ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 2 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, FOLLOWING THE CHARTER REVIEW PROCESS, TO UPDATE, ORGANIZE AND CLARIFY CHAPTERS OF THE CITY CODE, INCLUDING SUBSTANTIVE LEGAL, STYLISTIC AND ORGANIZATIONAL CHANGES, UPDATING STATUTORY REFERENCES, PROVIDING FOR THE CONSISTENT USE OF TERMS AND REFERENCES, INCLUSION OF GENDER DIVERSITY, CORRECTIONS OF SCRIVENER'S ERRORS, AND LIMITING THE USE OF REDUNDANT LANGUAGE; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of North Miami ("City") Code of Ordinances ("Code") is a compilation of the governing rules and regulations of the City, carefully arranged and officially promulgated by the Mayor and City Council; and

WHEREAS, the City Code stems from the authority granted by the United States and Florida Constitutions, federal, state and county laws, rules and regulations, the City Charter, and the common law; and

WHEREAS, the periodic review, analysis and rendition of improved versions of the City Code is an essential ingredient in the pursuit of equity, the proper and efficient administration of City services, and the preservation and improvement of the quality of life of all City residents; and

WHEREAS, on December 11, 2012, the Mayor and City Council passed and adopted Ordinance No. 1346, after finding that the proposed amendments to the City Charter, advanced the health, safety and welfare of all City residents and business community; and

WHEREAS, in conjunction with the amendments to the City Charter, it is evident that the City Code is in need of comprehensive reform since the adoption of July 11, 1989, under Ordinance No. 817.

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 Chapter 2 of the City of North Miami Code of Ordinances, to update, organize and clarify chapters of the City Code, including substantive legal, stylistic and organizational changes, updating statutory references, providing consistent use of names, terms and references, inclusion of gender diversity, corrections of scrivener's errors, and limiting the use of redundant language, as follows:

CHAPTER 2 - ADMINISTRATION

ARTICLE I. IN GENERAL

Sec. 2-1. Oath of office.

(a) Every elected officer or official of the city shall, before entering upon his or her duties of the office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the city clerk:

"I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution 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 that I will faithfully discharge the duties of the office of _____. So help me God."

Sec. 2-2. Reserve fund account.

(a) The city shall establish and maintain a reserve fund account in accordance with the Government Accounting Standard Board Statement No. 54, Fund Balance Reporting and Government Fund Type Definitions ("GASB 54"). The initial minimum allocation shall be five million dollars ($5,000,000.00) from proceeds derived from the Biscayne Landing lease.

(b) The amount maintained in the reserve fund account may be adjusted, from time to time, by recommendation of the city manager to the mayor and city council, as part of the city's fiscal year budget process. Any adjustments causing a decrease of the initial minimum fund allocation amount set forth in subsection (a) above, shall only be made by ordinance requiring at least a four-fifths (4/5) affirmative vote of the mayor and city council. The mayor and city council are required to replenish deficits below the minimum allocation amount as soon as it is practicable.

~~**Secs. 2-3—2-15. - Reserved.**~~

Sec. ~~2-12~~2-3. Indemnification of public officers and employees.

(a) The city shall protect and indemnify the city officials listed in (b) hereof from personal liability to the fullest extent authorized by ~~F.S §§ 111.071 and 111.072~~ Sections 111.071 and 111.072, Florida Statutes, but only to the extent that the official is not otherwise protected and indemnified by insurance purchased by the city or otherwise provided.

(b) The officials referred to in (a) above consist solely of all members of the city council,

all members of all city boards, commissions, or committees; the city manager, the city clerk, the city attorney, the chief of police, ~~the personnel director, the finance director~~ and all city directors and department heads.

(c) Nothing in this section shall constitute a waiver of sovereign immunity or a waiver of any other defense or immunity to such lawsuits, as provided by Chapter 768, Florida Statutes.

(d) Nothing in this section shall create any private right of action against the city by any third party.

Sec. 2-4. Bond of officers and employees, authority of city manager; approval by council.

(a) The city manager is hereby delegated the right and authority to recommend the officers and employees of the city who shall be required to furnish a fidelity bond to the city, in addition to those officers referred to in section 37 of the city charter, provided the recommendation shall be subject to the approval of the city council.

(b) The fidelity bond to be furnished by any officers and employees shall be approved as to amount, form, provisions and surety by the city council, and the premium therefrom shall be paid by the city.

Secs. 2-5---2-15. Reserved.

ARTICLE II. CITY COUNCIL

Sec. 2-16. City council meetings; time.

Regular council meetings of the ~~City~~ city of North Miami shall begin at 7:00 p.m. at ~~the City Hall~~ city hall. Special meetings may be called by the mayor or any member of the city council, however, no ~~specially-called~~ special meeting shall begin prior to 5:30 p.m. with the exception of emergency meetings called when there is an immediate danger to the public health, safety, or welfare to the city and/or its citizens and immediate action is required.

Sec. 2-17. Procedures for preparation of agenda and the introduction of legislation.

(a) The agenda for all regular meetings of the mayor and city council shall close on the prior Tuesday at noon, and no additional agenda items, whether requested by the mayor, a councilperson, the city administration, the city attorney or the public shall be placed on the agenda.

(b) The agenda for any upcoming regular meeting of the city council shall be printed by noon Thursday and distributed immediately to the mayor and city council, all necessary city personnel and shall be made available to the public.

(c) Any item(s) proposed for addition to an agenda for a regular meeting of the city council shall be of an emergency nature only, and must receive four affirmative votes of the mayor and city council to be added to that meeting's agenda.

(d) Agendas for special or workshop meetings of the city council shall be closed, printed and distributed no less than twenty-four (24) hours prior to the meeting. No additions to the agenda shall be permitted for any special or workshop meeting.

(e) The individual members of the mayor and city council shall, whenever practicable, hold agenda review meetings with the city manager and/or city attorney in order to provide for more efficient council meetings.

(f) All proposed ordinances must carry the name of a council sponsor or joint-sponsors at the time of placement on an agenda, except as provided in sections (h) and (i), below.

(g) All resolutions establishing a city-wide policy must carry the name of the council sponsor or joint-sponsors at the time of placement on an agenda, except as provided in sections (h) and (i) below.

(h) All resolutions addressing administrative matters may, whenever possible, carry the name of a council sponsor or joint sponsors at time of placement on an agenda.

(i) All ~~mandatory~~ recommendations of the planning commission, the board of adjustment, or any other board or committee of the city that takes the form of an ordinance or resolution ~~shall~~ may carry the sponsorship of the respective entity.

Sec. 2-18. Order and decorum.

(a) *By city council, commission or board members.* The members of the city council or any commission or board of the city must preserve order and decorum while in session. A member shall neither, by conversation or otherwise, delay or interrupt the proceedings or the peace of the meeting or disturb any member while speaking or refuse to obey the orders of the presiding officer.

(b) *Manner of addressing city council, commission or board.* Each person recognized for the purpose of addressing the city council or any commission or board of the city, shall approach the podium and give his/her name and address in an audible tone for the record. Persons addressing the city council during the citizen forum section of the council meeting shall limit their remarks to the time period established by the mayor and/or city council unless further time is granted by the mayor or by a majority of the council. All remarks shall be addressed to the council as a body and not to any member thereof, nor to members of the audience. No person, other than the council and the person having the floor, shall be permitted to enter into any debate or discussion, either directly or through a member of the city council, without the permission of the presiding officer. This section shall be applicable to all public meetings held in the city.

Sec. 2-19. Enforcement of decorum.

(a) The police chief, or such member or members of the police department as are designated by the city manager, shall be sergeant-at-arms at the council meetings. The sergeant-at-arms shall carry out the instructions given by the presiding officer or by a majority of the city council.

(b) Any displays of anger must be done in a manner not to incite others and disrupt the continuation of the meeting. Any person who becomes boisterous and interferes with the continuation of the meeting while addressing the city council or while attending the council meeting or meeting of any commission or board, and who refuses to refrain from such behavior, shall be removed from the room if the sergeant-at-arms is so directed by the presiding officer and/or the majority of the council, commission or board, and such person shall be barred from further audience, during that meeting, before said council, commission or board. Unauthorized remarks from the audience, stamping of feet, whistles, yells and similar demonstrations shall not be permitted by the presiding officer, who shall direct the audience to refrain from the offending behavior, the failure to do so shall subject the offender to being removed by the sergeant-at-arms from the room.

Secs. 2-20—2-30. Reserved.

ARTICLE III. BOARDS, COMMITTEES, COMMISSIONS

DIVISION 1. GENERALLY

Sec. 2-31. City attorney as legal advisor; appeals from opinions of city attorney.

The city attorney is hereby designated as the legal advisor to all boards and commissions of the city and all legal opinions given by the city attorney shall be accepted and followed by the board to, or for, which the opinion is given. Any member of a board dissatisfied with a legal opinion may appeal that opinion to the city council by written notice of such appeal to the city council delivered to the city manager. Such appeal must be taken at the next regular meeting of the city council occurring at least one (1) week after the board or commission meeting at which the appealed opinion is given. The notice of such appeal must be received by the city manager at least five (5) days prior to the city council meeting at which the appeal will be considered.

Sec. 2-32. Removal from appointive boards, etc.

Unless otherwise provided by law, appointees to all boards, commissions, committees, authorities and all other advisory appointive bodies, whether created by ordinance, resolution or other means, serve at the pleasure of the city council. Appointees may be removed from their appointive position upon motion of the mayor or a member of the council and upon vote of a majority.

Secs. 2-33—~~2-45.~~ 2-60. Reserved.

~~DIVISION 2. RESERVED~~

~~Secs. 2-46—2-60. Reserved.~~

DIVISION ~~3.~~2. BOARD OF TRUSTEES OF THE NORTH MIAMI MUSEUM OF CONTEMPORARY ART (MOCA)

Sec. 2-61. Organization; term of office.

(a) There is established a board of trustees of the North Miami Museum of Contemporary Art (MOCA) which shall consist of a minimum of eleven (11) members and a maximum of thirty (30) members and one (1) ex officio member from the staff of the city. The city staff member shall be designated by the city council.

(b) The board of trustees' nominating committee may present one (1) name as a nominee for each available seat on the board to the board for selection, to fill vacancies from time to time.

(c) The term of office for the board of trustees shall be as follows:

(1) All members serving on the board as of the effective date hereof (October 25, 1994) shall continue to serve until their term expires. Appointments shall be made to fill any expired term for a term of four (4) years.

(2) In the event of the removal or resignation of a member of the board of trustees, the nominating committee of the board shall recommend one (1) name for the position to the board of trustees for selection by majority vote for the remainder of the unexpired term.

(3) Any member may be removed by a majority of the city council for cause. The board of trustees shall be given the opportunity to express their agreement or disagreement, before such removal vote occurs. Any member may be removed by a majority vote of the board of trustees without cause.

Sec. 2-62. Duties.

(a) The ~~Board of Trustees~~ board of trustees ~~of the North Miami Center of Contemporary Art (COCA) [MOCA]~~ shall sponsor and promote exhibits, special events, functions and activities for the benefit of the public and shall further the development of ~~the North Miami Center of Contemporary Art (COCA) [MOCA]~~ MOCA. The board of trustees shall serve as liaison between the public and the city council. The chairman of the board of trustees shall make all records, reports, financial statements and other necessary information available to the city council.

(b) The board of trustees shall operate and manage the ~~North Miami Center of Contemporary Art (COCA) [MOCA] physical plant and facilities (premises)~~ MOCA premises and all activities thereon on behalf of the ~~City~~ city of North Miami, pursuant to a management agreement entered into by and between the ~~City of North Miami~~ city, as owner of the premises and ~~COCA [MOCA]~~ MOCA, as operator of such premises, in a form approved by the city attorney and executed by the city manager pursuant to authority hereby granted. The format utilized shall preserve the facility's exemption from ad valorem taxation and shall assure accomplishment of the cultural and educational mission of ~~COCA [MOCA]~~ MOCA in compliance with all applicable grants to which the facility is ~~subject~~ a recipient.

Sec. 2-63. Meetings; attendance.

The board shall meet approximately once each month and there shall be a minimum of nine

(9) meetings each year. If a board member is absent without good cause for more than two (2) successive meetings, he may be removed by the board of trustees.

Sec. 2-64. Finances.

The board of trustees of ~~the North Miami Center of Contemporary Art (COCA) [MOCA]~~ shall be incorporated and shall have and maintain a nonprofit tax-exempt status. The moneys received by the board of trustees shall be used in the performance of their duties. The board of trustees shall conduct fund-raising projects to assist in the funding of the operational and development costs ~~of the North Miami Center of Contemporary Art (COCA) [MOCA]~~ MOCA. The ~~City~~ city of North Miami shall not be obligated, bound, or indebted for any function or activity of the board of trustees except as approved by the ~~City~~ city of North Miami budget ordinance.

Sec. 2-65. Insurance.

The board of trustees shall provide appropriate and adequate insurance for the benefit of ~~the North Miami Center of Contemporary Art (COCA) [MOCA]~~ MOCA, the board of trustees and the city at no cost to the city. All insurance shall be reviewed and approved by the city manager or his designee and shall specifically name the ~~City~~ city of North Miami as an additional insured.

Sec. 2-66. Director of ~~North Miami Art Center of Contemporary Art (COCA) [MOCA]~~ MOCA.

The museum director shall be an employee of the city, and shall be a member of the classified service and shall be assigned as provided by the city manager and approved by the board of trustees. Additional staff shall be provided as budgeted by the city council. The city council shall provide sufficient staff resources.

Sec. 2-67. All records to be public records.

All records of ~~the North Miami Center of Contemporary Art (COCA) [MOCA]~~ MOCA shall be subject to the public records law of the state as it now exists or as it may hereafter be amended, as provided by law.

Secs. 2-68—2-80. Reserved.

DIVISION ~~4.~~ 3. CHARTER BOARD

Sec. 2-81. Created; purpose.

There is hereby created a charter board for the purpose of ~~studying~~reviewing and analyzing the city ~~Charter~~ charter and recommending to the city council, for its consideration, amendments to the ~~Charter~~ charter.

Sec. 2-82. Members; appointment, term; compensation; procedure at meetings.

Each member of the city council shall nominate one (1) member of the charter board, which

nomination shall be subject to approval of a majority of the city council. Two (2) additional members of the charter board shall be appointed by the city council as a whole. The seven (7) members thus appointed by the city council shall be residents of the city. Each member of the charter board shall hold office for a term of two (2) years, unless sooner removed by the city council. Such term to begin on the second Tuesday in June of each odd numbered year. The city council may at any time remove a member from office and appoint a qualified person to serve out the unexpired term of any member so removed. Such action shall require three (3) positive votes. If any member fails to attend two (2) out of three (3) successive meetings without cause and without prior notice and approval of the chairman, the board shall declare the member's office vacant and the city council shall promptly fill such vacancy for the remainder of the term. The city council may reappoint the person removed provided there is at least a majority vote of the city council to do so. The board members shall serve without compensation. All meetings of the board shall be taped. The tapes shall be preserved and minutes recorded. The city attorney and/or his designee and a designee of the city manager shall attend all meetings of the board.

Sec. 2-83. Duties.

The charter board is hereby directed to make recommendations to the city council from time to time as it may deem advisable.

Sec. 2-84. Use of services of city attorney.

The charter board shall utilize the services of the city attorney, as necessary, for any legal assistance required ~~in recommending and drafting any proposed amendments to the Charter~~.

Secs. 2-85—~~2-95~~ 2-155. Reserved.

~~DIVISION 5. SPECIAL MAGISTRATES~~

~~**Sec. 2-96. Appointment, terms.**~~

~~(a) Pursuant to the constitutional home rule powers granted to municipalities by the Florida Constitution, and F.S. Ch. 166 and § 162.22, the city creates the position of special magistrate to enforce any provision of the City Code. Special magistrates shall be appointed by city council.~~

~~(b) No more than three (3) special magistrates shall be appointed for service for any one (1) period.~~

~~(c) A special magistrate's term of appointment shall be limited to one (1) year. A special magistrate may be reappointed by the city council provided that said magistrate possesses the qualifications required by this division. If a special magistrate is unable to hear a case, the case may be assigned to another special magistrate.~~

~~(d) The city council, at its sole discretion, may remove any special magistrate from service at any time.~~

~~(e) To be eligible for service as a special magistrate, a person must either:~~

~~(1) Be a retired Florida judge; or~~

(2) Be a member in good standing of the Florida Bar for at least five (5) years; and

(3) Have a background in local government.

Sec. 2-97. Compensation.

Subject to compliance with recordkeeping and other documentation requirements of the city manager or his designee, a special magistrate shall be compensated at a rate commensurate with the level of experience and qualifications.

Sec. 2-98. Powers.

The special magistrate shall have the power to:

(1) Adopt rules for the conduct of its hearings;

(2) Hear appeals by alleged violators from civil violation tickets; affirm in whole or in part, or reverse, the charge of violation; and affirm or modify the order of corrections and fine levied in the ticket;

(3 Subpoena and swear alleged violators and witnesses to its hearings. Subpoenas may be served by the police department of the city;

(4) Subpoena evidence to the hearing;

(5) Take testimony under oath;

(6) Issue orders having the force of law commanding whatever stages necessary to bring a violation into compliance.

Sec. 2-99. Enforcement procedures; hearings; selection of quasi-judicial body.

(a) It shall be the duty of the code compliance officer to initiate enforcement proceedings of the various codes. The special magistrate shall not have the power to initiate such enforcement proceedings.

(b) Except as provided in subsections (d)(1) or (2) of this section, if a violation of any code is found, the code compliance officer shall notify the violator and give him a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the code compliance officer shall notify the special magistrate and request a hearing.

(c) The special magistrate shall conduct hearings on a regularly scheduled monthly basis or more frequently upon request of the city manager or the city manager's designee. Written notice of such hearing shall be hand delivered or posted or mailed as provided in F.S. § 162.12, to the violator. At the option of the special magistrate, notice may be served by publication as provided in F.S. § 162.12.

Definition. A recurring violation is a violation of a provision of the Code or an ordinance which:

(1) Was previously cited against a respondent;

(2) Was corrected (or otherwise brought into compliance) without an order being entered reciting the existence of the violation; and

(3) The same violation was allowed to again occur on the same property by the same respondent. Generally speaking, a recurring violation is a violation which recurs or one that is not corrected by the time specified for correction by the code inspector. And if the code inspector has reason to believe a recurring violation has occurred, the code inspector shall notify the violator and give the violator a reasonable time to correct the violation. Where the inspector alleges a recurring violation, the city shall present evidence at the violation hearing to support the allegation that the violation is a recurring violation. The special magistrate may take "judicial notice" of matters in previous cases and in other city files.

Notice/fines. If the alleged violation is a recurring violation, the notice of hearing must recite that the alleged violation is a recurring violation, and if the property is again brought into compliance before the hearing, the special magistrate shall make a determination that future findings of the same violation shall make said violations eligible to be "fined" in the amount of repeat violations. The notice of hearing is in addition to the notice that the code inspector shall provide to the violator.

Evidence. If the alleged violation is a recurring violation, the city shall present evidence at the violation hearing to support the allegation that the violation is a recurring violation. The special magistrate may take "judicial notice" of matters in previous cases and other city files. Moreover, the special magistrate has discretion to enter a "recurring order," which order(s) appears in substantially the same form as attached hereto in "Composite Exhibit A."

(d) Notification of violator; request for hearing; repeat violations; etc.

(1) If the code compliance officer has reason to believe a violation or the condition causing the violation presents a serious threat to the public health, safety or welfare or if the violation is irreparable or irreversible in nature, the code compliance officer shall make a reasonable effort to notify the violator and may immediately notify the special magistrate and request a hearing.

(2) If a repeat violation is found, the code inspector shall notify the violator but is not required to give the violator a reasonable time to correct the violation. The code inspector, upon notifying the violator of a repeat violation, shall notify the special magistrate and request a hearing. The special magistrate, through city staff, shall schedule a hearing and shall provide notice pursuant to F.S. § 162.12. The case may be presented to the special magistrate even if the repeat violation has been corrected prior, to the hearing, and the notice shall so state. The term "repeat violation" means a violation of a provision of a code or ordinance by a person whom the special magistrate, has previously found to have violated the same provision within five (5) years prior to the violation.

(e) A code compliance officer is defined as any authorized agent or employee of the city whose duty it is to ensure code compliance. Such term may be used interchangeably with code inspector or enforcement officer.

