

CITY OF WEST MIAMI
901 SW 62 Avenue
West Miami, Florida 33144
www.cityofwestmiamifl.com



AGENDA

CHARTER REVIEW BOARD MEETING

WEDNESDAY, NOVEMBER 3RD, 2021
5:30 PM

CITY HALL, COMMISSION CHAMBERS
901 SW 62ND AVE WEST MIAMI, FL 33144

BOARD MEMBERS:

Rhonda A. Rodriguez, Mayor
Eric Diaz-Padron, Vice-Mayor
Candida Blanca, Commissioner
Juan M. Blanes, Commissioner
Luciano L. Suarez, Commissioner

Lenny Caravia - Member
Ivan Chavez, Sr. - Member
Ivan Chavez, Jr. - Member
Christian Diaz - Alternate Member
Natalie Milian - Member
Eduardo H. Muhiña - Member
Martin Torres - Alternate Member

Yolanda Aguilar, City Manager
Jose A. Villalobos, City Attorney
Annery Gonzalez, City Clerk

1. PLEDGE OF ALLEGIANCE:
2. ROLL CALL:
3. CITIZEN PRESENTATIONS:
4. APPROVAL OF MINUTES OF OCTOBER 20TH, 2021 CHARTER REVIEW BOARD MEETING:

Motion:_____ Second:_____ Vote:_____

5. NEW BUSINESS:
 - A. Opening Remarks by the Mayor:
 - B. Revisit issues discussed at Charter Review Board meeting of October 20th, 2021 meeting:
 - C. Sections of Charter for review:

§ 3.07 - — Initiative and Referendum. *Postponed for language clarification at the request of the City Attorney on 10/20/2021.*

PROPOSED CHARTER AMENDMENT QUESTIONS

Charter Amendment #1

Article III, Section 3.02 – Qualifications to Hold Office and Residency Requirement

Shall Article III, Section 3.02, subsection (1) be repealed and rewritten to read:

"(a) Any elector who has been a resident for one (1) year preceding the qualifying date for an election may qualify for candidacy of Mayor or City Commission."

Shall the above described amendment be approved?

Charter Amendment #2

Article III, Section 3.04 – Legislative

Shal Article III compensation and expenses first paragraph be amended to read:

"Members of the Commission shall receive compensation of Three Hundred Dollars (\$300.00) per month?"

Charter Amendment #3

Article III, Section 3.06 – Procedure

Shall Article III, Section 3.06 reference to special meetings be amended to read:

"Special meetings may be held on the call of the Mayor or the City Manager upon no less than twenty four (24) hours' notice to each member of the public."

Charter Amendment #4

Article _____, Section _____ - _____

Shall Article _____, Section _____ - _____ be amended to read:

6. GOOD OF THE ORDER:

7. ADJOURNMENT:

MOTION TO ADJOURN BY:

SECONDED BY:

MEETING ADJOURNS:

	<u>Present</u>	<u>Absent</u>
Rhonda A. Rodriguez, Mayor	_____	_____
Eric Diaz-Padron, Vice-Mayor	_____	_____
Candida Blanca, Commissioner	_____	_____
Juan M. Blanes, Commissioner	_____	_____
Luciano L. Suarez, Commissioner	_____	_____
Lenny Caravia – Member	_____	_____
Ivan Chavez, Sr. – Member	_____	_____
Ivan Chavez, Jr. – Member	_____	_____
Christian Diaz - Alternate Member	_____	_____
Natalie Milian – Member	_____	_____
Eduardo H. Muhiña – Member	_____	_____
Martin Torres - Alternate Member	_____	_____
Yolanda Aguilar, City Manager	_____	_____
Jose A. Villalobos, City Attorney	_____	_____
Annery Gonzalez, City Clerk	_____	_____



CITY OF WEST MIAMI MINUTES

CHARTER REVIEW BOARD MEETING

WEDNESDAY, OCTOBER 20TH, 2021

5:30 PM

COMMISSION CHAMBERS
901 S.W. 62ND AVENUE
WEST MIAMI, FLORIDA

1. **PLEDGE OF ALLEGIANCE.** Commissioner Juan M. Blanes led the Pledge of Allegiance.
2. **ROLL CALL.** The Mayor called the meeting to order at 6:00 PM Present were Mayor Rhonda A. Rodriguez, Vice-Mayor Eric Diaz-Padron, Commissioner Candida Blanca, Commissioner Juan M. Blanes and Commissioner Luciano L. Suarez.

Board Members:

Lenny Caravia – Member. Present
Ivan Chavez, Sr. – Member. Present
Ivan Chavez, Jr. – Member. Present
Christian Diaz - Alternate Member. Excused
Natalie Milian – Member. Present
Eduardo H. Muhiña – Member. Excused
Martin Torres - Alternate Member. Excused

Also present were City Attorney Jose A. Villalobos, City Manager Yolanda Aguilar and City Clerk Annery Gonzalez.

3. **CITIZEN PRESENTATIONS.** No presentations.
4. **APPROVAL OF MINUTES OF OCTOBER 6TH, 2021 CHARTER REVIEW BOARD MEETING.** Upon motion by Commissioner Blanca, Second by Member Chavez, Sr. and unanimous voice vote, the minutes were approved.
5. **NEW BUSINESS:**
 - A. **Opening Remarks by the Mayor.** No opening remarks.
 - B. **Revisit issues discussed at Charter Review Board meeting of October 6th, 2021 meeting.** None.
 - C. **Sections of Charter for review:**

§ 3.07 - — Initiative and Referendum. *Postponed at the request of Vice-Mayor Diaz-Padron on 9/15/2021.*

Section 3.07 (3) (a) reads:



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Number of signatures. Initiative and referendum petitions must be signed by qualified voters of the City equal in number to at least fifteen (15) per cent of the total number of qualified voters registered to vote at the last regular City election.

Vice-Mayor Diaz-Padron expressed residents have the power to propose or repeal ordinances adopted by the City Commission. The petition requires fifteen (15) percent of the total number of qualified voters at the last election.

By State Constitution the residents have the power to put Charter amendments on the ballot, and in order to do that they only need ten (10) percent of the registered voters, which may be approved through an election process, but to change the Charter a process of Charter Review will be needed. Further Vice-Mayor Diaz-Padron recommended lowering to ten (10) percent the total number of qualified voters registered to vote at the last regular election. After a brief discussion all were in agreement to amend Section 3.07 – Initiative and Referendum, (3) Petitions (a) Number of Signatures.

The City Attorney requested bringing back this section at the next meeting for language clarification. All were in favor.

§ 3.08 - — Mayor; Vice Mayor. No changes.

NOTE FOR THE RECORD: The City Attorney presented a compilation of the Charter amendments approved as of that date as follows:

PROPOSED

Charter Amendment #1

Article III, Section 3.02 – Qualifications to Hold Office and Residency Requirement

Shall Article III, Section 3.02, subsection (1) be repealed and rewritten to read:

"(a) Any elector who has been a resident for one (1) year preceding the qualifying date for an election may qualify for candidacy of Mayor or City Commission."

Shall the above described amendment be approved?

Charter Amendment #2

Article III, Section 3.04 – Legislative



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Shall Article III compensation and expenses first paragraph be amended to read:

"Members of the Commission shall receive compensation of Three Hundred Dollars (\$300.00) per month?"

