

# **CHARTER OF THE CITY OF NORTH MIAMI**

## **ARTICLE I. GENERAL**

### Sec. 1. Preamble.

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

### Sec. 2. Effect of this charter on existing law.

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parts of laws relating to or affecting the City of North Miami in force when this charter shall take effect are hereby repealed and superseded to the extent that the same are inconsistent with the provisions of this charter.

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

### Sec. 3. Severability clause.

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

### Sec. 4. Construction of gender.

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

### Sec. 5. Incorporation.

There is hereby created a municipal corporation to be known as the City of North Miami.

### Sec. 6. Form of government.

The municipal government provided by this charter shall be known as the "council-manager government." Pursuant to its provisions and subject only to the limitations imposed by the state Constitution and by this charter, all powers of the city shall be vested in an elective council.

Sec. 7. Boundaries.

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

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

Sec. 8. Powers of the city.

(a) The city shall have all the powers granted to municipal corporations and to cities by the Constitution and general laws of the state, together with all the implied powers necessary to carry into execution all the powers granted. The city may acquire property within or without its corporate limits for any city purpose, in fee simple or any lesser interest or estate, by purchase, gift, devise, lease or condemnation, and may sell, lease, mortgage, hold, manage, and control such property as its interests may require. No property of the city shall be sold for less than ninety (90) percent of the appraised value of the property as determined by at least two (2) city secured MAI appraisals. Except as prohibited by the Constitution of this state or restricted by this charter, the city shall and may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever. The enumeration of particular powers by this charter shall not be deemed to be exclusive, and in addition to the powers enumerated therein or implied thereby, or appropriate to the exercise of such powers, it is intended that the city shall have and may exercise all powers, which, under the Constitution of this state, it would be competent for this charter specifically to enumerate.

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

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

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

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

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

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

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

a. To license, tax and regulate carriers;

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

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

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

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

a. Sanitary and storm sewers;

b. A water system;

c. Fire prevention and extinguishing equipment;

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

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

f. Public markets;

g. Incinerators;

- h. Dumping grounds;
- i. Auditoriums;
- j. Amphitheaters;
- k. Parks;
- l. Playgrounds;
- m. Golf courses;
- n. Athletic and recreational fields;
- o. Parking lots;
- p. A public library, (according to the provisions of the general law as contained in Sections 167.30 to 167.39 inclusive of Florida Statutes 1941).

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

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

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

## **ARTICLE II. CITIZENS' BILL OF RIGHTS**

### Sec. 9. Citizens' Bill of Rights.

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

1. Convenient access. Every person has the right to transact business with the city with a minimum of personal inconvenience. It shall be the duty of the city manager and the city council to provide, within the city's budget limitations, reasonably convenient times and places for required inspections, and for transacting business with the city.

2. Truth in government. No municipal official or employee shall knowingly furnish false information on any public matter, nor knowingly omit significant facts when giving requested information to members of the public.

3. Public records. All audits, reports, minutes, documents and other public records of the city and its boards, agencies, departments and authorities shall be open for inspection at reasonable time and places convenient to the public.

4. Minutes and ordinance register. The city clerk shall maintain and make available for public inspection an ordinance register separate from the minutes showing the votes of each member on all ordinances and resolutions listed by descriptive title. Written minutes of all meetings and the ordinance register shall be available for public inspection not later than thirty (30) days after the conclusion of the meeting.

5. Right to be heard. So far as the orderly conduct of public business permits, any interested person has the right to appear before the city council or any city agency, board or department for the presentation, adjustment or determination of an issue, request or controversy within the jurisdiction of the city. Matters shall be scheduled for the convenience of the public, and the agenda shall be divided into approximate time periods so that the public may know approximately when a matter will be heard. Nothing shall prohibit the city or any agency from imposing reasonable time limits for the presentation of a matter.

6. Right to notice. Persons entitled to notice of a city hearing shall be timely informed as to the time, place and nature of the hearing and the legal authority pursuant to which the hearing is to be held. Failure by an individual to receive such notice shall not constitute mandatory grounds for canceling the hearing or rendering invalid any determination made at such hearing. Copies of proposed ordinances or resolutions shall be made available at a reasonable time prior to the hearing, unless the matter involves an emergency ordinance or resolution.

