, if the petition be still insufficient, he shall file his certificate to that effect in his office and notify the committee of the petitioners of his findings and no further action shall be had on such insufficient petition. The finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose, unless the time for filing has expired.

Sec. ~~178~~ 73. Effect of certification of referendum petition.

When a referendum petition, or amended petition as defined in section ~~177~~ 72 of this ~~Charter~~ charter, has been certified as sufficient by the city clerk, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be ~~Suspended~~ suspended if it shall have gone into effect, until and unless approved by the electors, as hereinafter provided.

Sec. ~~179~~ 74. Consideration by council.

Whenever the council receives a certified initiative or referendum petition from the city clerk, it shall proceed at once to consider such petition. A proposed initiative ordinance shall be read and provision shall be made for a public hearing upon the proposed ordinance. The council shall take final action on the ordinance not later than sixty (60) days after the date on which such ordinance was submitted to the council by the city clerk. A referred ordinance shall be reconsidered by the council and its final vote upon such reconsideration shall be upon the question, "Shall the ordinance specified in the referendum petition be repealed?"

Sec. ~~180~~ 75. Submission to electors.

If the council shall fail to pass an ordinance proposed by initiative petition, or shall pass it in a form different from that set forth in the petition ~~therefor~~, or if the council fails to repeal a referred ordinance, the proposed or referred ordinance shall be submitted to the electors not less than thirty (30) days nor more than one (1) year from the date the council takes its final vote thereon. The council may, in its discretion, and if no regular election is to be held within such period shall, provide for a special election.

Sec. ~~181~~ 76. Form of ballot for initiated and referred ordinances.

Ordinances submitted to vote of the electors in accordance with the initiative and referendum provisions of this ~~Charter~~ charter shall be submitted by ballot title, which shall be prepared in all cases by the city attorney or other principal legal adviser of the city. The ballot title may be different from the legal title of any such initiated or referred ordinance and shall be a clear, concise statement, without argument or prejudice, descriptive of the substance of such ordinance. The ballot used in voting upon any ordinance, if a paper ballot, shall have below the ballot title the following propositions, one (1) above the other, in the order indicated: "FOR THE ORDINANCE" and "AGAINST THE ORDINANCE." Immediately at the left of each proposition there shall be a square in which by making a cross (X) the elector may vote for or against the ordinance. Any number of ordinances may be voted on at the same election and may be submitted on the same ballot, but any paper ballot used for voting thereon shall be for that purpose only. If voting machines are used, the ballot title of any ordinance shall have below it the same two (2) propositions, one (1) above the other or one (1) preceding the other in the order indicated, and the elector shall be given an opportunity to vote for either of the two (2) propositions and thereby to vote for or against the ordinance.

Sec. ~~182~~ 77. Availability of list of qualified electors.

If any organization or group requests it for the purpose of circulating descriptive matter relating to the ordinance to be voted on, the board of elections or city clerk or other office, department or agency of the city having the list of qualified electors shall either permit such organization or group to copy the names and addresses of the qualified electors or furnish it with a list thereof.

Sec. ~~183~~ 78. Results of election.

If a majority of the electors voting on a proposed initiative ordinance shall vote in favor thereof, it shall thereupon be an ordinance of the city. A referred ordinance which is not approved by a majority of the electors voting thereon shall thereupon be deemed repealed. If conflicting ordinances are approved by the electors at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

Sec. ~~184~~ 79. Repealing ordinances; publication.

Initiative and referendum ordinances adopted or approved by the electors shall be published as in the case of other ordinances, and may be amended or repealed by the unanimous vote of the entire council.