Charter Amendment #3

Article III, Section 3.06 – Procedure

Shall Article III, Section 3.06 reference to special meetings be amended to read:

"Special meetings may be held on the call of the Mayor or the City Manager upon no less than twenty four (24) hours' notice to each member of the public."

End of Charter Amendment Questions

A discussion ensued in regards to the proposed language of the Charter amendment questions. After discussion all were in favor of approving the questions as of this date.

ARTICLE IV. - ADMINISTRATIVE

§ 4.06 - — City Attorney; City Engineer. Discussed. No changes.

ARTICLE V. - FINANCE AND TAXATION

§ 5.01- — Fiscal year. Discussed. No changes.

§ 5.02- — Submission of annual budget by the Manager. No changes.

§ 5.03- — Contents of the Manager's budget message. No changes.

§ 5.04- — Public hearing as to the budget; notice. No changes.

§ 5.05- — Budget hearing. No changes.

§ 5.06- — Same-Revision of budget. No changes.

§ 5.07- — Final adoption of budget. No changes.

§ 5.08- — Appropriation of items contained in budget. No changes.

§ 5.09- — Levy of taxes as required by the budget; failure to adopt ordinance. No changes.

§ 5.10- — Transfer of funds between departments. No changes.

§ 5.11- — Emergency appropriations. No changes.



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- § 5.12- — **Authority of the Council to borrow money in cases of emergencies.** No changes.
- § 5.13- — **General obligation bonds; limitation.** No changes.
- § 5.14- — **Expenditures limited by the budget.** No changes.
- § 5.15- — **Independent audit.** No changes.

ARTICLE VI. - QUALIFICATIONS AND ELECTIONS

- § 6.01 - — **Nonpartisan elections.** No changes.
- § 6.02 - — **Qualifications.** No changes.
- § 6.03 - — **Form of ballots.** No changes.
- § 6.04 - — **Recall.** No changes.
- § 6.05 - — **Amendment of Charter.** No changes.

ARTICLE VII. - GENERAL PROVISIONS

- § 7.01 - — **Validation of prior official acts.** No changes.
- § 7.02 - — **Separability clause.** The City Attorney provided a brief explanation of this section.
- § 7.03 - — **Authority to establish lien for nonpayment of service charges.** No changes.
- § 7.04 - — **Authority of City to declare nuisances and require abatement thereof.** No changes.
- § 7.05 - — **Prohibition against hiring former Council members.**
- § 7.06 - — **Charter Review Board.** No changes.
- § 7.07 - — **Payment of judgments, or fines against officials, Board Members or employees.** No changes.

ARTICLE VIII. - TRANSITION SCHEDULE

- § 8.01 - — **Continuation of former Charter provisions.** No changes.
- § 8.02 - — **Ordinances preserved.** No changes.
- § 8.03 - — **Rights of officers and employees.** No changes.
- § 8.04 - — **Pending matters.** No changes.
- § 8.05 - — **Deletion of obsolete schedule items.** No changes.



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§ 8.06 - — **Effective date.** No changes.

§ 8.07 - — **[Conflict.]** No changes.

6. **GOOD OF THE ORDER.** None.

NOTE: Next meeting was announced for 11/3/2021 at 5:30 PM.

7. **ADJOURNMENT.** There being no further business before the Charter Review Board the meeting was declared adjourned at 6:51 PM.

RESPECTFULLY SUBMITTED BY:

A handwritten signature in blue ink that reads "Annery Gonzalez". The signature is written in a cursive style.

**ANNERY GONZALEZ, MMC
CITY CLERK**

PART I CHARTER¹

ARTICLE I. CREATION AND POWERS

§ 1.01 — Creation and powers.

The City of West Miami, Florida, is hereby created which shall have all governmental, corporate and proprietary powers to enable it to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law.

Editor's note(s)—Section 14Editor's note(s)— of Art. I, Laws of Fla. 1949, Ch. 26301, which was the former charter of the city, provided as follows:

Sec. 14. Acquisition of real and personal property.

The City shall have the right to acquire by purchase, gift, devise, condemnation or otherwise, property, real or personal, or any estate or interest therein within or without the City and to improve, sell, lease, mortgage, pledge or otherwise dispose of the same or any part thereof.

To the extent that this section purports to confer extraterritorial powers on the city, it is the opinion of the editor that it remains effective as a special act of the legislature. See Fla. Const., Art. VIII, § 2(c).

State law reference(s)—General home rule powers of municipalities, F.S. § 166.021.

§ 1.02 — Construction.

The powers of the City shall be construed liberally in favor of the City, limited only by the Constitution, general law and specific limitations contained herein.

ARTICLE II. CORPORATE LIMITS²

¹Editor's note(s)—This Part contains the Charter of the City of West Miami, as approved by the electorate at a referendum held coincident with the regular city election of April 9, 1980, and filed with the Clerk of the Circuit Court on April 11, 1980. Note that by its terms (§ 8.08), it became effective April 14, 1980.

The Charter is set out herein as originally adopted. Subsequent amendments will be worked into their proper places and amended or repealed provisions deleted, with the source of each such amendment being cited in parentheses following the provision amended. The absence of such a citation will indicate that the provision has not been amended and is as originally adopted.

The editors have inserted words and phrases in brackets where necessary in the interest of clarity. Bracketed material should not be considered a part of the official Charter.

County Code reference—Adoption or amendment of municipal charters, MDCC, Char. § 5.03.

²**County Code reference**—Changes in municipal boundaries, MDCC Char. § 5.04; Code, ch. 20.

State law reference(s)—Municipal boundary changes in Dade County, F.S. § 171.071.

(Supp. No. 5)

Created: 2021-04-12 13:31:22 [EST]

§ 2.01 — Description of corporate limits.

The following area shall constitute the corporate limits of the City of West Miami, in Dade County, Florida:

