

# ***CITY OF SOUTH MIAMI***



# ***CHARTER***

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(Amended 2/11/14)

## **PREAMBLE TO THE CHARTER FOR THE CITY OF SOUTH MIAMI**

We, the people of the City of South Miami, in order to secure for ourselves the benefits and responsibilities of Home Rule, and in order to provide a municipal government to serve our present and future needs, and recognizing that the City exists for the purpose of providing for the health, happiness, education, safety and welfare of its citizenry, do hereby adopt this Charter. The City Commission and all of its boards, committees and employees shall at all times conduct themselves in accordance with common courtesy and consistent with the Code of Ethics of the State of Florida and Miami-Dade County. (Amended 2/11/14)

### **MIAMI-DADE COUNTY'S 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 County and the municipalities with a minimum of personal inconvenience. It shall be the duty of the County manager and the Commission to provide, within the county's budget limitations, reasonably convenient times and places for registration and voting, for required inspections, and for transacting business with the City.

2. **Truth in government.** No County or 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 County and its boards, agencies, departments and authorities shall be open for inspection at reasonable times and places convenient to the public.

4. **Minutes and ordinance register.** The Clerk of the City Commission 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 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 Commission or any municipal Board or agency, or department for the presentation, adjustment or determination of an issue, request or controversy within the jurisdiction of the governmental entity involved. Matters shall be scheduled for the convenience of the public, and the agenda shall be divided into approximate time periods so that the public may know approximately when a matter will be heard. Nothing

herein shall prohibit any governmental entity or agency from imposing reasonable time limits for the presentation of a matter.

6. **Right to notice.** Persons entitled to notice of a county or municipal 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 cancelling 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 county or any municipality shall be postponed to another day except for good cause shown in the opinion of the county Commission, the municipal council or other governmental entity 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 cancelling the hearing or rendering invalid any determination made at such hearing.

8. **Right of public hearing.** Upon a timely request of any interested party public hearing shall be held by any county or municipal agency, board, department or authority upon any significant policy decision to be issued by it which is not subject to subsequent administrative or legislative review and hearing. This provision shall not apply to the law department of the county or of any municipality, not to any body whose duties and responsibilities are solely advisory.

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

9. **Notice of action and reasons.** Prompt notice shall be given of the denial in whole or in part of a request of an interested person made in connection with any county or 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 county manager and county attorney and each city manager and city attorney shall periodically make a public status report on all major matters pending or concluded within their respective jurisdictions.

11. **Budgeting.** In addition to any budget required by state statute, the county manager shall prepare a budget showing the cost of each program of each budget year. Prior to the

county Commission's first public hearing on the proposed budget required by state law, the county manager shall make public a budget summary setting forth the proposed cost of each individual program and reflecting the personnel for each program, the purpose therefor, the estimated millage cost of each program and the amount of any contingency and carry over funds of each program.

12. **Quarterly budget comparisons.** The county manager shall make public a quarterly report showing the actual expenditures during the quarter just ended against one quarter of the proposed annual expenditures set forth in the budget. Such report shall also reflect the same cumulative information for whatever portion of the fiscal year that has elapsed.

13. **Adequate audits.** An annual audit of the county and each municipality shall be made by an independent certified public accounting firm in accordance with generally accepted auditing standards. A summary of the results, 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.

14. **Regional offices.** Regional offices of the county's administrative services shall be maintained at locations in the county for the convenience of the residents.

15. **Financial disclosure.** The Commission shall by ordinance make provisions for the filing under oath or affirmation by all county and municipal elective officials, candidates for county and municipal elective offices, such employees as may be designated by ordinance, and such other public officials, and outside consultants who receive funds from the county or municipalities within the county and who may legally be included, or personal financial statements, copies of personal federal income tax returns, or itemized source of income statements of income statements. Provisions shall be made for preparing and keeping such reports current from time to time, and for public disclosure.

The Commission shall also make provisions for the filling annually under oath of a report by full-time county and municipal employees of all outside employment and amounts received therefrom. The county manager or any city manager may require monthly reports from individual employees or groups of employees for good cause.

16. **Representation of public.** The Commission shall endeavor to provide representation at all proceedings significantly affecting the county and its residents before state and federal regulatory bodies.

17. **Commission on Ethics and Public Trust.** The County shall, by ordinance, establish an independent Commission on Ethics and Public Trust comprised of five members, not appointed by County Commission, with the authority to review, interpret, render advisory opinions and enforce the county and municipal code of ethics ordinances, conflict of interest ordinances,

lobbyist registration and reporting ordinances, ethical campaign practices ordinances, when enacted, and citizens' bill of rights.

(A) The foregoing enumeration of citizens' rights vests large and pervasive powers in the citizenry of Dade County. Such power necessarily carries with it responsibility of equal magnitude for the successful operation of government in the county. 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.

(B) *Remedies for violations.* In any suit by a citizen alleging a violation of this article filed with the Miami-Dade Commission on Ethics and Public Trust, the charging party, if successful, shall be entitled to recover costs as fixed by the court. Any public official or employee who is found by the Commission to have willfully violated this article shall forthwith forfeit his office or employment. (Amended 2/11/24)

(C) *Construction.* All provisions of this article shall be construed to be supplementary to and not in conflict with the general laws of Florida. In any part of this article shall be declared invalid, it shall not affect the validity of the remaining provisions. (Amended 3/12/96)

**CHARTER  
CITY OF SOUTH MIAMI**

**ARTICLE I**

**AUTHORITY AND FORM OF GOVERNMENT**

**SECTION 1.    *Name***

The present municipal government existing under the name "City of South Miami" shall continue to exist and shall continue to be known as "City of South Miami".

**SECTION 2.    *Existence***

This municipal corporation shall have perpetual succession.

**SECTION 3.    *Boundaries***

The legal description of the boundaries of the City of South Miami is attached to the end of this Charter as Schedule (A) (Amended 2/8/00)

**SECTION 4.    *Form of Government***

This City shall have a Commission-Manager government.

**SECTION 5.    *Authority***

This Municipal Corporation shall have all the rights, privileges and immunities which may have been or hereafter be granted under the Constitution and General Laws of the State of Florida and such other rights, privileges and immunities which may have been or may hereafter be granted under general acts of the legislature of the State of Florida, including but not by way of limitation, the rights, privileges and immunities under the Home Rule Amendment, Article 8, Section 2 of the Constitution of the State of Florida, and any amendments thereto which have been or may hereafter be enacted.



## ARTICLE II

### CITY COMMISSION

#### **SECTION 1. Composition**

The Commission shall consist of a Mayor and four Commissioners.

#### **SECTION 2. Mayor**

The Mayor shall preside at meetings for the City Commission and shall be recognized as Head of the City government for ceremonial purposes. The Vice-Mayor shall serve for a two (2) year term and shall be the Commissioner receiving the greatest number of votes in the preceding general election. (See Art.V,Sec.2A)

#### **SECTION 3. Compensation**

The annual salaries and expense accounts of the Commission shall be prescribed by ordinance adopted prior to approval of the annual budget. Increases in salaries and expense accounts of the Commission shall take effect after the next general election. Decreases shall take effect upon approval of the budget. (Amended 2/8/00)

#### **SECTION 4. Vacancies**

\*The Office of a Commissioner shall become vacant upon his or her death, resignation, removal from office in any manner authorized by law, or by forfeiture of his or her office.