(f) None of the provisions contained in this division shall be considered exclusive. The code enforcement official or code compliance officer shall have the option to use any method provided by the Code of Ordinances or law to enforce the provisions of the various city codes. Nothing contained in this division shall prohibit the city council from enforcing its codes by any other means.

Sec. 2-100. Hearings.

(a) Upon request of the code compliance officer, or at such other times as may be necessary, the special magistrate may call hearings. Minutes shall be kept of all hearings and all hearings and proceedings shall be open to the public. The city council shall provide clerical and administrative personnel as may be reasonably required for the proper performance of the special magistrate's duties.

(b) Each case before the special magistrate shall be presented by a code compliance officer or member of the administrative staff of the city. The city attorney or his designee shall serve as legal counsel to the city in the defense of any appeals.

(c) The special magistrate shall proceed to hear the cases on the agenda for that day. The special magistrate shall take testimony from the code compliance officer or staff member and alleged violator. All testimony shall be under oath and shall be recorded and may be transcribed at the expense of the violator. Each party shall have the right to call and examine witnesses, to introduce exhibits, to cross examine opposing witnesses on any matter relevant to the issues, to impeach any witness and to rebut the evidence against the witness. Formal rules of evidence shall not apply, but fundamental due process shall be observed and govern the proceedings. If the city prevails in prosecuting a case before the special magistrate, the city shall be entitled to recover all costs incurred in prosecuting the case.

(d) At the conclusion of the hearing, the special magistrate shall issue findings of fact, based on evidence of record and conclusions of law, and shall issue an order affording the proper relief consistent with powers granted in this division. The order may include a notice that it must be complied with by a specified date and that a fine may be imposed and, under the conditions specified in section 2-101, the cost of repairs may be included along with the fine, if the order is not complied with by such date. A certified copy of such order may be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, any subsequent purchasers, successors in interest, or assigns. If an order is recorded in the public records pursuant to this subsection and the order is complied with by the date specified in the order, an order shall be issued acknowledging compliance which shall be recorded in the public records. A hearing is not required to issue such an order acknowledging compliance.

Sec. 2-101. Fines; costs of repair.

(a) The special magistrate, upon notification by the code compliance officer that a previous order of the special magistrate has not been complied with by the set time, or upon finding that a repeat violation has been committed, may order the violator to pay a fine in an amount specified in this section for each day the violation continues past the date set by the special magistrate for compliance or in the case of a repeat violation, for each day the repeat violation continues beginning with the date the repeat violation is found to have occurred by the code compliance officer. In addition, if the violation is a violation described in subsection 2-99(d)(1), the special magistrate shall notify the city council, which may make all reasonable repairs which are required to bring the property into compliance and charge the violator with the reasonable cost of the repairs along with the fine imposed pursuant to this section. If a finding of a violation or repeat violation has been made as provided in this part, a hearing shall not be necessary for issuance of the order imposing the fine. A fine imposed pursuant to this section shall not exceed two hundred fifty dollars ($250.00) per day for a first violation and shall not exceed five hundred dollars ($500.00) per day for a repeat violation and, in addition, may include all costs of repairs pursuant to this subsection. In determining the amount of the fine, if any, the special magistrate shall consider the following factors:

(1) The gravity of the violation;

(2) Any actions taken by the violator to correct the violation; and

(3) Any previous violations committed by the violator.

(b) The special magistrate may reduce a fine imposed pursuant to this section.

Sec. 2-102. Liens.

(a) A certified copy of an order imposing a fine may be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator; and, upon petition to the circuit court may be enforced in the same manner as a court judgment by the sheriffs of this state, including execution and levy against the personal property, but such order shall not be deemed otherwise to be a judgment of a court except for enforcement purposes. A fine imposed pursuant to this division shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit filed pursuant to this section, whichever occurs first. A lien arising from a fine imposed pursuant to this section runs in favor of the city council and the city council or its designee, may execute a satisfaction or release of lien entered pursuant to this section. The city may also recover reasonable attorney's fees and court costs in connection with such enforcement actions. After three (3) months from the filing of any such lien which remains unpaid, the city council may authorize the city attorney to foreclose on the liens or to sue to recover a money judgment for the amount of the lien plus accrued interest and costs.

(b) No lien provided for by this section shall continue for a longer period than twenty (20) years after the certified copy of an order imposing a fine has been recorded, unless within that time an action is commenced pursuant to F.S. § 162.09(3) in a court of competent jurisdiction. In an action to foreclose on a lien or for money judgment, the prevailing party is entitled to recover all costs, including a reasonable attorney's fee, that it incurs in the action. The city council shall be entitled to collect all costs incurred in recording and satisfying a valid lien. The continuation

of the lien effected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration without notice, unless a notice of lis pendens is recorded.

(c) No lien created pursuant to the provisions of this part may be foreclosed on real property which is a homestead under § 4, Art. X of the State Constitution. The money judgment provisions of this section shall not apply to real property or personal property which is covered under § 4(a), Art. X of the State Constitution.

Sec. 2-103. Appeals.

An aggrieved party, including the city council, may appeal a final administrative order of the special magistrate to the circuit court. An appeal shall be filed within thirty (30) days of the date of the execution of the order to be appealed. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the special magistrate.

Sec. 2-104. Notices.

(a) All notices required shall be provided to the alleged violator by certified mail, return receipt requested, if such notice is sent under this paragraph to the owner of the property in question at the address listed in the tax collector's office for tax notices, and at any other address provided to the local government by such owner and is returned as unclaimed or refused, notice may be provided by posting as described in subsection (b) and by first class mail directed to the addressees furnished to the local government with a properly executed proof of mailing or affidavit confirming the first class mailing; by hand delivery by the sheriff or other law enforcement officer, code compliance officer, or other person designated by the city council; or by leaving the notice at the violator's usual place of residence with any person residing therein who is above fifteen (15) years of age and information such person of the contents of the notice. In the case of commercial premises, leaving the notice with the manager or other person in charge.

(b) In addition to providing notice as set forth in subsection (a) of this section, at the option of the special magistrate, notice may also be served by publication or posting as follows: Such notice shall be published once during each week for four (4) consecutive weeks (four (4) publications being sufficient) in a newspaper of general circulation in the county where the special magistrate is located. The newspaper shall meet such requirements as are prescribed under F.S. Ch. 50, for legal and official advertisements. Proof of publication shall be made as provided in F.S. §§ 50.041 and 50.051. In lieu of publication as described above in this section, such notice may be posted for at least ten (10) days prior to the hearing, or prior to the expiration of any deadline contained in the notice, in at least two (2) locations, one (1) of which shall be the property upon which the violation is alleged to exist and the other of which shall be, at the North Miami City Hall. Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting. Notice by publication or posting may run concurrently with or may follow attempts to provide notice by hand delivery or by mail as required under subsection (a) of this section.

(c) Actions for money judgments may be pursued only on fines levied after October 1, 2000.

(d) Evidence that an attempt has been made to hand delivery or mail notice as provided in subsection (a) of this section, together with proof of publication or posting as provided in subsection (b) of this section, shall be sufficient to show that the notice requirements of this division have been met, without regard to whether or not the alleged violator actually received such notice.

DIVISION 5.1. SUPPLEMENTAL CODE ENFORCEMENT PROCEDURE, CITATIONS TO COUNTY COURT

Sec. 2-105. Enforcement of ordinances; code enforcement officers; citation for civil infraction.

(a) As used in this section, "code enforcement officer" means any designated employee or agent of the city whose duty it is to enforce codes and ordinances enacted by the city.

(b) There are hereby designated certain employees and agents of the city as code enforcement officers for the purpose of this division. Employees or agents hereby designated as code enforcement officers include, but are not limited to, code inspectors, building and zoning director, building official, code enforcement officers, zoning and code administrator, police officers of the city, animal control officers of the city.

(c) [Notice; citations; etc.]

(1) A code enforcement officer is authorized to issue a citation to a person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of a duly enacted code or ordinance and that the county court will hear the charge.

(2) Prior to issuing a citation, a code enforcement officer shall provide notice to the person that the person has committed a violation of a code or ordinance and shall establish a reasonable time period within which the person must correct the violation. Such time period shall be no more than thirty (30) days. If, upon personal investigation, a code enforcement officer finds that the person has not corrected the violation within the time period, a code enforcement officer may issue a citation to the person who has committed the violation. A code enforcement officer does not have to provide the person with a reasonable time period to correct the violation prior to issuing a citation and may immediately issue a citation if a repeat violation is found or if the code enforcement officer has reason to believe that the violation presents a serious threat to the public health, safety, or welfare, or if the violation is irreparable or irreversible.

(3) A citation issued by a code enforcement officer shall be in a form prepared by the city attorney and shall contain:

a. The date and time of issuance.
b. The name and address of the person to whom the citation is issued.
c. The date and time the civil infraction was committed.
d. The facts constituting reasonable cause.
e. The number or section of the code or ordinance violated.
f. The name and authority of the code enforcement officer.
g. The procedure for the person to follow in order to pay the civil penalty or to contest the citation.
h. The applicable civil penalty if the person elects to contest the citation.
i. The applicable civil penalty if the person elects not to contest the citation.
j. A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, he shall be deemed to have waived his right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.

(4) The attached form of citation is hereby approved, subject to any revision required by the Chief Judge of the Eleventh Judicial Circuit.

(d) After issuing a citation to an alleged violator, a code enforcement officer shall deposit the original citation and one (1) copy of the citation with the county court.

Sec. 2-106. Procedure; supplemental.

(a) The procedures for implementing the provision of section 2-105 are as follows, and it is hereby provided, as to enforcement under said section 2-105, that:

(1) A violation of a code or an ordinance is a civil infraction.

(2) The maximum civil penalty for each violation is five hundred dollars ($500.00).

(3) A civil penalty of fifty dollars ($50.00) shall be imposed if the person who has committed the civil infraction does not contest the citation and pays same under section 2-105(e)(3)i. above, unless otherwise provided in section 2-107.

(4) A code enforcement officer shall only issue a citation upon reasonable cause to believe that a person has committed an act in violation of a code or an ordinance.

(5) A citation issued hereunder shall be subject to contest in the county court.

(6) Such additional procedures and provisions as are necessary to provide for the enforcement of a code or ordinance under the provisions of this section shall be those which are utilized under Article III "Animal Control" of Chapter 4, "Animals" of the City Code.

(b) Any person who willfully refuses to sign and accept a citation issued by a code enforcement officer shall be guilty of a misdemeanor of the second degree, punishable as provided in F.S. § 775.082 or F.S. § 775.083.

(c) The provisions of this section shall not apply to the enforcement pursuant to F.S. §§ 553.79 and 553.80 of building code adopted pursuant to F.S. § 553.73 as they apply to construction, provided that a building permit is either not required or has been issued by the city. For the purposes of this subsection, "building codes" means only those codes adopted pursuant to F.S. § 553.73.

(d) The provisions of this section are an additional and supplemental means of enforcing municipal codes or ordinances and may be used for the enforcement of any code or ordinance. Nothing contained in this section shall prohibit the city from enforcing its codes or ordinances by any other means.

(e) The city manager, or his designee, shall determine, in his discretion, on a case by case basis, as to whether the supplemental enforcement method provided by this section shall be utilized. The police chief, deputy police chiefs, building and zoning director, building official and zoning and code administrator shall be designees of the city manager hereunder, unless otherwise provided by the city manager. These enforcement methods may include, but are not limited to, the issuance of a citation, a summons, or a notice to appear before the county court, or arrest for violation of municipal ordinances as provided for in Chapter 901, Florida Statutes. Unless otherwise specifically authorized and provided for by law, a person convicted of violating a municipal ordinance may be sentenced to pay a fine, not to exceed five hundred dollars ($500.00), and may be sentenced to a definite term of imprisonment, not to exceed sixty (60) days, in a municipal detention facility or other facility as authorized by law.

Sec. 2-107. Schedule of violations and penalties.

The schedule of violations and penalties to be assessed by code enforcement officers under the civil infraction citation method authorized in section 2-106 are attached as Exhibit "1" and are on file and available for inspection in the office of the city clerk.

DIVISION 5.2. RESERVED

Sec. 2-108. Reserved.

DIVISION 5.3. SUPPLEMENTAL CODE ENFORCEMENT PROCEDURE, CIVIL VIOLATION TICKETS

Sec. 2-109. Issuance of civil violation ticket by code enforcement officer; reasonable time to cure violation; contents of civil violation ticket.

(a) As an alternative to the procedures set forth in division 5.1. of the City Code, a code enforcement officer may issue a civil violation ticket to a person or entity when the code enforcement officer upon personal investigation has reasonable cause to believe that a person or entity has committed a violation of a code or ordinance or is legally responsible for a code violation. Notice of violation prior to issuing a civil violation ticket shall not be required. The civil penalties to be imposed are listed under section 2-110 of this division, as may be amended from time to time by resolution of the city council.

(b) The form of the civil violation ticket issued pursuant to this division shall provide the following information:

(1) The date and time of issuance;

(2) The name and address of the of the violator;

(3) A civil violation ticket number;

(4) The number or section of the code or ordinance violated;

(5) The name and title or position of the code enforcement officer;

(6) A brief description of the nature of the violation, including the location, date and time of the violation;

(7) The procedure for the violator to follow in order to pay the civil penalty or to contest the civil violation ticket;

(8) The applicable civil penalty if the person elects to contest the civil violation ticket;

(9) The applicable civil penalty if the person elects not to contest the civil violation ticket;

(10) A conspicuous statement that if the violator fails to correct the violation or fails to pay the civil penalty within the time allowed and fails to contest the civil violation ticket by requesting a hearing before a special magistrate within ten (10) days after service of the civil violation ticket, the violator shall be deemed to have waived his or her right to contest the civil violation ticket and that such waiver shall constitute an admission of the violation;

(11) Notice that unpaid civil violation tickets may cause liens to be filed against violator's real or personal property; and

(12) Notice that the violator may be liable for the reasonable costs and expenses of the administrative hearing upon a finding of guilt.

Sec. 2-110. Schedule of civil penalties and fines.

(a) The table contained herein in subsection (c) of this section lists the sections of the code or ordinances, as they may be amended from time to time by resolution of the city council; which may be enforced pursuant to the provisions of this division; and prescribes the dollar amount of civil penalty for the violation of these sections.

(b) The "description of violations" below are for informational purposes only and the civil penalties attached are meant only as proposed figures not intended to limit the nature, number of or amount of fines to be imposed for the violations that may be cited in this section. To

determine the exact nature of the activity prescribed or required by this Code, the relevant code section, ordinance or treatise cited in the specific violation must be examined.

TABLE INSET:

Code Section	Description of Violation	Civil Penalty
4-7	No animal kept, harbored, maintained or possessed by any person in the city shall be permitted to run at large or to remain in or upon public or private property.	$100.00
4-9	It shall be unlawful for any person to own or harbor any animal that disturbs the comfort, repose or peace of any person in the vicinity.	$100.00
4-10	The cruelty, neglect or abandonment of animals is unlawful.	$500.00
4-11	Keeping fowl, poultry, wild animals or farm animals is prohibited.	$100.00
4-12	Feeding wild animals is prohibited.	$100.00
4-15	Failure to confine dangerous, vicious or fierce animals	$150.00
4-16	It is unlawful for any person to refuse to surrender an animal to an animal control officer.	$500.00
4-17	Unlawful disposal of a dead animal.	$100.00
4-21	It is unlawful to keep more than four dogs over the age of three months.	$100.00
4-22(a)	Failure to have current rabies vaccine on a dog or cat.	$100.00
4-22(b)	It is unlawful to own, possess, keep or harbor an unlicensed dog.	$100.00
4-23(a),(b)	Failure to have a proper leash, collar or harness.	$100.00
4-23(c)	Unlawful tethering of a dog.	$150.00
4-24	It is unlawful to allow one or more dogs or cats to become a public nuisance.	$150.00
4-25	Failure to remove and properly dispose of fecal matter deposited by a dog on public or private property.	$100.00

4-26	Failure to confine a female dog during heat (estrus).	$100.00
4-27	It is unlawful to keep, harbor, maintain or own a pit bull dog within the city.	$500.00
5-19(b)	Failure to place property address on front footage, rear entrance, or on canal or alleyway frontage.	$100.00
5-19(c)	Failure to display identification number or letter on the door of each individual apartment or condominium unit.	$100.00
5-20	Failure to supply a roof with the required finishing materials.	$100.00
5-22	Failure to remove storm shutters in accordance with city code.	$250.00
5-30	Failure to maintain private space in a clean and sanitary condition.	$250.00
5-31	Failure to maintain non-dwelling structures and fences. in accordance with city code.	$250.00
5-32	Failure to maintain plumbing fixtures and sanitary facilities and equipment, in accordance with city code.	$250.00
5-33	Failure to dispose of rubbish, waste and other matter in accordance with city code.	$500.00
5-34	Failure to exterminate rodents, vermin or other pests.	$250.00
5-35	Failure to maintain in a clean and sanitary condition the shared or public areas of a dwelling and premises.	$250.00
5-36	Failure of keeping supplied amenities and facilities in in proper operating condition.	$250.00
5-37	It is unlawful to discontinue any service, facility, equipment or utility for any occupied dwelling unit.	$500.00
5-38	It is unlawful to occupy a vacant dwelling until it is in good repair, clean, sanitary, in habitable condition and in full compliance with city code.	$500.00
5-40	Failure to keep exterior property areas free from conditions likely to create a health, accident or fire hazard.	$500.00

~~5-41~~	~~Failure to maintain storm water drainage facilities in good working order.~~	~~$500.00~~
~~5-42~~	~~Failure to keep accessory structures on exterior property areas in good repair, free from health, fire and accident hazards and vermin.~~	~~$250.00~~
~~5-43~~	~~Exterior property areas shall be kept free from health, fire and accident hazards so as not to depreciate surrounding property.~~	~~$500.00~~
~~5-44~~	~~Failure to maintain stairs, porches, and railings in good repair and structurally sound.~~	~~$250.00~~
~~5-45~~	~~Failure to maintain a structure, used for human habitation, in accordance with city code.~~	~~$500.00~~
~~5-46~~	~~Failure to use protective coating on exterior surfaces of a structure as required by city code.~~	~~$250.00~~
~~5-47~~	~~It shall be unlawful to have loose and unsecured objects and materials on exterior walls, roof or on other parts of a structure.~~	~~$250.00~~
~~5-48~~	~~Failure to screen exterior windows, doors and other openings as required by city code.~~	~~$100.00~~
~~5-49~~	~~Failure to maintain the exterior of a structure in good repair as required by city code.~~	~~$250.00~~
~~5-50~~	~~Failure to maintain floors, walls, ceilings, and stairs in the manner required by city code.~~	~~$250.00~~
~~5-51~~	~~Failure to maintain plumbing systems and fixtures in the manner required by city code.~~	~~$250.00~~
~~5-52~~	~~Failure to provide electrical service as required by the Florida Building Code.~~	~~$500.00~~
~~5-53~~	~~Failure to provide cooking facilities as required by city code.~~	~~$250.00~~
~~5-54~~	~~Failure to provide refrigeration equipment or adequate space with utility connections.~~	~~$250.00~~
~~5-52~~	~~Failure to comply with occupancy standards as required by city code.~~	~~$500.00~~

5-56	Unlawful use of rooms.	$250.00
5-57	Unlawful subdivision of habitable rooms.	$250.00
5-58	Property with defects constituting dwelling unfit for human habitation.	$500.00
5-60	Construction or work without a permit.	$500.00
9-10(c)	Failure to use the required garbage can, container, or dumpster for city garbage disposal.	$100.00
9-10(d)	Failure to provide private waste collection service with a minimum collection frequency of 2 times per week.	$100.00
9-10(e)	Failure to provide a dumpster with a minimum collection frequency of 2 times per week.	$100.00
9-10(h)	Failure of private waste collector to remove garbage container when required to do so by the city.	$100.00
9-11	Failure to maintain minimum required dumpster capacity.	$200.00
9-12(a)	Placing or storing a dumpster upon a swale area or upon a public right of way is prohibited.	$150.00
9-12(b)	It is unlawful not to provide a city approved dumpster enclosure.	$200.00
9-12(b)(1)	Failure to maintain secured dumpster enclosure.	$50.00
9-12(b)(2)	Failure to maintain dumpster enclosure gates or doors closed.	$50.00
9-12(d)	It is unlawful to collect trash or garbage between the hours of 10:00 p.m. and 7:00 a.m.	$500.00
9-13(a)	It is unlawful to place bulk trash in open containers.	$150.00
9-13(b)	It is unlawful for a contractor or landscaper to leave tree trimmings and/or tree trunks for the city to collect.	$150.00
9-13(c)	It is unlawful to place bulk trash at curbside earlier than 24 hours prior to its collection.	$100.00
9-13(d)	It is unlawful to use a dumpster which contains defects.	$100.00