BEGINNING at a point at the Northwest corner of Section 12, Township 54 South, Range 40 East, the said point being also the intersection of the center lines of S.W. 8th St., also known as Tamiami Trail, and S.W. 67th Avenue, also known as Ludlum Road, and runs thence (1) Southerly along the Westerly line of the said Section 12, and along the center line of 67th Avenue, (Ludlum Road), a distance of 5487.52', more or less, to a point at the Southwest corner of the aforementioned Section 12, Township 54 South, Range 40 East, the said point being the intersection of the center lines of the said 67th Avenue (Ludlum Road) and S.W. 24th Street, also known as Coral Way and runs thence (2) Easterly along the Southerly line of Section 12 and being the center line of S.W. 24th Street (Coral Way), a distance of 667.78' more or less, to a point at the Southeast corner of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the said Section 12; the said point being the intersection of the center lines of the said S.W. 24th Street (Coral Way) and S.W. 65th Avenue; thence (3) Northerly along the center line of S.W. 65th Avenue a distance of 709.27' more or less, to the Southwest corner of tract 106, Tamiami Acres Plan No. 2, according to the Plat thereof as recorded in Plat Book 5 at Page 74 of the Public Records of Dade County, Florida; thence (4) Easterly, along the center line of S.W. 22 Street, a distance of 665.44' more or less, to a point on the East line of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Section 12; thence (5) Northerly along the center line of S.W. 64th Avenue a distance of 709.53' more or less to the S.W. corner of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Section 12; thence (6) Easterly along the center line of S.W. 20th Street, a distance of 662.97' more or less to the S.E. corner of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Section 12; thence (7) Northerly along the center line of S.W. 63rd Avenue a distance of 354.95' more or less to the S.W. corner of the N $\frac{1}{2}$ of the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Section 12; thence (8) Easterly along the South line of the N $\frac{1}{2}$ of the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Section 12 a distance of 661.70' more or less to the S.E. corner of the N $\frac{1}{2}$ of the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Section 12; thence (9) Southerly along the center line of S.W. 62nd Avenue and along the West line of the SE $\frac{1}{4}$ of said Section 12, a distance of 355.17' more or less to the S.W. corner of the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of said Section 12; thence (10) Easterly along the center line of S.W. 20th Street and along the South line of the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of said Section 12, a distance of 425.55' more or less to a point; thence (11) Northerly along the Easterly line of Block 6, second addition Crane-Laesser subdivision, according to the Plat thereof as recorded in Plat Book 55 at Page 93 of the Public Records of Dade County, Florida, and along the Easterly line of Block 2, Crane-Laesser subdivision, according to the Plat thereof as recorded in Plat Book 51 at Page 69 of the Public Records of Dade County, Florida, for a distance of 493.57' more or less; thence (12) Westerly along the center line of S.W. 19th Street a distance of 423.85' to a point on the East line of the SW $\frac{1}{4}$ of said Section 12; thence (13) Northerly along the center line of S.W. 62nd Avenue a distance of 237.0' more or less, to a point; thence (14) Easterly along the center line of S.W. 18th Street for a distance of 656.30' more or less to a point; thence (15) Northerly along the center line of S.W. 60th Court a distance of 237.0' more or less to a point; thence (16) Westerly along the center line of S.W. 17th Street a distance of 655.88' more or less to a point; thence (17) Northerly along the center line of S.W. 62nd Avenue a distance of 118.50' more or less to a point; thence (18) Easterly along the South line of the North $\frac{1}{2}$ of Blocks 6 and 1, Calvert Manors, according to the Plat thereof as recorded in Plat Book 49 at Page 35 of the Public Records of Dade County, Florida, a distance of 1236.86' more or less to a point; thence (19) Northerly along the center line of S.W. 59th Avenue a distance of 355.22' more or less to a point on the North Line of the SE $\frac{1}{4}$ of said Section 12; thence (20) Easterly along the North line of the SE $\frac{1}{4}$ of said Section 12 and the centerline of S.W. 16th Street for a distance of 1440.95' more or less, to a point at the center line intersection of S.W. 16th Street and S.W. 57th Avenue, also known as Red Road, the said point of intersection being also the S.E. corner of the NE $\frac{1}{4}$ of the aforementioned Section 12; thence (21) Northerly along the center line of S.W. 57th Avenue (Red Road) and being along the Easterly line of the aforesaid Section 12, a distance of 2651.70', more or less, to a point at the N.E. corner of the said Section 12, the said point being also the intersection of the center lines of the aforesaid S.W. 57th Avenue (Red Road) and S.W. 8th Street (Tamiami Trail) and runs thence (22) Westerly

along the Northerly line of Section 12, being the center line of S.W. 8th Street (Tamiami Trail) a distance of 5289.10', more or less, to a point at the N.W. corner of Section 12, Township 54 South, Range 40 East, and place of beginning.

ARTICLE III. LEGISLATIVE

§ 3.01 — City Commission; powers, compositions.

There shall be a City Commission with all legislative powers of the City vested therein, consisting of five (5) members, being a Mayor and four (4) commissioners who shall be residents and electors of the City, elected by the electors of the City. Wherever there appears in the City Charter reference to or designation of Council or Councilman such reference or designation shall be Commission or Commissioner respectively.

(Res. No. 88-05, 2-10-1988, Ref. of 4-12-1988)

§ 3.02 — Qualifications.

- (a) Any elector who has been a City resident for two (2) years preceding the qualifying date for an election may qualify for candidacy of Mayor or City Commissioner.
- (b) The City Clerk acting as supervisor of elections of the City shall be empowered as the qualifying agent for City elections.

(Res. No. 86-03, § 1, 2-5-1986, Ref. of 4-8-1986; Res. No. 96-21, 9-4-1996; Res. No. 96-27, 9-18-1996, Ref. of 11-5-1996; Res. No. 2014-70, § 2(Exh. A), 11-19-2014)

§ 3.03 — Election; separate groups; offices; and terms.

- (a) The candidate receiving the highest number of votes in each regular biennial election from a group of candidates running for office of Mayor, shall hold the office of Mayor for a term of two (2) years or until his successor is elected and takes office. In the event two (2) or more candidates receive the same number of votes, being the highest number of votes received, the office of Mayor shall be determined by lot.
- (b) The candidates receiving the highest number of votes in each regular biennial election from a group of candidates running for office of councilman shall be elected to the office of councilman in each seat which was required to be filled by such election, for a term of four (4) years or until their successors are elected and take office. In the event two or more candidates receive the same number of votes, being the highest number of votes received by candidates running for the office of councilman, the office of Vice-Mayor shall be decided between those candidates by lot.
- (c) The candidate receiving the highest number of votes in each regular biennial election from the group of candidates running for office of councilman shall have the title of Vice Mayor for two (2) years immediately following his election with the remainder of his term to be served as a councilman.
- (d) In the event there are not more than the necessary number of candidates to fill all expired terms of the council, no election shall be held and each of said candidates shall be elected to office and the office of Vice-Mayor shall be determined by lot.
- (e) Nothing in this Amendment shall affect any unexpired term of office of a councilman.

(Res. No. 82-03, 1-20-1982, Ref. of 4-13-1982; Res. No. 86-03, § 1, 2-5-1986, Ref. of 4-8-1986)

§ 3.04 — Compensation and expenses.

Members of the Council shall receive compensation in the amount of twenty dollars (\$20.00) per meeting, on attendance, until such is changed by the Council in accordance with the provisions of this Charter. Members of Council may be excused with compensation for not more than two (2) meetings during each year of the member's term of office. Members of Council shall not receive compensation for attendance at not more than thirty (30) meetings during any fiscal year.

The Council may determine the annual salary of Council members by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of the Council members elected at the next regular election, provided that such election follows the adoption of such ordinance by at least six (6) months, and such ordinance is approved by the majority of the electors who voted in such election. The Council, by resolution, may authorize a One Hundred Dollar (\$100.00) per month non-accountable expense account for each councilman and the Mayor.

The Council may, at a regularly called meeting and by a four-fifths ($\frac{4}{5}$) affirmative vote, approve additional expenses for Council members for travel and/or per diem expenses within the State of Florida, provided, however, such travel and per diem expenses are for the direct benefit and/or direct city business. It is not the intent hereby to permit payment of expenses and/or per diem expenses for travel for attendance at seminars, conventions, dinners, for lobbying purposes or for other such uses. Expenses for travel and/or per diem expenses shall be limited to that as is provided for within the Statutes of the State of Florida.

(Res. No. 86-03, § 1, 2-5-1986, Ref. of 4-8-1986)

§ 3.05 — Vacancies; forfeiture of office; filling of vacancies.

