

Subpart A - CHARTER

PREAMBLE

We, the people of the City of Miami Beach, in order to secure for ourselves the benefits and responsibilities of home rule and in order to provide for a municipal government to serve our present and future needs, do hereby adopt this Charter and as part thereof adopt the following Citizens' Bill of Rights.

CITIZENS' BILL OF RIGHTS

- (A) This government has been created to protect the governed, not the governing. In order to provide the public with full and accurate information, to promote efficient administrative management, to make government more accountable, and to insure to all persons fair and equitable treatment, the following rights are guaranteed:
1. *Convenient access.* Every person has the right to transact business with the City with a minimum of personal inconvenience. It shall be the duty of the City Manager and the City Commission to provide, within the City's budget limitations, reasonably convenient times and places for required inspections, and for transacting business with the City.
 2. *Truth in government.* No municipal official or employee shall knowingly furnish false information on any public matter, nor knowingly omit significant facts when giving requested information to members of the public.
 3. *Public records.* All audits, reports, minutes, documents and other public records of the City and its boards, agencies, departments and authorities shall be open for inspection at reasonable time and places convenient to the public.
 4. *Minutes and ordinance register.* The City Clerk shall maintain and make available for public inspection an ordinance register separate from the minutes showing the votes of each member on all ordinances and resolutions ¹ [2] listed by descriptive title. Written minutes of all meetings and the ordinance register shall be available for public inspection not later than thirty (30) days after the conclusion of the meeting.
 5. *Right to be heard.* So far as the orderly conduct of public business permits, any interested person has the right to appear before the City Commission or any City agency, board or department for the presentation, adjustment or determination of an issue, request or controversy within the jurisdiction of the City. Matters shall be scheduled for the convenience of the public, and the agenda shall be divided into approximate time periods so that the public may know approximately when a matter will be heard. Nothing herein shall prohibit the City or any agency thereof from imposing reasonable time limits for the presentation of a matter.
 - 6.

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

7. *No unreasonable postponements.* No matter once having been placed on a formal agenda by the City shall be postponed to another day except for good cause shown in the opinion of the City Commission, or agency conducting such meeting, and then only on condition that any person so requesting is mailed adequate notice of the new date of any postponed meeting. Failure by an individual to receive such notice shall not constitute mandatory grounds for canceling the hearing or rendering invalid any determination made at such hearing.
8. *Right to public hearing.* Upon a timely request of any interested party a public hearing shall be held by any City agency, board, department or authority upon any significant policy decision to be issued by it which is not subject to subsequent administrative or legislative review and hearing. This provision shall not apply to the law department of the City nor 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 municipal administrative decision or proceeding when the decision is reserved at the conclusion of the hearing. The notice shall be accompanied by a statement of the grounds for denial.
10. *Managers' and attorneys' reports.* The City Manager and City Attorney shall periodically make a public status report on all major matters pending or concluded within their respective jurisdictions.
11. *Budgeting.* In addition to any budget required by state statute, the City Manager shall prepare a budget showing the cost of each department for each budget year. Prior to the City Commission's first public hearing on the proposed budget required by state law, the City Manager shall make public a budget summary setting forth the proposed cost of each

individual department and reflecting the personnel for each department, the purposes therefor, the estimated millage cost of each department and the amount of any contingency and carryover funds for each department.

12. *Quarterly budget comparisons.* The City 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 City shall be made by an independent certified public accounting firm in accordance with generally accepted auditing standards. The independent City Auditor shall be appointed by the City Commission; both appointment and removal of the independent City Auditor shall be made by the City Commission. A summary of the results of the independent City Auditor's annual audit, including any deficiencies found, shall be made public. In making such audit, proprietary functions shall be audited separately and adequate depreciation on proprietary facilities shall be accrued so the public may determine the amount of any direct or indirect subsidy. Duties, method of selection, and method of compensation of the independent City Auditor shall be established by ordinance.
14. *Representation of public.* The City Commission shall endeavor to provide representation at all proceedings significantly affecting the City and its residents before state and federal regulatory bodies.
15. *Natural resources and scenic beauty.* It shall be the policy of the City of Miami Beach to conserve and protect its natural resources and scenic beauty, which policy shall include the abatement of air and water pollution and of excessive and unnecessary noise.
16. *Nondiscrimination.* No person shall be deprived of any rights and privileges conferred by law because of race, color, national origin, religion, gender, sexual orientation, disability, marital status, familial status, or age.
17. *Nondiscrimination in City Employment and Benefits.* The City of Miami Beach shall not discriminate in employment practices and benefits offered based upon an employee or applicant's race, color, national origin, religion, gender, sexual orientation, gender identity, disability, marital status, familial status, or age.
18. *Ethics in Government.* The public's confidence and trust in City of Miami Beach operations and government must meet the most demanding ethical standards and demonstrate the highest level of achievement in its adherence to ethics laws. City of Miami Beach officials and employees are agents of the people and hold their positions for the benefit of the public—as public servants, they are to observe in their official acts a high standard of conduct and to discharge faithfully the duties of their office regardless of personal considerations and interests, recognizing that promoting the public interest and maintaining the respect of the

people in their government must be of foremost concern. In upholding the values of accountability and responsibility, all city officials and employees shall abide by applicable codes of ethical conduct, and be subject to all penalties provided for in such regulations.

19. *Improvement of Public Educational Facilities available to Miami Beach Citizenry.* It shall be the policy of the City of Miami Beach to cooperate with the Miami-Dade County public schools, and with other appropriate governmental agencies, which will strive to improve the quality and quantity of public educational facilities available to the citizenry of the City of Miami Beach, Florida.

20. *City Assistance to Condominium and Co-op Owners.* The City of Miami Beach hereby acknowledges the purpose and duties of the City's Administration as assisting condominium and co-op owners to navigate through the City's permitting process; to facilitate the resolution of other condominium-related issues with other outside agencies; and to act as a liaison between condominium or co-op owners, management firms and the City.

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

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

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

(Res. No. 2003-25288, 7-30-03; Res. No. 2003-25391, 7-30-03; Res. No. 2003-25443, 12-10-03; Res. No. 2009-27152, 7-22-09; Res. No. 2013-28299, 7-19-13; Res. No. 2013-28302, 7-19-13; Res. No. 2013-28303, 7-19-13)

ARTICLE I. - CORPORATE EXISTENCE, FORM OF GOVERNMENT, BOUNDARY AND POWER

Sec. 1.01. - Corporate existence; form of government; Charter.

The City of Miami Beach (hereafter "City") in Dade County, Florida, which was created by the Florida Legislature, shall continue as a municipal corporation with a Commission-City Manager form of government as provided herein and with this document as the Charter for the City.

Sec. 1.02. - Description of corporate boundary.

The area described in Appendix A of this Charter shall constitute the corporate boundary of the City of Miami Beach.

Sec. 1.03. - Powers of City.