A. **Forfeiture of Office.** A Commissioner shall forfeit office if he or she (1) lacks at any time during his or her term of office any qualification for the office prescribed by this Charter or by the General Laws of the State of Florida, (2) willfully and intentionally violates any express prohibition of this Charter, (3) is suspended from office by the Governor of the State of Florida, or removed from office by the Florida Senate, by a court of competent jurisdiction, or by operation of the law; (4) is convicted of a felony or crime involving moral turpitude, or (5) fails to attend four consecutive regular meetings of the Commission without being excused by the Commission. Grounds for forfeiture for (1) and (2) will be determined by a court of competent jurisdiction. Grounds for forfeiture of (3), (4) and (5) will be determined by the City Commission. (Amended 2/8/00)

## ARTICLE II (Cont'd)

### B. Filling of Vacancies.

1. Any vacancy on the Commission, which occurs for less than nine months before the next general election shall be filled for the unexpired term by the Commission within 30 days from the date of the vacancy. If the Commission fills the vacancy within the prescribed time, the person appointed by the Commission shall serve in that capacity only until the next general election. If the Commission fails to make the appointment within 30 days, the vacancy shall be filled by a regular or special election to be held no less than 45 days nor more than 60 days from the date of the vacancy. In the event a Commission member resigns to run for the office of Mayor, the Commission shall notify the City Clerk in writing of his or her intention to qualify for that office no later than 15 days before the beginning of qualification for the next election.

2. In the event a vacancy occurs more than nine months prior to the next general election, the Commission shall have no power to fill the vacancy and the unexpired term shall be filled by a special election being held not less than 30 days nor more than 60 days after the vacancy exists.

3. If the vacancy occurs in the Office of Mayor and the Commission selects a member of the Commission as Mayor, a vacancy shall exist on the Commission. If the person selected as Mayor has an unexpired term as Commissioner extending beyond the time of the next general election, the person shall elect to either qualify for the office of Mayor by notifying the City Clerk in writing of his or her intention to qualify for the office of Mayor no later than 15 days before the deadline for qualification for the next general election. Qualifying for the office of Mayor shall create a vacancy on his or her seat as Commissioner for the unexpired term. If the person does not qualify for the office of Mayor, he or she shall be considered as serving temporarily as Mayor and shall revert automatically to the unexpired term to which he or she was elected.

4. No person who has forfeited an office on the Commission shall be qualified to run for office to fill the vacancy created by the forfeiture.

5. If at any time the membership on the City Commission is reduced to less than four members because of suspension, removal or forfeiture of office, the remaining members of the Commission shall, by majority vote, appoint additional interim Commission members and shall schedule a special election to be held no less than 30 days nor more than 60 days after the loss of a quorum to fill any vacancy that exists for more than nine months prior to the next general election.

6. In the event that all members of the City Commission are removed by death, resignation, suspension, removal, or forfeiture of office, the Governor of the State of Florida shall appoint an interim City Commission and the City Clerk shall schedule a special election to be held not less than 30 days nor more than 60 days after the occurrence of the last vacancy to fill all vacancies that exist for more than nine months prior to the next general election. (Amended 2/8/00)

**ARTICLE II (Cont'd)**

**SECTION 5. Meetings**

A. **Attendance.** All meetings of the City Commission shall be public with the exception of properly called Executive Session meetings. (Amended 2/11/14)

B. **Special Meetings.** Special meetings may be held upon call by the Mayor or three or more Commissioners. Written notice of the meeting shall be delivered to the members of the Commission by the City Clerk not less than 24 hours before the meeting is held. No business shall be transacted at any special meeting other than that for which the meeting was called. The 24-hour time limit may be waived in time of public emergency affecting life, health, property or safety. (Amended 2/8/00)

C. **Regular Meetings.** The Commission shall meet regularly at such times and places as may be prescribed by its rules but not less frequently than twice each month.

D. **Procedure.** The Commission shall fix its rules of procedure and order of business or, in the absence of applicable rules, it shall follow Robert's Rules of Order (Revised).

E. **Record.** The Commission shall keep a permanent written public record of its proceedings.

F. **Quorum.** Four members of the Commission shall constitute a quorum for a regular meeting and three members shall constitute a quorum for a special meeting.

**SECTION 6. Ordinances**

The City Commission shall act only by ordinance or written resolution and those acts of the City Commission shall be by ordinance which:

- (1) Adopt or amend an administrative code or establish, alter or abolish any City Department
- (2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed.
- (3) Levy taxes.
- (4) Grant, renew or extend a franchise and regulate public utilities service rates.
- (5) Authorize borrowing of money. (Amended 2/11/14)

**ARTICLE II (Cont'd)**

(6) Convey or lease or authorize the conveyance or lease of any property of the City.

**A. Form.** Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject, which shall be clearly expressed in its title. The enacting clause shall be "BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF SOUTH MIAMI, FLORIDA." (Amended 2/8/00)

Any ordinance, which repeals or amends an existing ordinance or part of the City Code shall clearly identify in the title the ordinance or section of the code that it seeks to repeal or amend. (Amended 2/8/00)

**B. Introduction.** An ordinance or resolution may be introduced by any member at any regular meeting of the City Commission.

**(1) Procedure** After introduction of any ordinance, the City Clerk shall prepare a number of copies and shall distribute a copy to each member of the Commission and to the Manager. The City Clerk shall also file a reasonable number of copies in the office of the City Clerk and such other public places as the Commission may designate, together with a notice setting out the time and place for a public hearing thereon and for its consideration by the Commission.

**(2) Public Hearings.** A public hearing shall follow the introduction of the ordinance and publication by at least ten (10) days prior to the public hearing and may be held separately or in conjunction with the regular City Commission meeting. All interested persons shall have an opportunity to be heard. (Amended 2/11/14)

**(3) Readings.** Each ordinance shall be read by only the title at both first and second readings and shall be considered at no less than two meetings of the Commission unless declared emergency. If an ordinance is materially amended upon the second reading, a third reading shall be required at a subsequent meeting of the Commission. (Amended 2/94)

**C. Effective Date.** Except as otherwise provided, every adopted ordinance shall become effective upon execution or any other date specified therein. (Amended 2/11/14)

**D. Voting Procedure.** Voting shall be by roll call. The "yeas" and "nays" shall be recorded individually in the minutes of each meeting.

No Commission member shall be excused from voting as required by law. (Amended 2/8/00)

**ARTICLE II (Cont'd)**

- 1. Requirements for Adoption.** All resolutions or ordinances shall be adopted by no less than three affirmative votes of the City Commission. (Amended 2/8/00)

Except as otherwise provided in this Charter, four affirmative votes of the City Commission shall be required in the following instances: (Amended 2/8/00, 11/04/08, 2/9/10, & 8/28/18)

- To issue bonds or borrow money
- To grant, renew or amend any lease or franchises
- To transfer title to property
- To appropriate or expend non-budgeted funds
- To approve an initiatory ordinance pursuant to Article V
- To amend land use and development regulations in any manner in the City's Commercial Core which is defined as the area encompassed by the following roadways: from the point of beginning at SW 62nd Avenue and US1, then north on SW 62nd Avenue to SW 69th Street, then east to SW 59th Place, then north to SW 68th Street, then east to SW 57th Avenue, then south to SW 74th Street, then west to SW 61st Avenue, then west to US1, then southwest on US1 to the point of beginning.