- (a) *Vacancies.* The office of a Council member shall become vacant upon his death, resignation, removal from office in any manner authorized by law or forfeiture of his office, such forfeiture to be declared by the remaining members of the Council.
- (b) *Forfeiture of office.* A Council member shall forfeit his office if he misses four (4) consecutive regular meetings without being excused by the Council for any meetings missed. A Council member shall forfeit office if he misses seven (7) consecutive meetings, whether excused or not. A Council member shall forfeit office if he misses twelve (12) regular meetings during any one-year period commencing April 15th and ending April 14th of the following year.
- (c) *Vacancy, filling.*
 - (1) If a vacancy occurs in the City Council within one hundred twenty (120) days before a regular election of the City, the Council may, by a majority vote of the full Council, appoint a qualified person to fill such vacancy until the next regular election, at which time the remainder of the unexpired term shall be filled by election; and in the event the Council shall not appoint a person to fill the vacancy, such vacancy shall be filled by election at the next regular election.
 - (2) If a vacancy occurs more than one hundred twenty (120) days prior to a regular election of the City, the Council may by a majority vote appoint a qualified person to fill such vacancy until the next regular election, at which time the remainder of the unexpired term shall be filled by election, or the Council by majority vote may call a special election not less than twenty (20) days nor more than thirty (30) days following a regular or Special Council Meeting and shall provide a period of not less than seven (7) nor more than fifteen (15) days following the setting of such election date in which candidates for such vacancy may qualify; provided, however, that such special election must be held more than one hundred twenty (120) days prior to the next regular election.

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- (3) If the Council shall fail to fill such vacancy by appointment or call a special election as provided in subsection (2) above within forty-five (45) days after the occurrence of a vacancy, the Mayor shall forthwith call a special election and provide a period for qualification of candidates all within the times provided in said subsection (2); provided, however, that such special election must be held more than one hundred twenty (120) days prior to the next regular election.
 - (4) In the event of the occurrence of three (3) or more vacancies in the Council, the surviving members of the Council, if any, shall immediately call a special election not less than twenty (20) days nor more than thirty (30) days following date of calling such election and shall make interim appointments of qualified persons to fill such vacancies until those persons elected at the special election shall have qualified and taken office. In the event the surviving members of the Council shall not make interim appointments and call a special election within forty-five (45) days after occurrence of vacancies, or in the event all Council seats shall become vacant, the Governor shall fill the vacancies by interim appointment and by calling special elections as provided herein.
 - (5) In all special elections called pursuant to this section, the person or persons receiving the highest number of votes shall be elected to fill the vacancy or vacancies as the case may be. In the case of a vacancy or vacancies to be filled at regular elections as herein provided, the person or persons receiving the next highest votes after those three (3) candidates who receive the highest votes and are elected to regular terms of the Council shall be elected to such vacancy or vacancies. Persons elected in special elections shall take oath of office and shall take office at the next regular or special Council meeting following the special election at which elected.
 - (6) Written notice of any special election called pursuant to this section setting forth date of election, dates for qualification of candidates, date for closing registration books, and location of polling places shall be posted in a public place at the City Hall the day following the setting of special election and shall remain posted until after the date of the election.
 - (7) All special elections called pursuant to this section shall be held on a weekday other than Saturday or Sunday. Polling places shall be the same as in regular elections of the City and polls shall be open between the hours of 7:00 a.m. and 7:00 p.m.
 - (8) Registration books shall remain open on regular business days until ten (10) days prior to such special election; provided, however, that if said final day for registration shall fall on a Saturday, Sunday or legal holiday, the books shall remain open an extra day.
 - (9) Except as specifically provided herein, special elections shall be governed by the Charter and Ordinances of the City dealing with regular elections.
- (d) *Extraordinary vacancies.* In the event that all members of the Council are removed by death, disability, law or forfeiture of office, the governor shall appoint an interim Council that shall call a special election as provided in (c) above and such election shall be held in the same manner as the first (1st) election under this Charter. Two (2) Council members shall be elected to two (2) year terms, and two (2) Council members shall be elected to four (4) year terms. The Mayor shall be elected to a two (2) year term.

(Res. No. 82-03, 1-20-1982, Ref. of 4-13-1982; Res. No. 86-03, § 1, 2-5-1986, Ref. of 4-8-1986)

§ 3.06 — Procedure.

- (a) *Meetings.* The Council shall meet regularly at least once in every month at such time and place as the Council may prescribe by rule. By rule, the Council may designate not more than two (2) meetings per month as regular meetings. Special meetings may be held on the call of the Mayor or of three (3) of the members of the Council and upon no less than twenty-four (24) hours' notice to each member and the public.

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- (b) *Rules and journal.* The Council shall determine its own rules and order of business. If the Council shall fail to adopt rules of procedure Robert's Rules shall prevail.
- (c) *Voting; quorum; votes required for passage.*
- (1) *Voting.* Voting, on ordinances and resolutions, shall be by roll call on final action and shall be recorded in the journal. A majority of the Council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in a manner and subject to penalties prescribed by rules of Council.
- (2) *Exceptions.*
- a. Any matter placed on the agenda of a meeting at the meeting, and not included in the prepublished agenda of the meeting, must be passed by affirmative vote of three (3) members of the Council.
- b. An affirmative vote of four-fifths ($\frac{4}{5}$) of the City Council shall be required in the following instances:
- To issue bonds or borrow money;
 - To grant, review, or lease franchises other than public utilities;
 - To sell and/or lease property;
 - To reverse the Planning and Zoning Board;
 - To appropriate or expend nonbudgeted funds;
 - To transfer to Dade County, eliminate or contract for the performance of an entity of any of the following:
 - Legal department;
 - Executive department;
 - Finance and administration;
 - Police department;
 - Streets department;
 - Garage;
 - Waste department;
 - Recreation department;
 - Parks department;
 - Facilities maintenance;
 - Water system;
 - Any other budgeted department.
- (d) *Actions of the Council requiring an ordinance; enacting clause of ordinances.* In addition to such acts of the Council as are required by statute or by this Charter to be by ordinance, every act of the Council establishing a fine or other penalty or providing for the expenditure of funds or for the contracting of indebtedness shall be by ordinance. The enacting clause of all ordinances shall be "Be It Enacted by the City Council of the City of West Miami."
- (e) *Procedure for adopting ordinances.* Procedures for adopting ordinances shall be as provided by state law.

(Res. No. 82-03, 1-20-1982, Ref. of 4-13-1982; Res. No. 86-03, § 1, 2-5-1986, Ref. of 4-8-1986)

State law reference(s)—Ordinance enactment procedures, F.S. § 166.041.

§ 3.07 — Initiative and referendum.

(1) [AUTHORIZED.]

- (a) *Initiative.* The qualified voters of the City shall have power to propose ordinances to the Council and, if the Council fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a City election, provided that such power shall not extend to the budget or capital program or any ordinance relating to appropriation of money, levy of taxes or salaries of City officers or employees.
- (b) *Referendum.* The qualified voters of the City shall have power to require reconsideration by the Council of any adopted ordinance and, if the Council fails to repeal an ordinance so reconsidered, to approve or reject it at a City election, provided that such power shall not extend to the budget or capital program or any emergency ordinance or ordinance relating to appropriation of money, levy of taxes or salaries of City officers or employees.

(2) **COMMENCEMENT OF PROCEEDINGS.** Any twenty-five (25) qualified voters may commence initiative or referendum proceedings by filing with the City Clerk or other official designated by the Council an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered.