- (a) *General.* The City 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 expressly prohibited by law or this Charter.
- (b) *Disposition of City Property.*
1. The sale, exchange, conveyance, or lease of ten (10) years or longer (including option periods) of City-owned park, recreation, or waterfront property shall require approval by a majority vote of the voters in a City-wide referendum. This provision shall be liberally construed in favor of the preservation of all park, recreation and waterfront lands.
 2. The sale, exchange, conveyance or lease of ten years or longer of the following properties shall also require approval by a majority vote of the voters in a City-wide referendum: (1) *Lots West of the North Shore Open Space Park:* All City-owned property bounded by 87th Street on the North, Collins Avenue on the East, 79th Street on the South, and Collins Court on the West; (2) *Cultural Campus:* All City-owned property bounded by 22nd Street on the North, Park Avenue on the West, 21st Street on the South, and Miami Beach Drive on the East; (3) *72nd Street Parking Lot:* The City-owned surface parking lot bounded by 73rd Street on the North, Collins Avenue on the East, 72nd Street on the South, and Harding Avenue on the West; and (4) *Lincoln Road Parking Lots:* All City-owned surface parking lots in the vicinity of Lincoln Road located within the area bounded by 17th Street on the North, Euclid Avenue on the East, 16th Street on the South, and West Avenue on the West.
 3. The sale, exchange, conveyance or lease of ten years or longer of the following properties shall require approval by vote of at least sixty (60) percent of the City's voters voting thereon in a City-wide referendum: (1) *Convention Center Parking Lots:* All City-owned surface parking lots located in the Civic and Convention Center District, generally bounded by Lincoln Lane on the South, Washington Avenue on the East, Meridian Avenue on the West and Dade Boulevard on the North; (2) *Convention Center Campus:* All City-owned property, except for the Convention Center and Carl Fisher Club House, located within the Civic and Convention

Center District (includes City Hall, 1701 Meridian Street, 555 17th Street, 21st Street Community Center, The Fillmore Miami Beach/Jackie Gleason Theater, and the 17th Street Parking Garage). All local laws, charter provisions and ordinances of the City in conflict with this provision are hereby repealed. This provision shall become effective immediately upon acceptance of the certification of election results by the City Commission.

4. The sale, exchange, conveyance or lease of ten years or longer of all remaining City-owned property (other than public beach rights-of-way — see (d) herein below, and other than those properties addressed more specifically in this Charter section 1.03) shall, as provided by Ordinance, require approval by a majority 4/7 vote of all members of the Planning Board and 6/7 vote of the City Commission. The sale, exchange, conveyance or lease of ten years or longer of property owned by the Miami Beach Redevelopment Agency (Agency) shall require approval by a majority 4/7 vote of all members of the Planning Board and 7/8 vote of the Agency.
 5. The terms of this Charter section shall not apply to any valid written contractual commitments or bids or bonded indebtedness, which commitments, bids or indebtedness existed prior to January 14, 2004; nor shall this Charter section apply to any City property which is the subject of a settlements of a claim which the City had notice of as of January 14, 2004.
- (c) The floor area ratio of any property or street end within the City of Miami Beach shall not be increased by zoning, transfer, or any other means from its current zoned floor area ratio as it exists on the date of adoption of this Charter Amendment [November 7, 2001], including any limitations on floor area ratios which are in effect by virtue of development agreements through the full term of such agreements, unless any such increase in zoned floor area ratio for any such property shall first be approved by a vote of the electors of the City of Miami Beach. The provision shall not preclude or otherwise affect the division of lots, or the aggregation of development rights on unified abutting parcels, as may be permitted by ordinance. In addition, this provision shall not apply to settlements of any claims the City has notice of as of December 10, 2003. This Charter Amendment shall become effective on the day after its approval by the voters of the City of Miami Beach. No rights in derogation of the provisions of this Amendment under any ordinance or any other action of the Miami Beach City Commission between the time this measure is approved by the Miami Beach City Commission for placement on a ballot and the adoption of this Amendment shall be enforced against the City of Miami Beach.
- (d) *Public Beach Rights-of-Way.* The sale, exchange, conveyance, lease, or any other transfer of any City interest in a public beach right-of-way (extending eastward from Collins Avenue/Ocean Drive to the erosion control line) shall require approval by a majority vote of the voters in a Citywide

referendum, excluding permits of no greater than one year, and excluding the sale, exchange, conveyance, lease or any other transfer not exceeding 10% in width of such public beach right-of-way.

- (e) *Public Street-Ends Bordering GU, GC, or Waterfront Land.* The sale, exchange, conveyance, lease, or any other transfer of any City interest in any public street-end bordering on land designated "Government Use", "Golf Course" or Waterfront land, shall require either the unanimous approval of those members of the City Commission with power to vote or approval by a majority vote of the voters in a Citywide referendum, excluding a sale, exchange, conveyance, lease, or any other transfer not exceeding 10% in width of such street-end which advances a significant public purpose, and excluding underground utility easements.
- (f) *Management and Concession Agreements with Private Operators.* The City shall not enter into a management agreement or concession agreement with a private party or operator, having a term of ten (10) years or longer (including option periods), for the management, operation, and/or use of City-owned property, or of a City-owned facility, without obtaining the approval of a majority 4/7 vote of all members of the Planning Board and 6/7 vote of the City Commission. For purposes of this subsection, the term "City property" shall include the City's public beach areas in the City of Miami Beach, from Government Cut to 87th Terrace. The term "private party or operator" shall exclude any political subdivision and/or governmental agencies, departments, and/or divisions of the United States, the State of Florida, or Miami-Dade County.

(Res. No. 97-22413, 6-4-97; Res. No. 98-22763, 6-3-98; Res. No. 2001-24539, 7-18-01; Res. No. 2003-25441, 12-10-03; Res. No. 2004-25464, 1-14-04; Res. No. 2006-26236, 7-12-06; Res. No. 2009-27134, 7-15-09; Res. No. 2009-27153, 7-22-09; Res. No. 2013-28297, 7-19-13; Res. No. 2014-28709, § 3(Exh. A), 7-30-14; Res. No. 2015-29197, 11-9-15)

Sec. 1.04. - Construction.

The powers of the City shall be construed liberally in favor of the City, limited only by the United States and Florida Constitutions, general and special law, and specific limitations in this Charter.

The term "City Commission" includes the Mayor and the six (6) City Commissioners.

Sec. 1.05. - Public vote required prior to enacting less stringent standards to city's code of conduct.

Any change to the City of Miami Beach code of conduct, set forth in City Code Chapter 2, Article VII, whether through exemption, repeal or otherwise, which creates less stringent standards of conduct shall first be approved by a majority vote of the electors of the City of Miami Beach.

(Res. No. 2007-26598, 7-11-07)

Sec. 1.06. - Public vote required prior to enacting reduced powers and duties for Historic Preservation Board, or less stringent historic preservation standards or regulations.

Any change to City Code Chapter 118, Article II, Division 4, "Historic Preservation Board," or City Code Chapter 118, Article X, Divisions 1—4, "Historic Preservation," which, whether through amendment, exemption, repeal, or otherwise, reduces the powers and duties of the City's Historic Preservation Board, or creates less stringent historic preservation standards or regulations, shall, before becoming effective be approved by a majority of the voters in a Citywide referendum.