~~**ARTICLE XVIII. - GENERAL PROVISIONS**~~

~~**Sec. 185. - Removal of officers and employees.**~~

~~The city manager shall have the power to appoint and remove department heads but the appointment and removal of all other city employees shall be as specified elsewhere in this Charter.~~

~~Sec. 186. - Right of city manager and other officers in council.~~

~~The city manager, the heads of all departments, and such other officers of the city as may be designated by vote of the council, shall be entitled to seats in the council, but shall have no vote therein. The city manager shall have the right to take part in the discussion of all matters coming before the council, and the directors and other officers shall be entitled to take part in all discussions of the council relating to their respective offices, departments or agencies.~~

~~Sec. 187. - Investigations by council or city manager.~~

~~The council, the city manager, or any person or committee authorized by either of them, shall have power to inquire into the conduct of any office, department, agency or officer of the city and to make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers and other evidence. Failure to obey such subpoena or to produce books, papers or other evidence as ordered under the provisions of this section shall constitute a misdemeanor and shall be punishable by a fine not to exceed one hundred fifty dollars ($150.00), or by imprisonment not to exceed sixty (60) days, or both.~~

~~Sec. 188. - Contracts extending beyond one year.~~

~~No contract involving the payment of money out of the appropriations of more than one (1) year shall be made for a period of more than five (5) years; nor shall any such contract be valid unless made or approved by ordinance.~~

~~Sec. 189. - Publicity of records.~~

~~All records and accounts of every office, department or agency of the city shall be open to inspection by any citizen, any representative of a citizens' organization or any representative of the press at all reasonable times and under reasonable regulations established by the city manager, except records and documents the disclosure of which would tend to defeat the lawful purpose which they are intended to accomplish.~~

~~Sec. 190. - Publication requirements.~~

~~Whenever in this Charter any matter or thing is required to be published, unless the context in which the word is used requires publication in a newspaper, it shall be sufficient compliance with this Charter that the matter so required to be published shall be publicly displayed in an appropriate place in the city hall and, unless otherwise forbidden, in a conspicuous place in the United States Post Office in the City of North Miami, if such there be.~~

~~Sec. 191. - Personal interest in contracts of city.~~

~~No member of the council or any officer or employee of the city shall have a financial interest, direct or indirect or by reason of ownership of stock in any corporation, in any contract or in the sale to the city, or to a contractor supplying the city, of any land or rights or interests in~~

any land, material, supplies or services. Any wilful violation of this section shall constitute malfeasance in office, and any officer or employee of the city found guilty thereof shall thereby forfeit his office or position. Any violation of this section with the knowledge express or implied of the person or corporation contracting with the city shall render the contract voidable by the city manager or the council.

Sec. 192. - Official bonds.

The city manager, the director of finance and such other officers or employees as the council may by general ordinance require so to do, shall give bond in such amount and with such surety as may be approved by the council. The premiums on such bonds shall be paid by the city.

Sec. 193. - Oath of office.

Every officer of the city shall, before entering upon the duties of his office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the city clerk: "I solemnly swear (or affirm) that I will support the constitution and will obey the laws of the United States and of the State of Florida, that I will, in all respects, observe the provisions of the Charter and ordinances of the City of North Miami, and will faithfully discharge the duties of the office of _____; that I am not a member of the communist party; that I have not and will not lend my aid, support, advice, counsel, or influence to the communist party; that I do not believe in the overthrow of the government of the United States or of the State of Florida by force or violence; that I am not a member of any organization or party which believes in or teaches, directly or indirectly, the overthrow of the government of the United States or of the State of Florida by force or violence."

Sec. 194. - Effect of this Charter on existing law.

(a) All laws and parts of laws relating to or affecting the City of North Miami in force when this Charter shall take effect are hereby repealed and superseded to the extent that the same are inconsistent with the provisions of this Charter.

(b) Insofar as the provisions of this Charter are the same in terms or in substance and effect as provisions of law in force when this Charter shall take effect, relating to or affecting the City of North Miami, the provisions of this Charter are intended to be not a new enactment but a continuation of such provisions of law, and this Charter shall be so construed and applied.

Sec. 195. - Short title.

This Charter, adopted by the people of the City of North Miami, shall be known and may be cited as the "Council-Manager Charter of the City of North Miami."

Sec. 196. - Separability clause.

If any section or part of section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

[Sec. 196.1. - Construction of gender.]

The use of masculine gender throughout the Charter is used only for stylistic convenience, and is to be interpreted as including the female gender as well as the masculine gender.

Sec. 197. - Reserved.

ARTICLE XIX. - SUCCESSION IN GOVERNMENT

Sec. 198. - Assessment and tax collection in first fiscal year.

The first fiscal year, as established by section 30 of this Charter, shall commence on the first day of October.

Sec. 199. - Rights of officers and employees preserved.