Except as otherwise provided in this Charter, five affirmative votes of the City Commission shall be required to approve the actions indicated below:

- To amend land use and development regulations in any manner to make them less restrictive in all areas of the City, other than in the City's Commercial Core, as defined above
- To issue bonds or borrow money in excess of five percent of the city's current operating budget

- 2. Emergency Ordinances.** To meet a public emergency affecting life, safety, health, property or the public peace, the Commission may adopt one or more emergency ordinances, but an emergency ordinance may not grant, renew or extend a franchise or authorize the borrowing of money except as provided in this Charter. An emergency ordinance will be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced.

The affirmative vote of four members present shall be required for the adoption of an emergency ordinance. After its adoption, the ordinance shall be published as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later date as it may specify. Every emergency ordinance shall automatically stand repealed as of the 31st day following the date on which it was adopted but this shall not prevent re-enactment of the ordinances in the manner specified in this section, if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances. (Amended 2/8/00)

**ARTICLE II (Cont'd)**

**SECTION 7. Officers**

A. **Appointments.** The Commission shall appoint the following, who shall be officers of the City who shall serve at the pleasure of the Commission:

1. **A City Manager** as prescribed in **Article III.**

2. **A City Attorney** and such Assistant City Attorneys as may be necessary who shall act as the legal advisor for the municipality and all of its officers in matters relating to their official powers and duties. The City Attorney shall be a lawyer of at least five years practice in the Courts of the State of Florida immediately preceding the time of his or her appointment. He or she shall prepare or review all ordinances, resolutions, contracts, bonds and other written instruments in which the municipality is concerned and shall endorse on each his or her approval of the form, language and execution thereof. When required by the Commission, he or she shall prosecute and defend, for and in behalf of the City, all complaints, suits, and controversies in which the City is a party, before any Court or other legally constituted tribunal; he or she shall render such opinions on legal matters affecting the City as the Commission may direct; and he or she shall perform such other professional duties as may be required of him or her by Ordinance or Resolution of the Commission or by this Charter.

3. **A City Clerk** and such deputies that may be necessary, who shall give notice and attend all Commission meetings, keep the minutes and records of all of the proceedings of the Commission, preserve all books, papers and writing of all kinds committed to his or her care during his or her tenure; keep the corporate seal of the City and affix the seal when lawfully directed; administer oaths; have charge of the conduct of municipal elections;; and perform such other duties as shall be required by this Charter or by General Laws of the State of Florida unless restricted by the Home Rule Amendment provisions of Miami-Dade Dade County. (Amended 2/8/00) (Amended 2/11/14)

B. **Compensation** The salaries and expense accounts of all officers shall be prescribed by ordinance and fixed in the annual budget.

C. **Vacancies** The City Commission shall have power in the absence, sickness or disqualification of any of these officers to appoint a successor and should the Commission not do so within thirty (30) days after such occurrence, it shall be the duty of the Mayor to appoint a successor.

**ARTICLE II (Cont'd)**

**SECTION 8. Boards and Committees**

**A. Appointments** When a Board or Committee is comprised of five members, each City Commissioner shall appoint one person to serve as a representative on the Board or Committee. When there are more than five (5) members on a Board or Committee, each City Commissioner shall appoint one person to serve as a representative on the Board or Committee, and all members of such Board or Committee in excess of five (5) shall be appointed by three (3) affirmative votes of the City Commission based on recommendations submitted by any City Commissioner. When a Board or Committee has less than five (5) members, then the selection of all members shall be by three (3) affirmative votes of the City Commission from recommendations submitted by any City Commissioner. (Amended 2-09-10)

**B. Ordinance Provisions** For any Board or Committee hereinafter established by ordinance or resolution, the Commission, shall provide for the following: (Amended 2/11/14)

- (1) number of members and who appoints or nominates them, including any qualifications required.
- (2) term of members
- (3) quorum for meetings
- (4) duties of boards and committees
- (5) presentation of actions of the board or committee to City Commission

(2/8/00) (Amended 2/11/14)

**C. Planning Board** There shall be a Planning Board composed of residents of South Miami. No duly elected official, officer or employee of the City shall be an appointee hereunder. Notwithstanding any other provision of Article II, but not by way of limitation, the ordinance creating this Board shall contain the following provisions: (Amended 2/11/14)

1. The Planning Board shall be a continuous body and shall be composed of seven (7) members. The Board shall investigate and recommend to the Commission such changes in the boundaries of the various use districts, zoning regulations, use of land and type of construction, locations and use of all structures on any valid appointment submitted to it. (Amended 2/11/14)

In arriving at its recommendations, the Board shall consider, but not by way of limitation, the character of the area, the suitability of particular uses, the conservation of the property values and the direction of building development. In addition, the Board shall investigate and make recommendations to the Commission on matters affecting redevelopment, rehabilitation, conservation and renewal progress toward the alleviation of a slum or blighted areas and such other conditions as may injuriously affect the City.



## **ARTICLE II (Cont'd)**

2. Any recommendations of the Board which affect use of land or structures or concern redevelopment, rehabilitation, conservation or renewal shall not be adopted by the City Commission until a public hearing thereon. No application for zoning changes shall be filed in the name of the City without prior approval of the City Commission. There shall be no change in zoning or any amendment to the zoning laws unless proposals for such changes have first been received by the Planning Board.

### **SECTION 9. Investigations**

Notwithstanding any other provisions of this Charter, the Commission or its authorized representative or representatives may make investigation into the affairs of this City and the conduct of any City department, Board, Officer or Agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Any person who fails to obey a lawful order issued in the exercise of these powers by the Commission shall be guilty of a misdemeanor and punishable by a fine of not more than \$500.00 or by imprisonment for not more than six months, or both.

### **SECTION 10. Civil Service/Merit System**

The City Commission shall establish a civil service system or a merit system covering and embracing the salaried employees of the City of South Miami, except where in conflict with any other provisions of this Charter.

### **SECTION 11. Departments**

Except as may be otherwise provided by statute or this Charter, the Commission shall establish, by ordinance, such departments of the City as it deems necessary or advisable and prescribe the functions of all departments, and duties, authorities and responsibilities of the department heads. (Amended 2/8/00)

## ARTICLE III

### THE CITY MANAGER

#### **SECTION 1. Appointment**

The City Commission shall appoint a City Manager by the affirmative vote of a majority of the members of the City Commission.

#### **SECTION 2. Qualifications**

The Manager shall be appointed solely on the basis of his or her executive and administrative qualifications with specific reference to his or her professional training and experience in municipal government. He or she shall be a graduate of a recognized school of government or have experience equivalent thereto.

#### **SECTION 3. Removal**

The City Commission may remove the City Manager from office by affirmative vote of a majority of all of its members, with or without cause. If his or her removal is without cause, the City Manager shall receive his or her salary for thirty (30) days immediately following the adoption of the resolution removing him or her from office. The City Manager, after ninety (90) days of continuous absence shall be removed from office.

#### **SECTION 4. Acting City Manager**

**A. Recommendation** The Manager may recommend, by letter filed with the City Clerk, subject to the approval of the Commission, a qualified City administrative officer to exercise the powers and perform the duties of the Manager during any temporary absence or disability. Such acting City Manager shall not serve for a period longer than 90 days. During such absence or disability, the Commission may decline such recommendation at any time and appoint another officer of the City to serve until the Manager shall return or his disability shall cease.

**B. Failure to Recommend** During such absence or disability as set forth in (A), if the City Manager fails to recommend an Acting City Manager, the Commission shall name an Acting Manager to serve at the pleasure of the Commission.