(Res. No. 2012-27963, 7-18-12, approved by voters 11-6-12)

Sec. 1.07. - Public vote required to repeal, diminish, or otherwise negatively impact a right or duty established in Miami Beach City Code Chapter 62 that inures to the benefit of a member of the classification categories of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, marital status, familial status, and age as defined in City Code Section 62-31.

Any revision to Chapter 62 of the Code of the City of Miami Beach, entitled Human Relations, that repeals, diminishes, or otherwise negatively impacts a right or duty established in that section that inures to the benefit of a member of the classification categories of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, marital status, familial status, and age as defined in section 62-31 must be approved by a majority of the voters in a city-wide referendum.

(Res. No. 2013-28287, 7-17-13)

ARTICLE II. - CITY COMMISSION

Sec. 2.01. - Number and selection.

The City Commission shall consist of six (6) City Commissioners and a Mayor who shall be elected at large. Each City Commissioner shall be a qualified elector of the City. City Commissioners shall be elected for groups numbered and designated I—VI. No candidates for the office of Commissioner shall be permitted to qualify for more than one (1) group, or for the office of Mayor.

Commissioners in groups numbered I, II and III shall be elected at the general election to be held on the first Tuesday in November, 1997 and at each general election each four (4) years thereafter. Commissioners in groups numbered IV, V, and VI shall be elected at the general election to be held on the first Tuesday in November, 1995 and at each general election each four (4) years thereafter. The Mayor shall be elected at the general election to be held on the first Tuesday in November, 1995 and at each general election each two (2) years thereafter.

A candidate must receive a majority of the votes cast to be deemed elected. If no candidate receives a majority of the votes cast, there will be a runoff election between the two candidates in each group receiving the highest number of votes; should a tie result, the outcome shall be determined by lot. This runoff election shall occur two weeks from the date of general election.

In the event that no candidate has qualified in any group, or for Mayor, a vacancy shall be deemed to have occurred, and shall be filled as provided by the Charter of the City of Miami Beach for the filling of a vacancy.

(Res. No. 2003-25289, 7-30-03; Res. No. 2003-25391, 7-30-03)

Sec. 2.02. - Term, term limits and compensation.

The term of office of the Mayor shall be two (2) years. The term of office of the City Commissioners shall be four (4) years.

The lifetime term limit for Miami Beach Commissioners shall be two (2) four-year terms and the lifetime term limit for Miami Beach Mayor shall be three (3) two-year terms respectively, measured retroactively from their first elections, said terms not including time served as a member of the City of Miami Beach Commission as a result of having filled a vacancy in the Commission pursuant to Section 2.07 of the City of Miami Beach Charter so long as such time served in filling a vacancy does not exceed 50 percent of that subject term. Service by a Commission member in excess of 50 percent of any term of office shall be considered a full term for purposes of the term limit provisions in this section.

The annual compensation for the Office of Commissioner shall be six thousand dollars (\$6,000.00) and the compensation for the Office of Mayor shall be ten thousand dollars (\$10,000.00); any increase in salary for Mayor and/or Commissioner shall require approval of a majority of the electorate voting at a City election.

(Res. No. 96-22083, § 8, 7-17-96/11-6-96; Res. No. 2014-28603, 5-21-14, passed by voters 8-26-14)

Sec. 2.03. - Powers of the city commission.

All powers of the City shall be vested in the City Commission except those powers specifically given to the Mayor, the City Manager, the City Attorney, and the City Clerk, as provided in this Charter and except those powers specifically reserved in this Charter to the electors of the City. Moreover, the City Commission shall have all powers and privileges not inconsistent herewith, granted to the City Commission of cities and towns by the general laws of the State of Florida, and shall have power to do and perform all things necessary for the government of the City not inconsistent with the constitution of the State of Florida, the Constitution and laws of the United States, and the terms and provisions of this Charter.

The City Commission shall appoint a City Manager, a City Attorney, and a City Clerk; the City Commission shall have the power to remove the City Manager, City Attorney, and/or City Clerk at any time by a majority vote of the Commission, or, in the event of an employment agreement between the parties removal shall occur pursuant to the terms of said agreement.

The Commission may also investigate the official acts and conduct of any City official, and by similar investigations may secure information upon any matter. In conducting such investigations, the Commission may require the attendance of witnesses and the production of books, papers and other evidence.

The independent City Auditor shall be appointed by the City Commission; both appointment and removal of the independent City Auditor shall be made by the City Commission. Duties, method of selection and method of compensation of the independent City Auditor shall be established by ordinance.

(Res. No. 2003-25291, 7-30-03; Res. No. 2012-27962, 7-18-12, passed by voters on 11-6-12)

Sec. 2.04. - Election of Vice-Mayor and meetings.

The City Commission shall, at its first meeting after each general election (or at its first meeting after the runoff election, if a runoff election is held), initially elect from its membership a Vice-Mayor who, during the absence or disability of the Mayor, shall perform the duties of Mayor. In the absence or disability of both the Mayor and Vice-Mayor, the said duty shall be performed by another member appointed by the Commission.

The City Commission shall meet at such times as may be prescribed by ordinance or resolution. The Mayor, or the City Manager, may call special meetings of the Commission upon at least twenty-four (24) hours written notice to each member, served personally, or left at his usual place of abode; provided, however, that the requirement of such written notice may be waived at a special meeting by the unanimous vote of the Commission. In addition, special meetings of the City Commission may be called by a majority of the members of the Commission upon written notice to the City Clerk and in accordance with the procedures set forth in a resolution of the City Commission.

No member of the City Commission shall, during the time for which he/she was elected, be appointed or elected to any City office that has been created or the emoluments thereof shall have been increased during such time.

(Res. No. 2012-27903, approved by electorate Aug. 14, 2012; Res. No. 2014-28604, 5-21-14, passed by voters 8-26-14)

Sec. 2.05. - Procedures for passing ordinances generally.

The City Commission shall have the power to make, establish and ordain for the government of the City of Miami Beach and the officers of said City, ordinances in writing not inconsistent with this Charter, the Constitution and laws of the State of Florida and of the United States, as it may deem necessary provided a majority of the City Commission shall consent thereto.

Each ordinance shall be introduced in writing and shall embrace one subject and matters properly connected therewith. The subject shall be clearly stated in the title. The enacting clause shall be "BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION..." No ordinance shall be revised or amended by reference to its title only. Ordinances to revise or amend shall set out in full the revised or amended act or section or subsection or paragraph of a section or subsection. A proposed ordinance may be read by title, or in full, on at least two (2) separate dates and shall, at least ten (10) days prior to adoption, be noticed once in a newspaper of general circulation in the municipality. The notice of proposed enactment shall state the date, time, and place of the meeting, the title or titles of proposed ordinances, and the place or places within the municipality where such proposed ordinance or ordinances 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 or ordinances. No ordinances shall be declared invalid by reason of any defect in publication or title if the published summary gives reasonable notice of its intent. At the time and place so advertised, or at any time and place to which such public hearing may, from time to time, be adjourned, the ordinance shall be read by title and a public hearing shall be held. After the hearing, the City Commission may pass the ordinance with or without amendment. The effective date shall not be earlier than ten (10) days after its enactment.