~~9-14(a)~~	~~It is unlawful to commingle garbage with bulk trash.~~	~~$100.00~~
~~9-15(c)~~	~~Illegal disposal of garbage, garden trash or any other waste.~~	~~$500.00~~
~~9-16(a)~~	~~Failure to remove accumulation of garbage within the time prescribed by the city.~~	~~$250.00~~
~~9-16(c)~~	~~It is unlawful to have overflowing dumpsters and/or littered enclosures.~~	~~$250.00~~
~~9-18~~	~~Failure to drain garbage of liquids or not wrapping the garbage in a paper or plastic bag.~~	~~$100.00~~
~~9-19(a)~~	~~Failure to relocate garden trash for proper disposal within the time prescribed by the city.~~	~~$100.00~~
~~9-19(b)~~	~~Failure to modify the height/weight of tree trunks or branches for proper city disposal.~~	~~$100.00~~
~~9-19(d)~~	~~Failure to bag or otherwise properly dispose of landscaping debris.~~	~~$150.00~~
~~9-20~~	~~It is unlawful to dispose or commingle dangerous materials or hazardous waste with garbage or bulk trash.~~	~~$500.00~~
~~9-32(a)~~	~~Failure of private waste collector to properly mark or identify its vehicles and/or garbage containers.~~	~~$100.00~~
~~9-35~~	~~It is unlawful to conduct business within the city without a current business tax receipt.~~	~~F.S § 205.053~~
~~9-37(c)~~	~~Failure to file a placement permit application prior to placing a container within the city.~~	~~$250.00~~
~~9-37(d)~~	~~Failure of private waste collector to service and sanitize garbage container.~~	~~$100.00~~
~~9-37(e)~~	~~Failure of private waste collector to remove overflowing roll-off container after notification from the city to do so.~~	~~$250.00~~
~~9-37(g)~~	~~Failure of private waste collector to remove garbage container from a closed commercial establishment.~~	~~$250.00~~
~~9-37(i)~~	~~Failure of private waste collector to notify city of interruption of garbage collection service.~~	~~$100.00~~

~~10-19(a)~~	~~Illegal to keep, park, store, or allow any derelict, junk, wrecked, inoperable, or dismantled motor vehicle or other materials.~~	~~$250.00~~
~~10-19(b)~~	~~Commercial areas are restricted to one (1) inoperable vehicle or boat while being repaired.~~	~~$250.00~~
~~10-21~~	~~Illegal to keep, park, store, or allow any junk or derelict, wrecked, inoperable, or dismantled vehicle on public property.~~	~~$250.00~~
~~11-19~~	~~Procurement of business tax receipt is required prior to engaging in business, profession or occupation.~~	~~$500.00~~
~~11-21~~	~~False statements given in the procurement or use of a business tax receipt.~~	~~$500.00~~
~~11-24~~	~~Failure to pay business tax receipt when due.~~	~~F.S. § 205.053~~
~~11-26~~	~~Failure to post business tax receipt on the premises.~~	~~$ 50.00~~
~~11-126~~	~~It shall be unlawful for any person to place any merchandise for sale on public right-of-ways.~~	~~$100.00~~
~~11-212~~	~~It is unlawful to tow motor vehicle(s) from property, without first obtaining a license.~~	~~$100.00~~
~~12-3(a)~~	~~Illegal to maintain pool water whereby the clarity does not allow visibility from water surface to the pool bottom.~~	~~$500.00~~
~~12-3(b)~~	~~Prohibited to construct, alter or maintain a swimming pool without a fence, barrier or safety devices.~~	~~$500.00~~
~~12-4 5~~	~~It is unlawful to dump, dispose of or otherwise place in any canal, bay or waterway any trash, debris, garbage or waste.~~	~~$500.00~~
~~12-46~~	~~Swale areas must be kept free from any debris, trash, litter and or any discarded materials.~~	~~$100.00~~
~~14-16~~	~~It is unlawful to operate any boat or watercraft above posted speed limit or in a manner as to endanger life or property.~~	~~$150.00~~
~~17-22(c)~~	~~It is unlawful to place pyramid, cinder blocks, steel, or similar devices in the dedicated right-of-ways.~~	~~$100.00~~

~~20-16~~	~~It is unlawful to dispense injurious substances around trees.~~	~~$500.00~~
~~20-17~~	~~It shall be unlawful to cut down, destroy, remove or move any tree without first obtaining a permit.~~	~~$500.00~~
~~20-22~~	~~Failure to satisfy tree removal permit conditions.~~	~~$250.00~~
~~20-27~~	~~Failure to provide tree protection in accordance with city code.~~	~~$250.00~~
~~20-29~~	~~It is unlawful for any person to abuse a tree.~~	~~$500.00~~
~~29-4~~	~~Use of property not specifically permitted in the zoning district.~~	~~$250.00~~
~~29-4(b)(1)~~	~~No structure shall be erected, moved, altered, added to or enlarged, nor shall any land or building be designed, used, or intended to be used for any purpose other than as permitted in the district.~~	~~$500.00~~
~~29-4(e)(3)e~~	~~Failure to operate or permit the operation of any tool or equipment in accordance with city code.~~	~~$250.00~~
~~29-7~~	~~Sign displayed or erected not in compliance with Art. VI city code.~~	~~$100.00~~
~~29-7(e)~~	~~Posting any sign which has been erected or is being maintained in violation of city code.~~	~~$100.00~~
~~29-7(e)~~	~~It is unlawful to post any sign without a permit.~~	~~$100.00~~
~~29-8(e)(4)~~	~~Existing, unattached, covered carport structure structures shall have a maintained cover on at all times.~~	~~$100.00~~
~~29-8(e)(6)~~	~~In multiple family dwellings, balconies shall not be used for storage, laundry drying, cooking, barbecuing, or as sleeping quarters.~~	~~$100.00~~
~~29-8(e)(1)~~	~~All exterior or inside masonry walls viewed from adjacent property or public right-of-way must be of stucco and paint finish.~~	~~$150.00~~
~~29-8(e)(2)~~	~~No form of security wire shall be erected.~~	~~$100.00~~
~~29-8(g)(10)~~	~~Improperly mooring a boat is prohibited.~~	~~$150.00~~
~~29-8(g)(11)~~	~~It shall be unlawful to moor any boat found~~	~~$150.00~~

to be unsightly or in badly deteriorated condition.

29-9(10) It is unlawful to install a satellite dish without the approval of the board of adjustment and city council and a building permit. $100.00

29-15(e)(1) No recreational vehicle, trailer, camper, truck, van or bus shall be used for human habitation. $100.00

29-15(e)(2) No recreational vehicle or un-mounted boat in a state of disrepair or partial disrepair shall be parked upon any residential zone. $100.00

29-15(e)(3) No recreational vehicle or bus shall be stored or parked upon a street or public right-of-way, park or public land. $100.00

29-15(e)(4) No truck in excess of one (1) ton load capacity shall be stored or parked in any residential area of the city, unless actively engaged in the loading or unloading of materials. $100.00

29-15(e)(5) No bus shall be stored or parked in any residential area of the city. $100.00

29-15(e)(7) No wrecker shall be maintained, parked or stored in any single-family zoning districts. $100.00

29-16(c) Swale areas in the R-1 districts shall be maintained by the adjacent property owners. $100.00

29-17(b) The fill, excavation or alteration in any way of the natural grade of the land shall require necessary permits. $500.00

(c) Any violation of the code that is not specified within this section, shall be assessed a civil penalty of one hundred dollars ($100.00).

(d) A person or entity who receives a civil violation ticket from a code enforcement officer for code or ordinance violation has committed a civil infraction and shall be subject to a fine in accordance with the following schedule:

(1) For the first civil violation ticket, penalties for violation of the code or ordinances to be enforced shall be in the amount prescribed in the schedule of civil penalties listed under section 2-110 of this division;

(2) For a civil violation ticket which includes a repeat violation, by a civil penalty of fifty dollars ($50.00) in addition to the civil penalty amount prescribed in the schedule of civil penalties listed under section 2-110 of this division;

(3) Any person or entity requesting a hearing who fails to appear before a special

magistrate to contest the civil violation ticket shall be deemed to have waived his or her right to contest the ticket, and a penalty may be assessed against the person or entity for an amount not to exceed five hundred dollars ($500.00). A violation of the judgment issued by the special magistrate shall be deemed to be a continuing violation and carry the penalties set forth in subsection (d)(4) below;

(4) Continuing violations shall carry a civil penalty, not to exceed fifty dollars ($50.00) per day, for each day the violation continues. Repeat violations shall carry a civil penalty, not to exceed one hundred dollars ($100.00) per day, for each day the violation continues, beginning with the date the repeat violation is found to have occurred by the code enforcement officer; and

(5) Nothing contained in this section shall prohibit the city from enforcing its code or ordinances by any other means.

Sec. 2-111. Rights of violators; payment of fine; right to appeal civil violation ticket; failure to pay and correct, or appeal.

(a) For the purposes of this division, violators shall be deemed to be those persons or entities legally responsible for the violations of codes.

(b) A violator who has been served with a civil violation ticket shall elect either to:

(1) Pay the civil penalty in the manner indicated on the civil violation ticket and correct the violation within the time specified on the ticket; or

(2) Request an administrative hearing before a special magistrate to appeal the determination of the code enforcement officer that resulted in the issuance of the civil violation ticket.

(c) The request for an administrative hearing shall be done by filing a request in writing with the code enforcement clerk or designee to set a hearing to contest the civil violation ticket. The request must be mailed or delivered to the address indicated on the civil violation ticket not later than ten (10) days after the service of the ticket.

(d) If the named violator, after notice, fails to pay the civil violation ticket and correct the violation within the time specified or fails to timely request an administrative hearing before a special magistrate, such failure shall constitute a waiver of the violator's right to an administrative hearing before the special magistrate. A waiver of the right to administrative hearing shall be treated as an admission of the violation, and penalties shall be assessed pursuant to the amount stated in the civil violation ticket.

Sec. 2-112. Schedule and conduct of administrative hearing.

(a) Upon receipt of the named violator's timely request for an administrative hearing pursuant to this division, the code enforcement clerk or designee shall set the matter down for a hearing on the next available regularly scheduled hearing date or as soon thereafter as possible.

~~(b) The code enforcement clerk or designee shall send a notice of hearing by first class mail to the violator's last known address. The notice of hearing shall include but not be limited to the following:~~

~~(1) The name of the code enforcement officer who issued the ticket;~~

~~(2) A description of the alleged violation;~~

~~(3) The date of the alleged violation;~~

~~(4) The section of the code allegedly violated;~~

~~(5) The place, date and time of the hearing;~~

~~(6) The right of the violator to be represented by an attorney;~~

~~(7) The right of the violator to present witnesses and evidence;~~

~~(8) Notice that failure of the violator to attend the hearing may result in a civil penalty being assessed against the violator; and~~

~~(9) Notice that requests for continuances will not be considered if not received in writing by the code enforcement clerk or designee at least five (5) calendar days prior to the date set for hearing.~~

~~(c) The special magistrate shall conduct hearings on a regularly scheduled monthly basis or more frequently upon request of the city manager or city manager's designee.~~

~~(d) All hearings before the special magistrate shall be open to the public and all testimony shall be under oath. If proper notice has been given, a hearing may proceed in the absence of the named violator.~~

~~(e) The proceedings at the hearing shall be recorded and may be transcribed at the expense of the party requesting transcripts.~~

~~(f) Each case before a special magistrate shall be presented by the city attorney or city attorney's designee.~~

~~(g) The hearing is not bound by the formal rules of evidence, but fundamental due process shall be observed and govern the proceedings. Any relevant evidence shall be admitted if the special magistrate finds it competent and reliable, regardless of any common law or statutory rule to the contrary.~~

~~(h) Each party shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine opposing witnesses on any matter relevant to the issues, to impeach any witness and to rebut the evidence against the witness.~~

~~(i) The special magistrate shall make findings of fact based on the evidence presented. In order to uphold the decision of the code enforcement officer, the special magistrate must find that the greater weight of the evidence shows the existence of a code violation and that the named violator committed or was responsible for the violation. The special magistrate shall either affirm, or reverse the determination of the code enforcement officer as to the issuance of~~

~~the civil violation ticket. If the special magistrate reverses the determination of the code enforcement officer and finds the named violator not responsible for the alleged violation on the ticket, the named violator shall not be liable for the payment of any civil penalty unless the city successfully appeals the ruling of the special magistrate. If the decision of the special magistrate is to affirm the code enforcement officer's determination of violation and finds the violator guilty, the following elements may be included in the special magistrate's decision:~~

~~(1) The amount of the civil penalty;~~

~~(2) Reasonable costs and expenses of the administrative hearing; and~~

~~(3) The date by which the violation must be corrected to prevent a continuing violation.~~

~~(j) If the violator is found guilty of the violation, the violator may be held liable for the reasonable costs and expenses of the administrative hearing at the discretion of the special magistrate.~~

~~(k) The special magistrate shall have the power to:~~

~~(1) Adopt procedures for the conduct of hearings;~~

~~(2) Subpoena alleged violators and witnesses for hearings; subpoenas may be served by the police department or such other persons authorized to deliver subpoenas;~~

~~(3) Subpoena evidence;~~

~~(4) Take testimony under oath; and~~

~~(5) Assess and order the payment of civil penalties and the reasonable costs and expenses of the administrative hearing.~~

~~(l) The special magistrate shall be bound by the interpretations and decisions of the duly authorized city and county boards of appropriate jurisdiction concerning the provisions within their respective jurisdictions.~~

~~Sec. 2-113. Recovery of unpaid civil penalties; unpaid penalty to constitute a lien; foreclosure and other relief.~~

~~(a) The city may institute proceedings in a court of competent jurisdiction to compel payment of civil penalties and to compel compliance, make repairs and other equitable and injunctive relief.~~

~~(b) A certified copy of any order imposing a civil penalty or a civil penalty plus repair costs may be recorded in the county public records and thereafter shall constitute a lien against the land upon which the violation exists or existed or upon any other real or personal property owned by the violator and it may be enforced in the same manner as a court judgment, including execution and levy against personal property of the violator, but shall not be deemed to be a court judgment except for enforcement purposes. After three (3) months from the filing and recording of such lien that remains unpaid, the city may foreclose or otherwise execute on the lien.~~

Sec. 2-114. Appeals of orders of special magistrates.

(a) The violator or the city may appeal an order of a special magistrate by filing a petition for certiorari with the circuit court, appellate division. Such appeal shall be filed within thirty (30) days of the date of issuance of the order by the special magistrate.

(b) In the absence of reversal of a special magistrate's ruling by a court of competent jurisdiction acting in an appellate capacity, the findings of the special magistrate shall be conclusive as to a determination of responsibility for the code violation, and such findings shall be admissible in any proceeding to collect unpaid penalties or for equitable or injunctive relief.

(c) Nothing contained in this article shall prohibit the city from enforcing its code or ordinances by any other means.

Sec. 2-115. Notices.

(a) The civil violation tickets shall be in writing and furnished by certified mail, return receipt requested, or by hand-delivery by the sheriff or other law enforcement officer, code enforcement officer or designated agent acting by and through the code enforcement officer, leaving the notice at the violator's usual place of residence with any person residing therein who is above fifteen (15) years of age and informing such person of the contents of the notice or leaving the notice with the manager or other person in charge, if the violation concerns a commercial property. Posting of the civil violation ticket in a conspicuous place on the premises or property upon which the violation has been observed may be performed. Such posting shall be deemed proper service, and the time for compliance stated in the ticket shall commence with the date such ticket is posted. Proof of posting shall be verified by photograph and affidavit. In all cases, the owner of the property shall be notified in addition to anyone else charged with an alleged violation occurring on the property. Notice by certified mail, return receipt requested, sent to the owner of the property at the address listed in the tax collector's office for tax notices, and any other address provided to the city by such owner, shall be presumed that the notice was received by the owner, notwithstanding that the certified mail envelope may be returned by the post office as unclaimed or refused.

(b) In addition to providing notice as set forth in subsection (a) hereof, at the option of the code enforcement officer, law enforcement officer or other person designated by the city, notice may also be served by publication, as follows:

(1) Such notice shall be published once during each week for four (4) consecutive weeks (four (4) publications being sufficient) in a newspaper of general circulation in the county. The newspaper shall meet such requirements as are prescribed under F.S. ch. 50, for legal and official advertisements;

(2) Proof of publication shall be made as provided in F.S. §§ 50.041 and 50.051;

(3) Notice by publication or posting may run concurrently with or may follow an attempt to provide notice by hand delivery or by mail as required under subsection (a) of this section.

(c) In lieu of publication, such notice may be posted at least ten (10) days prior to the hearing, or prior to the expiration of any deadline contained in the notice, in at least two (2) locations, one (1) of which shall be the property upon which the violation is alleged to exist and the other of which shall be at city hall. Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice or ticket posted and the date and place of its posting.

(d) Evidence that an attempt has been made to hand deliver or mail notice as provided in subsection (a) of this section, together with proof of publication or posting as provided in subsections (b)(2) and (b)(3) of this section, shall be sufficient to show that the notice requirements of this division have been met, without regard to whether or not the named violator actually received such notice.

DIVISION 6. - RESERVED

Secs. 2-116--2-135. Reserved.

DIVISION 7. - HEALTH FACILITIES AUTHORITY

Sec. 2-136. Declaration of need.

The city council of the city finds and declares that there is a need for a health facilities authority to function within the city to accomplish the purposes and objectives of the health facilities authority law.

Sec. 2-137. Creation of the authority.

The city health facilities authority shall be and it is hereby created and established within the city in accordance with the health facilities authority law.

Sec. 2-138. Membership; appointment; terms.

The health facilities authority shall consist of five (5) members appointed by the city council by motion or resolution. Terms of membership shall be for four-years, and reappointment for successive terms shall be allowed. Any member who has two (2) consecutive unexcused absences shall automatically forfeit board membership. Three (3) affirmative votes of the city council shall be required to appoint or remove any member, and no cause need be shown for removal.

Sec. 2-139. Reserved.

Sec. 2-140. Citizens' advisory committee.

The authority may appoint a citizens' advisory committee consisting of five (5) persons who are residents of the city. The committee shall adopt its own rules and procedure and internal organization. The committee shall serve only in anadvisory capacity. The committee shall make recommendations to the authority as to all matters referred to it by the authority.

Sec. 2-141. Powers of the authority.

The authority shall have the powers conferred by the health facilities authorities law, F.S.

~~Ch. 154, part III, which is made a part of this article by reference and by other provisions of applicable law. Following the adoption by the authority of any bonds or notes pursuant to the health facilities authorities law, and prior to the filing of proceedings to validate such bonds or notes pursuant to F.S. ch. 75 (if such validation proceedings shall be required by applicable law or by determination of the authority), the authority shall request that the city council approve the issuance of the bonds or notes in the maximum principal amount designated by the resolution of the authority. If the issuance of such bonds or notes is approved by the city council and if the bonds or notes are then validated (as required by applicable law or by determination of the authority), the bonds or notes may thereafter be issued and sold by the authority on such terms and conditions as may be determined by the authority in such resolution or in any additional resolution without any further approval by the city council so long as such additional resolution does not increase the authorized maximum principal amount of the bonds or notes approved by the city council.~~

~~Sec. 2-142. Payment of expenses.~~

~~All expenses incurred by the authority in exercising the powers prescribed by the health facilities authority law shall be payable by the health facilities submitting applications to the authority or from proceeds derived from the sale of revenue bonds issued by the authority. A violation of this provision shall not create any private right of action, and enforcement shall lie with the city authorities. No funds of the city shall be appropriated or expended by the authority.~~

~~Sec. 2-143. Revenue bonds.~~

~~Revenue bonds issued by the authority shall not constitute a debt, liability or obligation of the city or a pledge of the full faith and credit of the city, but shall be payable solely from the revenues provided therefor and generated by the health care facility, and all revenue bonds issued by the authority shall expressly so provide. Any obligation whatsoever incurred by the authority shall be sole obligation of the authority and shall not be in any way attributed to the city and shall not be paid.~~

~~Secs. 2-144—2-155. Reserved.~~

DIVISION 84. COMMUNITY RELATIONS BOARD

Sec. 2-156. Created.

There is hereby created and established in North Miami an advisory board to be known as the City of North Miami Community Relations Board (CRB).

Sec. 2-157. Purpose.