Promptly after the affidavit of the petitioners' committee is filed, the Clerk or other official designated by the Council may, at the committee's request, issue the appropriate petition blanks to the petitioners' committee at the committee's expense.

(3) **PETITIONS.**

- (a) *Number of signatures.* Initiative and referendum petitions must be signed by qualified voters of the City equal in number to at least fifteen (15) per cent of the total number of qualified voters registered to vote at the last regular City election.
- (b) *Form and content.* All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.
- (c) *Affidavit of circulator.* Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that he personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his presence, that he believes them to be the genuine signature[s] of the persons whose names they purport to be and that each signed had an opportunity before signing to read the full text [text] of the ordinance proposed or sought to be reconsidered.

(4) **PROCEDURE FOR FILING.**

- (a) *Certificate of clerk; amendment.* Within twenty (20) days after the initiative petition is filed and five (5) days for a referendum petition, the City Clerk or other official designated by the Council shall submit same to the appropriate Dade County officer requesting the officer to prepare a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and upon receipt of the certificate the Clerk or other official shall promptly send a copy of the certificate to the petitioners'

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committee by registered mail. Grounds for insufficiency are only those specified in subsection (3). A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the Clerk or other official designated by the Council within two (2) days after receiving the copy of the certificate and files a supplementary petition upon additional papers within ten (10) days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of subsections (b) and (c) of § 3.07(3) and within five (5) days after it is filed the Clerk or other official designated by the Council shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' committee by registered mail as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request Council review under subsection (b) of this section within the time required, the Clerk or other official designated by the Council shall promptly present his certificate to the Council and the certificate shall then be a final determination as to the sufficiency of the petition.

(b) *Council review.* If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within two (2) days after receiving the copy of such certificate, file a request that it be reviewed by the Council. The Council shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and the Council's determination shall then be a final determination as to the sufficiency of the petition.

(5) REFERENDUM PETITIONS; SUSPENSIONS; SUSPENSION OF EFFECT OF ORDINANCE. When a referendum petition to repeal an ordinance is filed with the City Clerk or other official designated by the Commission, the ordinance sought to be reconsidered shall be deemed valid until results from such referendum are certified.

(6) ACTION ON PETITIONERS.

(a) *Action by Council.* When an initiative or referendum petition has been finally determined sufficient, the Council shall promptly consider the proposed initiative ordinance in the manner provided in Article III or reconsider the referred ordinance by voting its repeal. If the Council fails to adopt a proposed initiative ordinance without any change in substance within sixty (60) days or fails to repeal the referred ordinance within thirty (30) days, it shall submit the proposed or referred ordinance to the voters of the City.

(b) *Submission to voters.* The vote of the City on a proposed or referred ordinance shall be held not less than sixty (60) days and not later than one hundred and twenty (120) days from the date that the petition was determined sufficient. If no regular City election is to be held within the period described in this subsection, the Council shall provide for a special election, except that the Council may, in its discretion, provide for a special election at an earlier date within the described period. Copies of the proposed or referred ordinance shall be made available at the polls.

(c) *Withdrawal of petitions.* An initiative or referendum petition may be withdrawn at any time prior to the fifteenth (15th) day preceding the day scheduled for a vote of the City by filing with the City Clerk or other official designated by the Council a request for withdrawal signed by at least fifteen (15) members of the petitioners' committee. Upon the filing of such request the petition shall have no further force or effect and all proceedings thereon shall be terminated.

(7) RESULTS OF ELECTION.

(a) *Initiative.* If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the Council. If conflicting

ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

- (b) *Referendum.* If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.
- (8) ORDINANCES SUBJECT TO AMENDMENT OR REPEAL. Initiative and referendum ordinances adopted or approved by the electors may be amended or repealed by the Council, as in the case of other ordinances[,] after one (1) year from date of passage.

(Res. No. 2014-70, § 2(Exh. A), 11-19-2014)

§ 3.08 — Mayor; Vice-Mayor.

The Mayor shall preside meetings of the Commission and be recognized as head of the City for ceremonial purposes, by the Governor for purposes of military law, service of process, as the City official designated to represent the City in agreements and certifications with other governmental entities, but shall have no administrative duties reserved for the City Manager, except as required to carry out the responsibilities herein.

The Vice-Mayor shall act as Mayor during the absence or disability of the Mayor, or in the event the office of Mayor becomes vacant or the Mayor becomes permanently incapacitated, then the Vice Mayor shall be appointed as Mayor for the remainder of the term of the Mayor.

In said events, the councilman receiving the second highest vote in the immediate prior election shall act as Vice-Mayor during the period that the Vice-Mayor acts as Mayor, as heretofore provided.

In the event of a councilman being appointed or elevated by reason of the vacancy in the offices of Mayor or Vice-Mayor, such councilman's current term shall not be shortened by such appointment or elevation.

(Res. No. 86-03, § 1, 2-5-1986, Ref. of 4-8-1986; Res. No. 88-05, 2-10-1988, Ref. of 4-12-1988; Res. No. 96-21, 9-4-1996; Res. No. 96-27, 9-18-1996, Ref. of 11-5-1996; Res. No. 2018-67, 12-5-2018)

ARTICLE IV. ADMINISTRATIVE

§ 4.01 — City Manager.

There shall be a City Manager who shall be the chief administrative officer of the City. The Manager shall be responsible to the Council for the administration of all City affairs placed in his charge by or under this Charter.

Except for the purpose of inquiry the Council and its members shall deal with the administrative service solely through its Manager and neither the Council nor any member thereof shall give orders to any subordinates of the Manager either publicly or privately.

§ 4.02 — Appointment; removal; compensation.

- (a) *Appointment.* The Council shall appoint a City Manager by a majority vote of all the Council members, for an indefinite term.
- (b) *Removal of City Manager.* The Council shall appoint the City Manager for an indefinite term and may remove him by a majority vote of its members. At least thirty (30) days before such removal shall become effective, the Council shall by a majority vote of its members adopt a preliminary resolution stating the reasons for his removal. The Manager may reply in writing no later than fifteen (15) days after passage of the preliminary resolution and may request a public hearing, which shall be held at the next regular Council meeting. 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.

- (c) *Compensation.* The compensation of the Manager shall be fixed by the Council and shall not be reduced during the budget year.

(Res. No. 86-03, § 1, 2-5-1986, Ref. of 4-8-1986)

§ 4.03 — Acting City Manager.

By letter filed with the Council, the City Manager shall designate, subject to the approval of Council, a qualified City employee to exercise the powers and to perform the duties of City Manager during his temporary absence or disability. During such absence or disability, the Council may revoke such designation at any time and appoint another person to serve until the City Manager shall return or his disability shall cease. Such appointment shall be at compensation to be established by the Council.

(Res. No. 82-03, 1-20-1982, Ref. of 4-13-1982; Res. No. 88-05, 2-10-1988, Ref. of 4-12-1988)

§ 4.04 — Powers and duties of the City Manager.