Proposed ordinances which enact or amend the City's Zoning Ordinance or comprehensive Plan of the City of Miami Beach shall be adopted according to the procedures set forth in the City of Miami Beach's Zoning Ordinance.

To meet a public emergency affecting life, health, property or public safety, the City Commission by two-thirds (2/3) vote of the members of the City Commission may adopt an emergency ordinance at the meeting at which it is introduced and may make it effective immediately. After adoption of an emergency ordinance, the City Commission shall cause it to be published in full within ten (10) days in a newspaper of general circulation in the municipality. No emergency ordinance shall be enacted which enacts or amends a land use plan or which rezones private property.

State Law reference— Uniform minimum mandatory procedure for passage of ordinances, F.S. § 166.041.

Sec. 2.06. - Duties of elected mayor.

The Mayor shall be the presiding officer at the meetings of the Commission and shall bear the title of Mayor and shall have a voice and a vote in the proceedings of the City Commission but no veto power, and he/she may use the title of Mayor in any case in which the execution of legal instruments in writing or other necessity arising from the general laws of the state so requires; he/she shall sign all deeds, contracts, bonds or other instruments of writing to the which the City is a party when authorized to do so by ordinance or resolution of the City Commission, but he/she shall not have the administrative or judicial functions and powers of the Mayor under the general laws of the state. He/she shall be recognized as the official head of the City by the Courts for the purpose of serving civil processes, by the Governor in the exercise of military

law and for all ceremonial purposes and he/she shall, in addition thereto, perform such other duties as may be by ordinance prescribed by the City Commission. The Mayor shall be the appointing authority for the employees in the Mayor's Office who are in the unclassified service.

Sec. 2.07. - Vacancies in city commission.

Any vacancy occurring in the City Commission shall be filled by the vote of the majority of the remaining members of said City Commission with the appointee serving the remainder of the unexpired term until the next succeeding general City election and with any further remainder of said unexpired term to be filled by a Commissioner elected at said general election; if the remaining members of the City Commission shall fail or refuse to fill such vacancy within 30 days after it occurs and if no general City election will be held within 90 days after the expiration of said 30 days, then a special election shall be called and held to elect a Commissioner to fill such vacancy for the remainder of the unexpired term.

Sec. 2.08. - Removals and suspensions from office of city commission.

The mayor and any City Commissioner, in addition to being removed by recall pursuant to State law, may be removed from office pursuant to the Miami Beach City Code.

ARTICLE III. - CITY ATTORNEY

Sec. 3.01. - City attorney; duties generally; appointment of personnel.

There shall be appointed by the City Commission of the City of Miami Beach, a City Attorney.

His/her compensation shall be fixed by the City Commission by ordinance. The City Attorney shall be the head of the Office of City Attorney and in this capacity shall have the following powers:

- (a) To act as the legal advisor for the municipality and all of its officers in all matters relating to their official powers and duties.
- (b) To prepare or review all ordinances, resolutions, contracts, bonds and other written instruments in which the municipality is concerned, and shall endorse on each his/her approval of the form, language, and execution thereof.
- (c) When required by the Commission, he/she shall prosecute or 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.
- (d) To attend all meetings of the City Commission.
- (e) He/she shall recommend to the City Commission for adoption, such measures as he/she may deem necessary or expedient.

- (f) He/she shall render opinions and/or reports on legal matters affecting the City as the Commission may direct.
- (g) He/she shall perform such other professional duties as may be required of him/her by ordinance or resolution of the Commission or by this Charter.
- (h) To appoint and remove all unclassified personnel in the Legal Department, including outside counsel representing the City.

ARTICLE IV. - CITY MANAGER, CITY CLERK AND ADMINISTRATIVE ORGANIZATION

Sec. 4.01. - City manager—Compensation and qualifications.

The City Manager's compensation shall be fixed by the City Commission by ordinance. The Manager shall be chosen upon the basis of his/her qualifications.

Sec. 4.02. - City manager—Functions and powers.

The City Manager shall be the chief executive officer and head of the administrative branch of the City government. Except as specifically provided otherwise in this Charter, the City Manager shall be responsible to the City Commission for the proper administration of all affairs of the City. The functions and powers of this office shall be:

- (a) To see that the laws and ordinances are enforced.
- (b) To appoint all directors of the several departments now existing, or to be created, with the consent of the City Commission, and to remove the same at will, except for the Legal Department and the City Clerk's Office.
- (c) To appoint and remove, at will, the division heads of departments or divisions now existing or to be created by law or ordinance, except for the Legal Department and the City Clerk's Office.
- (d) To appoint and remove at will, all other officers or employees in the unclassified service of the City, except the Mayor and City Commissioners, or those individuals appointed by the Commission, the employees in the Mayor's Office who are in the unclassified service for whom the Mayor shall be the appointing authority, the unclassified personnel in the Legal Department who shall be appointed and removed by the City Attorney, and the unclassified personnel in the City Clerk's Office who shall be appointed and removed by the City Clerk.
- (e) To attend all meetings of the City Commission, with the right to take part in the discussion, but having no vote.
- (f)

To recommend to the City Commission for adoption, such measures as he/she may deem necessary or expedient.

- (g) To keep the City Commission fully advised as to the financial condition and needs of the City.
- (h) To have general and special supervision and control, subject to the control by the City Commission, of the several departments now existing, except for the Legal Department and the City Clerk's Office, or hereafter to be created, and the City Manager shall be the purchasing agent of the City, with authority to delegate such duty.
- (i) To negotiate all contracts and agreements in which the City is a party subject to the approval of the City Commission.
- (j) The City Manager shall account to the City Commission for the conduct and acts of the several departments now existing, or hereafter to be created, and he/she shall have supervision and control of the heads of the said departments, and such heads as appointed by the City Manager shall be accountable to the City Manager for the conduct and acts of their departments, except for the Legal Department and the City Clerk's Office.
- (k) To perform such other duties as may be prescribed by the City Commission by ordinance or resolution and which are not in conflict with the duties of the City Clerk.

(Res. No. 2003-25444, 12-10-03; Res. No. 2012-27962, 7-18-12, passed by voters 11-6-12)

Sec. 4.03. - City clerk—Appointment and compensation.

The City Clerk shall be appointed by the City Commission and shall be the Department head of the City Clerk's Office. The City Clerk's compensation shall be fixed by the City Commission by ordinance.

(Res. No. 2012-27962, 7-18-12, passed by voters 11-6-12)

Sec. 4.04. - City clerk—Duties and authority.