The purpose of the community relations board shall be to assist in the conciliation of community matters to help foster harmony while recognizing and appreciating the diverse nature of the population of the city.

Sec. 2-158. Membership, qualifications; terms.

The CRB shall consist of seven (7) members, with the mayor and city council to each appoint one (1) member and with two (2) members to be appointed by the entire mayor and city council. The membership of the board shall be representative of the various social, racial,

religious, linguistic, cultural, and economic groups comprising the population of the city. Each member shall be a resident of North Miami, with an outstanding reputation for community pride, interest, integrity, responsibility, and business or professional ability. Members shall be appointed for terms of two (2) years. Any member who for any reason misses either two (2) consecutive meetings or a total of three (3) meetings shall automatically cease being a member of the board. Any member may also be removed by a three-fifths (3/5) vote of the city council.

Sec. 2-159. Organization; quorum; voting; rules of procedures; records of meetings.

The members of the CRB shall select and designate from its members a chairman, a vice-chairman and secretary. Four (4) members of the CRB shall constitute a quorum. No action shall be taken except by a majority vote of those present at a duly constituted meeting of the CRB. The CRB may adopt by-laws governing its meetings and actions on matters within its jurisdiction, not inconsistent with the provisions of this article, which by-laws shall be filed with the city clerk. Copies of the minutes of all CRB meetings shall be furnished to the city council.

Sec. 2-160. Staff.

The administrative and legal staff of the city shall act as staff to the CRB.

Sec. 2-161. Duties and functions.

The functions of the CRB shall be:

(a) To foster mutual understanding, tolerance, and respect among all economic, social, religious, racial and ethnic groups in the city.

(b) To make studies in the field of community relations.

(c) To act as conciliator in controversies involving community relations.

(d) To cooperate with federal, state, county and city agencies in developing harmonious community relations.

(e) To cooperate in the development of educational programs dedicated to the improvement of community relations with, and to enlist the support of civic, religious, veterans, labor, industrial, commercial and eleemosynary groups, and private agencies engaged in the ideals of tolerance, mutual respect and understanding.

(f) To recommend to the city council such ordinances as will aid in carrying out the purposes of the board.

(g) To accept grants and donations on behalf of the city from foundations and others for the purpose of carrying out the above listed functions, subject to approval by the city council.

Secs. 2-162—2-185. Reserved.

DIVISION 9<u>5</u>. PARKS AND RECREATION COMMISSION

Sec. 2-186. Creation, composition and qualifications.

(a) There is hereby created and established the North Miami Parks and Recreation

Commission consisting of ten (10) members who shall be appointed by the city council and shall hold office at the pleasure of the city council.

(b) Each member shall be a resident of the city and shall not be an employee of the city. Any member who ceases to reside within the city limits during the term of office shall be deemed to have resigned as of the date of removal from the city. The city council shall appoint a qualified person to serve out the unexpired term of any member vacating an office by resignation or otherwise.

(c) In the event that a member of the commission shall be absent from a duly called meeting of the commission for three (3) consecutive meetings or in the event that a member has three (3) unexcused absences in a calendar year, then in that event such member can be removed as a member of the commission by a majority vote ~~of two-thirds~~ of the remaining members of the commission.

(d) The director of parks and recreation shall be a permanent ex officio member of the commission and either the director or an appointed representative shall attend all meetings of the commission.

Sec. 2-187. Appointment of members; terms of office; officers; removal; organization.

(a) Each member of the city council shall appoint two (2) members of the parks and recreation commission.

(b) Each member of the parks and recreation commission shall hold office, unless sooner removed by the council, for a term ending on the second Tuesday in June of each odd-numbered year.

(c) The parks and recreation commission shall elect from within the commission a chairperson, who shall be the presiding member; a vice chairperson, who shall preside in the absence or disqualification of the chairperson; ~~and~~ a parliamentarian; and ~~shall appoint~~ a secretary who may be an officer or employee of the city. Terms of all officers shall end on the second Tuesday in June of each odd-numbered year~~be for one (1) year~~, with eligibility for reelection.

(d) ~~Three (3) positive votes~~A vote by the majority of the city council shall be required ~~by the city council in order~~ to remove a commission member.

~~(e) The office for the parks and recreation commission shall be the offices of the parks and recreation department.~~

Sec. 2-188. Meetings; quorum; public hearings; notice; procedure at hearings and meetings.

(a) The ten (10) members of the parks and recreation commission shall transact the business of the commission with six (6) members constituting a quorum.

(b) The parks and recreation commission shall meet ~~at least once each month~~a minimum of ten (10) times per calendar year. The commission will meet regularly on the first Thursday of each month. The meeting dates may be set and amended as deemed necessary by the chairperson and the director of the parks and recreation department. The parks and recreation commission

shall give at least five (5) days' notice of all meetings by posting such notice on the bulletin board of the ~~City Hall~~city hall.

(c) The parks and recreation commission shall give at least seven (7) days' notice of the time and place of all public hearings. Notice of public hearings may be published in any newspaper of general circulation in the city which qualifies under the provisions of ~~F.S. ch. 50~~ Chapter 50, Florida Statutes, and shall be posted in conspicuous places in the city, such as the bulletin board in the city hall.

(d) Public hearing shall be conducted so as to afford all parties in interest and citizens an opportunity to be heard.

(e) The parks and recreation commission may adopt rules of procedure at public hearings not inconsistent with the ~~City Charter~~ city charter, city ordinances and laws of Florida.

(f) In order that there be held a public hearing, which public hearing is not initiated by either the parks and recreation commission or the city council, such public hearing must be pursuant to a duly executed petition, at petitioner's expense, which petition must have signatures of qualified electors of the city equivalent to one (1) percent of all the qualified electors.

(g) The ~~aforedescribed~~ petition must set forth with particularity the matter upon which a public hearing is being requested.

Sec. 2-189. Duties.

The parks and recreation commission shall perform the following duties:

~~(1)~~(a) Prepare and recommend a comprehensive master plan for the park and recreation services and needs for all areas within the city. The master plan shall be based on existing and anticipated needs and shall include a coordinated, uniform plan for parks and recreation relating to parks, playgrounds and other public recreational areas. The master plan shall also include a long-range financial program for public improvements;

~~(2)~~(b) Review and evaluate the parks and recreation department annual budget and capital improvement proposals and make recommendations to the city manager concerning such budget and capital improvement projections and submit such recommendations to the city manager no later than April thirtieth of each year;

~~(3)~~(c) Serve in a liaison capacity between the public and the city council; prepare recommendations which it feels are conducive to the benefit of the people and to the recreation and parks program and submit them to the city council;

~~(4)~~(d) Serve as a public relations interface to the general public, interpreting the services and problems confronting the city council and the parks and recreation department and ~~advise~~advice the city council and the department director as to the needs and desires of the citizens as they relate to parks and recreation.

Sec. 2-190. ~~Changes in master plan, budget and objections~~ Objections to determinations ~~by~~of commission.

(a) In any case where a citizen of the city has an objection to a recommendation by the

commission, a decision of the commission on a particular issue, an item in the budget or the results of a public hearing, then ~~in that event or any of those event~~ such ~~aggrieved party~~ citizen shall so notify the commission and ~~thereupon~~ the commission shall report such protest and/or objection to the city council together with its recommendations with reference to the change or matter raised.

(b) ~~In the event that city council desires to overrule the determination of the commission, then in that event a vote of three-fifths (3/5) of the city council shall be required.~~ The city council may overrule the commission's determination by a majority of votes.

Sec. 2-191. Miscellaneous.

(a) The meetings of the parks and recreation commission shall be governed by current Robert's Rules of Order and determinations in rulings concerning Robert's Rules of Order shall be made by the parliamentarian.

(b) The parks and recreation commission's liaison with the city council shall be through the office of the city manager.

(c) The parks and recreation commission may conduct public hearings in connection with the study of future plans relating to the parks and recreation department and include the results of such public hearings in its recommendations to the city council.

(d) The director of parks and recreation shall be the technical advisor to the commission on matters relating to the operation and management of the parks and recreation department and the needed leisure services in the community.

(e) The commission may ~~set~~recommend fees, ~~and adopt~~ rules, and regulations for the use of the parks and recreation facilities in the city which shall be presented ~~at a~~to the city council ~~meeting~~ for final approval. ~~If the city council does not reject the fees, rules or regulations within ten (10) days of presentment they shall be considered approved.~~

Secs. 2-192—2-200. Reserved.

DIVISION ~~10~~6. SENIOR CITIZENS' ADVISORY BOARD

Sec. 2-201. Establishment of board; composition; appointment; term; quorum; officers; removal.

(a) There is established a senior citizens' advisory board consisting of a minimum of five (5) members, each of whom shall be a resident of the city or associated with a social service agency that benefits elders in the city of North Miami ~~area~~.

(b) Each member of the city council shall nominate one (1) member of the senior citizens' advisory board, all of whom shall be subject to appointment by approval of a majority of the city council. Each member so appointed shall hold office until the second Tuesday in June of the odd-numbered year next following appointment. Members shall hold office until a successor is duly appointed. All terms shall begin and end at noon on the date indicated. The city council shall appoint a qualified person to serve out the unexpired term of any member vacating office by resignation or otherwise.

(c) Three (3) members shall constitute a quorum for the transaction of business by the board. During the first meeting of the board in September of each year, the members shall elect one (1) of their members to act as chairman, one (1) of their members to act as vice chairman.

(d) Any board member absent from three (3) consecutive or a total of four (4) regular board meetings within a twelve-month period shall be removed from office.

Sec. 2-202. Duties of board.

The senior citizens' advisory board shall perform the following duties:

(1) Review, study and sponsor potential and existing local areas for application of any programs as they may relate to senior citizens.

(2) Review and study welfare programs and recreational facilities as they may relate to and affect senior citizens.

(3) Make such recommendations to the city council as it may deem advisable.

Sec. 2-203. Meetings and recommendations.

(a) The senior citizens' advisory board shall meet at the call of the chairman ~~at least once each month~~ a minimum of ten (10) times per calendar year. The meeting place shall be in a location suitable for public assembly. The notice of meeting shall be sent by mail to members and guests and posted on the city hall bulletin board. All meetings shall be open to the public.

(b) All recommendations by the board shall be submitted to the city ~~council by letter as needed prior to the next regularly scheduled council meetings in order that they may be included in the agenda for such meeting~~ manager for city council consideration at the next available meeting date.

Secs. 2-204—2-215. Reserved.

DIVISION ~~11~~7. YOUTH OPPORTUNITY BOARD

Sec. 2-216. Establishment of youth opportunity board; composition.

There is created a youth opportunity board consisting of eleven (11) members.

Sec. 2-217. Members; appointment, term, quorum, officers; role of city manager's office.

(a) Each member of the city council shall nominate two (2) members of the youth opportunity board, with one nomination to be at-large and appointed by a majority vote of the council. Four (4) of the members shall be in middle school or high school. Two (2) of these four (4) members shall be the President or Vice President of the student government ~~of the~~ at a North Miami ~~Senior High School~~ high school ~~or the designee of the president, and the president of the student government of the North Miami Middle Community School or the designee of the president~~. Each nominee shall be subject to the approval of a majority of the city council. Each member shall hold office until the second Tuesday in June of the odd-numbered year next following appointment, members to serve at the pleasure of the council. All terms shall begin and end at noon on the date indicated. The council member who originally nominated a board

member vacating office by resignation or otherwise shall nominate a successor to serve out the unexpired term. The successor nominee shall be subject to approval by a majority of the city council.

(b) Six (6) members of the board shall constitute a quorum for the transaction of business. During the first September meeting of each year, the board shall elect one (1) of their members to act as chair, one (1) as co-chair and one (1) as corresponding secretary.

(c) The city manager shall ~~cooperate with~~assist the board.

Sec. 2-218. Duties of youth opportunity board.

The youth opportunity board shall perform the following duties:

~~(1)~~(a) Review, study and sponsor any and all youth activities deemed appropriate, reflecting the interests, concerns and needs of the citizens, including but not limited to education, recreation, and cultural programs.

~~(2)~~(b) Make recommendations to the city council relative to the above needs.

Sec. 2-219. Meetings and recommendations.

(a) The youth opportunity board shall meet ~~at least once a month~~ a minimum of ten (10) times per calendar year. The meeting place, suitable for public assembly, shall be in a location agreed upon by the chair and the city manager. Notice of meetings shall be sent by electronic mail to members, appropriate city officials, and posted on the city hall bulletin board. All meetings shall be open to the public.

(b) Any board member absent from three (3) consecutive or a total of four (4) regular board meetings within a twelve-month period shall be removed from office.

(c) All recommendations by the board shall be submitted to the city council by letter a minimum of seven (7) days prior to regularly scheduled council meetings in order that they may be included in the agenda for such meeting.

Secs. 2-220—~~2-230~~2-225. Reserved.

DIVISION ~~12~~8. ADVISORY COMMITTEE ~~ON THE DISABLED~~ FOR PERSONS WITH SPECIAL NEEDS

Sec. ~~2-230.1.~~2-226. Created.

The City of North Miami Advisory Committee ~~on the Disabled~~ for Persons with Special Needs is hereby created. Members of the advisory committee shall consist of ~~people~~ residents with a strong desire and interest ~~with longstanding interest in the disabled and disabled people themselves~~ of improving the quality of life of city residents with special needs, as a result of disability.

Sec. ~~2-230.2~~2-227. Appointment, terms.

The advisory committee ~~on the disabled~~ shall have eight (8) members appointed by the city

council. Each member shall hold office for a term of two (2) years, unless sooner removed by the city council. Such term to begin on the second Tuesday in June of each off-numbered year.

Sec. ~~2-230.3~~2-228. Duties.

The advisory committee ~~on the disabled~~ shall work in close cooperation with ~~Dade's Employ the Handicapped Committee and Metro's Office of Community Activities for the Disabled~~ the Miami-Dade County Office of Human Rights and Fair Employment Practices to provide guidance, insight, experience and expertise on ~~such interest of~~ the ~~handicapped~~ rights and daily needs of the physically challenged including, but not limited to, ~~as~~ human rights, discrimination, housing, public accommodations, architectural accessibility, employment ~~of the able disabled~~, recreation and such other matters as may seem pertinent and appropriate.

Sec. ~~2-230.4~~2-229. Policy.

(a) The city council with concern for the conservation and productive use of its human resources and with conviction that the abilities of its citizens can and should be employed to the advantage and profit of the community as well as to the fulfillment of the disabled individuals themselves does affirm and resolve that it shall be the policy and purpose of the city to:

(1) Hire qualified ~~handicapped people~~ disabled persons at all levels of employment;

(2) Ensure equal opportunity for ~~handicapped people~~ the disabled to qualify, prove themselves, succeed and advance on the job;

(3) Require only the minimum ~~those~~ physical standards demanded by the duties of the job itself;

(4) Employ administrative flexibility in all aspects of this human relations program, including the adaptation of duties, job sites and procedures, so that our purpose will be characterized by positive action and achieved with good will.

(b) The city manager is ~~directed~~ encouraged to ~~annually, during National Employ the Handicapped Week the~~observe and recognize National Disability Employment Awareness Month, ~~bring this policy to the attention of all departments~~ annually.

(c) Administrative and personnel policies, practices and procedures shall be established to reinforce this policy and ensure that fair, reasonable and continuing consideration is given to achieving our purpose to hire the ~~handicapped~~ disabled and set an example for other employers in the community.

(d) Nothing in this section shall create any private right of action.

~~**Secs. 2-230.5—2-230.15. Reserved.**~~

~~DIVISION 13. DISASTER PREPAREDNESS COMMITTEE~~

~~**Sec. 2-230.16. Created.**~~

~~There is hereby created a North Miami Disaster Preparedness Committee.~~

~~**Sec. 2-230.17. Membership.**~~

~~The disaster preparedness committee shall consist of representatives of city government, the American Red Cross, the civil defense, the county public schools, the fire department, health care providers, hospice team, the mental health profession; liaisons from the North Miami homeowner's associations, liaisons from the regional business associations and liaisons representing any other associations as the disaster preparedness committee deems necessary to properly carry out its duties, and five (5) people as the council shall deem necessary such as representatives of area condominiums, the American Association of Retired Persons and others.~~

~~**Sec. 2-230.18. Appointment, terms.**~~

~~(a) The mayor and each member of the city council shall be entitled to appoint one (1) lay person as referred to in section 2-230.17. A majority vote of the city council shall be required to increase the number of lay persons to more than five (5). Each member shall hold office for a term of two (2) years, unless sooner removed by the city council. Such term to begin on the second Tuesday in June of each odd-numbered year.~~

~~(b) Three (3) affirmative votes shall be required by the city council in order to remove a committee member, and no cause need be shown for removal. Any committee member who has two (2) unexcused absences shall automatically forfeit membership.~~

~~**Sec. 2-230.19. Officers, meetings.**~~

~~The disaster preparedness committee shall elect one (1) of their members as chairman and shall meet at the call of the chairman.~~

~~**Sec. 2-230.20. Duties.**~~

~~The disaster preparedness committee shall develop appropriate plans for the effective use and coordination of community resources during periods of emergency. The plans, when adopted by the city council, shall serve as a guide for the use of governmental and other agencies during emergencies.~~

~~**Secs. 2-230.21—2-230.30.**~~**2-230--2-235 Reserved.**

DIVISION ~~14~~9. NORTH MIAMI AFFORDABLE HOUSING ADVISORY COMMITTEE

Sec. ~~2-230.31~~2-236. Creation.

Pursuant to ~~F.S. §~~ Section 420.9076, Florida Statutes, there is hereby created the North Miami Affordable Housing Advisory Committee.

Sec. ~~2-230.32~~2-237. Composition.

(a) The Affordable Housing Advisory Committee shall be appointed by a majority of the city council and shall consist of eleven (11) members with the following qualifications:

(1) One (1) citizen who is actively engaged in the residential home building industry in connection with affordable housing;

(2) One (1) citizen who is actively engaged in the banking or mortgage banking industry in connection with affordable housing;

(3) One (1) citizen who is a representative of those areas of labor actively engaged in home building in connection with affordable housing;

(4) One (1) citizen who is actively engaged as an advocate for low-income persons in connection with affordable housing;

(5) One (1) citizen who is actively engaged as a for-profit provider of affordable housing;

(6) One (1) citizen who is actively engaged as a not-for-profit provider of affordable housing;

(7) One (1) citizen who is actively engaged as a real estate professional in connection with affordable housing;

(8) One (1) citizen who actively serves on the local planning agency pursuant to ~~F.S. §~~ Section 163.3174, Florida Statutes;

(9) One (1) citizen who resides within the jurisdiction of the city;

(10) One (1) citizen who represents employers within the jurisdiction; and

(11) One (1) person who represents essential services personnel, as defined in the local housing assistance plan adopted by the city.

(b) In the event there is no eligible candidate actively engaged in activities in connection with affordable housing, a citizen engaged in the activity without regard to affordable housing may be appointed.

Sec. ~~2-230.33~~2-238. Term.

Each member shall hold office for a term of two (2) years, unless removed by the city council. The term shall end on the second Tuesday in June each even numbered year.

Sec. ~~2-230.34~~2-239. Meetings.

All meetings of the North Miami Affordable Housing Advisory Committee shall be public meetings subject to ~~F.S. §~~ Section 286.011, Florida Statutes, and all committee records are public records pursuant to ~~F.S. §~~ Section 119.07, Florida Statutes.

Sec. ~~2-230.35~~2-240. Duties.

(a) Triennially, the advisory committee shall review the established policies, procedures, ordinances, land development regulations, and adopted local government comprehensive plan and shall recommend specific actions or initiatives to encourage or facilitate affordable housing while protecting the ability of the property to appreciate in value.

(b) The advisory committee shall submit a report to the city council that includes its recommendations.

(c) Triennially, the advisory committee shall evaluate the implementation of affordable housing incentives in the following areas:

(1) The processing of approvals of development orders or permits, as defined in ~~F.S. §~~ Section 163.3164(7) and (8), Florida Statutes, for affordable housing projects is expedited to a greater degree than other projects;

(2) The modification of impact fee requirements, including reduction or waiver of fees and alternative methods of fee payment for affordable housing;

(3) The allowance of flexibility in densities for affordable housing;

(4) The reservation of infrastructure capacity for housing for very low income persons, low income persons, and moderate income persons;

(5) The allowance of affordable accessory residential units in residential zoning districts;

(6) The reduction of parking and setback requirements for affordable housing;

(7) The allowance of flexible lot configurations, including zero lot line configurations for affordable housing;

(8) The modification of street requirements for affordable housing;

(9) The establishment of a process by which a local government considers, before adoption, policies, procedures, ordinances, regulations, or plan provisions that increase the cost of housing;

(10) The preparation of a printed inventory of locally-owned public lands suitable for affordable housing; and

(11) The support of development near transportation hubs and major employment centers and mixed-use developments.