Nothing in this Charter contained, except as specifically provided, shall affect or impair the rights or privileges of officers or employees of the city or of any office, department or agency existing at the time when this Charter shall take effect, or any provision of law in force at the time when this Charter shall take effect and not inconsistent with the provisions of this Charter, in relation to the personnel, appointment, ranks, grades, tenure of office, promotion, removal, pension and retirement rights, civil rights or any other rights or privileges of officers or employees of the city or any office, department or agency thereof, but this enumeration shall create no new or additional rights or privileges.

Sec. 200. - Continuance of present officers.

All persons holding administrative office at the time this Charter takes effect shall continue in office and in the performance of their duties until have been made in accordance therewith for the performance of such duties or the of such office. The powers conferred duties imposed upon any office, department or agency of the city by the laws of the state such office, department or agency, be abolished by this Charter, or under its authority, be thereafter exercised and discharged by the office, department or agency designated by the council unless otherwise provided herein

Sec. 201. - Status of officers and employees holding positions when the Charter takes effect.

Any person holding an office or position under civil service of the city when this Charter takes effect who shall have served in such position for a period of at least three (3) months shall be retained without preliminary or working tests and shall thereafter be subject in all respects to the provisions of this Charter. Other persons in the city service at the time this Charter takes effect shall be regarded as holding their positions under provisional appointments.

Sec. 202. - Transfer of records and property.

All records, property and equipment whatsoever of any office, department or agency or part thereof, all the powers and duties of which are assigned to any other office, department or agency by this Charter, shall be transferred and delivered to the office, department or agency to which such powers and duties are so assigned. If part of the powers and duties of any office, department

~~or agency or part thereof are by this Charter assigned to another office, department or agency, all records, property and equipment relating exclusively thereto shall be transferred and delivered to the office, department or agency to which such powers and duties are so assigned.~~

~~**Sec. 203. - Continuity of offices, departments or agencies.**~~

~~Any office, department or agency provided for in this Charter with a name or with powers and duties the same or substantially the same as those of an office, department or agency heretofore existing shall be deemed to be a continuation of such office, department or agency and shall exercise its powers and duties in continuation of their exercise by the office, department or agency by which the same were heretofore exercised and shall have power to continue any business, proceeding or other matter within the scope of its regular powers and duties commenced by an office, department or agency by which such powers and duties were heretofore exercised. Any provision in any law, rule, regulation, contract, grant or other document relating to such a formerly existing office, department or agency, shall, so far as not inconsistent with the provisions of this Charter, apply to such office, department or agency provided for by this Charter.~~

~~**Sec. 204. - Continuance of contracts and public improvements.**~~

~~All valid contracts entered into by the city, or for its benefits, prior to the taking effect of this Charter, shall continue in force and effect. Public improvements for which legislative steps have been taken under the general laws of the State of Florida may be carried to completion as nearly as Practicable in accordance with the provisions of the general laws of the State of Florida.~~

~~**Sec. 205. - Pending actions and proceedings.**~~

~~No action or proceedings, civil or criminal, pending at the time when this Charter shall take effect, brought by or against the city or any office, department or agency of [or] officer thereof, shall be affected or abated by the adoption of this Charter or by anything therein contained; but all such actions or proceedings may be continued notwithstanding that functions, powers and duties of any office, department or agency or officer party thereto may be or under this Charter be assigned or transferred to another office, department or agency or officer, but in that event the same may be prosecuted or defended by the head of the office, department or agency to which such functions, powers and duties have been assigned or transferred by or under this Charter.~~

~~**Sec. 206. - Reserved.**~~

ARTICLE ~~XX~~ IX . - CITY CLERK

Sec. ~~207~~ 80. Elected officials.

Anything in this ~~Charter~~ charter to the contrary notwithstanding, the city clerk shall continue to be elected by the people in the same manner as is now provided by law, and shall perform such duties as may now or hereafter be provided by ordinance.

Sec. ~~208~~ 81. City clerk; election.