The City Manager shall:

- (a) Nominate persons for appointment as directors of the Police Department, Public Works Department, and Recreation Department (and any other departments created by ordinance or resolution of the City Council) subject to ratification and confirmation by a majority vote of the full City Council. Council approval shall not be necessary for the Manager to suspend or remove such department directors. He shall appoint, and when he deems it necessary for the good of the City suspend or remove all other City employees and appointive administrative officers provided for by or under this Charter, except as otherwise provided by law, this Charter or personnel rules adopted pursuant to this Charter. He may authorize any administrative officer who is subject to his direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency;
- (b) Direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law;
- (c) Attend all Council meetings, except when excused by a majority of the Council, and shall have the right to take part in discussion but may not vote;
- (d) See that all laws, provisions of this Charter and acts of the Council, subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed;
- (e) Prepare and submit the annual budget, budget message, and capital program to the Council in a form provided by ordinance;
- (f) Submit to the Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year;
- (g) Make reports as the Council may require concerning the operations of City departments, offices and agencies, subject to his direction and supervision;
- (h) Keep the Council fully advised as to the financial condition and future needs of the City and make such recommendations to the Council concerning the affairs of the City as he deems desirable;

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- (i) Execute and sign contracts including deeds and other documents pursuant to the provisions of appropriations and ordinances.
 - (j) Perform such other duties as are specified in this Charter or may be required by the Council;
 - (k) Act as ex officio clerk of the City during all times where there is no appointed clerk or during such times the clerk is absent from the City and during regular business hours shall have all of the powers, duties and responsibilities of the City Clerk. No additional compensation or remuneration shall be received by the Manager while acting as ex officio City Clerk.

(Res. No. 86-03, § 1, 2-5-1986, Ref. of 4-8-1986; Ord. No. 2018-02 , § 2, 5-2-2018)

§ 4.05 — City Clerk.

The City Clerk shall be appointed or removed solely by the City Council, and the City Manager may make recommendations as to the appointment of the City Clerk. The City Clerk shall be answerable to and be under the supervision and control of the City Council and be directly in communication with the City Council without any prohibition. The City Clerk shall be the official keeper of the City Seal and Custodian of Records. The City Clerk shall in addition thereto, without limitation, perform and be responsible for the following:

- (a) The City Clerk shall be the officer in charge of qualifying candidates for elective city offices;
- (b) The City Clerk shall be the Supervisor of Elections and shall be responsible for the preparation of the ballot and the conduct of all elections of the City;
- (c) The City Clerk shall appoint such deputy clerks as may from time to time be necessary to carry out the duties of the office;
- (d) The City Clerk shall certify and maintain all permanent official records in archives of the City;
- (e) The City Clerk shall perform such other duties as required by ordinance or resolution of the City Council or as otherwise provided by this Charter.

(Res. No. 82-03, 1-20-1982, Ref. of 4-13-1982; Res. No. 88-05, 2-10-1988, Ref. of 4-12-1988; Res. No. 96-21, 9-4-1996; Res. No. 96-27, 9-18-1996, Ref. of 11-5-1996)

§ 4.06 — City Attorney; City Engineer.

The City Council shall, by majority vote, appoint a City Attorney and a City Engineer. Such appointments shall not be for a period beyond the next regularly scheduled City Council election. Such City Attorney shall be certified by the Florida Bar Association, and be in good standing with said Association. Such engineer shall be certified by the State of Florida as a registered engineer in the State of Florida. The City Attorney and the City Engineer may be removed for cause at any time by an affirmative vote of four-fifths ($\frac{4}{5}$) of the City Council at any regularly scheduled meeting.

(Res. No. 86-03, § 1, 2-5-1986, Ref. of 4-8-1986)

ARTICLE V. FINANCE AND TAXATION³

³State law reference(s)—Municipal finance and taxation generally, F.S. § 166.201 et seq.

§ 5.01 — 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. Such fiscal year shall also constitute 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.

State law reference(s)—Fiscal year of Oct. 1—Sept. 30 required, F.S. §§ 166.241 and 218.33.

§ 5.02 — Submission of annual budget by the Manager.

The Manager, not later than September 1st of each year, unless an earlier date be prescribed by the Council, shall submit to the Council a budget and an explanatory budget message. For such purpose at such date as he shall determine he shall obtain from the head of each office or department estimates of revenue and expenditures of that office or department, 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 within the budget year and within the five (5) next succeeding years. In preparing the budget the Manager shall review the estimates, may hold hearings thereon and may revise the estimates as he may deem advisable.

§ 5.03 — Contents of the Manager's budget message.

The budget message submitted by the Manager to the Council shall be explanatory of the budget, shall contain an outline of the proposed financial policies of the City of the budget year and shall describe in connection therewith the important features of the budget plan. It shall set forth the reasons for salient changes from the previous year in cost and revenue items and shall explain any major changes in financial policy. Attached to the budget message shall be such supporting schedules, exhibits and other explanatory material in respect to both current operations and capital improvements as the Manager shall believe useful to the Council. Both the budget and budget message and all supporting schedules shall be a public record open to public inspection by anyone.

§ 5.04 — Public hearing as to the budget; notice.

At the meeting of the Council to which the budget and budget message are submitted, the Council shall determine the place and time for a public hearing on the budget and shall cause to be posted a notice of the place and time not less than five (5) days after date of posting, at which the Council will hold a public hearing.

§ 5.05 — Budget hearing.

At the time and place so advertised or at any time and place at which such public hearing shall from time to time be adjourned, the Council shall hold a public hearing on the budget as submitted at which all interested persons shall be given an opportunity to be heard for or against the estimates or any item thereof.

§ 5.06 — Same—Revision of budget.

After the conclusion of such public hearing, the Council may insert new items or may increase or decrease the items of the budget; provided however, that if the total of proposed expenditures be increased, then, and in that event, the Council shall cause to be posted a notice setting forth the nature of the proposed increase and fixing a place and time, not less than ten (10) days after posting, at which the Council will hold a further public hearing thereon. The budget shall be finally adopted by the favorable vote of a majority of all the members of the

Council, not later than September 25th of each 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.

§ 5.07 — Final adoption of budget.

Upon final adoption the budget shall be in effect for the budget year. A copy of the budget as finally adopted shall be certified by the Manager and the budget so certified shall be filed for the use of all offices and departments.

§ 5.08 — Appropriation of items contained in budget.

Upon final adoption of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes therein named for the appropriate budget year.

§ 5.09 — Levy of taxes as required by the budget; failure to adopt ordinance.

Upon final adoption of the budget, the Council shall, by ordinance, levy such taxes as hereinbefore authorized to meet the appropriations made including all sums required to be raised on account of the City debt. If the Council shall refuse or neglect to pass an ordinance levying the taxes for any budget year, the ordinance last previously passed levying taxes shall continue in full force and effect and a failure to pass a current ordinance shall in no wise invalidate the collection of any taxes.

§ 5.10 — Transfer of funds between departments.

The Manager may at any time transfer any unencumbered appropriation balance or portion thereof between general classification of expenditure within an office or department. At the request of the Manager and within the last three (3) months of the budget year the Council may, by resolution, transfer any unencumbered appropriation balance or portion thereof from one office or department to another.

§ 5.11 — Emergency appropriations.

In case of disaster or other circumstances creating an emergency, the Council may, at any time in any budget year, by a three-fifths vote, make an emergency appropriation for the purpose of repairing damages caused by such disaster or meeting such public emergency to the end that the public health, safety or welfare will be protected.

§ 5.12 — Authority of the Council to borrow money in cases of emergencies.