**ARTICLE III (Cont'd)**

**SECTION 5. Powers and Duties**

The City Manager shall be the chief executive officer and head of the administrative branch of the City government. He or she shall be responsible for the proper administration of all affairs of the City. He or she shall have the following powers and duties to: (Amended 2/11/14)

A. Appoint and, when necessary for the good of the City, remove any non-elective officers or employees of the City (excepting those authorized to be appointed and removed by the City Commission), providing such removal is legally permissible. However, the City Manager may not appoint any department director without first obtaining the consent of a majority of the members of City Commission at a duly noticed City Commission meeting. Procedures for presentation of the Manager's candidates to the City Commission may be specified by ordinance. (Amended 11/02/10) (Amended 2/11/14)

B. Prepare the budget annually and submit it to the Commission and be responsible for its administration after adoption.

C. Submit to the Commission and make available to the public a report every month on the finances and administrative activities of the City, together with his or her recommendations.

D. Prepare and submit to the Commission at the end of the fiscal year a complete report on the finances and administrative activities of the City for the preceding year.

E. Direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law. (Amended 2/8/00)

F. Attend all Commission meetings with the right to take part in discussion.

G. Perform such other duties as are specified in this Charter or which may be required by the Commission.

H. Contract for the purchase of any goods or services for any department of the City in an amount up to and including \$5,000.00. All contracts for goods and services in excess of \$5,000.00 shall be approved by the City Commission. The City Manager shall report all expenditures to the City Commission monthly. (Amended 2/8/00)

All purchases shall be approved after competitive conditions shall have been maintained and competitive bids sought from at least three different sources of supply if available, such determination to be made by the Commission, and, notwithstanding the foregoing, the City may

**ARTICLE III (Cont'd)**

make purchases through other governmental agencies that have followed similar bidding procedures. This subsection does not apply to the purchase of legal and expert services that have been approved by the City Commission. (Amended 2/8/00)

## ARTICLE IV

### FINANCE

#### **SECTION 1. Fiscal Year**

The fiscal year of the City of South Miami shall be the same as that set by Miami-Dade County or its successors. (Amended 2/11/14)

#### **SECTION 2. Budget**

**A.** The City Manager shall submit to the Commission, 60 days prior to the beginning of the fiscal year, an annual budget together with an explanatory message. The budget, budget message and all supporting schedules, shall be a public record open to public inspection. (Amended 2/11/14)

**B. Public Hearings** The meeting of the Commission at which the budget and budget message are submitted, shall be held in accordance with State law as may be amended from time to time. (Amended 11/08/16)

**C. Adjustments** Any and all adjustments made to the budget after the conclusion of the public hearing at which the budget and budget message were submitted must be made in accordance with State law as may be amended from time to time. (Amended 11/08/16)

**D. Adoption** The budget shall be adopted by three affirmative votes of the City Commission before the first day of the new fiscal year. Should the Commission take no final action on or prior to the date, the budget, as submitted, shall be deemed to have been finally adopted by the Commission, provided that if the provision for funds in any department or departments exceeds (10%) of the previous year's budget, then as to that department or departments the Commission shall be deemed to have approved the previous year's budget. (Amended 2/8/00)

**E. Certification** A copy of the budget as finally adopted shall be certified by the City Manager and the budget so certified shall be filed for the use of all offices and departments.

## ARTICLE IV (Cont'd)

### F. Modifications

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

(2) Emergency Appropriation In case of disaster or any other circumstance creating an emergency, the Commission may at any time in any budget year, make an emergency appropriation for the purpose of repairing damages caused by such disaster or meeting such public emergency to the end that public health, safety or welfare will be protected. In any budget year where circumstances creating such an emergency have arisen, the Commission may, upon recommendation of the City Manager, authorize the borrowing of money by the issuance of negotiable notes of the City. Such notes shall not exceed 10% of the total operating appropriations in the current 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 revenues. Notes may not be sold at less than par and accrued interest at private sale without previous advertisement.

### SECTION 3. Revenues

A. Taxation The Commission shall levy such taxes as authorized by law to meet the appropriations made not later than the next Commission meeting after adoption of the budget as provided in Article IV, Section 2 D. If the Commission 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 way invalidate the collection of any taxes.

B. Bonds The City shall have the power to issue bonds, certificates of indebtedness and any form of tax anticipation certificates, payable from ad valorem taxation and maturing more than twelve months after issuance only to finance or refinance capital projects. Voter referendum approval for bonds and other forms of indebtedness shall be as provided by the Florida constitution. (Amended 2/8/00)

**ARTICLE IV (Cont'd)**

**SECTION 4. Administration**

**A. Control** The City Manager shall have charge of the administration of the financial affairs of the City in accordance with Article III, Section 5.

**B. Custody of Public Funds** The City Manager shall have custody of all public funds belonging to or under control of the City or any office or department thereof, and deposit all fund coming into his or her custody in such depositories as may be designated by Resolution of the Commission. (Amended 2/11/14)

**C. Approval of Expenditures** The City Manager shall approve all proposed expenditures in accordance with the approved budget, but, unless he or she shall certify that there is an unencumbered balance of appropriation and available funds, no appropriation shall be encumbered and no expenditure shall be made. (Amended 2/11/14)

**D. Multi-annual Contracts** No contract involving the payment of money out of the appropriations of more than one year shall be made for a period of more than five years, nor shall any such contract be valid unless made or approved by resolution or ordinance adopted by the Commission after a public hearing. The Commission shall provide budget and appropriate funds in each succeeding budget for contracts extending more than one year. This section shall not restrict the term of General Obligation or Revenue Bonds. (Amended 2/14/06) (Amended 2/11/14)

**E. Audit** The Commission shall designate a qualified Certified Public Accountant who, at the end of the fiscal year and at such other times as ordered by the Commission, shall make an independent examination in accordance with generally accepted auditing standards and review of accounts and other financial transactions by the City and shall submit such report, together with recommendations for improving fiscal control, to the Commission and to the City Manager. The accountant shall have no personal interest, direct or indirect, in the fiscal affairs of the City government or any of its officers. The accountant shall not maintain any accounts or records of the City business, but within specifications approved by the Commission, shall post-audit the annual financial statements of the City and all accounts kept by any office or department of the City. The Certified Public Accountant shall not serve as the city's independent auditor for more than six consecutive years. (Amended 2/11/20)

**F. Performance-based audit.** The City Commission shall require a performance-based audit for each department at least once every five years. (Amended 2/8/00)

## ARTICLE V

### ELECTIONS

#### **SECTION 1. Qualifications**

**A. Voters:** Any person who is a duly registered voter of Miami-Dade County and who has been a legal resident of the City of South Miami for a period of no less than thirty (30) days immediately before the date of the election.