7. No unreasonable postponements. No matter once having been placed on a formal agenda by the city shall be postponed to another day except for good cause shown in the opinion of the city council, or agency conducting such meeting, and then only on condition that any person so requesting is mailed adequate notice of the new date of any postponed meeting. Failure by an individual to receive such notice shall not constitute mandatory grounds for canceling the hearing or rendering invalid any determination made at such hearing.

8. Right to public hearing. Upon a timely request of any interested party a public hearing shall be held by any city agency, board, department or authority upon any significant policy decision to be issued by it which is not subject to subsequent administrative or legislative review and hearing. This provision shall not apply to the Office of the City Attorney of the city nor to anybody whose duties and responsibilities are solely advisory.

At any zoning or other hearing in which review is exclusively by certiorari, a party or his counsel shall be entitled to present a case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. The decision of any such agency, board, department or authority must be based upon the facts in the record. Procedural rules establishing reasonable time and other limitations may be promulgated and amended from time to time.

9. Notice of action and reasons. Prompt notice shall be given of the denial in whole or in part of a request of an interested person made in connection with any municipal administrative decision or proceeding when the decision is reserved at the conclusion of the hearing. The notice shall be accompanied by a statement of the grounds for denial.

10. Managers' and attorneys' reports. The city manager and city attorney shall periodically make a public status report on all major matters pending or concluded within their respective offices, except as to any matters which may be privileged, pursuant to law.

11. Budgeting. In addition to any budget required by state statute, the city manager shall prepare a budget showing the cost of each department for each budget year. Prior to the city council's first public hearing on the proposed budget required by state law, the city manager shall make public a budget summary setting forth the proposed cost of each individual department and reflecting the personnel for each, the purposes and the estimated cost of each department.

12. Adequate audits. An annual audit of the city shall be made by an independent certified public accounting firm in accordance with generally accepted auditing standards. The independent city auditor shall be appointed by the city council; both appointment and removal of the independent city auditor shall be made by the city council. A summary of the results of the independent city auditor's annual audit, including any deficiencies found, shall be made public. In making such audit, proprietary functions shall be audited separately and adequate depreciation on proprietary facilities shall be accrued so the public may determine the amount of any direct or indirect subsidy.

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

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

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

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

### **ARTICLE III. THE COUNCIL**

Sec. 10. Number; selection; term.

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

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

(3) On the second Tuesday in May of each odd-numbered year, two (2) councilmembers shall be elected for a four-year term. No councilmember including the mayor shall serve more than two (2) consecutive terms beginning with the election in 2013. The mayor shall be elected for a two year term. Service will be deemed consecutive unless there is a two-year period during which the individual does not serve as councilmember or mayor ("Break in Service"). Any person serving the maximum amount of years as mayor must have a two-year Break in Service before serving as councilmember. Any person serving the maximum amount of years as councilmember is not mandated to have a two-year Break in Service before serving as mayor. A councilmember candidate must continuously reside and submit a Florida government issued identification (ID) plus one type of residency showing that the candidate has continuously resided in the district for which the candidate is seeking election, for a period of one (1) year prior to the time of qualification and thereafter. A councilmember who changes residence to a location outside of the district shall immediately vacate such office, and such vacancy shall be filled pursuant to this charter. The mayor shall not serve as mayor for more than two (2) consecutive terms and must be a continuous resident of the city for one year prior to the time of qualification and thereafter. Councilmembers serving an unexpired term who desire to run for the office of mayor or in another district shall resign as required by state law. Whenever the term council or councilmembers is used in this charter, it shall be deemed to mean and include the mayor unless otherwise specifically provided.

#### Sec. 11. Qualifications.

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

#### Sec. 12. Compensation.

The city council determines the annual salary of the mayor and councilmembers by resolution and cannot exceed the budgeted amount. Business expenses must be in the annual budget and cannot exceed the budgeted amount unless there is good cause shown.

#### Sec. 13. Presiding officer; mayor.

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

#### Sec. 14. Powers.

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

- (1) Appoint and remove the city manager and city attorney;
- (2) Adopt the city budget;
- (3) Authorize the issuance of bonds by a bond ordinance;
- (4) Inquire into the conduct of any office, department or agency of the city and make investigations as to municipal affairs;
- (5) Appoint such boards as may be necessary to perform the duties of this charter;
- (6) Adopt plats;
- (7) Adopt and modify the official map of the city;
- (8) Regulate and restrict the height and number of stories of buildings and other structures, the size of yards and courts, the density of populations and the location and use of buildings for trade, business, residence or other purpose in total conformity with the Comprehensive Plan, as may be amended from time to time.