In any budget year where circumstances creating such an emergency as described in Section 11 [5.11] have arisen, the Council may, upon recommendation of the Manager, authorize the borrowing of money by the issuance of negotiable notes of the City. Such notes shall not exceed ten (10) per cent of the total operating appropriations in any one year and may be renewed from time to time; but all such notes, together with the renewals, shall mature and be paid not later than the end of the fiscal year after the budget year in which the original notes shall have been issued. Such notes shall not constitute a general obligation nor a pledge of ad valorem tax revenue. No notes shall be made payable on demand but any note may be made subject to redemption prior to maturity on such notes and at such time as may be stated in the note. Such notes may be sold at not less than par and accrued interest at private sale without previous advertisement.

§ 5.13 — General obligation bonds; limitation.

The City shall have all the powers and authority to issue general obligation bonds which the Constitution and Laws of Florida now and hereafter give or grant to municipalities. The City of West Miami may incur bonded indebtedness up to but not exceeding fifteen (15) per cent of the assessed valuation of real property located within its boundaries.

State law reference(s)—General municipal authority to borrow, F.S. § 166.101 et seq.

§ 5.14 — Expenditures limited by the budget.

No money shall be drawn from the treasury of the City nor shall any obligation for the expenditure of money be incurred except pursuant to the budget except as provided in this Charter. No liability shall be enforceable against the City upon any contract not supported by the budget nor shall the City be liable for any services, material or supplies furnished to the City or to any department, office or division thereof, the financial requirements of which are to be met out of the proceeds of the taxes or other funds unless the Council shall previously have provided therefor in the budget.

§ 5.15 — Independent audit.

Prior to the end of each fiscal year the Council shall designate a qualified Certified Public Accountant, 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 such report together with his recommendations for improving fiscal control, to the Council. Such accountant shall have no personal interest, direct or indirect, in the fiscal affairs of the City government or of any of its officers. He 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 those handling funds of the City and all accounts kept by any office or department of the City.

State law reference(s)—Annual audit, F.S. § 218.19; annual financial reports to state required, F.S. § 218.32.

ARTICLE VI. QUALIFICATIONS AND ELECTIONS

§ 6.01 — Nonpartisan elections.

All qualifications and elections for the office of City Council shall be conducted on a nonpartisan basis without regard for or designation of political party affiliation of any nominee on any nomination petition or ballot.

§ 6.02 — Qualifications.

Candidates for the office of City Council member shall qualify for such office by the filing of a written notice of candidacy with the designated official at such time and in such manner as may be prescribed by ordinance.

§ 6.03 — Form of ballots.

The Council by ordinance shall prescribe the form of the ballot including the method for listing candidates for City Council elections and any other City election. A charter amendment to be voted on by the City shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above-described amendment be adopted?" Immediately below such

question shall appear, in the following order, the words "for approval" and also the words "against approval" with a sufficient blank space thereafter for the placing of the symbol "X" to indicate the voter's choice or such other means to cast a ballot as provided by law.

§ 6.04 — Recall.

The qualified electors of the City shall have the power to recall and remove from office any elected official of the City as provided by Florida Statutes and/or City of West Miami Ordinances, provided that, in no event, such recall takes place before the expiration of one year after such elected official has been elected.

State law reference(s)—Recall provisions of general law, F.S. § 100.361.

(Res. No. 2014-70, § 2(Exh. A), 11-19-2014)

§ 6.05 — Amendment of Charter.

This Charter may be amended as provided in Article V of The Metropolitan Dade County Charter.

ARTICLE VII. GENERAL PROVISIONS

§ 7.01 — Validation of prior official acts.

That all official acts of the City of West Miami done prior to the passage of this Charter be and the same are hereby ratified, cured and made legal as fully and completely as though all requirements and details by any general or special law governing and relating to the same, had been done and performed.

§ 7.02 — Separability clause.

If any section or part of [a] 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 [a] section so held invalid may appear except to the extent that an entire section or part of [a] section may be inseparably connected in meaning and effect with the section or part of [a] section to which such holding shall directly apply.

§ 7.03 — Authority to establish lien for nonpayment of service charges.

Where the City provides water service, sewer service, electric service, trash collection, garbage collection or other similar service to owners or occupants of real estate within the City for a service charge or fee, the City Council may adopt an ordinance or ordinances providing that upon nonpayment of such charges by the owner or occupant of the real estate receiving the benefits of such services, such delinquent charges shall become a lien upon the real estate so benefited as hereinafter provided. Such ordinance shall further provide that if such charges are not paid within three (3) months after bills therefor are mailed to the property owner or occupant at the address of said property then such delinquent charges shall become a lien on the real estate without further action on the part of the municipality and without the necessity of filing same with the Clerk of any Court and thereafter may be collected in the same manner as provided by law for collection of delinquent real estate taxes. Such liens shall have the same priority and dignity as real estate taxes.

§ 7.04 — Authority of City to declare nuisances and require abatement thereof.

- (a) The term "nuisance" as used herein shall include the following:
- (1) Wrecked, abandoned or partially dismantled or otherwise inoperative automobiles, trucks, trailers, house trailers, boat trailers, boats and machinery of whatever nature which are unsightly and are in the open upon private or public premises within the limits of a municipality, unless stored in a completely enclosed garage or other completely enclosed building;
 - (2) Lawns, grass, weeds, shrubbery, hedges and other plants which have grown to an excessive height or are wild or untrimmed and are unsightly;
 - (3) Buildings, residences and other structures which are in a state of disrepair, dilapidated, unsafe, dangerous or unsanitary or otherwise substandard and a menace to the health, morals, safety or general welfare of the inhabitants of the municipality;
 - (4) Any other condition not specified herein which would constitute a nuisance at common law.
- (b) [Authority to prohibit.]
- (1) The City Council may adopt an ordinance or ordinances making it unlawful for any owner or occupant of any property or any other person, to cause any nuisance or other unlawful condition described herein upon any private or public property within the limits of the City of West Miami, or to suffer or permit such condition to exist upon any public or private property.
 - (2) The City Council may further provide by ordinance or ordinances that the administration or police department of the City may serve notice upon the owners and occupants of property to abate any nuisance or unlawful condition described herein, such notice to be given by registered or certified mail addressed to the occupant at the property address and to the owner at the address shown therefor, upon the tax rolls used by the municipality or by personal services, and requiring such owners and occupants to abate such condition within a reasonable time after mailing of such notice, which time shall not be less than fifteen (15) days, and providing in the alternative for such persons to appeal such action to the City Council within the period set forth in the notice. Such ordinance may further provide that in the event persons so notified shall fail to abate the nuisance or other unlawful condition and shall fail to appeal to the City Council, or in the event that such appeal shall be denied, the City may then cause such nuisance or other such unlawful condition to be abated and the cost thereof shall thereupon become a lien against such property upon the filing of a notice of lien with the Clerk of the Circuit Court of Dade County.
 - (3) Any liens filed pursuant to ordinances adopted under this section shall include interest at the maximum rate provided by state law for interest on real estate tax certificates, from date of filing until paid, or satisfied, and shall remain in full force and effect for a period of ten (10) years, or until earlier satisfied, and such liens may be enforced by suit in Chancery in the manner provided by law for enforcement of other liens upon real estate.
- (c) The powers herein granted shall be supplemental and cumulative to those provided by the general Laws of Florida or the ordinances of Metropolitan Dade County, Florida.