(d) The advisory committee recommendations may also include other affordable housing incentives.

(e) The advisory committee may perform other duties at the request of the city including:

(1) Providing mentoring services to affordable housing partners including developers, banking institutions, employers, and others to identify available incentives, assist with applications for funding requests, and develop partnerships between various parties; and

(2) The creations of best practices for the development of affordable housing in the community.

Sec. ~~2-230.36~~2-241. Approval of local housing incentive strategies.

The approval of the local housing incentive strategies recommendations and review of the city's implementation of previously recommended strategies must be made by affirmative vote of a majority of the membership of the advisory committee taken at a public hearing. Notice of the

time, date, and public hearing of the advisory committee to adopt the final local housing incentive strategies recommendations must be published in a newspaper of general paid circulation in the county. The notice must contain a short and concise summary of the local housing incentives strategies recommendations to be considered by the advisory committee. The notice must state the public place where a copy of the tentative advisory committee recommendations can be obtained by interested persons.

Sec. ~~2-230.37~~2-242. Staffing.

The advisory committee shall be cooperatively staffed by the city community planning and development department to ensure an integrated approach to the work of the advisory committee.

Secs. ~~2-230.38—2-230.45~~2-243—2-248. Reserved.

DIVISION 10. CHARTER SCHOOL AUTHORITY

Sec. 2-249. Charter school authority established; board of directors.

(a) There is established a charter school authority in the city which shall be governed by a board of nine (9) directors, five (5) of whom shall be chosen by the mayor and council, three (3) directors who will be chosen by the city manager, and one (1) director who will be a parent or guardian of a current charter high school student and elected by the other parents/guardians. The three (3) directors to be chosen by the city manager shall have the following educational and/or professional backgrounds and experiences:

(1) One (1) director—education;

(2) One (1) director—business/finance; and

(3) One (1) director—city of North Miami administrator.

(b) Prior to the opening of the charter high school, the council shall appoint a director designated by the board of directors of an officially sanctioned parent teacher association recognized by the city, to serve as the parent/guardian director until an election by the charter high school parent/guardians is held.

(c) All directors shall hold office for an initial term of two (2) years from the first day following appointment. Each director shall hold office until a successor has been duly appointed, except when removed by the council. Any director may be removed at any time by a four-fifths (4/5) vote of the council. Additionally, a director may be removed by a majority vote of the council for failure to comply with the charter contract between the city and the School Board of Miami-Dade County, Florida or any applicable law regulating charter school boards of directors; upon termination of employment as a city of North Miami administrator where required for the director appointment, and at such time as the parent/guardian director no longer has a child enrolled in the charter high school. In cases of vacancies by resignation, removal, or otherwise, the designating entity who originally appointed the director holding that seat may fill such vacancy for the unexpired term, except however that upon the opening of the charter high school, any vacancies for the parent/guardian director shall be filled by a parent/guardian of a current charter high school student elected by the parents/guardians.

(d) The designating entities shall evidence their decisions regarding appointments to the board of the charter school authority, as well, as any actions regarding removal of any of designated board members, by means of a written resolution.

(e) As soon as practical after the council's appointment of its designated directors all duly designated directors shall meet and organize by electing a chairperson, secretary, and treasurer and such other officers as they may deem necessary. All decisions by the board of directors of the charter school authority shall be by majority vote of the entire board.

Sec. 2-250. Delegation of authority over charter school operations.

In accordance with Florida law, the council delegates to the board of directors of the charter school authority management and operational control over the administration of the municipally chartered high school and all other municipally chartered schools, in accordance with the charter contract between the city and the School Board of Miami-Dade County, Florida. This delegation of authority extends to all matters regarding the operation and management of the charter school but does not include the delegation of any taxing authority.

Sec. 2-251. Quorum; by-laws of board; control of expenditures; facilities.

Five (5) members of the charter school authority board of directors shall constitute a quorum. The board of directors may make and adopt such by-laws, subject to city council approval and regulations for the guidance and governance of the charter school as it may deem expedient and to the extent not inconsistent with law or the charter contract. The board of directors shall, in accordance with law and the charter contract, direct expenditures of all state, county and private monies collected, received or donated for purposes of charter school operations as well as such funds as may be specifically budgeted and appropriated by the city council for such purposes. The board of directors of the charter school authority shall have authority over the renting of the charter school facility and the supervision, care and custody of the grounds, rooms, and buildings constructed, leased or set apart for that purpose.

Sec. 2-252. Charter school funds; use of income.

All funds collected, donated or in any way acquired by or under the authority of the board of directors of the charter school authority in connection with the maintenance or support of the charter school(s) shall be kept for the use of the charter school separate and apart from all other funds of the city and shall not be used or distributed for any other purpose or in any other manner.

Sec. 2-253. Powers of board generally.

(a) The charter school authority board of directors may purchase or lease grounds, erect, lease or occupy appropriate buildings for the use of the charter school; recommend a suitable chief administrator of the charter high school (who may be designated as principal, executive director or otherwise) and assistants for final approval by the council; fix their compensation, negotiate their employment contracts, and remove them from their positions in conformance with their employment contracts and applicable law, including city policies, procedures and regulations; appoint individuals or firms to perform professional services that the board deems necessary to carry out its responsibilities and the spirit and intent of the law in establishing,

governing, managing, operating and maintaining a municipal charter high school; fix their compensation, and terminate their services in conformance with their contracts at the pleasure of the board; establish regulations for the governing, management and operations of the charter school as may be deemed necessary for its preservation, proper operation and to maintain its usefulness and efficiency and shall have and exercise such power as may be necessary to carry out the spirit and intent of the law in establishing, promoting and maintaining a municipal charter high school. However, notwithstanding anything to the contrary contained in this code, the charter school authority board of directors shall not have the authority to take any of the following actions without approval from the council:

(1) Amending or surrendering the charter from the School Board of Miami-Dade County, Florida:

(2) Expending funds in excess of twenty-five thousand dollars ($25,000.00);

(3) Accepting any fees or payments from attendees, except as specifically allowed pursuant to applicable law and the charter contract;

(4) Authorizing payments to members of the charter school authority board of directors (other than reimbursements of travel expenses pursuant to prevailing city policy);

(5) To enter into interlocal agreements with a city-created community redevelopment agency regarding the operation and funding of the school(s) under the city's or authority's jurisdiction;

(6) Final approval of the principal/director of the charter high school and the final approval of any annual evaluation;

(7) Final approval of the annual budget and the annual financial audit report;

(8) Changes to the adopted budget, except as to interdepartmental transfers and up to the amounts permitted by charter.

(9) Transmitting reports that are required by law or the charter contract to be filed with the school board (e.g., annual budget, annual financial audit report, annual progress report);

(10) Pledging, committing, contracting or obligating the city and/or its resources and assets (including those of the charter high school as a component of the city), except as specified in this article or as otherwise determined by the city.

Sec. 2-254. Reports to council.

The charter school authority board shall, at least quarterly, transmit reports to the council of the condition of the authority and all charter schools, including full financial reporting, such reports as may be deemed appropriate concerning student registration, attendance, and achievements and such additional statistics, information and suggestions as the board may deem of general interest or as the city council may require.

~~DIVISION 15. - RESERVED~~

~~Secs. 2-230.46—2-230.60. - Reserved.~~

~~DIVISION 16. - RESERVED~~

Secs. ~~2-230.61—2-230.70~~2-255—2-275. Reserved.

~~DIVISION 17. - RESERVED~~

ARTICLE IV. CITY DEPARTMENTS AND OFFICES

DIVISION 1. ~~GENERALLY~~ DEPARTMENTS AND OFFICES

Sec. ~~2-231~~2-276. Created.

The following departments and offices are created:

~~(1)~~(a) ~~Administration;~~ City clerk's office.

The city clerk is elected by the people for a term of four (4) years. The city clerk is empowered to give notice of regular and special council meetings; maintain a journal and record of city council proceedings; hold official city contracts; issue, bill and collect business tax receipts; act as supervisor of all city elections; and perform such other duties as shall be required by city ordinance.

~~(2)~~(b) ~~Law;~~ City attorney's office.

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

~~(3)~~(c) City ~~clerks;~~ manager's office~~;~~.

The city manager is appointed by the city council and is the chief administrative officer of the city. The city manager shall be responsible to the city council for the administration of all city affairs and for carrying out policies adopted by the city council.

~~(4)~~(d) Community planning and development department~~;~~.

The community planning and development department partners with residents, organizations, businesses and developers in order to provide housing programs, promote quality planning and development throughout the city, and encourage investment and redevelopment to improve the overall quality of life in the city.

~~(5)~~(e) Finance department~~;~~.

The finance department handles and records all financial transactions of the city, including the preparation of monthly financial reports, investment of city funds, reconciliation of funds and bank accounts, submission of reports required by regulatory agencies and processing payments to employees and vendors in a timely manner.

~~(6)~~(f) Public ~~L~~library~~;~~.

The public library provides open and free access to information and technology, while fostering independent lifelong learning, personal growth and development, intellectual stimulation and cultural enrichment.

~~(7)~~(g) Parks and recreation department~~;~~.

The parks and recreation department will enhance residents' quality of life by providing recreational programs, special events, and safe and attractive open space, facilities and services for all members of the community.

~~(8)~~(h) Personnel administration~~;~~.

The office of personnel administration is charged with the responsibility of recruiting, hiring, and retaining competent employees, while providing competitive benefits, in accordance city, county, state, and federal regulations.

~~(9)~~(i) Police department~~;~~.

The police department provides professional, efficient, and courteous public service by creating a safe environment and improving the quality of life of residents, in an atmosphere of respect, courtesy and integrity.

~~(10)~~(j) Public works department~~;~~.

The public works department exists to enhance the quality of life, health and safety of all residents by rendering proper and efficient services, related to sanitation, streets, water, sewer, storm-water, fleet management, and building maintenance.

~~(11)~~(k) Museum of c~~C~~ontemporary a~~A~~rt~~;~~.

The museum is dedicated to making contemporary art accessible to diverse audiences through the collection, preservation and exhibition of contemporary art and its historical influences.

(l) Community redevelopment agency.

The city's community redevelopment agency strives to eliminate or mitigate the deleterious effects of slum and blighted areas in order to improve the health, safety, morals, and welfare of city residents, in accordance with Part III of Chapter 163, Florida Statutes.

(m) Information technology department.

The Information technology department supports the operations of city administration and functions by the advanced application of technology and communication systems.

(n) Purchasing department.

The purchasing department supports all city departments and ensures that the procurement of goods and services are in accordance with city code, Florida Statutes and federal law. The department guards the city's reputation of integrity, fairness and equity in the procurement process with all vendors.

(o) Risk management.

The office of risk management will implement appropriate measures for evaluating, mitigating and resolving risk exposures and liabilities, while proactively maintaining a safe working environment for employees.

(p) Media relations.

In the interest of creating a positive working relationship with the media, the city of North Miami established this office for the uniform dissemination of information to the public, in the manner established by administrative regulations. All media requests to the city's elected officials, as they pertain to city policies and programs, should be directed to the city public information officer.

(q) Budget.

The budget office is charged with forecasting the city's revenues and expenditures, and drafting and monitoring the financial guidelines for each fiscal year.

(r) Governmental affairs.

The office of governmental affairs, endeavors to establish and maintain effective governmental relations with public and private entities involved in all areas of municipal government including, but not limited to, grants, development, infrastructure, education, law enforcement, emergency response, transportation, environmental issues, as well as the arts and culture.

(s) Utility billing office.

The utility billing office provides billing, collection, and recording services relating to utility customer accounts.

~~**Section 2-232. Bond of officers and employees, authority of city manager; approval by council.**~~

~~(a) The city manager is hereby delegated the right and authority to recommend the officers and employees of the city who shall be required to furnish a fidelity bond to the city, in addition to those officers referred to in section 192 of the Charter of the city, provided the recommendation shall be subject to the approval of the city council.~~

~~(b) The fidelity bond to be furnished by any officers and employees shall be approved as to amount, form, provisions and surety by the city council, and the premium therefor shall be paid by the city.~~

~~**Secs. 2-235—2-237. Reserved.**~~

Secs. 2-277--2-280. Reserved.

DIVISION 2. CITY CLERK

Sec. ~~2-238~~2-281. Purpose of division.

The purpose of this division is to establish the duties ~~for the elected city clerk~~, ~~provide a~~ salary rate ~~for the elected city clerk~~ and ~~provide for~~ administrative procedures for the elected city clerk.

Sec. ~~2-239~~2-282. Definition.

The term "city clerk" as referred to in this division means the person elected and holding office as city clerk under section ~~208~~80 of the ~~City Charter~~ city charter.

Sec. ~~2-240~~2-283. Salary.

During the term of office, the salary of the city clerk shall be ~~three hundred dollars ($300.00) per month~~ fixed in advance by the city council, pursuant to section 81 of the city charter. The monthly salary shall be the same as the monthly salary which the ~~City Charter~~ city charter provides for a councilmember, exclusive of the mayor, so that if the salary of a councilmember~~, which is currently set at three hundred dollars ($300.00) per month by City Charter section 7~~ is changed, the city clerk's salary shall likewise be increased or reduced. The salary provided for by this division shall be included in the annual city budget.

Sec. ~~2-241~~2-284. Duties.

(a) The duties of the city clerk are described as follows:

(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 the official city contracts;

(4) Be responsible for issuing business tax receipts and the billing and collection of business taxes;

(5) Act as supervisor of all city elections;

(6) Perform such other duties as shall be required by ordinance.

(b) The city clerk shall attend each city council meeting and perform any necessary ceremonial functions.

(c) The city clerk shall not be expected or required to be present at city hall during normal business hours of the city government but shall arrange to be available at city hall on a scheduled basis as established by the city manager and the city clerk.

(d) The city clerk shall provide general advice and guidance pertaining to the duties of his office and shall provide advice and guidance to the personnel of the office of the city clerk; however, the administrative details of the day to day work of the regular personnel of such office shall be determined by the city manager by administrative regulation. If such advice or policies

of the city clerk are in conflict with any course of action of the city manager, the city clerk may request the city council to resolve the conflict.

Secs. ~~2-242, 2-243~~2-285—2-290. Reserved.

ARTICLE V. RISK MANAGEMENT

~~DIVISION 1. - GENERALLY~~

~~**Secs. 2-244, 2-245. - Reserved.**~~

DIVISION ~~2~~1. GENERAL LIABILITY

Sec. ~~2-246~~2-291. Creation of program.

There is hereby created a city general liability risk management program, administered by the office of risk management, which shall include administration of general liability claims, settlement of claims, a claims prevention program and trust fund.

Sec. ~~2-247~~2-292. Administration.

(a) The general liability risk management program shall be administered by the city manager or a designee and shall include a risk management committee with responsibilities as provided below.

(b) The city manager shall, with due regard to the financial security of the city, maintain with city ~~counsel~~ council approval a trust fund in a local banking/financial institution. The manager shall, when appropriate and with city council approval, determine and obtain necessary financial arrangements to ensure against catastrophic losses which may exceed the resources of the trust.

(c) A safety program shall be established under the direction of the city manager or a designee to identify and implement ways and means to reduce and eliminate unsafe conditions or practices for which liabilities may occur.

Sec. ~~2-248~~2-293. Risk management committee.

There is created a risk management committee composed of the city manager or city manager's designee, city attorney, risk manager and one (1) present or former city councilmember who is a resident of the city designated by the city council. The committee shall review all claims made either against the city or by the city except those claims which can be settled for five thousand dollars ($5,000.00) or less, authorize settlements not to exceed twenty-five thousand dollars ($25,000.00) and provide the city council with periodic reports as requested and a formal annual report assessing the status of the program.

Sec. ~~2-249~~2-294. Trust fund.

(a) The program shall rely upon funds placed in the North Miami General Liability Trust Fund which shall include all money deposited by appropriation or from any other source, related

to such fund. The fund shall consist of:

(1) Any unexpended balance of any appropriation made for the expenditure of public funds for or accruing from the payment of claims and judgments against the city relating to general liability;

(2) Appropriations for the payment of claims and judgments against the city relating to general liability;

(3) Those costs recovered for services of other than the city employees relating to the recovery of tort claims against other parties involving general liability;

(4) Fines and forfeitures levied against employees as a result of being found responsible for preventable accidents;

(5) Income accruing from the investment of the trust fund.

(b) The funds are to be expended in accordance with the provisions and for the purposes stated in this ordinance. The funds shall be segregated from other funds of the city, shall be appropriated in the annual city budget and shall be administered under the direction of the city manager for that purpose.

(c) For the purpose of this article, general liability shall be defined as all actual or alleged responsibilities to others arising out of the ownership, maintenance and use of all city property, all operations of the city, and all acts or omissions of the city's elected officials, appointees, agents and employees while acting within the scope of official duties.

Sec. 2-~~250~~2-295. Claims administration.

(a) The investigation of claims, including the gathering of all necessary oral and visual evidence, shall be undertaken by a professional qualified claims-handling contractor who shall be retained by the city manager. All files resulting from such investigation shall be referred to the city with the recommendation to pay or deny the loss.

(b) The risk management ~~review~~ committee shall review all claims as noted in section ~~2-248~~2-293, city code.

Sec. 2-~~251~~2-296. Payment of claims.

(a) The city manager is authorized to disburse money from the trust fund for the purposes of carrying out the intent of this article.

(b) The city manager may compromise, settle and pay all claims which may be discharged by payment of an amount not to exceed five thousand dollars ($5,000.00) for each individual claim.

(c) Proposed settlements in excess of five thousand dollars ($5,000.00) but not more than twenty-five thousand dollars ($25,000.00) for each individual claim shall be reviewed by the risk management committee. Payment shall be made upon consensus of that committee, provided that such settlement or compromise shall be for all damages claimed for personal injury, property damage or both.

(d) Proposed settlements in excess of twenty-five thousand dollars ($25,000.00) shall be submitted by the risk management committee to the city council for its approval.

(e) In the event that a settlement has been tendered upon consensus by the risk management committee in the amount of twenty-five thousand dollars ($25,000.00) or less and such settlement is not acceptable to the claimant, then the risk management committee shall submit this matter, along with its recommendation, providing it exceeds twenty-five thousand dollars ($25,000.00) to the city council for its ultimate decision.

(f) ~~If, after review by the risk management committee, no settlement is offered, the risk management committee shall report to the city council.~~ If after the review of the risk management committee, no settlement is offered by the committee, the risk manager shall then convey the risk management committee's decision to claimant.

Sec. ~~2-252~~2-297. Legal counsel.

The city attorney shall perform all legal services required to accomplish the purpose of the risk management program regarding the defense or prosecution or the negotiation of settlements of those claims or suits determined to be well-founded for which the amounts claimed may be payable from the trust fund. The city attorney may obtain outside legal services which shall be paid for by the trust when such services are deemed necessary in the best interest of the city.

Secs. 2-298—2-302 Reserved.

DIVISION ~~3.~~2. WORKERS' COMPENSATION

Sec. ~~2-253~~2-303. Creation of program.

There is created a city workers' compensation program which shall include the administration of workers' compensation claims, settlement of claims, and accountability within the general liability trust fund.

Sec. ~~2-254~~2-304. Program administration.

(a) The workers' compensation self-insurance program shall be administered by the city manager or a designee in accordance with requirements of Chapter 440, Florida Statutes (as amended).

(b) A third party administrator may be contracted to process workers' compensation claims as they occur. The city shall have final authority on any and all disbursements by the third party administrator. Washout settlements will be discussed with the city manager prior to final settlement.

(c) The city manager shall, with council approval and with due regard to the financial security of the city, maintain available funds for the workers' compensation program in a local banking or financial institution. The manager shall, when appropriate and with city council approval, determine and obtain necessary financial arrangements to address catastrophic losses which may exceed the resources of the fund.

Sec. ~~2-255~~2-305. Workers' compensation funds.

(a) The workers' compensation program shall rely upon funds placed in the general liability trust fund within separate accounts from all other insurance revenues to which shall include all money deposited by appropriation or from any other source related to the program. The funds shall consist of:

(1) Any unexpired balances of any appropriation made for the expenditure of public funds for or accruing from the payment of claims and judgments against the city relating to workers' compensation;

(2) Appropriations for the payment of claims and judgments against the city relating to workers' compensation;

(3) Those monies recovered from offsets of any employee's third party claims;

(4) Income accruing from the investment of the workers' compensation funds~~.~~;

(5) Excess workers' compensation insurance recovery.