**B. Candidates:** The City Clerk shall certify that a candidate for election to the Office of the Mayor or Commissioner, no less than 60 days prior to a duly scheduled election has: (Amended 2/11/14)

(1) Exhibited to the Clerk proof that he or she is qualified elector of the City of South Miami and has continuously resided in the City of South Miami in a structure designated as residential property for at least one (1) year immediately before the date of the election. (Amended 2/8/00)

(2) Each person seeking to qualify for nomination or election to a municipal office shall pay, at the time of qualifying for office, an election assessment fee in addition to a qualifying filing fee of \$100 paid to the City Clerk. The requirements to pay an election assessment fee and a qualifying fee may be waived as provided by state law. (Amended 2/8/00)

(3) Taken the following prescribed sworn oath:

"I hereby accept the nomination for Mayor/Commissioner, and agree to serve, if elected, and further that I hereby make the following oath:

State of Florida  
County of Dade

Before me, an officer authorized to administer oaths, personally appeared \_\_\_\_\_ to me well known, who, being duly sworn, says that he/she is a candidate for the office of \_\_\_\_\_, that he/she is a qualified elector of Miami-Dade County, Florida, and the City of South Miami; and that he/she is qualified under the Constitution and the laws of Florida, and the Charter of the City of South Miami to hold the office to which he/she desires to be nominated or elected; that he/she has taken the oath required by Florida Statutes; that he/she has not violated any of the laws of the State relating to elections or the registration of electors; that he/she has qualified for no other public office in the State the term of which office or any part thereof runs concurrent (with that of) the office he/she seeks; that he/she has resigned from any office (from) which he/she is required to resign pursuant to ss. 99.012, Florida Statutes; and that he/she has submitted a



**ARTICLE V (Cont'd)**

sworn statement of contributions and expenditures, if any incurred, prior to the time of qualifying and since the last preceding general election. (Amended 2/11/14)

\_\_\_\_\_  
Signature of Candidate

\_\_\_\_\_  
Address

\_\_\_\_\_  
Signature and Title of person administering oath

(4) No person shall be certified for nomination to an elective office in the City of South Miami who concurrently has qualified for nomination of or is concurrently holding an elective office outside the City of South Miami.

(5) Any person who qualifies for an elective office outside the City of South Miami after having qualified for an elective office in the City of South Miami shall by the fact of such qualification become disqualified for nomination in the City of South Miami and his (her) name shall be stricken from the ballot.

(Amended 11/08/16)

**SECTION 2. General Elections**

**A. Time** General elections for the Commission will be held on the same day as the national general elections, commencing in 2020, and thereafter in each even year, at which time the Mayor will be elected to a term of two years and two Commissioners will be elected to terms of four years. (See Art.II,Sec.2) (Amended 11/3/2020)

**B. Mode** The office of the Mayor and Commission seats shall be filled on the basis of the highest number of votes received by the candidates. At each general or special election where there are at least two (2) Commissioners to be elected, the election shall be conducted on a group basis for each member of the City Commission to be elected. Each Commission seat to be filled at said election shall be designated numerically, and each candidate for the City

## ARTICLE V (Cont'd)

Commission shall designate in which numerical grouping he or she is to be a candidate. No candidate shall run for office in more than one numerically designated group.

**C. Unopposed candidates** The names of all unopposed candidates shall be placed on the ballot. The votes for unopposed candidates shall be counted and published. (Amended 2/8/00)

**D. Term Limits for the Mayor and City Commissioners** No person may appear on the Ballot for Election as Mayor or City Commissioner if, by the end of his or her current term of office, the person will have served (or, but for resignation would have served) in office as the Mayor or as a City Commissioner for a total of nine years or more. (Amended-Added 11/02/10)

### **SECTION 3. Special Elections**

As prescribed under Article II, Section 4B.

### **SECTION 4. Runoff Elections**

In the event of a tie vote, runoff elections shall be held, if necessary, within thirty (30) days from the date of the canvass of the votes cast at the regular elections.

### **SECTION 5. Procedures**

**A. Provisions** The City Commission shall provide, by ordinance, for the procedures of elections not inconsistent with State law. (Amended 2/11/14)

**B. Canvassing Board** Upon the closing of the polls and the casting of the ballot by the last person then entitled to vote, the Canvassing Board, comprised of the City Attorney, or his or her designee, County Supervisor of Elections, or his or her designee, and the City Clerk, or his or her designee shall publicly record the results of the election and proceed to tabulate the absentee ballots and certify the results. (See Art. II, Sec. 2) (Amended 11/08/16)

**C. Installation** At 8:00 P.M. on the day following any City election in the City of South Miami, the Commission shall meet in special session for the sole purpose of receiving the certified report of the Canvassing Committee and thereupon the installing officer, selected by the duly elected incoming Mayor, shall install the newly elected Mayor and Commission members after they shall have taken the prescribed oath of office.

**D. Oath of Office** Every officer of the City shall, before entering upon the duties of his or her

**ARTICLE V (Cont'd)**

office, take and subscribe to the following oath or affirmation to be filed and kept in the office of the City Clerk.

"I solemnly swear (or affirm) that I will support the constitution and will obey the laws of the United States and of the State of Florida; that I will, in all respects, observe the provisions of the Charter and the Ordinances of the City of South Miami and will faithfully discharge the duties of the Office of

" \_\_\_\_\_ ".

**SECTION 6. Initiative and Referendum**

**A. General Authority**

**(1) Initiative** The qualified voters of the City shall have power to propose ordinances to the Commission and, if the Commission 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.

**(2) Referendum** The qualified voters of the City shall have power to require reconsideration by the Commission of any adopted ordinance and if the Commission 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 or levy of taxes.

**B. Commencement of Proceedings, Petitioners; Committee; Affidavit**

A minimum of 100 qualified votes may commence initiative or referendum proceedings by filing with the City Clerk an affidavit stating that 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 Commission 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 City Clerk shall issue the appropriate petition blanks to the petitioners' committee.

## ARTICLE V (Cont'd)

### **C. Petitions**

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

(2) **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.

(3) **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 or she personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his or her presence, that he or she believes them to be the genuine signatures of the persons whose names they purported to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

(4) **Time for Filing Initiative or Referendum Petitions.** Petitions must be filed within thirty (30) days after the Commission has failed to adopt a proposed ordinance or failed to reconsider an adopted ordinance when requested to do so.

### **D. Procedure after Filing.**

(1) **Certificate of Clerk; Amendment.** Within ten (10) days after the petition is filed, the City Clerk shall complete a certificate as to its sufficiency, specifying if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee by registered mail. 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 within two days after receiving the copy of his or her certificate, and files a supplementary petition upon additional papers within ten (10) days after receiving the copy of such certificate. Within five (5) days after such supplementary petition is filed, the Clerk 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. If a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request Commission review under subsection 2, below, within the time required, the Clerk shall promptly present his or her certificate to the Commission and the certificate shall then be a final determination as to the insufficiency of the petition.

**ARTICLE V (Cont'd)**

**(2) Commission Review** If a petition has been certified insufficient and the petitioners' committee does not file a 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 Commission. The Commission shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and the Commission's determination shall then be a final determination as to the sufficiency of the petition. However, the Commission shall not declare a petition to be insufficient unless the findings of the City Clerk are illegal or are factually in error.

**(E) Referendum Petitions; Suspension of Effect of Ordinance.**

When a referendum petition is filed with the City Clerk, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

- (1)** There is a final determination of insufficiency of the petition; or
- (2)** The petitioners' committee withdraws the petition; or
- (3)** The Commission repeals the ordinance.

**(F) Actions on Petitions**

**(1) Action by Commission** When an initiative or referendum petition has been finally determined sufficient, the Commission shall promptly consider the proposed initiative ordinance in the manner provided in Article II or reconsider the referred ordinance by voting its repeal. If the Commission fails to take action on a proposed initiative ordinance without any change in substance within thirty (30) days or fails to repeal the referred ordinance within thirty (30) days after the date of the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters of the City.

**(2) Submission to Voters** Such City election on a proposed or referred ordinance shall be held not less than thirty (30) days and not later than seventy five (75) days from the date of the final Commission vote thereon. If no regular City election is to be held within the period prescribed in this subsection, the Commission shall provide for a special election otherwise the vote shall be held at the same time as such regular election. Copies of the proposed or referred ordinance shall be made available at the polls, and at City Hall at least fifteen (15) days prior to the election thereon.