The City Clerk shall have the following duties and authority:

- (a) To give notice of, attend, and keep minutes of all City Commission meetings.
- (b) To serve as the City of Miami Beach's official Records Custodian.
- (c) To maintain records of the City Commission, City Boards, and City Committees.
- (d) To perform all duties and functions relative to municipal elections in accordance with applicable state, county, and City law.
- (e) To appoint all personnel in the City Clerk's Office and to appoint and remove, at will, all unclassified personnel in the City Clerk's Office. To have supervision and control of the City Clerk's Office subject to the control of the City Commission and consistent with the provisions of the City Code and City Charter.

- (f) To perform such other duties as the City Commission may prescribe from time to time which are not in conflict with the duties of the City Manager.
- (g) To maintain the seal of the City of Miami Beach and attest the signatures of the Mayor and City Manager, as the case may be, on all documents if needed.
- (h) To otherwise account to the City Commission for the conduct and acts of the City Clerk's Office.
- (i) To perform such other professional duties as may be required of him/her by ordinance or resolution of the Commission or by this Charter.

(Res. No. 2012-27962, 7-18-12, passed by voters 11-6-12)

ARTICLE V. - BUDGET AND FINANCE

Sec. 5.01. - General power.

The City of Miami Beach shall have the power to borrow money, contract loans, and issue bonds, notes, and other obligations or evidences of indebtedness in accordance with Florida law.

Sec. 5.02. - Budget.

In accordance with Florida law the City Commission shall adopt an annual budget.

The City of Miami Beach shall consider the long-term economic impact (at least 5 years) of proposed legislative actions.

(Res. No. 2003-25442, 12-10-03)

State Law reference— Procedure for adoption of budget, F.S. § 205.065.

Sec. 5.03. - Tax on occupancy of hotels, etc., and on certain foods and beverages.

The City of Miami Beach is authorized and shall have the right to impose, levy and collect a tax on the rent of every occupancy of a room or rooms in any hotel, motel, or apartment house when the renting is for the period of occupancy for imposition of a transient rental tax as established by F.S. § 212.03 (as amended); and upon the total sales price of all items of food and alcoholic beverages sold at retail by any establishment engaged in the sale of alcoholic beverages and/or food; said tax to be paid by the person paying the rent or paying for the food and/or alcoholic beverage herein specified, and to be collected by the person renting said rooms or selling said food or alcoholic beverage for the use and benefit of the City. Sales or rentals exempted by F.S. ch. 212 shall also be exempt from the tax hereby authorized. The total receipts from the above tax levy shall be kept and maintained in a separate fund and shall in no event be transferred

to the general fund, and the said fund shall be used for the promotion of the tourist industry, which shall include, but not be restricted to the following: publicity, advertising, news bureau, promotional events, convention bureau activities, capital improvements, and the maintenance of all physical assets in connection therewith; and for the payment of the reasonable and necessary expenses of collecting, handling, and processing of said tax.

The Commission shall have the authority and power by ordinance to determine and fix the amount of said tax, after public hearing, not in excess of two percent (2%), except that an additional tax of up to two percent (2%) (hereinafter, the Additional Tax) may be imposed, levied and collected on the rent of every occupancy of a room or rooms in any hotel, motel, or apartment house when the renting is for the period of occupancy for imposition of a transient rental tax as established by F.S. § 212.03 (as amended). Such Additional Tax shall be used, subject to the rights of bondholders, as follows:

- a) One percent (1%) of such Additional Tax shall be used:
 1. fifty percent (50%) for public incentives for convention center headquarters hotel development and, upon retirement of all debt related thereto, to be used as in 2. below; and
 2. fifty percent (50%) for promotion of tourism related activities and facilities, and developing, improving, and maintaining tourism related public facilities; provided that this one percent (1%) of such Additional Tax shall not be imposed until such time as the City of Miami Beach has entered into an agreement with a developer for development of a convention center headquarters hotel.
- b) Subject to the passage of an ordinance by the Commission before imposing same, up to another one percent (1%) of such Additional Tax, shall be used solely for the purposes of expanding, enlarging, renovating, and/or improving the Miami Beach Convention Center, including payment of debt service related thereto; and provided, further (i) that this up to one percent (1%) portion of the Additional Tax referenced in this subsection (b) shall not be imposed until such time as the City of Miami Beach has entered into an agreement with a developer for the expansion, enlargement, renovation, and/or improvement of the Miami Beach Convention Center; and (ii) that the excess of this up to one percent (1%) portion of such Additional Tax may be used, after providing for payment of annual debt service and related obligations, to establish and maintain a capital renewal and replacement fund for improving and maintaining the Convention Center.

The authority created pursuant to Section 8 of Chapter 67-930 shall have no right to receive any portion of such Additional Tax.

(Res. No. 2012-27902, approved by electorate Aug. 14, 2012)

Editor's note— The resort tax in this section was authorized by Laws of Fla., ch. 67-930, which required this Charter provision and which general law of local application, Laws of Fla., ch. 67-930, is recognized and continued in F.S. § 125.0104(3)(b).

ARTICLE VI. - ELECTIONS

Sec. 6.01. - Electors.

Any person who is a resident of the City of Miami Beach, who has qualified as an elector of the State of Florida and who registers in the manner prescribed by law shall be a qualified elector of the City.

State Law reference— Registration of electors, F.S. § 97.105; qualification of electors, F.S. §§ 97.041, 166.032.

Sec. 6.02. - Nonpartisan elections.

All elections for the office of City Commission shall be conducted on a nonpartisan basis without any designation or political party affiliation.

Sec. 6.03. - Qualifying.

The City Commission shall cause to be placed on the ballot to be used in the general election the name of any qualified elector of the City residing within the City at least one year prior qualifying and who, within the four (4) consecutive days immediately following the first Monday of September prior to said general election, shall have paid to the City Clerk of the City of Miami Beach the sum equal to seven and one-half percent (7½%) of the annual salary of the office to which he/she seeks election as a qualifying fee and shall have been photographed and fingerprinted by the identification bureau of the Police Department of the City, unless such person shall file with the City Clerk no later than noon of the 14th day prior to the first day of qualifying as a candidate for such office, a petition approving his candidacy signed by sufficient qualified and registered voters to constitute not less than two percent (2%) of this number of such voters as the same shall be on the date sixty (60) days prior to the first day of qualifying as a candidate for office, in the event the Miami-Dade County Elections Department has not issued its certificate verifying the required number of valid signatures on the subject qualifying petition by 5:00 p.m. on the second day of the City's four-day qualifying period, the City's 7½% qualifying fee shall be waived by the City in the event the subject candidate should otherwise qualify for office pursuant to this Charter section. All candidates qualifying for office shall have taken, signed and subscribed to an oath or affirmation in writing in which he/she shall state (1) the title of the office for which he/she is a candidate; (2) that he/she is a qualified elector of the City of Miami Beach, Florida, and has resided in the City at least one year prior to qualifying; (3) his/her legal residence, by street

and number; (4) that he/she is qualified under the ordinances (including Miami Beach City Code Chapter 38 governing "Elections") and Charter of the City of Miami Beach, Florida, to hold the office for which he/she is a candidate.