(b) The funds are to be expended in accordance with the provisions and for the purposes stated in this division. The workers' compensation funds shall be appropriated in the annual city budget and shall be administered under the direction of the city manager for that purpose.

Sec. ~~2-256~~2-306. Claims administration.

The investigation of workers' compensation claims, including the gathering of all necessary oral and visual evidence, shall be undertaken by ~~a professionally qualified claims handling contractor~~ the third party administrator who shall be retained by the city manager. If extensive investigation is required, the third party administrator may retain an outside investigator upon approval of the city manager. Claims shall be handled and funds disbursed by the risk management division of the ~~administration department~~ city manager's office or the third party administrator.

Sec. ~~2-257~~2-307. Payment of claims.

The city manager is authorized to disburse money from the fund provided for in this division for the purposes of carrying out the intent of this division.

Sec. ~~2-258~~2-308. Legal service.

The city attorney shall authorize all legal services through the ~~servicing carrier~~ third party administrator required to accomplish the purpose of the workers' compensation program regarding the defense or prosecution of the settlement or negotiation of the city's position. These outside legal services shall be paid for by the workers' compensation funds through the ~~servicing carrier~~ third party administrator as deemed necessary and in the best interest of the city.

~~ARTICLE VI. - LIENS~~

~~Sec. 2-266. Short title; application.~~

~~This article shall be known as the "North Miami Lien Ordinance" and shall apply to the enforcement and collection of all liens levied against property by the city.~~

~~Sec. 2-267. Declaration of legislative intent.~~

~~The city council finds that in the absence of this division property owners do not always bear the burden of paying for such improvements to their property as required by the Code. The express intent of the article is to provide a method whereby the city can recover the costs of such mandatory improvements to private property as is required by its ordinances and which the property owners themselves do not responsibly perform.~~

~~Sec. 2-268. Liens included.~~

~~This article includes all liens imposed which are due and owing to the city. Such liens include, but are not limited to:~~

~~(1) Mowing liens;~~

~~(2) Trash removal liens;~~

~~(3) Sign removal liens;~~

~~(4) Garbage liens;~~

~~(5) Water and sewer liens.~~

~~Sec. 2-269. Lien as special assessment.~~

~~All liens levied against property by the city shall become a lien to the same extent and character as a lien for special improvements, and with the same priorities, penalties, rights of collection, foreclosure, sale and forfeiture as obtained for special assessment liens.~~

~~Sec. 2-270. Notice of lien.~~

~~Within ten (10) days after a lien is filed against a property, the finance director or other designee of the city manager of the city shall send to the property owner of record a notice of lien, informing the property owner of the existence of the lien, the amount of the lien, and the work performed by the city for which such lien was imposed.~~

~~Sec. 2-271. Review of lien.~~

~~(a) Within thirty (30) days after a notice of lien is sent by the finance director or other designee of the city manager to the property owner, the property owner may file an appeal to the city council of the city to contest the existence of the lien or the amount of the lien.~~

~~(b) The form used to appeal such a lien will be as follows:~~

~~In re the lien on: (Legal description and address of property).~~

~~Notice of Lien Appeal~~

I am the (owner or representative legally authorized to represent the owner) of the parcel of property located at _____ I received a notice dated _____/_____/_____ that a lien in the amount of _____ has been levied on this property due to the city's performance of the following labor on that property:

(list labor performed by the city).

I wish to appeal to the city council of the City of North Miami the filing of such lien and/or the amount of such lien.

_____

Owner or authorized representative.

(c) The notice must be filed with the finance director or other designee of the city manager of the city within thirty (30) days of the city's mailing of the notice of lien. Failure to appeal within thirty (30) days will be considered an abandonment of any right to appeal or to contest the lien.

(d) Upon receipt, the notice of lien appeal will be forwarded to the city manager, who shall be empowered to adjust, settle or compromise any appeal on behalf of the city. If the city manager and property owner fail to reach an agreement within fourteen (14) days of the date that the appeal was filed, the notice of lien appeal will be placed on the agenda of the next regularly scheduled city council meeting.

Sec. 2-272. Collection of liens.

All liens shall become due and payable thirty (30) days after the mailing of the notice of lien by the finance director or other designee of the city manager, except in such cases where an appeal is filed pursuant to section 2-271, in which case the lien is due and payable thirty (30) days from the decision of the city council. After the respective due dates above fixed, all unpaid liens shall become delinquent and shall thereafter bear interest at the rate of twelve (12) percent per annum. There shall be a service charge for preparing a written confirmation of amount owed as follows:

Within one (1) working day of receipt $60.00

Within three (3) working days of receipt 45.00

Four (4) or more working days after receipt 35.00

Secs. 2-273—2-280. Reserved.

ARTICLE VII. - LOCAL HOUSING ASSISTANCE PROGRAM

Sec. 2-281. Definitions.

For the purposes of this article, the city hereby adopts the applicable definitions set forth in the SHIP Act contained in F.S. § 420.9071 and in Chapter 91-37, Florida Administrative Code.

Sec. 2-282. Establishment of the local housing assistance program.

The city shall use funds received pursuant to the SHIP Act to implement its local housingassistance program, which is hereby created and established. Said program shall consist of the following activities:

(1) *Down payment assistance.* The city's down payment assistance program provides down payment and closing costs assistance to qualified households falling in the very low, low or moderate income range to assist in the purchase of single-family fee-simple affordable housing units.

(2) *Housing rehabilitation grant program.* The city's housing rehabilitation grant program provides grants to homeowner households falling in the very low, low or moderate income range for the purpose of rehabilitating existing single-family fee-simple affordable housing units.

Sec. 2-283. Designation of responsibility for administration and implementation of the city's local housing assistance program.

The city's planning and development department shall be the city agency responsible for implementation and administration of the local housing assistance program under SHIP. This department shall:

(1) Oversee the receipt and expenditure of SHIP program funds in accordance with the criteria set forth in the SHIP Act.

(2) Coordinate the city's efforts to promote the provision of decent, sanitary and affordable housing.

(3) Evaluate and monitor the effectiveness of the city's local housing assistance program and provide a progress report to the city council annually.

Sec. 2-284. Creation of the local housing assistance trust fund.

(a) The local housing assistance trust fund is hereby created and established.

(b) All monies received by the city pursuant to the SHIP Act shall be deposited into the city's local housing assistance trust fund. The city shall comply with applicable SHIP program requirements and Chapter 91-37, Florida Administrative Code, with respect to expenditures from said trust fund.

(c) Any investment earnings from monies on deposit in the local housing assistance trust fund shall be retained in such fund and used for eligible activities as described.

Sec. 2-285. Reserved.

Secs. 2-286—2-290. Reserved.

ARTICLE VIII. - QUASI-JUDICIAL MATTERS

Sec. 2-291. —Procedure governing communication with local public officials.

Communications with local public officials regarding quasi-judicial matters shall be

governed by the following procedure:

Any person not otherwise prohibited by statute, charter provision, or ordinance may discuss with any local public official representing the City of North Miami the merits of any matter on which action may be taken by any board, council or commission on which the local public official is a member. Such communication shall not raise any presumption of prejudice provided that the following process of disclosure occurs:

(1) The subject and substance of any ex parte communication with a local public official representing the City of North Miami which relates to quasi-judicial action pending before the official, as well as the identity of the person, group or entity with whom the communication took place, is disclosed and made a part of the record before final action is taken on the matter.

(2) A local public official representing the City of North Miami may read a written communication from any person; however, a written communication that relates to quasi-judicial action pending before such official shall be made a part of the record before final action is taken on the matter.

(3) Local public officials representing the City of North Miami may conduct investigations, make site visits and receive expert opinions regarding quasi-judicial action pending before them, provided that such activities and the existence of such investigations, site visits, or expert opinions is made a part of the record before final action is taken on the matter.

(4) Disclosure made pursuant to subsection (1), (2) and (3) above must be made before or during the public meeting at which a vote is taken on such matters, so that persons who have opinions contrary to those expressed in the ex parte communication are given a reasonable opportunity to refute to respond or respond to the communication.

Secs. 2-292—2-299. Reserved.

ARTICLE IX. - COMBAT AUTOMOBILE THEFT PROGRAM

Sec. 2-300. Combat automobile theft program established.

There is hereby established a "combat automobile theft" program in the City of North Miami which shall be administered by the City of North Miami Police Department in accordance with Section 316.008(6), Florida Statutes (1995) and as the same may be amended. Owners of motor vehicles wishing to participate shall enroll their vehicles with the department and sign consent forms prescribed by the department. The department shall issue decals to be displayed on the vehicle indicating its enrollment in the program.

Sec. 2-301. Authorization to stop vehicle during certain hours.

A consent form signed by a motor vehicle owner shall constitute authorization for a law enforcement officer to stop the vehicle when it is being driven between the hours of 1:00 a.m. and 5:00 a.m., provided that the decal is conspicuously affixed to the inside left lower corner of the rear window of the vehicle to provide notice of its enrollment in the program and of the

owner's execution of the consent form.

Sec. 2-302. Removal of decal when terminating participation in the program.

The owner of the motor vehicle is responsible for removing the decal and completing the withdrawal form at the City of North Miami Police Department when terminating participation in the program, or when selling or otherwise transferring ownership of the vehicle.

Sec. 2-303. Civil liability.

No civil liability shall arise from the actions of a law enforcement officer when stopping a vehicle with a decal evidencing enrollment in the program provided that the stop is made in accordance with the requirements of the combat automobile theft program.

ARTICLE X. LOBBYING

Sec. 2-304. Definitions.

For the purposes of this article the following definitions shall be effective:

Advisory personnel shall refer to the members of those city advisory boards and agencies whose sole or primary responsibility is to recommend legislation or give advice to the city council.

Autonomous personnel shall refer to the members of semi-autonomous authorities, boards, and agencies such as the Health Facilities Authority, the Board of Trustees of the Museum of Contemporary Art (MoCA) and others that are entrusted with the day-to-day policy setting, operation and management of certain defined city functions or areas of responsibility, even though the ultimate responsibility for such functions or areas rests with the city council.

Councilmembers shall refer to the mayor and the members of the city council and city clerk as duly constituted from time to time.

Departmental personnel shall refer to the city manager, deputy and assistant city managers, department heads, the city attorney and all assistant city attorneys.

Employees shall refer to all other personnel employed by the city.

Lobbyist shall refer to all persons, firms, or corporations employed or retained, whether paid or not, by a principal who seeks to encourage the passage, defeat, or modification(s) of; (1) Any ordinance, resolution, action or decision of any councilmember; (2) Any action, decision, recommendation of any city board or committee; or (3) Any action, decision or recommendation of any personnel defined in any manner above, during the time period of the entire decision-making process on such action, decision or recommendation which foreseeably will be heard or reviewed by the city council, or a city board or committee. "Lobbyist," as defined above, specifically includes the principal as described above, as well as any agent, attorney, officer or employee of a principal, regardless of whether such lobbying activities fall within the normal scope of employment of such agent, attorney, officer or employee.

Quasi-judicial personnel shall refer to the members of the board of adjustment, the

planning commission, the code enforcement board or special master(s) and such other individuals, boards and agencies of the city as perform quasi-judicial functions.

Sec. 2-305. Registration.

All lobbyists shall, before engaging in any lobbying activities, register with the city clerk, every person required to so register shall:

(1) Register on forms prepared by the city clerk;

(2) Pay a registration fee of twenty-five dollars ($25.00); and

(3) State under oath the name and business address of each person or entity which has employed the registrant to lobby, the councilmember or personnel sought to be lobbied and the specific issue on which the lobbyist has been retained to lobby. Any change to any information originally filed, or any additional city councilmember or personnel who are also sought to be lobbied shall require that the lobbyist file an amendment to the registration forms, although no additional fee shall be required for such amendment(s). The lobbyist has a continuing duty to supply information and amend the forms filed throughout the period for which the lobbying occurs. If the lobbyist represents a corporation, partnership or trust, the chief officer, partner or beneficiary shall also be identified. Without limiting the foregoing, the lobbyist shall also identify all persons holding, directly or indirectly, a five (5) percent or more ownership interest in such corporation, partnership, or trust. Separate registration shall be required for each principal represented on each specific issue. Each issue shall be described with as much detail as is practical, including but not limited to a specific description where applicable of a pending request for a proposal, request for proposal, or public hearing number. The city clerk shall reject any registration statement which does not provide a description of the specific issue on which the lobbyist has been sought to lobby. Each person who withdraws as a lobbyist for a particular client shall file an appropriate notice of withdrawal. In addition to the registration fee required above, registration of all lobbyists shall be required prior to January 1st of every even numbered year and the fee for biennial registration shall be one hundred twenty-five dollars ($125.00). Initially, all lobbyists shall register on or before December 31, 1999. In addition to the matters addressed above, every registrant shall be required to state the extent of any business, financial, familial, or professional relationship, or other relationship which gives rise to an appearance of an impropriety, with any current city councilmember or personnel defined above who is sought to be lobbied as identified on the lobbyist registration form filed. The registration fees required by this subsection shall be deposited by the city clerk into the general fund of the city. There shall be no fee required for filing a notice of withdrawal and the city clerk shall waive the registration fee upon a finding of financial hardship, based upon a sworn statement of the applicant.

Sec. 2-306. Registration not required for certain persons.

(a) Any public officer, employee or appointee or any person or entity in contractual privity with the city who only appears in an official capacity shall not be required to register as a lobbyist.

~~(b) Any person who only appears in an individual capacity at a public hearing before the city council, planning commission, board of adjustment or other board or committee and has no other communication with the personnel defined in section 2-304 above, for the purpose of self-representation without compensation or reimbursement, whether direct, indirect or contingent, to express support of or opposition to any item, shall not be required to register as a lobbyist, including but not limited to those who are members of homeowner, neighborhood or business associations. Additionally, any person requested to appear before any city personnel, board or commission, or any person compelled to answer for or appealing a code violation, a nuisance abatement board hearing, a special master hearing or an administrative hearing shall not be required to register, nor shall any agent, attorney, officer or employee of such person.~~

~~Sec. 2-307. Sign-in logs.~~

~~In addition to the registration requirements addressed above, all city departments including the offices of the mayor and city council, the offices of the city attorney, city manager and city clerk shall maintain signed "sign-in" logs for all non-city employees or personnel for registration when they meet with any personnel as defined in section 2-304 above.~~

~~Sec. 2-308. Publication of logs by city clerk.~~

~~Commencing January 31st, 1999, and by January 31st of each year thereafter, the lobbyist shall submit to the city clerk a signed statement under oath listing all lobbying expenditures in the City of North Miami for the preceding calendar year. A statement shall be filed even if there has been no expenditures during the reporting period.~~

~~The clerk shall promulgate logs on a quarterly and annual basis reflecting the lobbyist registrations which have been filed.~~

~~All members of the city council, and all city personnel defined above shall be diligent to ascertain whether persons required to register pursuant to this subsection have complied. Councilmembers or city personnel may not knowingly permit themselves to be lobbied by a person who is not registered pursuant to this subsection to lobby the councilmember, or the relevant committee, board or city personnel.~~

~~Sec. 2-309. Investigation of violations.~~

~~The city attorney and city manager shall jointly investigate any person engaged in lobbying activities who are reported to be in violation of this section. There shall be a report of the results of the investigation to the city council. Any alleged violator shall also receive the results of any investigation and shall have the opportunity to address the findings, if necessary, and submit any written material in defense to the city council. The city council may suspend or prohibit such person from lobbying before the council or any committee, board or personnel of the city.~~

Secs. 2-309—2-315. Reserved.

ARTICLE ~~XI~~VI. - ~~CONFLICT OF INTEREST AND~~ CODE OF ETHICS

DIVISION 1. CONFLICT OF INTEREST

Sec. ~~2-3102~~-316. ~~Conflict of interest and code of ethics ordinance~~ Legislative intent.

(a) *Designation.* This section shall be designated and known as the "City of North Miami Conflict of Interest and Code of Ethics Ordinance." This article shall be applicable to all city personnel as defined below, and shall also constitute a standard of ethical conduct and behavior for all autonomous personnel, quasi-judicial personnel, advisory personnel and departmental personnel. The provisions of the ~~City~~ city of North Miami conflict and code of ethics ordinance shall be applied in a cumulative manner. By way of example, and not as a limitation, ~~[sub]~~subsections ~~2-3102~~-316(c) and (d) may be applied to the same contract or transaction.

(b) Definitions. For the purposes of this article the following definitions shall be effective:

(1) *Councilmembers* shall refer to the mayor and the members of the city council and city clerk as duly constituted from time to time.

(2) *Autonomous personnel* shall refer to the members of semi-autonomous authorities, boards, and agencies such as ~~the Health Facilities Authority,~~ the Code Enforcement Board, the Board of Trustees of the Museum of Contemporary Art (~~MoCA~~MOCA), and others that are entrusted with the day-to-day policy setting, operation and management of certain defined city functions or areas of responsibility, even though the ultimate responsibility for such functions or areas rests with the city council.

(3) *Quasi-judicial personnel/officer* shall refer to the members of the board of adjustment, the planning commission, the code enforcement board or special master(s), nuisance abatement board, and such other individuals, boards and agencies of the city as perform quasi-judicial functions.

(4) *Advisory personnel* shall refer to the members of those city advisory boards and agencies whose sole or primary responsibility is to recommend legislation or give advice to the city council.

(5) *Departmental personnel* shall refer to the city manager, deputy and assistant managers, department heads, the city attorney and any deputy and assistant city attorneys.

(6) *Employees* shall refer to all other personnel employed by the city.

(7) *Compensation* shall refer to any money, gift, favor, thing of value or financial benefit conferred in return for services rendered or to be rendered.

(8) *Controlling Financial interest* shall refer to source of income or ownership, directly or indirectly, of ten (10) percent or more of the outstanding capital stock in any corporation or a source of income or a direct or indirect interest of ten (10) percent or more in a firm, partnership, or other business entity at the time of transacting business with the city.

(9) *Immediate family* shall refer to the spouse, parents, children, brothers and sisters of the person involved.

(10) *Transact any business* shall refer to the purchase or sale by the city of specific goods or services for consideration and to submitting a bid, a proposal in response to a RFP, a statement of qualifications in response to a request by the city, or entering into contract negotiations for the provision on any goods or services.

(c) *Prohibition on transacting business within the city.* No person included in the terms defined in subsections ~~2-3102~~2-316(b)(1) through (6) and in subsection ~~2-3102~~2-316(b)(9) shall enter into any contract or transact any business in which that person or a member of the immediate family has a controlling financial interest, direct or indirect with the ~~City~~ city of North Miami or any person or agency acting for the ~~City~~ city of North Miami, and any such contract, agreement or business engagement entered in violation of this subsection shall render the transaction voidable. Willful violation of this subsection shall constitute malfeasance in office and shall effect forfeiture of office or position. Nothing shall prohibit or make illegal: (1) The payment of taxes, special assessments or fees for services provided by the city government or (2) The purchase of bonds, anticipation notes or other securities that may be issued by the city through underwriters or directly from time to time.

Extension of waiver. The requirements of this subsection may be waived for a particular transaction only by four (4) affirmative votes of the city council after public hearing. A waiver may be given only after findings at a public hearing by four (4) affirmative votes of the city council that:

(1) An open-to-all sealed competitive proposal has been submitted by a city person as defined in subsections ~~2-3102~~2-316(b)(2), (3) or (4); or

(2) The proposal has been submitted by a person or firm offering services within the scope of practice of architecture, professional engineering, or registered land surveying as defined by the laws of the State of Florida and pursuant to the provisions of the Consultants' Competitive Negotiation Act, and when the proposal has been submitted by a city person defined in subsections ~~2-3102~~2-316(b)(2), (3) or (4); or

(3) The property or services to be involved in the proposed transaction are unique and the city cannot avail itself of such property or services without entering a transaction which would violate this subsection but for waiver of its requirements; or

(4) That the proposed transaction will be in the best interest of the city.

i. This subsection shall be applicable only to prospective transactions, and the city council may in no case ratify a transaction entered in violation of this subsection.

ii. Provisions cumulative. This subsection shall be taken to be cumulative and shall not be construed to amend or repeal any other law pertaining to the same subject matter.

(d) *Further prohibition on transacting business with the city.* No person included in the terms defined in subsections ~~2-3102~~2-316(b)(1) through (6) and in subsection ~~2-3102~~2-316(b)(9) shall enter into any contract or transact any business through a firm, corporation, partnership or business entity in which that person or any member of the immediate family has a controlling financial interest, direct or indirect, with the city or any person or agency acting for the city, and any such contract, agreement or business engagement entered in violation of this subsection shall

render the transaction voidable.