**ARTICLE V (Cont'd)**

**(3) Withdrawal of Petitions.** An initiative or referendum petition may be withdrawn at any time prior to the tenth day preceding the day scheduled for a vote by the electors by filing with the City Clerk a request for withdrawal signed by at least twenty (20) members of the petitioners' committee. Upon filing such request the petition shall have no further force or effect and all proceedings thereon shall be terminated.

**(G) Results of Election**

**(1)** If 15% of the qualified electors vote on a proposed initiative ordinance and a majority 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 Commission. 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.

**(2)** If 15% of the qualified electors vote on a referred ordinance and a majority vote against it, it shall be considered repealed on certification of the election results.

**(3)** An ordinance adopted by the electorate through initiatory proceedings shall not be amended or repealed by the Commission for a period of one year after the election at which it was adopted but thereafter it may be amended or repealed by a 4/5 vote.

**(4)** After a referendum petition has been filed, if the Commission repeals the ordinance involved before the petition is vote on by the electorate, then the Commission may not reconsider such ordinance for a period of one (1) year after its repeal.

**(H) Recall**

A Commission member may be recalled as provided by state law. (Amended 2/8/00)

## ARTICLE VI

### GENERAL PROVISIONS

#### **SECTION 1. Conflict of Interest**

The City Commission shall, by ordinance, enact a conflict of interest ordinance, which shall be at least equal to the standards of conduct for public officers and employees as set forth in the state statutes and the Miami-Dade County code. A Commission member may not serve as a voting member of any board that reports to the Commission. (Amended 2/8/00)

#### **SECTION 2. Bonding**

All employees of the finance department, and any other officer or employee required by the City Commission, shall be bonded in an amount and by a surety that is approved by the Commission. The premiums on bonds shall be paid by the City. (Amended 2/8/00)

#### **SECTION 3. Publication Requirement**

Whenever publication is required herein, such publication shall be made by posting, at a conspicuous place in the City Hall, for the requisite period and, if the publication is of an ordinance, said ordinance shall, at least ten (10) days prior to adoption, be noticed once in a newspaper of general circulation in the City of South Miami. The notice of proposed enactment shall state the date, time and place of the meeting, title or titles of the proposed ordinance, and the place or places within the City of South Miami where such proposed ordinance may be inspected by the public. Said notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.

#### **SECTION 4. Franchise**

(A) Definitions:

(1) The word “franchise” shall mean all contracts, including any and all agreements of whatever nature, that grant a right to use real property owned by the City of South Miami, including leases, when the contract or agreement provides for a term greater than three (3) years and with two (2) one (1) year extensions , or grants, gives, conveys, mortgages, encumbers or otherwise gives a person any interest in any real property owned by the City of South Miami for a limited term of years.

(2) The word “person” shall mean any individual, legal entity or any other entity, legal or otherwise.

**ARTICLE VI (Cont'd)**

(3) The word “newspaper of general circulation” shall mean a newspaper of general circulation in the City of South Miami. (Amended 2/11/14)

(4) The word “local newspaper” shall mean a newspaper distributed in the City of South Miami, whether free to its readership or otherwise available.

(B) Restrictions:

The City of South Miami shall not enter into any franchise contract or agreement, as defined in this Section, to or with any person, as defined in this Section, nor shall the City renew an existing franchise, grant an extension to the franchise term or in any other way make a material change to an existing franchise contract or agreement unless the City enacts an ordinance, in accordance with the requirements of this Section, approving the contract or agreement.

(C) Requirements:

All proposed ordinances approving any franchise contract or agreement, the renewal of an existing franchise, the grant of an extension to the franchise term or any material change to an existing franchise, may only be enacted if approved by a vote of 4/5 of all members of the City Commission. The term limit for all franchise contracts or agreements, as defined in this Section, including any renewal or extension to the term of same, shall be (50) years. No change in ownership or control of an artificial person with whom the City has entered into a franchise contract or agreement, as defined by this Section, nor shall any ownership or control be transferable in any way, including but not limited to assignments and conveyances of an ownership interest, unless it is approved by an ordinance enacted by members of the City Commission. The enactment of all ordinances required by this Section shall be heard at two public meetings/hearings and the title of the ordinance shall be published in a newspaper of general circulation, as defined in this Section, and it shall also be published in a local newspaper, as defined in this Section, at least five (5) days before the first meeting (first reading of the ordinance). At least ten (10) days before the second and final reading of the franchise ordinance, its title shall be published in a newspaper of general circulation and, in addition, it shall be published in a local newspaper, if available, so as to provide as much notice as possible, but, in any event, the notice need not exceed ten (10) days before the second reading. The timeliness of the publication in the local newspaper shall not be grounds for challenging the ordinance unless such a newspaper is available for publication and then only if it was published less than five (5) days before the second reading.



## **ARTICLE VI (Cont'd)**

### **(D) Custodian of Documents:**

Copies of all transfers, mortgages, encumbrances, changes in ownership or control, or other documents affecting the title or use of real property owned by the City shall be filed with the City Manager and City Clerk on or before the date of the first publication of the title to the proposed ordinance, as required by this Section.

(Amended 2/14/12)

### **SECTION 5. Powers of the City**

The City of South Miami exercising its power under State Law, may exceed, by ordinance, any limiting feature of the State Law unless the same is prohibited under the Home Rule Amendment and Charter of Metropolitan Dade County.

### **SECTION 6. Autonomy**

Neither the Commission nor any of its members shall direct or request the removal of any person from office by the City Manager or by any of his or her subordinates, or in any manner take part in the removal of officers and employees in the administrative service of the City. Except for the purpose of inquiry and for the purpose of interviewing any candidate for department director prior to appointment by the City Manager subject to the City Commission's approval, the Commission and its members shall deal with the administrative service solely through the City Manager and neither the Commission nor any member thereof shall give orders to any subordinates of the City Manager, either publicly or privately. This section shall not apply to officers appointed under Article II, Section 7 of this Charter. (Amended 11/02/10)

### **SECTION 7. Amendments**

This Charter may be altered or amended at any time as provided by the Home Rule Amendment and Charter of Metropolitan Dade County or as provided by the Florida Statutes, whichever shall prevail and be in effect.

### **SECTION 8. Ratification**

All official acts and ordinances passed by the City, including any ordinances annexing certain unincorporated territory to the City and thereby enlarging its boundaries, done prior to the passage of this act are hereby ratified, cured and made legal as fully and completely as though all requirements and details by any general or special law government relating to the same have been done and performed.

**ARTICLE VI (Cont'd)**

**SECTION 9.    *Invalidity***

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 in which such holding shall directly apply.

**SECTION 10. *Acceptance***

This Charter shall become effective upon its being approved by a majority of the qualified electors of the City of South Miami voting at a referendum election to be called for that purpose by the City Commission of South Miami in accordance with Section 5.03 of the Metropolitan Dade County Charter and upon being filed with the Clerk of the Circuit Court as provided in said Charter.

**SECTION 11. *Repeal***

Any and all special acts of the State of Florida in conflict are hereby superseded.

**SECTION 12. *Transition***

A. Upon adoption of this Charter as herein provided, the Code of Ordinances, City of South Miami, and all other ordinances and resolution theretofore passed and adopted shall continue in full force and effect until thereafter amended, superseded or repealed; and all officers, employees and appointees of the City shall continue in office for the terms to which they were elected or appointed.