(a) On the second Tuesday in May of an odd-numbered year, the city clerk shall be elected to hold office for a term of four (4) years and until his or her successor is elected and qualified but beginning in 2013 shall be limited to serving no more than two consecutive terms. In the event that no candidate receives a majority of the votes cast, then a runoff election shall be held between the two (2) candidates receiving the highest number of votes at the time and in the manner set forth in section ~~165~~ 61. In the event a vacancy occurs in the office of city clerk, the deputy city clerk shall assume the duties of the city clerk. Such vacancy shall be filled for a full four-year term in the next regular election being held for the City of North Miami.

(b) Qualifications. Except as otherwise provided below, any qualified voter of the City of North Miami may qualify and run for the office of city clerk. Such candidate must have been a resident of this city for at least one (1) year prior to qualifying. The city council may, by ordinance, establish additional qualifications, applicable subsequent to the May 1985 election of the city clerk.

(c) Duties.

(1) Give notice of regular and special council meetings.

(2) Keep a journal of the council proceedings and record in full in a book kept for the purpose, all ordinances and resolutions as may be enacted and adopted by the council.

(3) Be the keeper of official city contracts.

(4) Be responsible for issuing occupational licenses and the billing and collection of said license fees.

(5) Shall act as supervisor of all City of North Miami elections.

(6) Reserved.

(7) Shall perform such other duties as shall be required of him by ordinance.

(d) Salary. The city clerk shall receive a salary which shall be fixed in advance by the city council by ordinance, and which salary shall be included in the budget.

~~**Sec. 209. - Reserved.**~~

~~ARTICLE XXI. - CITIZENS' BILL OF RIGHTS~~

~~**Sec. 210. - Preamble.**~~

~~We, the people of the City of North Miami, in order to provide for a municipal government to serve our present and future needs, adopt this Charter and the following Citizens' Bill of Rights.~~

~~**Sec. 211. - Citizens' Bill of Rights.**~~

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

1. *Convenient access.* Every person has the right to transact business with the City with a minimum of personal inconvenience. It shall be the duty of the City Manager and the City Council to provide, within the City's budget limitations, reasonably 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 and resolutions 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 shall prohibit the City or any agency 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 healing, 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 Office of the City Attorney of the City nor 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 a 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. *Managers' and attorneys' reports.* The City Manager and City Attorney shall periodically make a public status report on all major matters pending or concluded within their respective offices, except as to any matters which may be privileged, pursuant to law.

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, the purposes and the estimated cost of each department.

12. *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.

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

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

~~(C) Remedies for violations. In any suit by a citizen alleging a violation of this Bill of Rights filed in 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 such 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.~~

~~ARTICLES XXII - XXIII. - RESERVED~~

* * * * * * * * * * * * * * * * * * * *

Section 2. Conflicts. All ordinances or parts of ordinances in conflict or inconsistent with the provisions of this Ordinance are hereby repealed.

Section 3. Severability. The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Codification. The provisions of this Ordinance may become and be made a part of the Code of Ordinances of the City of North Miami, Florida. The sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "article" or any other appropriate word. Sections of this Ordinance which are deleted and intended to be moved into their respective Chapters of the Code, shall continue to remain in full force and effect until the adoption of the relevant Code sections are completed, but in no event later than June 30, 2013.

Section 5. **Effective Date.** This Ordinance shall become effective immediately upon adoption on second reading.

PASSED AND ADOPTED by a 5-0 vote of the Mayor and City Council of the City of North Miami, Florida, on first reading this 27 day of November, 2012.

PASSED AND ADOPTED by a _____ vote of the Mayor and City Council of the City of North Miami, Florida, on first reading this _____ day of _____, 2012.

_____
ANDRE D. PIERRE, ESQ.
MAYOR

ATTEST:

_____
MICHAEL A. ETIENNE, ESQ.
CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

_____
REGINE M. MONESTIME
CITY ATTORNEY

SPONSORED BY: CITY ATTORNEY

Moved by: _____

Seconded by: _____

Vote:

Mayor Andre D. Pierre, Esq.	_____ (Yes)	_____ (No)
Vice Mayor Marie Erlande Steril	_____ (Yes)	_____ (No)
Councilperson Michael R. Blynn, Esq.	_____ (Yes)	_____ (No)
Councilperson Scott Galvin	_____ (Yes)	_____ (No)
Councilperson Jean R. Marcellus	_____ (Yes)	_____ (No)