The remaining provisions of subsection ~~2-3102~~-316(c) will also be applicable to this subsection as though incorporated by recitation.

Additionally, no person included in the term defined in subsection ~~2-3102~~-316(b)(1) shall vote on or participate in any way in any matter presented to the city council if that person has any of the following relationships with any of the persons or entities which would be or might be directly or indirectly affected by any action of the city council: (i) Officer, director, partner, counsel, consultant, employee, fiduciary or beneficiary; or (ii) Stockholder, bondholder, debtor, or creditor, if in any instance the transaction or matter would affect the person defined in subsection ~~2-3102~~-316(b)(1) in a manner distinct from the manner in which it would affect the public generally. Any person included in the term defined in subsection ~~2-3102~~-316(b)(1) who has any of the specified relationships or who would or might, directly or indirectly, realize a profit by the action of the city council shall not vote on or participate in any way in the matter.

(e) *Prohibition on certain business transactions.* No person included in the terms defined in subsections ~~2-3102~~-316(b)(1) through (6) and in subsection ~~2-3102~~-316(b)(9) shall enter into a business transaction with any person or entity that has a contract with the ~~City~~ city of North Miami or any shareholder, partner, officer, director or employee of such contractor, unless the business transaction is an arm's length transaction made in the ordinary course of business. The provisions of this subsection (e) shall not apply to a business transaction between a not-for-profit entity and persons included in the terms in subsections ~~2-3102~~-316(b)(1) through (6) and in subsection ~~2-3102~~-316(b)(9). As used herein a "shareholder" shall mean any person owning ten (10) percent or more of the outstanding capital stock of any corporation. As used herein, "business transaction" shall mean any contract where persons either sell, buy, deal, exchange, rent, lend or barter real or intangible property, money or any other thing of value, or render services for value.

(f) *Gifts.*

(1) *Definition.* The term "gift" shall refer to the transfer of anything of economic value, whether in the form of money, service, loan, travel, entertainment, hospitality, item or promise, or in any other form, without adequate and lawful consideration.

(2) *Exceptions.* The provisions of subsection ~~2-310~~-2-316(e)(1) shall not apply to:

a. Political contributions specifically authorized by state law;

b. Gifts from relatives or members of one's household, unless the person is a conduit on behalf of a third party to the delivery of a gift that is prohibited under paragraph (3);

c. Awards for professional or civic achievement;

d. Material such as books, reports, periodicals or pamphlets which are solely informational or of an advertising nature.

e. Gifts made to the North Miami Employee's Assistance Trust Fund, the North Miami Police Athletic League or other recognized not-for-profit organizations.

(3) *Prohibitions.* A person described in subsections ~~2-3102~~-316(b)(1) through (6) shall neither solicit nor demand any gift. It is also unlawful for any person or entity to offer, give or agree to give to any person included in the terms defined in subsections ~~2-3102~~-316(b)(1) through (6) or for any person included in the terms defined in subsections ~~2-3102~~-316(b)(1) through (6) to accept or agree to accept from another person or entity, any gift for or because of:

a. An official public action taken, or to be taken, or which could be taken, or an omission or failure to take a public action;

b. A legal duty performed or to be performed, or which could be performed, or an omission or failure to perform a legal duty;

c. A legal duty violated or to be violated, or which could be violated by any person included in the term defined in subsection ~~2-3102~~-316(b)(1); or

d. Attendance or absence from a public meeting at which official action is to be taken.

(4) *Disclosure.* Any person included in the term defined in subsections ~~2-3102~~-316(b)(1) through (6) shall disclose any gift, or series of gifts from any one person or entity. The disclosure shall be made by filing a copy of the disclosure form required by Chapter 112, Florida Statutes, for "local officers" with the city clerk simultaneously with the filing of the form with the Supervisor of Elections of Miami-Dade County and with the Secretary of State.

(g) *Compulsory disclosure by employees of firms doing business with the city.* Should any person included in the terms defined in subsections ~~2-3102~~-316(b)(1) through (6) be employed by a corporation, firm, partnership or business entity in which that person or the immediate family does not have a controlling financial interest, and should the corporation, firm, partnership or business entity have substantial business commitments to or from the city or any city agency, or be subject to direct regulation by the city or a city agency, then the person shall file a sworn statement disclosing such employment and interest with the city clerk of the ~~City~~ city of North Miami.

(h) *Exploitation of official position prohibited.* No person included in the terms defined in subsections ~~2-3102~~-316(b)(1) through (6) shall corruptly use or attempt to use an official position to secure special privileges or exemptions for that person or others.

(i) *Prohibition on use of confidential information.* No person included in the terms defined in subsection ~~2-3102~~-316(b)(1) through (6) shall accept employment or engage in any business or professional activity which one (1) might reasonably expect would require or induce one (1) to disclose confidential information acquired by reason of an official position, nor shall that person in fact ever disclose confidential information garnered or gained through an official position with the city, nor shall that person ever use such information, directly or indirectly, for personal gain or benefit. Confidential information shall include, but not be limited to, any written information which is not subject to disclosure pursuant to Chapter 119, Florida Statutes or any other statutory exemption regarding public records or any oral information which was not discussed at any public meeting.

(j) *Conflicting employment prohibited.* No person included in the terms defined in subsections ~~2-3102~~-316(b)(1) through (6) shall accept other employment which would impair independence of judgment in the performance of any public duties.

(k) *Prohibition on outside employment.*

(1) No person included in the terms defined in subsections ~~2-3102~~-316(b)(6) [employees] shall receive any compensation for services as an officer or employee of the city from any source other than the city, except as may be permitted as follows:

a. *Generally prohibited.* No full-time city employee shall accept outside employment, either incidental, occasional or otherwise, where city time, equipment or material is to be used or where such employment or any part is to be performed on city time, unless approved in writing by the city.

b. *When permitted.* A full-time city employee may accept incidental or occasional outside employment so long as such employment is not contrary, detrimental or adverse to the interest of the city or any of its departments and the approval required in subsection ~~2-3102~~-316(c) is obtained.

c. *Approval of department head required.* Any outside employment by any full-time city employee must first be approved in writing by the employee's department head who shall maintain a complete record of such employment.

(2) All full-time city employees engaged in any outside employment for any person, firm, corporation or entity other than the ~~City~~ city of North Miami, or any of its agencies or instrumentalities, shall file, under oath, an annual report indicating the source of the outside employment, the nature of the work being done pursuant to same and any amount or types of money or other consideration received by the employee from the outside employment. City employee reports shall be filed with the city clerk. The reports shall be available at a reasonable time and place for inspection by the public.

(l) *Prohibited investments.* No person included in the terms defined in subsections ~~2-3102~~-316(b)(1) through (6) or a member of the immediate family shall have personal investments in any enterprise which will create a substantial conflict between private interests and the public interest.

(m) *Certain appearances and payment prohibited.*

(1) No person included in the terms defined in subsections ~~2-3102~~-316(b)(1), (5) and (6) [council members, departmental personnel and employees] shall appear before any city board or agency and make a presentation on behalf of a third person with respect to any matter, license, contract, certificate, ruling, decision, opinion, rate schedule, franchise, or other benefit sought by the third person. Nor shall such person receive compensation or any gift, directly or indirectly or in any form, for services rendered to a third person, who has applied for or is seeking some benefit from the city or a city agency, in connection with the particular benefit sought by the third person. Nor shall such person appear in any court or before any administrative tribunal as counsel or legal advisor to a party who seeks legal relief from the city or a city agency through

the suit in question.

(2) No person included in the terms defined in subsections ~~2-3102~~-316(b)(2), (3) and (4) [autonomous personnel, quasi-judicial personnel, and advisory personnel] shall appear before the city council or agency on which the person serves, either directly or through an associate, and make a presentation on behalf of a third person with respect to any matter, license, contract, certificate, ruling, decision, opinion, rate schedule, franchise, or other benefit sought by the third person. Nor shall such person receive compensation or any gift, directly or indirectly or in any form, for services rendered to a third party, who has applied for or is seeking some benefit from the city council or agency on which such person serves, in connection with the particular benefit sought by the third party. Nor shall such person appear in any court or before any administrative tribunal as counsel or legal advisor to a third party who seeks legal relief from the city council or agency on which such person serves through the suit in question.

(n) *Actions prohibited when financial interests involved.* No person included in the terms defined in subsections ~~2-3102~~-316(b)(1) through (6) shall participate in any official action directly or indirectly affecting a business in which that person or any member of the immediate family has a financial interest. A financial interest is defined in this article as a direct or indirect, investment, equity, or debt.

(o) *Acquiring financial interests.* No person included in the terms defined in subsections ~~2-3102~~-316(b)(1) through (6) shall acquire a financial interest in a project, business entity or property at a time when the person believes or has reason to believe that the financial interest may be directly affected by official actions or by official actions by the city or city agency of which the person is an official, officer or employee.

(p) *Recommending professional services.* No person included in the terms defined in subsections ~~2-3102~~-316(b)(1) through (4) may recommend the services of any lawyer or law firm, architect or architectural firm, public relations firm, or any other person or firm, professional or otherwise, to assist in any transaction involving the city or any of its agencies, provided that such recommendation may properly be made when required to be made by the duties of office and in advance at a public meeting attended by other city officials, officers or employees.

(q) *Continuing application for two (2) years after city service.*

(1) No person included in the terms defined in subsections ~~2-3102~~-316(b)(1), (5) and (6) [council members, departmental personnel and employees] shall, for a period of two (2) years after his city service or employment has ceased, act as agent or attorney for anyone other than the city in connection with any judicial or other proceeding, application, request for ruling or other determination, contract, claim, controversy, charge, accusation, arrest or other particular matter in which the ~~City~~ city of North Miami or one of its agencies is a party or has a direct and substantial interest, and in which that person participated personally and substantially as an official, officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, receipt of confidential information, investigation, or otherwise, while so employed in city service.

(2) No person who has served as an elected city official, mayor, councilperson or a member of the staff of an elected official, or as city manager, an assistant or deputy to the manager, city attorney, deputy or assistant city attorney, department director or employee shall, for a period of two (2) years after service or employment has ceased, lobby any city officer or employee in connection with any judicial or other proceeding, application, RFP, RFQ, request for ruling, or other determination, contract, claim, controversy, charge, accusation, arrest or other particular subject matter in which the city is a party or has any interest whatever, whether direct or indirect. Nothing contained in this subsection shall prohibit any individual included within the provisions of this subsection from submitting a routine administrative request or application to a city department or agency during the two-year period after service or employment has ceased.

(3) The provisions of subsection ~~2-310~~2-316(p)(2) shall not apply to officials or employees who become employed by governmental entities, 501(c)(3) non-profit entities or educational institutions or entities, and who lobby on behalf of such entities in their official capacities.

(4) The provisions of subsections ~~2-310~~2-316(p)(2) and (3) shall apply to all individuals who leave the city after the effective date of this article [February 9, 1999].

(5) Former officers and employees who have left the city within two (2) years prior to the effective date of this article [February 9, 1999] shall execute an affidavit on a form prepared by the office of the city attorney prior to lobbying any city officer or employee stating that the requirements of this article do not preclude the person from lobbying any officer or employee of the city. The city attorney shall verify the accuracy of each affidavit executed by a former officer or employee.

(r) *City attorney to render opinions on request.* Whenever any person included in the terms defined in subsections ~~2-310~~2-316(b)(1) through (6) and subsections ~~2-310~~2-316(b)(9) is in doubt as to the proper interpretation or application of this conflict of interest and Miami-Dade County code of ethics ordinance, or whenever any person who renders services to the city is in doubt as to the applicability of the ordinance, that person may submit to the city attorney a full written statement of the facts and questions. The city attorney shall then render an opinion to such person and shall publish these opinions without use of the name of the person advised unless such person permits the use of a name.

Sec. ~~2-311~~2-317. Procedure on complaint of violation.

(a) *Legally sufficient complaint.* Upon a written complaint which alleges the elements of a violation, based substantially upon the personal knowledge of the complainant and signed under oath or affirmation by the complaining person, and is legally sufficient to state a possible violation of this article, the city attorney and city manager shall jointly investigate any alleged violation. Within five (5) days after receipt of a complaint, a copy shall be sent to the alleged violator.

(b) *Preliminary investigation.* A preliminary investigation shall be undertaken of each legally sufficient complaint to determine whether there is probable cause to believe that a violation has occurred. If, upon completion of the preliminary investigation, the city attorney

finds no probable cause to believe that a violation has been committed, the city attorney shall dismiss the complaint with the issuance of a report to the complainant and the alleged violator. If the city attorney finds from the preliminary investigation probable cause to believe that a violation has been committed, notification, via certified mail, shall be made to the complainant and the alleged violator (otherwise known as the respondent), in writing. The city attorney may conduct such further investigation as deemed necessary. The city manager, upon consultation with the city attorney, may take such personnel action and may enter into such stipulations and settlements as to be just and in the best interest of the citizens of North Miami.

(c) *Investigations.* Investigations shall be conducted jointly by the city attorney and the city manager, or by any other person or agency so designated by the city attorney. Investigations shall be limited to the allegations of the complaint, but shall include an investigation of all facts and persons materially related to the complaint at issue.

(d) *Public records.* All proceedings, the complaint, and other records relating to the preliminary investigation shall be subject to the provisions of Section 119, Florida Statutes.

(e) *Subpoena.* The city attorney shall be empowered to make application to any circuit court of this state which shall have jurisdiction to order witnesses to appear and to produce evidence, if so ordered, or to give testimony touching on the matter in question.

(f) *Presentation of the case.* The complainant shall present the case first. Respondent may then present a case, rebuttal evidence may be permitted.

(1) The respondent and the complainant shall have the right to present evidence relevant to the issue, to cross-examine opposing witnesses on any matter relevant to the issue, and to impeach any witness.

(2) Hearings shall not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted. Hearsay evidence may be used to supplement or explain other evidence, but shall not be sufficient in itself to support a finding. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions. Irrelevant and unduly repetitious evidence shall be excluded.

(g) *{Resolution of the complaint.}* Upon completion of any investigation, the city attorney shall make proposed recommended findings of facts and conclusions of law, and the city manager shall enter a public report and order as to whether any provision of this chapter has been violated. If the city manager finds, based upon clear and convincing evidence in the record, that a violation has been committed, the city manager shall issue an order imposing an appropriate penalty as may be provided in section 1-11 of the city's Code of Ordinances or as provided in any statute being enforced. The city manager shall, within sixty (60) days of the filing of a complaint, render a final order disposing of the complaint. If a person fails to comply with an order issued by the city manager, the city manager may make application to the Miami-Dade County Commission on Ethics and Public Trust which shall have jurisdiction over the complaint, or other agency which may have jurisdiction over the complaint. The city manager may also assess a fine and the costs of the investigation.

(h) *Attorney's fees.* In any case in which the city attorney or anyone designated by the city

attorney finds no probable cause to believe that a violation has been committed or determines that the complaining party filed a frivolous or groundless complaint, the city manager may order the complaining party to pay any costs and attorney's fees incurred by the city.

(i) *Prospective jurisdiction.* Any alleged violation committed before the effective date of this article [February 9, 1999] shall be governed by the applicable ~~City~~ city of North Miami, Miami-Dade County and State of Florida Code of Ethics Ordinances, Conflict of Interest Ordinances or Lobbyist Registration and Reporting Ordinances in effect at the time of the alleged violations.

(j) *Personnel proceeding.* Where an employee of the ~~City~~ city of North Miami is alleged to have violated a law within the purview of this article, and based upon the same set of facts, is subject to an ongoing disciplinary action initiated by the city, the city attorney and city manager shall stay consideration of a complaint until the conclusion of the personnel proceeding.

(k) *Statute of limitations.* No action may be taken on a complaint filed more than one (1) year after the violation is alleged to have accrued.

~~Sec. 2-312. Bids and proposals.~~

~~(a) In regard to any bid or proposal issued by the city, there is a prohibition on: (i) Any communication regarding a particular RFP, RFQ or bid between a potential vendor, service provider, bidder, lobbyist, or consultant and the city's professional staff including, but not limited to, the city manager and the staff of the city manager; (ii) Any communication regarding a particular RFP, RFQ or bid between the mayor and city council and any member of the city's professional staff including, but not limited to, the city manager and the manager's staff unless there is a written record of the communication; and (iii) Any communication regarding a particular RFP, RFQ or bid between a potential vendor, service provider, bidder, lobbyist, or consultant and the mayor and city council. The city manager and any member of the city's professional staff may communicate about a particular staff recommendation, but only after staff has submitted an award recommendation to the manager and provided that should any change occur in the staff recommendation, the content of the communication and of the corresponding change shall be described in writing and filed by the manager with the city clerk and be included in any recommendation memorandum submitted by the manager to the city council.~~

~~(b) Notwithstanding the foregoing, this article shall not apply to the following: (i) Competitive processes for the award of CDBG and SHIP Funds administered by the community planning and development department; (ii) Communications with the city attorney and the staff of the city attorney; (iii) Communications regarding a particular RFP, RFQ or bid between a potential vendor, service provider, bidder, lobbyist or consultant and the city's professional staff or contracting officer responsible for administering the procurement process for such RFP, RFQ or bid, provided the communication is limited strictly to matters of process or procedure already contained in the corresponding solicitation document; and (iv) Any presentations which occur at public meetings.~~

~~(c) Procedure. This procedure shall be imposed upon each RFP, RFQ and bid at the point in time at which the city's professional staff begins to draft the RFP, RFQ or bid specifications. The city shall include in any public solicitation for goods and services a statement disclosing the requirements of this article. Notwithstanding any other provision of this section, the imposition~~

~~of a prohibition on communication on a particular RFP, RFQ or bid shall not preclude staff from obtaining industry comment or performing market research therefor provided all communications related thereto between a potential vendor, service provider, bidder, lobbyist, or consultant and any member of the city's professional staff including, but not limited to, the city manager and the manager's staff are in writing or are made at a duly noticed public meeting.~~

~~Secs. 2-313, 2-314. - Reserved.~~

Secs. 2-318—2-390. Reserved.

DIVISION 2. QUASI-JUDICIAL MATTERS

Sec. 2-391. Procedure governing communication with local public officials.

Communications with local public officials regarding quasi-judicial matters shall be governed by the following procedure:

Any person not otherwise prohibited by statute, charter provision, or ordinance may discuss with any local public official representing the city of North Miami the merits of any matter on which action may be taken by any board, council or commission on which the local public official is a member. Such communication shall not raise any presumption of prejudice provided that the following process of disclosure occurs:

(1) The subject and substance of any ex parte communication with a local public official representing the city of North Miami which relates to quasi-judicial action pending before the official, as well as the identity of the person, group or entity with whom the communication took place, is disclosed and made a part of the record before final action is taken on the matter.

(2) A local public official representing the city of North Miami may read a written communication from any person; however, a written communication that relates to quasi-judicial action pending before such official shall be made a part of the record before final action is taken on the matter.

(3) Local public officials representing the city of North Miami may conduct investigations, make site visits and receive expert opinions regarding quasi-judicial action pending before them, provided that such activities and the existence of such investigations, site visits, or expert opinions is made a part of the record before final action is taken on the matter.

(4) Disclosure made pursuant to subsection (1), (2) and (3) above must be made before or during the public meeting at which a vote is taken on such matters, so that persons who have opinions contrary to those expressed in the ex parte communication are given a reasonable opportunity to refute to respond or respond to the communication.

Secs. 2-392—2-399. Reserved.

DIVISION 3. LOBBYING

Sec. 2-400. Definitions.

For the purposes of this division the following definition shall be effective:

Lobbyist shall refer to all persons, firms, or corporations employed or retained, whether paid or not, by a principal who seeks to encourage the passage, defeat, or modification(s) of; (1) Any ordinance, resolution, action or decision of any councilmember; (2) Any action, decision, recommendation of any city board or committee; or (3) Any action, decision or recommendation of any personnel defined in any manner above, during the time period of the entire decision-making process on such action, decision or recommendation which foreseeably will be heard or reviewed by the city council, or a city board or committee. The term "Lobbyist," specifically includes the principal as described above, as well as any agent, attorney, officer or employee of a principal, regardless of whether such lobbying activities fall within the normal scope of employment of such agent, attorney, officer or employee.

Sec. 2-401. Registration.