Such oath or affirmation shall be substantially in the following form:

STATE OF FLORIDA)	
		SS:
COUNTY OF DADE)	

Before me, an officer authorized to administer oaths, personally appeared to me well known who, being sworn, says that he/she is a candidate for the office of City Commissioner (Group No. _____ (or Mayor) for the City of Miami Beach, Florida; that he/she is a qualified elector of said City residing within the City at least one year before qualifying for City of Miami Beach elected office; that his/her legal residence is: _____, Miami Beach, Dade County, Florida; that he/she is qualified under the ordinances (including Miami Beach City Code Chapter 38 governing "Elections") and Charter of said City to hold such office; and that he/she has paid the required qualification fee.

/s/ ____
Signature of Candidate

Sworn to and subscribed before me this _____ day of _____ A.D., 19 _____ .

/s/ ____
Authorized Officer

The City Commission shall, by ordinance, prescribe the manner of holding general and special elections not inconsistent with the provisions hereof, and shall, by ordinance or resolution, prescribe polling places in the various voting precincts in the City.

(Res. No. 2003-25290, 7-30-03; Res. No. 2003-25391, 7-30-03; Res. No. 2012-27964, 7-18-12, passed by voters 11-6-12; Res. No. 2012-27965, 7-18-12, passed by voters 11-6-12)

Sec. 6.04. - Vacancy in Candidacy.

If the death, withdrawal or removal of a qualified candidate for Miami Beach City Commission following the end of the qualifying period results in fewer than two candidates remaining on the ballot for that office, there shall be one supplemental qualifying period of five (5) days beginning on the first business day following the vacancy in candidacy. No further supplemental qualifying period shall thereafter be established at all if a vacancy in candidacy occurs within forty-five (45) days prior to the date of the election for the office of City Commissioner or Mayor. If within forty-five (45) days prior to the date of the election for the office of City Commissioner or Mayor, there is only one candidate on the ballot for an elected office, said candidate shall be declared elected and no election for that office shall be required.

(Res. No. 2014-28605, 5-21-14, passed by voters 8-26-14)

State Law reference— Filling vacancy in candidacy, F.S. § 166.031(6).

ARTICLE VII. - INITIATIVE AND REFERENDUM

[DIVISION 1. - ORDINANCES]

Sec. 7.01. - Power of initiative.

Upon the presentation to the City Commission of a petition or petitions signed by the qualified electors therein, in number equal to ten percent (10%) of the registration asking for a submission to the electors of a proposed ordinance fully set forth in said petition or petitions, being a proposed ordinance that said body has authority to adopt, it must either adopt such measure without alteration within thirty (30) days of the issuance of a certificate of a petition's sufficiency by the Metropolitan Dade County Elections Department or submit the same to its electorate at the next succeeding City election occurring more than sixty (60) days after issuance of the Metropolitan Dade County Election Department's certificate as to the petition's sufficiency. But, if said petition or petitions are signed by qualified electors in number equal to fifteen percent (15%) of said registration, then such measure if not so adopted by the said City Commission, must be submitted to such electorate at a special election to be called within sixty (60) days after issuance of the Metropolitan Dade County Election Department's certificate as to the petition's sufficiency.

Any measure that the said City Commission or the electorate of the City has authority to adopt, as herein provided, said City Commission may submit to a vote of its electors at a general or special election.

Editor's note— Section 5.03 of the Metropolitan Dade County Charter provides for the exclusive method of adopting, amending, or revoking municipal charters or abolishing its existence as authorized in § 11 of Article VIII of the Florida Constitution of 1885, as amended—therefore the term "measure" in City Charter, § 7.01, is limited to proposed ordinances. Dade County Charter § 5.03, which is the mandatory procedure for amending the City of Miami Beach Charter is printed for informational purposes as follows:

"Sec. 5.03. Municipal charters.

"(A) Except as provided in Section 5.04, any municipality in the county may adopt, amend, or revoke a charter for its own government or abolish its existence in the following manner. Its governing body shall, within one hundred twenty (120) days after adopting a resolution or after the certification of a petition of ten (10) percent of the qualified electors of the municipality, draft or have drafted by a method determined by municipal ordinance a proposed charter, amendment, revocation, or abolition which shall be submitted to the electors of the municipalities. Unless an 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.

"(B) All municipal charters, amendments thereto, and repeals thereof shall be filed with the Clerk of the Circuit Court."

Sec. 7.02. - Power of referendum.

Upon the presentation to the City Commission of a petition or petitions signed by the qualified electors therein in number equal to ten percent (10%) of the registration asking that any ordinance adopted by the City Commission be repealed, such ordinance must either be repealed by the City Commission within thirty (30) days of the issuance of a certificate of a petition's sufficiency by the Metropolitan Dade County Elections Department or submit same to its electorate at the next succeeding City election occurring more than sixty (60) days after issuance of the Metropolitan Dade County Elections Department's certificate as to the petition's sufficiency. But, if said petition or petitions are signed by qualified electors in number equal to fifteen percent (15%) of said registration, then such measure asking for ordinance repeal, if not so adopted by the said City Commission, must be submitted to such electorate at a special election to be called within sixty (60) days after issuance of the Metropolitan Dade County Election Department's certificate as to the petition's sufficiency.

[DIVISION 2. - ORDINANCES AND CHARTER AMENDMENTS]

Sec. 7.03. - Form of petition.

The form of petition shall be available in the City Clerk's Office; this petition form shall be used for the purpose of initiative and referendum.

Sec. 7.04. - Filing, examination, and certification of petitions.

All petition papers comprising an initiative or referendum petition shall be presented to the City Commission as one (1) instrument. Within ten (10) days after a petition is formally presented to the City Commission, the City Clerk shall determine whether each petition paper is in proper form. Within ten (10) days from determining that the petition is in proper form, the City Clerk shall transmit the petition papers to the Metropolitan Dade County Department of Elections for purposes of determining whether the petition as a whole has been signed by a sufficient percentage of the City electors. The Metropolitan Dade County Elections Department shall complete a certificate as to the petition's sufficiency (concerning requisite number of signatures); such certificate shall specify if it is insufficient, and a copy of this certificate shall be promptly sent to the City Clerk. The City Clerk shall then promptly forward the certificate on to the petition's initiator, and shall also present the certificate to the City Commission.

Sec. 7.05. - Amendment of petitions.

An initiative or referendum petition certified as insufficient for lack of the required number of valid signatures may be amended with additional signatures one (1) time; the initiator of the petition may do so by filing with the City Clerk supplementary documents bearing additional signatures within thirty (30) days after receiving the copy of the certificate of the Metropolitan Dade County Elections Department regarding the insufficiency of the petition. No further action on that petition shall be permitted, but the insufficiency shall not prejudice the filing of a new petition for the same purpose.

Sec. 7.06. - Results of election.

If the election results of a measure shall be approved by the voters, said measure shall go into effect upon acceptance by the City Commission of the certification of the election results.

If the provisions of two (2) or more measures approved and adopted at the same election conflict, then the measure receiving the highest affirmative vote shall control.