- (9) Provide for safe and sanitary housing accommodations for families of low income;
- (10) Create a housing authority;
- (11) Adopt, modify and carry out plans proposed by the planning commission for the clearance of slum districts and rehabilitation of blighted areas;
- (12) Adopt, modify and carry out plans proposed by the planning commission for the replanning, improvement and redevelopment of any area or district which may have been destroyed in whole or in part by disaster;
- (13) Provide for an independent audit;
- (14) The council shall have and exercise all powers of the city not specifically conferred upon other officers and employees. It may delegate any powers except the power to fix the rate of taxes, enact ordinances and resolutions, adopt a budget and tax roll, or appropriate money;
- (15) The council shall have the power of granting franchises for public utilities by ordinance;
- (16) The council by ordinance may create, change, and abolish offices, departments or agencies, other than the offices, departments and agencies established by this charter;
- (17) Adopt legislation;
- (18) Determine the tax levied;
- (19) The council shall be the judge of the election and qualifications of its members and for such purpose shall have power to subpoena witnesses and require the production of records, but the decision of the council in any such case shall be subject to review by the courts.

#### Sec. 15. Vacancies on the council.

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

- (1) If the vacancy occurs because of resignation by a councilmember who is seeking other elective office, the election for which office includes the electors of the City of North Miami, such councilmember must file a written resignation with the city clerk at least ten (10) days prior to the earliest qualifying date for such other elective office (the resignation to become effective upon a successor's being sworn into office) and a successor shall be elected in the same election with qualifying concurrent with the qualifying dates of the office sought by the resigning councilmember.
- (2) If the office of a councilmember becomes vacant on or before the councilmember has served one half of his or her term plus one day, a regular or special election shall be held within sixty (60) days to fill the vacancy for the balance of the term. If the office of a councilmember

becomes vacant more than one half of his or her term plus one day after the councilmember takes office, then the remaining members of the council shall choose a successor and such appointee shall fill the vacancy for the balance of the term.

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

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

Sec. 16. Independent annual audit.

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

#### **ARTICLE IV. THE CITY MANAGER**

Sec. 17. Appointment of city manager.

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

Sec. 18. Removal of city manager.

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

him forthwith any unpaid balance of his salary and his salary for the next three (3) calendar months following the adoption of the preliminary resolution.

Sec. 19. Council not to interfere in appointments or removals.

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

Sec. 20. Qualifications.

The city council shall appoint a city manager and fix the manager's compensation. The city manager shall be appointed solely on the basis of executive and administrative qualifications.

Sec. 21. Powers and duties.

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

The powers and duties of the city manager shall be:

- (1) To see that the laws and ordinances are enforced.
- (2) To appoint and remove all employees.
- (3) To exercise control of all departments that may be created by the council.
- (4) To recommend to the council for adoption such measures as he or she may deem necessary or expedient.
- (5) To keep the council fully advised as to the financial condition of the city.
- (6) To inquire into the conduct of any office, department, agency, or officer of the city and to make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers, and other evidence. Failure to obey such subpoena or to produce books, papers, or other evidence as ordered under the provisions of this section shall constitute a misdemeanor and shall be punishable by a fine not to exceed one hundred fifty dollars (\$150), or by imprisonment not to exceed sixty (60) days or both.

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

Sec. 22. Absence of city manager.

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

**ARTICLE V. BUDGET, TAXATION AND FINANCE**

Sec. 23. Fiscal year.

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

Sec. 24. Preparation and submission of budget.

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

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

Sec. 25. Date of final adoption; failure to adopt.

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

Sec. 26. Budget establishes amount to be raised by property tax; certification to taxing authority.

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

Sec. 27. Budget.