All lobbyists shall register with the city clerk within five (5) business days of being retained as a lobbyist or before engaging in any lobbying activities, whichever shall come first. Every person required to so register shall:

(1) Register on forms prepared by the city clerk;

(2) Pay a registration fee of twenty-five dollars ($25.00); and

(3) State under oath the name and business address of each person or entity which has employed the registrant to lobby, the councilmember or personnel sought to be lobbied and the specific issue on which the lobbyist has been retained to lobby. Any change to any information originally filed, or any additional city councilmember or personnel who are also sought to be lobbied shall require that the lobbyist file an amendment to the registration forms, although no additional fee shall be required for such amendment(s). The lobbyist has a continuing duty to supply information and amend the forms filed throughout the period for which the lobbying occurs. If the lobbyist represents a corporation, partnership or trust, the chief officer, partner or beneficiary shall also be identified. Without limiting the foregoing, the lobbyist shall also identify all persons holding, directly or indirectly, a five (5) percent or more ownership interest in such corporation, partnership, or trust. Separate registration shall be required for each principal represented on each specific issue. Each issue shall be described with as much detail as is practical, including but not limited to a specific description where applicable of a pending request for a proposal, request for proposal, or public hearing number. The city clerk shall reject any registration statement which does not provide a description of the specific issue on which the lobbyist has been sought to lobby. Each person who withdraws as a lobbyist for a particular client shall file an appropriate notice of withdrawal. In addition to the registration fee required above, registration of all lobbyists shall be required prior to January 1st of every even numbered year and the fee for biennial registration shall be one hundred twenty-five dollars ($125.00). Initially, all lobbyists shall register on or before December 31, 1999. In addition to the matters addressed above, every registrant shall be required to state the extent of any business, financial, familial, or professional relationship, or other relationship which gives rise to an appearance of an impropriety, with any current city councilmember or personnel defined above who is sought to be lobbied as identified on the lobbyist registration form

filed. The registration fees required by this subsection shall be deposited by the city clerk into the general fund of the city. There shall be no fee required for filing a notice of withdrawal and the city clerk shall waive the registration fee upon a finding of financial hardship, based upon a sworn statement of the applicant.

Sec. 2-402. Registration not required for certain persons.

(a) Any public officer, employee or appointee or any person or entity in contractual privity with the city that only appears in an official capacity, shall not be required to register as a lobbyist.

(b) Any person who only appears in an individual capacity at a public hearing before the city council, planning commission, board of adjustment or other board or committee and has no other communication with the personnel defined in section 2-400 above, for the purpose of self-representation without compensation or reimbursement, whether direct, indirect or contingent, to express support of or opposition to any item, shall not be required to register as a lobbyist, including but not limited to those who are members of homeowner, neighborhood or business associations. Additionally, any person requested to appear before any city personnel, board or commission, or any person compelled to answer for or appealing a code violation, a nuisance abatement board hearing, a special master hearing or an administrative hearing shall not be required to register, nor shall any agent, attorney, officer or employee of such person.

Sec. 2-403. Sign-in logs.

In addition to the registration requirements addressed above, all city departments including the offices of the mayor and city council, the offices of the city attorney, city manager and city clerk shall maintain signed "sign-in" logs for all non-city employees or personnel for registration when they meet with any personnel as defined in section 2-400 above.

Sec. 2-404. Publication of logs by city clerk.

Commencing January 31st, 1999, and by January 31st of each year thereafter, the lobbyist shall submit to the city clerk a signed statement under oath listing all lobbying expenditures in the city of North Miami for the preceding calendar year. A statement shall be filed even if there has been no expenditures during the reporting period.

The clerk shall promulgate logs on a quarterly and annual basis reflecting the lobbyist registrations which have been filed.

All members of the city council, and all city personnel defined above, shall be diligent to ascertain whether persons required to register pursuant to this subsection have complied. Councilmembers or city personnel may not knowingly permit themselves to be lobbied by a person who is not registered pursuant to this subsection to lobby the councilmember, or the relevant committee, board or city personnel.

Sec. 2-405. Investigation of violations.

The city attorney and city manager shall jointly investigate any person engaged in lobbying activities who are reported to be in violation of this section. There shall be a report of the results of the investigation to the city council. Any alleged violator shall also receive the results of any

investigation and shall have the opportunity to address the findings, if necessary, and submit any written material in defense to the city council. The city council may suspend or prohibit such person from lobbying before the council or any committee, board or personnel of the city.

Secs. 2-406—2-414. Reserved.

ARTICLE ~~XII~~VII. - EMERGENCY MANAGEMENT

Sec. ~~2-315~~2-415. Definitions.

~~[~~For the purposes of this article, the following definitions shall be effective:~~]~~

Average retail price shall mean the price at retail for merchandise, goods or services at which similar merchandise, goods or services were being sold immediately preceding a declaration of public emergency.

City manager shall mean the city manager, the acting city manager designated in accordance with Section ~~26~~24 of the ~~Charter~~ charter of the ~~City~~city of North Miami, or interim city manager.

Emergency shall mean a condition which threatens or adversely affects the public health, safety, general welfare or security and which is or threatens to be beyond the control of those public and private agencies normally responsible for the management of such a condition, resulting from an act of imminent threatened act of war, riot, terrorism, mob or other acts of violence; from conflagration, explosion, hazardous materials incident or release; from a weather event such as a flood, hurricane or tornado; from a disruption in the city's utility, or other utility system, or from any other cause.

Sec. ~~2-316~~2-416. Applicability of provisions.

All officers, employees, contractors, vendors, boards, commissions, authorities and other agencies of the city are subject to the provisions of this article.

Sec. ~~2-317~~2-417. Emergency management structure.

(a) The city manager shall perform the function of director of emergency management and shall implement, manage and report on all actions authorized and taken under the provisions of this article.

(b) The city manager or the city manager's designee shall plan for the coordination of those actions necessary for the creation and maintenance of an effective emergency response capability to prepare for and manage emergency conditions.

Sec. ~~2-318~~2-418. Powers, duties and responsibilities.

The city manager, when acting as the director of emergency management, shall have the following powers, duties and responsibilities.

(1) To declare a state of emergency pursuant to section ~~2-319~~2-419, and to inform the mayor and the city council of the reasons for and status of events requiring the

declaration.

(2) To direct the creation, revision and the exercise of emergency response plans consistent with state and county emergency plans for the mitigation of, preparation for, response to, and recovery from emergencies, and to exercise all powers permitted by Chapter 252, Florida Statutes.

(3) To recommend a budget to the city council for the creation and maintenance of an emergency response capability as provided in this article.

(4) To issue emergency regulations necessary for the protection of life and property, establishment of public order, and control of adverse conditions affecting public welfare resulting from an emergency.

(5) To plan for and develop an emergency operations control center to include equipment, manning, and operational procedures necessary to the management and control of emergency conditions.

(6) To develop and manage the city's emergency awareness public information program.

(7) To apply for public assistance or other disaster relief funding.

(8) To develop appropriate plans for the effective use and coordination of communityesources during periods of emergency. The plans, when adopted by the city council, shall serve as a guide for the use of governmental and other agencies during emergencies.

Sec. 2-3192-419. Declaration of a state of emergency.

(a) The city manager, shall have the sole authority to declare a state of emergency.

(b) Any declaration of a state of emergency and all emergency regulations activated under the provisions of this article shall be confirmed by the city council by resolution no later than at the next regular meeting, unless the nature of the emergency renders a meeting of the city council impossible. Confirmation of the emergency declaration shall disclose the reasons for actions proposed and taken to manage the emergency, and other pertinent data relating to the emergency requiring the declaration.

(c) Emergency resolutions authorized by this article may include, but are not limited to, the following subjects:

(1) Evacuation;

(2) Curfews; declaration of areas off limits;

(3) Suspension or regulation of the sale of, or offer to sell, with or without consideration; alcoholic beverages; ammunition; firearms; explosives; or combustibles;

(4) Prohibiting the sale of merchandise, goods or services at more than the average retail price;

(5) Water use restrictions;

(6) Suspension of local building regulations;

(7) Regulating the use of and rationing of fuel, ice and other essentials;

(8) Emergency procurement procedures.

(d) A declaration of a state of emergency shall activate the emergency plans applicable to the city. A declaration of a state of emergency shall automatically invoke the emergency measures listed in Section 870.044, Florida Statutes, if the emergency relates to overt acts of violence or the imminent threat of such violence.

(e) A state of emergency, when declared, shall continue in effect from day-to-day until declared to be terminated by the city manager or city council, in accordance with section ~~2-3202~~-420.

(f) Upon the declaration of a state of emergency, the city manager shall post a written notice of such declaration upon the main bulletin board in city hall, and shall, as promptly as practicable, file in the office of the city clerk a notice of a declared state of emergency, or emergency measure declared or ordered and promulgated by virtue of Florida Statutes. The city manager shall notify the local media by telephone, if practicable.

Sec. ~~2-3202~~-420. Termination of a state of emergency.

A state of emergency shall be terminated by a vote of the city council if practicable or upon the certification of the city manager that the conditions leading to or causing the emergency no longer exist and the city's agencies and departments are able to manage the situation without extraordinary assistance; provided, that a state of emergency established under Sections 870.041—870.046, Florida Statutes shall terminate at the end of a period of seventy-two (72) consecutive hours after the declaration of the emergency, unless, prior to the end of the seventy-two (72) hour period, the city manager or the city council has terminated such state of emergency. Any extension of the seventy-two (72) hour time limit must be accomplished by a request from the city manager and the concurrence of the city council, by resolution. Notice of termination of the emergency declaration shall be made to the public by the city manager by the same means as the notice of the declaration of the state of emergency.

Sec. ~~2-3212~~-421. Police emergencies.

(a) An emergency may be declared because of civil unrest or imminent threat to public peace or order when the chief of police, or if unavailable, the next highest ranking officer in the police department chain of command certifies to the city manager that an emergency condition arising from hostile actions of others, armed or unarmed or other imminent threat to public peace or order, requires extraordinary measures for control, including, but not limited to curfew; blockade; proscription of the sale of firearms, other weapons or alcohol beverages; explosives and combustibles; evacuation; and other similar actions. The city manager may issue a declaration of a state of emergency in accordance with section ~~2-3192~~-419.

(b) The declaration of a state of emergency because of civil unrest or imminent threat to public peace or order, shall authorize the issuance of emergency resolutions and other

appropriate resolutions, as may be required and may, if applicable, require automatic emergency measures pursuant to Section 870.044, Florida Statutes. In addition, additional discretionary emergency measures pursuant to Section 870.045, Florida Statutes may be issued.

(c) A state of emergency may be declared because of fire and hazardous materials emergencies, utility emergencies, and weather emergencies when the chief of police, or if unavailable, the next highest ranking officer in the police department chain of command certifies to the city manager that an emergency condition exists. The city manager may issue a declaration of a state of emergency in accordance with section ~~2-3192~~-419.

(d) The declaration of a state of emergency pursuant to section ~~2-3192~~-419 because of fire or hazardous materials emergencies, utility emergencies, and weather emergencies shall authorize, respectively, the issuance of emergency resolutions.

Sec. ~~2-3222~~-422. Fire and hazardous materials emergencies.

(a) An emergency may be declared because of fire or a hazardous materials incident emergency when the Miami-Dade County Fire Chief, or the designee of the Miami-Dade County Fire Chief certifies to the city manager that an actual or potential condition arising from fire, explosion, chemical spill or release, building or bridge collapse, or plane, train or other vehicle accident, requires extraordinary measures for control, including, but not limited to calling out of off-duty and reserve personnel; assistance by outside agencies; evacuation; and other similar actions. The city manager may issue a declaration of a state of emergency in accordance with section ~~2-3192~~-419.

(b) The declaration of public emergency because of fire and hazardous material emergency shall authorize the issuance of emergency resolutions and other appropriate resolutions, as may be required.

Sec. ~~2-3232~~-423. Utility emergencies.

(a) An emergency may be declared because of utility conditions, when the director of public works or the designee of the director of public works or the chief operating officer or the designee of the chief operating officer of the relevant franchise utility, certifies to the city manager that:

(1) A condition exists or is imminent that endangers the safety, potability, quantity, availability, collection, conveyance, transmission, distribution, treatment, or storage of water or waste water through or within the city's water or waste water utility system; or

(2) A condition exists or is imminent that endangers the safety, quality, quantity, availability, transmission, distribution, or storage of gas or electricity through or within the franchised electrical or gas utility system(s); and

(3) Extraordinary actions to control and correct the situation are required, including, but not limited to emergency purchase; call-in of off-duty personnel; assistance by other communities and agencies; and other similar actions.

The city manager may issue a declaration of a state of emergency in accordance with

section ~~2-319~~2-419.

(b) The declaration of a public emergency because of utility conditions shall authorize the issuance of emergency resolutions and other appropriate resolutions, as may be required.

Sec. ~~2-324~~2-424. Weather emergencies.

(a) An emergency may be declared because of weather conditions when the national weather service or a state, county or local emergency management agency informs the city or the public that emergency conditions resulting from meteorological conditions are present or imminent. Meteorological conditions covered by this section shall include, but are not limited to hurricane, floods, tornados, or other severe weather conditions and the results therefrom. The city manager may issue a declaration of a state of emergency in accordance with section ~~2-319~~ 2-419.

(b) The declaration of a public emergency because of weather conditions shall authorize the issuance of emergency resolutions and other appropriate resolutions, as may be required.

Sec. ~~2-325~~2-425. Suspension of local building regulations.

The city manager may authorize a suspension of local building regulations during and following a declared state of emergency when the chief building official certifies through the director of community planning and development to the city manager that such action is necessary for the expeditious restoration of property damaged by the emergency event. Such suspension of building regulations may be applied on a case-by-case basis as required to remedy specific conditions and to facilitate the provision of emergency housing to disaster victims. The chief building official shall specify the provisions of the building code to be suspended and the reasons therefore, when certifying the necessity of such suspension to the city manager.

Sec. ~~2-326~~2-426. Certification of emergency conditions.

A certification of emergency conditions to the city manager may be verbal, but each verbal certification shall be confirmed in writing within twenty-four (24) hours following an emergency declaration.

Sec. ~~2-327~~2-427. Penalty.

Any person, firm or corporation who violates any provision of this article, for which another penalty is not specifically provided, shall, upon conviction, be subject {to} such fine or imprisonment or both as Florida Statutes provide for the lowest class of misdemeanor. Each day a new violation shall continue to exist shall constitute a separate offense.

~~**Secs. 2-328, 2-329. Reserved.**~~

~~ARTICLE XIII. CHARTER SCHOOL AUTHORITY~~

~~**Sec. 2-330. Charter school authority established; board of directors.**~~

~~(a) There is established a charter school authority in the city which shall be governed by a board of nine (9) directors, five (5) of whom shall be chosen by the mayor and council, three (3)~~

directors who will be chosen by the city manager, and one (1) director who will be a parent or guardian of a current charter high school student and elected by the other parents/guardians. The three (3) directors to be chosen by the city manager shall have the following educational and/or professional backgrounds and experiences:

One (1) director—Education;

One (1) director—Business/finance; and

One (1) director—City of North Miami Administrator.

Prior to the opening of the charter high school, the council shall appoint a director designated by the board of directors of an officially sanctioned parent teacher association recognized by the city, to serve as the parent/guardian director until an election by the charter high school parent/guardians is held.

(b) All directors shall hold office for an initial term of two (2) years from the first day following appointment. Each director shall hold office until a successor has been duly appointed, except when removed by the council. Any director may be removed at any time by a four-fifths (4/5) vote of the council. Additionally, a director may be removed by a majority vote of the council for failure to comply with the charter contract between the city and the School Board of Miami-Dade County, Florida or any applicable law regulating charter school boards of directors; upon termination of employment as a City of North Miami Administrator where required for the director appointment, and at such time as the parent/guardian director no longer has a child enrolled in the charter high school. In cases of vacancies by resignation, removal, or otherwise, the designating entity who originally appointed the director holding that seat may fill such vacancy for the unexpired term, except however that upon the opening of the charter high school, any vacancies for the parent/guardian director shall be filled by a parent/guardian of a current charter high school student elected by the parents/guardians.

(c) The designating entities shall evidence their decisions regarding appointments to the board of the charter school authority, as well, as any actions regarding removal of any of designated board members, by means of a written resolution.

(d) As soon as practical after the council's appointment of its designated directors all duly designated directors shall meet and organize by electing a chairperson, secretary, and treasurer and such other officers as they may deem necessary. All decisions by the board of directors of the charter school authority shall be by majority vote of the entire board.

Sec. 2-331. Delegation of authority over charter school operations.

In accordance with Florida law, the council delegates to the board of directors of the charter school authority management and operational control over the administration of the municipally chartered high school and all other municipally chartered schools, in accordance with the charter contract between the city and the School Board of Miami-Dade County, Florida. This delegation of authority extends to all matters regarding the operation and management of the charter school but does not include the delegation of any taxing authority.

Sec. 2-332. Quorum; by-laws of board; control of expenditures; facilities.

Five (5) members of the charter school authority board of directors shall constitute a

quorum. The board of directors may make and adopt such by-laws, subject to city council approval and regulations for the guidance and governance of the charter school as it may deem expedient and to the extent not inconsistent with law or the charter contract. The board of directors shall, in accordance with law and the charter contract, direct expenditures of all state, county and private monies collected, received or donated for purposes of charter school operations as well as such funds as may be specifically budgeted and appropriated by the city council for such purposes. The board of directors of the charter school authority shall have authority over the renting of the charter school facility and the supervision, care and custody of the grounds, rooms, and buildings constructed, leased or set apart for that purpose.

Sec. 2-333. Charter school funds; use of income.

All funds collected, donated or in any way acquired by or under the authority of the board of directors of the charter school authority in connection with the maintenance or support of the charter school(s) shall be kept for the use of the charter school separate and apart from all other funds of the city and shall not be used or distributed for any other purpose or in any other manner.

Sec. 2-334. Powers of board generally.

The charter school authority board of directors may purchase or lease grounds, erect, lease or occupy appropriate buildings for the use of the charter school; recommend a suitable chief administrator of the charter high school (who may be designated as principal, executive director or otherwise) and assistants for final approval by the council; fix their compensation, negotiate their employment contracts, and remove them from their positions in conformance with their employment contracts and applicable law, including city policies, procedures and regulations; appoint individuals or firms to perform professional services that the board deems necessary to carry out its responsibilities and the spirit and intent of the law in establishing, governing, managing, operating and maintaining a municipal charter high school; fix their compensation, and terminate their services in conformance with their contracts at the pleasure of the board; establish regulations for the governing, management and operations of the charter school as may be deemed necessary for its preservation, proper operation and to maintain its usefulness and efficiency and shall have and exercise such power as may be necessary to carry out the spirit and intent of the law in establishing, promoting and maintaining a municipal charter high school. However, notwithstanding anything to the contrary contained in this code, the charter school authority board of directors shall not have the authority to take any of the following actions without approval from the council:

(1) Amending or surrendering the charter from the School Board of Miami-Dade County, Florida;

(2) Expending funds in excess of twenty-five thousand dollars ($25,000.00);

(3) Accepting any fees or payments from attendees, except as specifically allowed pursuant to applicable law and the charter contract;

(4) Authorizing payments to members of the charter school authority board of directors (other than reimbursements of travel expenses pursuant to prevailing city policy);

(5) To enter into interlocal agreements with a city-created community redevelopment

~~agency regarding the operation and funding of the school(s) under the city's or authority's jurisdiction;~~

~~(6) Final approval of the principal/director of the charter high school and the final approval of any annual evaluation;~~

~~(7) Final approval of the annual budget and the annual financial audit report;~~

~~(8) Changes to the adopted budget, except as to interdepartmental transfers and up to the amounts permitted by charter.~~

~~(9) Transmitting reports that are required by law or the charter contract to be filed with the school board (e.g., annual budget, annual financial audit report, annual progress report);~~

~~(10) Pledging, committing, contracting or obligating the city and/or its resources and assets (including those of the charter high school as a component of the city), except as specified in this article or as otherwise determined by the city.~~

~~**Sec. 2-335. Reports to council.**~~

~~The charter school authority board shall, at least quarterly, transmit reports to the council of the condition of the authority and all charter schools, including full financial reporting, such reports as may be deemed appropriate concerning student registration, attendance, and achievements and such additional statistics, information and suggestions as the board may deem of general interest or as the city council may require.~~

* *

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 a different Chapter of the Code of the Code of

Ordinances, 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 July 31, 2013.

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

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 _____, 2013.

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 _____, 2013.

_____
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)

Additions shown by underlining. Deletions shown by ~~overstriking~~.