County Code reference—Sanitary nuisances generally, MDCC ch. 26A.

§ 7.05 — Prohibition against hiring former Council members.

No person having served as Mayor or as Council member of the City may be employed by the City as a full-time employee until at least two (2) years shall have elapsed from the time of termination of office of such former officer.

(Res. No. 82-03, 1-20-1982, Ref. of 4-13-1982)

§ 7.06 — Charter Review Board.

The City Charter shall be reviewed every four (4) years to determine if amendments or revisions of the Charter shall be submitted to the electors of the City, as provided in Section 5.03 of the Metropolitan Dade County Charter.

No later than two hundred forty (240) days prior to each four (4) year review commencing on the second Tuesday of April, 1990 and the second Tuesday of April of every four (4) years thereafter, the City Council shall appoint a Charter Review Board consisting of the Mayor and members of the Council and five (5) members and five (5) alternates from among qualified electors of the City. The Mayor and Council members shall each appoint one (1) regular member and one (1) alternate. Alternate members shall be entitled to vote only in the absence of such regular member or any other absent regular member, whose alternate is also absent.

In addition, the Council may appoint at any other time, a Charter Review Board of the same composition, who shall be appointed in the same manner with the same duties and responsibilities as provided herein.

It shall be the duty of the Charter Review Board to hold public hearings to determine whether revisions or amendments of the City Charter are desirable or necessary, and, if so, determined, draft or have drafted such proposed change or changes to be submitted to the City Council for enactment of a resolution to place such proposed change or changes on the ballot for voting by the electors at the next ensuing regular City election.

Unless such election occurs not less than sixty (60) nor more than one hundred twenty (120) days after the draft is submitted, the proposal shall be submitted at a special election within that time. The governing body shall make copies of the proposal available to the electors not less than thirty (30) days before the election. Alternative proposals may be submitted. Each proposal approved by a majority of the electors voting on such proposal shall become effective at the time fixed in the proposal.

Each Board shall be terminated and disbanded once it has made its final determination to the City Council, which determination shall be binding upon the Council and may not be amended by the Council. By resolution the Council may establish rules of procedure to be followed by the Board.

(Res. No. 82-03, 1-20-1982, Ref. of 4-13-1982; Res. No. 86-03, § 1, 2-5-1986, Ref. of 4-8-1986)

§ 7.07 — Payment of judgments, or fines against officials, Board Members or employees.

The City shall pay any final judgment, or fines, including cost and attorney's fee against any official, board member or employee of the City arising from any complaint or proceeding for damages, injury, fines or other relief awarded as a result of any act or omission of action of official, board member or employee in the exercise or performance of his or her duties or function for the City, unless in the case of a tort action, the official board member or employee acted in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property, as provided in F.S. [§] 111.071 and F.S. [§] 768.28, and under the terms and conditions of said statutes. If there is a final determination that said official, board member, or employee did act in bad faith with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety or property, then in that event all expenditures made by the City including the payment of any judgement or fine, as well as reasonable Attorney's fees incurred by the City shall be reimbursed by such person to the City.

(Res. No. 86-03, § 1, 2-5-1986, Ref. of 4-8-1986)

ARTICLE VIII. TRANSITION SCHEDULE

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§ 8.01 — Continuation of former Charter provisions.

All provisions of Chapter 26301, Special Acts, 1949, as amended, Laws of Florida, (the former Charter) as amended by special law or otherwise which are not embraced herein and which are not inconsistent with this Charter shall become ordinances of the City subject to modification or repeal in the same manner as other ordinances of the City.

§ 8.02 — Ordinances preserved.

All ordinances in effect upon the adoption of this Charter, to the extent not inconsistent with it, shall remain in force until repealed or changed as provided herein.

§ 8.03 — Rights of officers and employees.

Nothing in this Charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are City officers or employees at the time of adoption. Elected officers shall continue to hold their offices and discharge the duties thereof until their successors are elected.

§ 8.04 — Pending matters.

All rights, claims, actions, orders, contracts and legal or administrative proceedings involving the city shall continue except as modified pursuant to the provisions of this Charter.

§ 8.05 — Deletion of obsolete schedule items.

The Council shall have power, by resolution, to delete from this Article VIII any section, including this one, when all events to which the section to be deleted is or could become applicable have occurred.

(Ord. No. 2018-20 , § 2, 4-18-2018)

Editor's note(s)—Ord. No. 2018-20 Editor's note(s)—, § 2, adopted April 18, 2018, repealed § 8.05Editor's note(s)—, which pertained to schedule and derived from Res. No. 2014-70, § 2(Exh. A), adopted Nov. 19, 2014. Said ordinance renumbered former § 8.06Editor's note(s)— as § 8.05Editor's note(s)—, as set out herein.

§ 8.06 — Effective date.

All proposed amendments shall become effective upon adoption.

(Res. No. 86-03, § 1, 2-5-1986, Ref. of 4-8-1986; Res. No. 88-05, 2-10-1988, Ref. of 4-12-1988; Ord. No. 2018-20 , § 2, 4-18-2018)

Editor's note(s)—Ord. No. 2018-20 Editor's note(s)—, § 2, adopted April 18, 2018, repealed § 8.07Editor's note(s)—, which pertained to elected office of Mayor abolished; term of current Council members. Said ordinance renumbered former § 8.09 as § 8.06Editor's note(s)—, as set out herein.

§ 8.07 — [Conflict.]

All other provisions of the City Charter not in conflict with these amendments shall be in full force and effect upon effective date of these amendments.

(Res. No. 86-03, § 1, 2-5-1986, Ref. of 4-8-1986; Res. No. 88-05, 2-10-1988, Ref. of 4-12-1988; Ord. No. 2018-20, § 2, 4-18-2018)

Editor's note(s)—Ord. No. 2018-20 Editor's note(s)—, § 2, adopted April 18, 2018, repealed § 8.08, which pertained to approval and effect. Said ordinance renumbered former § 8.10 as § 8.07 Editor's note(s)—, as set out herein.

CHARTER COMPARATIVE TABLE RESOLUTIONS

This table shows the location of the sections of the Charter and any amendments thereto.

Resolution Number	Adoption Date	Referendum Date	Section	Section this Charter
82-03	1-20-1982	4-13-1982		3.03
				3.05, 3.06
				4.03
				4.05
				7.05, 7.06
86-03	2- 5-1986	4- 8-1986	1	3.02—3.06
				3.08
				4.02
				4.04
				4.06
				7.06, 7.07
				8.09, 8.10
88-05	2-10-1988	4-12-1988		3.01
				3.08
				4.03
				4.05
				8.09, 8.10
96-21	9- 4-1996			3.02
				3.08
				4.05
96-27	9-18-1996	11- 5-1996		3.02
				3.08
				4.05
2014-70	11-19-2014	11- 4-2014	2(Exh. A)	3.02
				3.07(5)
				6.04
				8.05
2018-02	5- 2-2018		2	4.04(i)
2018-20 (Res.)	4-18-2018		Rpld	8.05
			Rpld	8.07, 8.08
			Rnbd	8.06
			as	8.05
			Rnbd	8.09, 8.10

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PART I - CHARTER
CHARTER COMPARATIVE TABLE RESOLUTIONS

			as	8.06, 8.07
2018-67 (Res.)	12- 5-2018			3.08