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

- (1) Fund summary. A summary of the amounts proposed in each of the funds;
- (2) Anticipated income. Estimates of all anticipated income from all sources, showing the amounts received by the city from each of the same or similar sources for the last preceding and current fiscal years;
- (3) Proposed expenditures. Estimates of all proposed expenditures, showing the expenditures for corresponding items for the last preceding and current fiscal years;
- (4) Tax rate. Summary of the tax rate by fund including the debt service;
- (5) Capital program. A list of proposed new capital items and their respective amounts and a separate plan for a five-year capital improvement program, prepared by the planning commission, for the five (5) fiscal years next succeeding the budget year;
- (6) Such other supporting schedules as the manager deems necessary.

Total anticipated revenues shall equal total proposed expenditures.

Sec. 28. Contracts extending beyond one year.

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

Sec. 29. Official bonds.

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

Sec. 30. Property subject to tax.

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

Sec. 31. Taxes, state law to apply.

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

Sec. 32. Power to incur indebtedness by issuing bond and notes.

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

Sec. 33. Bond ordinance; vote required.

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

## **ARTICLE VI. DEPARTMENT OF LAW**

Sec. 34. Legal department; city attorney, appointment.

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

Sec. 35. Powers and duties of the city attorney.

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

## **ARTICLE VII. ELECTIONS**

### **Sec. 36. Municipal elections.**

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

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

### **Sec. 37. Induction of council into office; meetings of council.**

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

### **Sec. 38. Selection of candidates.**

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

Sec. 39. Regulations of elections.

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

Sec. 40. Qualification of candidates.

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

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

Signature of candidate \_\_\_\_\_

Date and hour filing \_\_\_\_\_

Received by \_\_\_\_\_

(signature of election official)

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

Sec. 41. Council ballots.

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

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

#### Sec. 42. Voting machines.

The council shall have the power to provide for the use of mechanical or other devices for voting counting the votes in accordance with Chapter 101, Florida Statutes.

#### Sec. 43. Public supervision and information.

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

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

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

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

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

#### Sec. 44. Recall of elected officials.

All elected officers of the City of North Miami shall be subject to recall from office in accordance with the provisions of section 100.361 Florida Statutes, as amended, or such other procedure as may be permitted by state law.

#### Sec. 45. Power of initiative.

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

#### Sec. 46. Power of referendum.

The electors shall have power to approve or reject at the polls any ordinance passed by the council, or submitted by the council to a vote of the electors. Ordinances submitted to the council

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

#### Sec. 47. Form of petitions; committee of petitioners.

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

#### Sec. 48. Filing, examination and certification of petitions.

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

#### Sec. 49. Amendment of petitions

An initiative or referendum petition may be amended at any time within ten (10) days after the notification of insufficiency has been sent by the city clerk, by filing a supplementary petition

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

Sec. 50. Effect of certification of referendum petition.

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

Sec. 51. Consideration by council.

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

Sec. 52. Submission to electors.

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

Sec. 53. Form of ballot for initiated and referred ordinances.

Ordinances submitted to vote of the electors in accordance with the initiative and referendum provisions of this charter shall be submitted by ballot title, which shall be prepared in all cases by the city attorney or other principal legal adviser of the city. The ballot title may be different from the legal title of any such initiated or referred ordinance and shall be a clear, concise statement, without argument or prejudice, descriptive of the substance of such ordinance. The ballot used in voting upon any ordinance, if a paper ballot, shall have below the ballot title the following propositions, one (1) above the other, in the order indicated: "FOR THE ORDINANCE" and "AGAINST THE ORDINANCE." Immediately at the left of each proposition there shall be a

square in which by making a cross (X) the elector may vote for or against the ordinance. Any number of ordinances may be voted on at the same election and may be submitted on the same ballot, but any paper ballot used for voting thereon shall be for that purpose only. If voting machines are used, the ballot title of any ordinance shall have below it the same two (2) propositions, one (1) above the other or one (1) preceding the other in the order indicated, and the elector shall be given an opportunity to vote for either of the two (2) propositions and thereby to vote for or against the ordinance.

Sec. 54. Availability of list of qualified electors.

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

Sec. 55. Results of election.

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

Sec. 56. Repealing ordinances; publication.

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

### **ARTICLE VIII. CITY CLERK**

Sec. 57. Elected officials.

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

Sec. 58. City clerk; election.

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

clerk shall assume the duties of the city clerk. Such vacancy shall be filled for a full four-year term in the next regular election being held for the City of North Miami.

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

(c) **Duties.**

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

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

(3) Be the keeper of official city contracts.

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

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

(6) Reserved.

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

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