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

C. The title, rights and ownership of property, uncollected taxes, claims, judgements, decrees, liens, suits, actions and choices in action, of whatsoever kind or nature held or owned by

**ARTICLE VI (Cont'd)**

the existing municipality shall not be affected or abated by the adoption of this Charter.

D. No debt or contract of the present municipality, including but not limited to bonds or certificates of indebtedness, heretofore issued, shall be impaired or avoided by the adoption of this Charter.

**Schedule (A)**  
**Boundaries**

Beginning at a point in the center of Southwest 57 Avenue at the Southeast corner of Section 36, Township 54 South, Range 40 East; thence running Northerly along the East line of Section 36, and Section 25, Township 54 South, Range 40 East, said line being the center line of Southwest 57 Avenue (Red Road) a distance of approximately 7,920 feet, to the Northeast corner of the Southeast quarter of aforesaid Section 25; thence running Westerly along the North line of the aforesaid Southeast quarter of Section 25, the same being the center line of Southwest 64 Street (Hardee Road) approximately 1,660 feet to the East line of HAMLET, said point being the Southeast corner of the West half of the Southeast quarter of the Southwest quarter of the Northeast quarter of aforesaid Section 25 thence running Northerly along the East line of HAMLET and AVOCADO HOMES a distance of 1,988.2 feet, more or less, to the Northeast corner of the West half of the Southeast quarter of the Northwest quarter of the Northeast quarter of Section 25, thence running Westerly to the Northwest corner of the Southeast quarter of the Northwest quarter of the Northeast quarter of Section 25, aforesaid, a distance of 336.08 feet, more or less; thence running Northerly along the East line of the Northwest quarter of Northwest quarter of Northeast quarter to the North line of aforesaid Section 25 (center line of Southwest 56 Street, sometimes known as Miller Drive) a distance of 663.53 feet, more or less; thence running Westerly along the North line of Section 25, Township 54 South, Range 40 East, said line being the center line of Southwest 56 Street, to the Southeast corner of the West half of the Southeast quarter of the Southeast quarter of the Southwest quarter of Section 24, Township 54 South, Range 40 East, a distance of 1,011.45 feet, more or less, thence running Northerly along the East line of LA HAMACA SUBDIVISION, to the Northeast corner of the Southwest quarter of the Northeast quarter of the Southeast quarter of the Southwest quarter of Section 24, aforesaid, a distance of 1,024.81 feet, more or less, thence running Westerly a distance of 337.59 feet, more or less, to the Northwest corner of the Southwest quarter of the Northeast quarter of the Southeast quarter of the Southwest quarter of Section 24, aforesaid, said point being in the center line of Southwest 63 Avenue; thence running Northerly along the center line of said Southwest 63 Avenue a distance of 343.07 feet, more or less, to the Northeast corner of the East half of the West half of the Southeast quarter of the Southwest quarter of Section 24, aforesaid; thence running Westerly a distance of 337.59 feet, more or less, to the Northwest corner of the East half of the West half of the Southeast quarter of the Southwest quarter of Section 24; thence running Southerly a distance of 1,371.49 feet, more or less to the center line of Southwest 56 Street (Miller Road) at the Southwest corner of the East half of the West half of the Southeast quarter of the Southwest quarter of Section 24 aforesaid; thence running Westerly along the center line of South west 56 Street, said line being the South line of Section 24 aforesaid, to the Southeast corner of the Southwest quarter of the Southwest quarter of Section 24, aforesaid, a distance of 337 feet, more or less, thence running Northerly along the East line of the Southwest quarter of the Southwest quarter of Section 24, a distance of 660 feet, more or less to the North line of the South half of the Southwest quarter of the Southwest quarter of aforesaid Section 24; thence running Westerly along said North line of the South half of the Southwest quarter of the Southwest quarter of Section 24, to the Southwest corner of the East half of the Northeast

quarter of the Southwest quarter of the Southwest quarter of Section 24, a distance of 337 feet, more or less; thence running North along the West line of the East half of the Northeast quarter of the Southwest quarter of the Southwest quarter of Section 24, a distance of 660 feet, more or less, to the Northeast corner of the West half of the Northeast quarter of the Southwest quarter of the Southwest quarter of said Section 24; thence running Westerly along the North line of the West half to the Northeast quarter of the Southwest quarter of the Southwest quarter of said Section 24, a distance of 330 feet, more or less, to the Northeast corner of the Northwest quarter of the Southwest quarter of the Southwest quarter of aforesaid Section 24, said point being in the center line of Southwest 65 Avenue, at the Northeast corner of GRANDVIEW PARK SUBDIVISION; thence running North along the East line of the West half of the Northwest quarter of the Southwest quarter of Section 24, to the Northwest corner of the Southeast quarter of the Northwest quarter of the Southwest quarter of the aforesaid Section 24, a distance of 660 feet, more or less; thence East 330 feet, more or less, to the Southeast corner of the West half of the Northeast quarter of the Northwest quarter of the Southwest quarter; thence North 660 feet, more or less, to the center line of Southwest 48 Street, said point being the Northeast corner of the West half of the Northeast quarter of the Northwest quarter of the Southwest quarter; thence West along the center line of Southwest 48 Street 990 feet, more or less, to the Northwest corner of Southwest quarter of aforesaid Section 24, said point being the intersection of the center line of Southwest 48 Street and Southwest 67 Avenue; thence running Southerly along the center line of Southwest 67 Avenue; the same being the West line of aforesaid Sections 24 and 25, to the Southwest corner of the Northwest quarter of the Northwest quarter of Section 25, aforesaid; said point being the intersection of the center line of Southwest 67 Avenue and 60 Street; thence running Westerly along the North line of the South half of the Northeast quarter of Section 26, Township 54 South, Range 40 East, to a point on the Easterly Right of Way line of the Florida East Coast Railway Company (Miami Belt Line); thence run Southerly along the Easterly Right of Way line of aforesaid Florida East Coast Railway Company (Miami Belt Line) to a point on the North line of the Southeast quarter of aforesaid Section 26; thence Easterly along the North line of the Southeast quarter of aforesaid Section 26 to the Northwest corner of the Northeast quarter of the Southeast quarter of aforesaid Section 26; thence run Southerly along the West line of the East half of the Southeast quarter of Section 26, aforesaid, and the West line of the East half of the Northeast quarter of Section 35, Township 54 South , Range 40 East, said line also being the center line of Southwest 69 Avenue, a distance of 5,280 feet, more or less, to the Southwest corner of the Southeast quarter of the Northeast quarter of Section 35, Township 54 South, Range 40 East; thence running easterly 1,980 feet, more or less, to the Northwest corner of the North half of the Northeast quarter of the Northwest quarter of the Southwest quarter of Section 36, Township 54 South, Range 40 East; thence South 330 feet, more or less, to the Southwest corner of the North half of the Northeast quarter of the Northwest quarter of the Southwest quarter of Section 36; thence East 660', more or less, to the Southeast corner of the North 1/2 of the Northeast quarter of the Northwest quarter of the Southwest quarter of Section 36; thence North 330 feet, more or less, to the Northeast corner of the North half of the Northeast quarter of the Northwest quarter of the Southwest quarter of said Section 36; thence running Easterly along the center line of Southwest 80 Street, also the South line of the Northwest quarter of aforesaid Section 36 to a point at the intersection of the center line of

Southwest 80 Street and Southwest 62 Avenue, said point being the center of Section 36, Township 54 South, Range 40 East, a distance of 1,320 feet, more or less, thence running South along the center line of Southwest 62 Avenue, said line being the West line of the Southeast quarter of Section 36 to the center line intersection at Southwest 88 Street; said point being the Southwest corner of the Southeast quarter of aforesaid Section 36, a distance of 2,640 feet, more or less,; thence Easterly along the center line of Southwest 88 Street 2,640 feet, more or less, to the Southeast corner of Section 36, Township 54 South, Range 40 East, said point being the Point of Beginning. ALSO the following described areas in Section 24, Township 54 South, Range 40 East: All of the Northeast quarter of the Southeast quarter of the Southeast quarter of Section 24, Township 54 South, Range 40 East, the same being the ORCHARD HEIGHTS and RIVIERA PINES SUBDIVISIONS.