ARTICLE VIII. - SCHEDULE, MISCELLANEOUS

Sec. 8.01. - Effective date; review.

Upon approval by the City's electorate, this Charter will become effective on November 3, 1993 pursuant to the special election of the City of Miami Beach held on the 2nd day of November, 1993. This Charter shall be reviewed ten (10) years from November 3, 1993 and each tenth year thereafter.

Sec. 8.02. - Ordinances preserved.

All ordinances in effect upon the adoption of this Charter, to the extent not inconsistent herewith, shall remain in full force and effect until amended or repealed.

Sec. 8.03. - Repeal of former Charter provisions.

Subject to Section 8.06 hereinbelow, all Charter provisions in effect prior to the effective date of this Charter, including but not limited to those contained in Laws of Fla., 1917, ch. 7672 as amended, are expressly repealed.

Sec. 8.04. - Precedence over related laws.

In case of conflict between the provisions of this Charter and the provisions of the City's Related Laws, Charter terms shall control.

Sec. 8.05. - Officers, employees and agents.

The adoption of this charter, except as otherwise specifically provided, shall not affect or impair the rights, privileges or immunities of persons who are City officers, employees or agents at the time of adoption of this charter. All elected officers holding office on November 2, 1993, shall continue in office for the terms to which elected.

Sec. 8.06. - Debts, contracts and assessments preserved.

No debt or obligation of contract of, or assessment by the City shall be impaired as a result of the adoption of this Charter, but all such debts, obligations and assessments shall pass to and be binding upon the City and other parties thereto in accordance with their terms and, to the extent applicable, the charter of the City as in existence at the time of their incurrence or imposition, as applicable. All obligations and rights arising in connection with projects financed pursuant to former City Charter Sections 29 and 30 shall be unaffected and shall remain in full force and effect as if said Sections 29 and 30 had survived the adoption of this Charter.

Sec. 8.07. - Existing rights, obligations, duties and relationships.

All rights, obligations, duties and relationships now existing by law or agreement between the City of

Miami Beach and other governmental units shall be unaffected and shall remain in full force and effect.

Sec. 8.08. - Severability.

If any section, sentence, clause or phrase of this Charter is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Charter.

Sec. 8.09. - Hospital district.

When a hospital district is rezoned, such property shall be rezoned to a district or combination of districts with a floor area ratio no greater than the zoning of abutting land (sharing lot line), except that hospital district property exceeding 15 acres may exceed this limitation if adequate buffers are provided to protect abutting uses.

(Res. No. 2007-26696, 10-17-07)

Editor's note— See also § 142-456(a).

APPENDIX A

Begin in Dade County, Florida, at a point 1,500 feet East of where the North line of Section 2, in Township 53 South, of Range 42 East, intersect to low water mark of the Atlantic Ocean as shown in Section 5 of the Miami Beach City Code; thence run in a Southerly direction, meandering 1,500 feet East of the low water mark of the Atlantic Ocean to the intersection of the Southeasterly production of a line bearing North 50°50′ West, said line being that same course which is described in the deed from the Internal Improvement Fund of the State of Florida to the City of Miami, filed for record on August 31, 1942 in Deed Book 2247 at Page 260 of the Public Records of Dade County, Florida, said course being described in said instrument as, "Thence run North 50°50′ West on a line which is 700 feet Northeasterly from and parallel to the Northeasterly side of a tract of land heretofore acquired by the Trustees of the Internal Improvement Fund, through Master's Deed, dated May 21, 1940 and recorded in Deed Book 2065 at Page 487, Public Records of Dade County, Florida, a distance of 4480 feet, more or less, to a point of intersection with the East line of the West one-half of said Section 9"; thence run North 50°50′ West, along the above-described line for a distance of 4480 feet more or less, to a point of intersection with the East line of the West half of Section 9, Township 53 South, Range 42 East; thence run Northerly along the East line of the West half of said Section 9 for a distance of 1,320 feet to the point of intersection with a line which is 100 feet North of and parallel with the North boundary of Fisher Island; thence run North 88°04′ East along said line being 100 feet North of and parallel with the Northerly boundary of Fisher Island to the point of intersection with the Southerly boundary of Miami Municipal Channel; thence run Northwesterly along the Southerly line of said Miami Municipal Channel to the point of

intersection with the Northerly line of the F.E.C. Railway company channel; thence run Easterly, along the Northerly line of F.E.C. Railway Company Channel to a point of intersection with a line which is 80 feet Northeasterly from and measured at right angles to the centerline of the Miami Municipal Channel, said line being the same which is described in the deed from the Internal Improvement Fund of the State of Florida to the City of Miami, filed for records January 21, 1932 in Deed Book 1472 at Page 474 of the Public Records of Dade County, Florida; thence run Northwesterly, along the aforesaid described line to a point of intersection with the East boundary of the City of Miami Corporate Limit as authorized by chapter 116117 (No. 282) 1925 Laws of the State of Florida [Chapter 57-1583 Senate Bill No. 1043].

Thence Northeasterly along the said Easterly Corporate Limits of the City of Miami to a point on the centerline of the General Douglas MacArthur Causeway, said point being 1917.47 feet Northwesterly from the intersection of the Southerly production of the centerline of Fountain Street as shown on the Plat of Palm Island as recorded in plat Book 6 at Page 54 of the Public Records of Dade County, Florida, with the centerline of said General Douglas MacArthur Causeway; thence continue in a Northerly direction to a point on a line running East and West through the center of Sections 22 and 23 in Township 53 South, Range 42 East, produced West, and 10,249.6 feet West of the Northeast corner of the Southeast quarter of said Section 22; thence continue in a Northerly direction following as near as may be the center of Biscayne Bay to the intersection with the South boundary line of the City of North Bay Village; thence run Easterly, along the South boundary line of the City of North Bay Village to the point of intersection with the East line of Section 9, Township 53 South, Range 42 East, the last described course being parallel to the North line of said Section 9 and, the above mentioned point of intersection located 4,622.70 feet (Measured along the section line) Southerly of the Northeast corner of said Section 9, according to the map of the City of North Bay Village prepared by Geirseh Engineering. Co. dated September 7, 1951; thence run Northerly, along the East line of said Section 9 for a distance of 3,979.37 feet to a point of intersection with the Southeasterly extension of the centerline of the draw bridge of 79th Street Causeway, located on the East viaduct of Biscayne Bay, as shown in the abovementioned map of the City of North Bay Village; thence run Northwesterly through the centerline of said draw bridge to the intersection with the centerline of Biscayne Bay, this course being along the Northeasterly boundary line of the City of North Bay Village; thence run in a Northeasterly direction, following as near as may be the center of Biscayne Bay to the intersection of Biscayne Bay with the North line of Section 2, Township 53 South, Range 42 East projected West; thence run East to a point 1,500 feet East of where the North line of said Section 2 intersects the low water mark of the Atlantic Ocean which is the place of beginning, which territorial boundaries shall include all islands, sand bars and submerged land lying within said described territory.

Excluded from the corporate limits of the City of Miami Beach, the following described lands located in Fisher Island ² [4]:

Parcel No. 1 (Tracts 1 through 8), Parcel No. 2 and parcel No. 3, known as Garfield E. Wood property, ousted from the City of Miami Beach jurisdiction by court Order No. 24531, recorded in Book 194 at Page 28, of the Public Records of Dade County, Florida and more particularly described as follows:

From a concrete monument designated as Monument "F" which is 1,153 feet West and 2,102 feet South of the Northeast corner of the Northwest quarter of Section 10, Township 54 South, Range 42 East and on the Southern boundary line of the United States Government Reservation, said Monument "F" being the POINT OF BEGINNING of the tract herein described, run North 65°13' West along said Southerly boundary a distance of 884.84 feet to a point; thence run North 24°47' East, along the Westerly boundary of the United States Government Reservation a distance of 400 feet; thence South 88°12'40" West for a distance of 894.20 feet; thence South 88°4' West for a distance of 100 feet to the Northeast corner of Belcher Oil Company property; thence South 1°56' East a distance of 520 feet to a point located on the North right-of-way line of "B" Street, according to the Plat of Commercial Subdivision of Harbor Terminal, recorded in Plat Book 23, Page 67, of the Public Records of Dade County, Florida; thence run North 88°04' East, along the North right-of-way line of said "B" Street for a distance of 966.02 feet to a point marked PRM#5 on the above-mentioned plat of Commercial Subdivision of Harbor Terminal; thence run along the arc of a curve concave to the South having a central angle of 26°43' and a radius of 610.31 feet for a distance of 284.54 feet; thence run South 1°6' East, along the East right-of-way line of First Street as shown in said Plat of Commercial Subdivision of Harbor Terminal for a distance of 1,334.10 feet; thence run South 88°4' West along the South line of "D" Street, shown in said Plat of Commercial Subdivision of Harbor Terminal for a distance of 1,680 feet to the point of intersection with the West right-of-way line of Fifth Street; thence run North 1°56' West along the West right-of-way line of Fifth Street and its Northerly extension for a distance of 1,873.07 feet to a point labeled Mon. "B" in the above-mentioned plat of Commercial Subdivision of Harbor Terminal; thence run South 88°04' West for a distance of 1,975 feet more or less, to a point on the Eastern side of "Lemon City" channel, said point being the Northwest corner of the property described in Trustees of the Internal Improvement Fund of the State of Florida, Deed No. 16936 of the Alton Beach Realty Company, dated August 6, 1920 and recorded in Deed Book 230, at Page 5, of the Public Records of Dade County, Florida; thence run South 9°50' East, a distance of 650 feet along the Eastern side of said channel to a point; thence South 50°50' East a distance of 3,600 feet plus or minus, to the high-water line of the Atlantic Ocean; thence run Easterly and Northeasterly, meandering said high-water line of the Atlantic Ocean to the point where said shore line intersects the Southern boundary line of the United States Government Reservation; thence run North 65°13' West, along

said boundary line to Monument "F" the POINT OF BEGINNING, together with riparian rights and water privileges if any, adjacent, appurtenant or belonging thereto. Also excluded parcel 4 known as Garfield E. Wood property, ousted from the City of Miami Beach jurisdiction by Court Order No. 24531, recorded in Book 194, at Page 28, Public Records of Dade County, Florida, situate, lying and being in Commercial Subdivision of Terminal Harbor, according to the Plat thereof recorded in Plat Book 23, Page 67, of the Public Records of Dade County, Florida, containing the following lots:

Lots 3, 5, 8, 10, 11, 12, 13, 14, 15, 18, 20 and 21 in Block 1

Lots 2, 3, 4, 6, 7, 10, 11, 13, 14, 15, 16, 17, 18, 21 and 22 in Block 2

Lots 1, 2, 3, 4, 7, 10, 11, 12, 13, 14, 15, 18, 19, 20, 21 and 22 in Block 3

Lots 1, 2, 3, 4, 5, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 28, 29, 30, 31, 32, 34, 35, 36, 40, 41, 42, 44 and 46 in Block 4.

An undesignated parcel of land lying in said Block 4 between Lots 5 and 12 for which lot numbers 6 to 11, both inclusive, have been reserved but not indicated on the Plat of records.

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18, 19, 20, 21, and 22, in Block 5

Lots 1, 2, 3, 4, 7, 8, 9, 10, 14, 15, 18, 19 and 20 in Block 6 and

Lots 3, 4, 5, 6, 7, 8, 9, 14, 15, 16, 17, 18, 19 and 20 in Block 7.

Also excluded from the corporate limits of the City of Miami Beach the following described lands located in Fisher Island:

Parcels 1, 2, 3 and 4, known as Belcher Oil Company property, located in Section 9 and 10, Township 53 South, Range 42 East, ousted from the City of Miami Beach jurisdiction by Court Order No. 59L1004-M, recorded in Book 437 at Page 144, of the Public Records of Dade County, Florida, dated January 21, 1960 and more particularly described as follows:

From a concrete Monument "F" which is 1,153 feet West and 2,102 feet South of the Northeast corner of the Northwest quarter of Section 10, Township 54 South, Range 42 East, and on the Southern boundary of the United States Government Reservation run North 65°13'00" West a distance of 1,684.59 feet to a point; thence run South 88°04' West for a distance of 100 feet to the POINT OF BEGINNING of the tract herein described; thence run South 1°56' East for a distance of 520 feet to a point on the North line of "B" Street as shown in Commercial Subdivision of Harbor Terminal, according to the Plat thereof recorded in Plat Book 23 at Page 67, of the Public Records of Dade County, Florida; thence run South 88°04' West, along the North line of said "B" Street for a

distance of 500 feet; thence run North 1°56' West for a distance of 520 feet to a point located on the bulkhead line of Fisher Island; thence run North 88°04' East for a distance of 500 feet to the POINT OF BEGINNING. Said lands containing 5.968 acres more or less.

Also excluded from the corporate limits of the City of Miami Beach the following described lands located on Fisher Island:

Portion of Section 10, Township 54 South, Range 42 East, deannexed from the jurisdiction of the City of Miami Beach by Ordinance No. 91-72 of the City Commission for the City of Miami Beach and more particularly described as follows:

Commence at the North-Northwest corner of "Lindisfarne on Fisher Island Section 3" according to the Plat thereof as recorded in Plat Book 135, Page 15 of the Public Records of Dade County, Florida; thence South 65°13'00" East, along the North line of the aforementioned "Lindisfarne on Fisher Island Section 3" a distance of 786.41 feet to the POINT OF BEGINNING of the herein described property; thence continue South 65°13'00" East along said North line a distance of 233.35 feet; thence North 27°39'54" West a distance of 113.80 feet; thence North 79°36'35" West a distance of 124.28 feet; thence South 55°23'23" West a distance of 44.69 feet to the POINT OF BEGINNING.

Said lands situate, lying and being on Fisher Island, Dade County, Florida, and containing 0.231 acres more or less.