All of the Northeast quarter of the Northeast quarter of the Southeast quarter of Section 24, comprising a Re-subdivision of Blocks 5, 6 and the North half of Block 15, BILTMORE HEIGHTS SUBDIVISION, together with all the streets and avenues lying in the Northwest quarter of the Northeast quarter of the Southeast quarter and the Northeast quarter of the Northwest quarter of the Southeast quarter and the Northwest quarter of the Northwest quarter of the Southeast quarter and the Northeast quarter of the Northeast quarter of the Southwest quarter and all of the tract of land in the East half of the Northwest quarter of the Northeast quarter of the Southwest quarter of Section 24, together with the following described lots: Lots 9, 10, 11 and 12 of Block 9; Lots 1, 2, 3 of Block 13; Lots 20 and 21 of Block 1; of BILTMORE HEIGHTS as recorded in Plat Book 21 at Page 34 of the Public Records of Dade County, Florida.

ALSO:

The East 80 feet of Tract 4, BILTMORE HEIGHTS REVISED, recorded in the Plat Book 39 at Page 65 of the Public Records of Dade County, Florida; also formerly known as Lots 23, 24, 25 and the East 5 feet of Lot 22 in Block 4 of BILTMORE HEIGHTS, recorded in Plat Book 21 at Page 34 of the Public Records of Dade County, Florida.

ALSO including all of the following described lands lying in the North half of the North half of Section 24:

Beginning at the Northeast corner of Section 24, at the intersection of the center lines of Southwest 57 Avenue (Red Road) and Southwest 40 Street (Bird Road); thence running Westerly along the North line of Section 24 (center line of Southwest 40 Street) to the Northwest corner of the East half of the Northwest quarter of the Northwest quarter of the said section; thence running South along the west line of the East half of the Northwest quarter of the Northwest quarter to the Southwest corner of the East half of the Northwest quarter of the Northwest quarter of said Section 24; thence running easterly along the South Line of the North half of the North half of Section 24 to the Southeast corner of the West half of the Northeast quarter of the Northeast quarter of said Section, a distance of 3,960 feet, more or less, thence running

Northerly along the West line of the East half of the Northeast quarter of the Northeast quarter of Section 24 to the Northwest corner of the South half of the Southeast quarter of the Northeast quarter of the Northeast quarter of said section a distance of 330 feet, more or less, thence running Easterly along the North line of the South half of the Southeast quarter of the Northeast quarter of the Northeast quarter of said section to the East line of Section 24, a distance of 660 feet, more or less, to the Northeast corner of the South half to the Southeast quarter to the Northeast quarter of the Northeast quarter of Section 24, said point being in the center line of Southeast 57 Avenue; thence running North along the East line of Section 24 to the place of beginning a distance of 990 feet, more or less; however, excluding from the above description certain parcels and tracts of land, but not excepting any rights of way for highways within the area described, the exceptions being as follows:

All lots in the Southeast quarter of the Northwest quarter of the Northwest quarter and the East half of the Northeast quarter of the Northwest quarter of the Northwest quarter of Section 24, Township 54 South, Range 40 East, Tract 1-A and Lots 10, Tracts 2-A, 2-B, Lot 9 and Tract 2-C, Tracts 4-A, 4-B, and 4-C, the North 10 feet of the East 50 feet of Lot 5 and Tract 3-D in ALTA TERRA a subdivision of the East half of the West half of the Northwest quarter of the Northeast quarter of Section 24 as recorded in Plat Book 35 at Page 26 of the Public Records of Dade County, Florida.

ALL lots in the Northeast quarter of the Northwest quarter of the Northeast quarter and in the North half to the Southeast quarter of the Northwest quarter of the Northeast quarter of Section 24, Township 54 South, Range 40 East.

ALL lots in Blocks 4 and 5, with the exception of Lots 21 and 24 in Block 5, ALL lots in Block 3 with the exception of Lots 1,2,9,10,11,12,13,14,15, and 16,; ALL lots in Block 6, with the exception of Lots 8, 9, 13, 14, 15, 16, 17, 18, 19, and 20; ALL lots in Block 7, with the exception of Lots 14, 17, 18, 19, 20, 21, 22, 24, 25, 26, and 27; as contained in WESTERFIELD MANOR, Section One, Two and Three located in the Northeast quarter of the Northeast quarter of Section 24, aforesaid, and recorded in Plat Book 18 at Page 47 and in Plat Book 27 at Page 9 of the Dade County Public Records, and the jurisdiction and powers of the City of South Miami shall extend over all lands within said area, whether platted or unplatted, and including, but not limited to all streets, sidewalks, alleys and parks and to and over all water, waterways, canals and submerged lands whatsoever within the said boundaries.

ALSO, beginning at the intersection of the centerline of Southwest 59 Avenue and the centerline of Southwest 64 Street; thence run easterly along the centerline of Southwest 64 Street to the intersection of the East boundary line extended of UNIVERSITY GARDENS SUBDIVISION NO. 1 as recorded in Plat Book 89 at Page 15 of the Public Records of Dade County, Florida; thence run Northerly along the East boundary line of said UNIVERSITY GARDENS SUBDIVISION NO. 1, to the Northeast corner of Block 2, of said UNIVERSITY GARDENS SUBDIVISION, NO. 1, thence run westerly along the North line of said Block 2, of UNIVERSITY GARDENS SUBDIVISION NO. 1 to a point on the East right of way line of Southwest 59 Avenue; thence run Northerly along the East

right of way line of Southwest 59 Avenue to the intersection of the North right-of-way line of Southwest 62 Street, thence run westerly along the North right-of-way of Southwest 62 Street to the West boundary line of UNIVERSITY MANOR FIRST ADDITION as recorded in Plat Book 48, at Page 45 of the Public Records of Dade County, Florida, thence run southerly along the west line of said University Manor First Addition and the West line of STORMPROOF SUBDIVISION as recorded in Plat Book 47 at Page 12 of the Public Records of Dade County Florida, to a point on the centerline of Southwest 64 Street; thence run East along the centerline of Southwest 64 Street to the intersection of the centerline of Southwest 59 Avenue and the centerline of Southwest 64 Street, the same being point of beginning.

ALSO the NW 1/4 of the NE 1/4 of the NE 1/4 and the NE 1/4 of the NW 1/4 of the NE 1/4 all of Section 25, Township 54 South, Range 40 East, less the North 50 feet thereof, Dade County, Florida.

The title and jurisdiction over all streets, thoroughfares, sidewalks, parks, alleys and public lots within the City of South Miami and all other property and municipal public works of the City now owned, possessed or operated by it is hereby vested in the City of South Miami, as created by this act as may be contracted or expended.