

## Sec. 2. - Term Limitations.

No person shall be elected to serve as Mayor for more than eight consecutive years. Likewise, no person shall be elected to serve as City Commissioner for more than twelve consecutive years.

The time served by an individual chosen, appointed or elected to fulfill an unexpired term resulting from a vacancy on the City Commission shall not be counted in applying these term limits.

(Ord. No. 2009-12 (as amended), § 3, January 27, 2009 (referendum April 14, 2009); Res. No. 2009-86, April 17, 2009 (approving results of April 14, 2009, referendum authorized by Ord. No. 2009-12))

## Sec. 3. - Election to Office; Commission as Judge of Qualifications, Requirements, Ballots, Canvassing, and Qualifying Periods.

The members of the Commission shall be residents of the City and shall have the qualifications of electors therein. The Commission shall be the judge of the election and qualifications of its own members in accordance with the parameters outlined in this Charter.

- (a) *Age and Residency Requirements.* To be a candidate for Mayor or Commissioner, an individual must: be a U.S. Citizen and have resided in the City of Coral Gables for at least one year prior to the election for which he or she seeks office.
- (b) *Ballots, Canvassing.* It is the duty of the City Commission to have ballots prepared in advance of an election and to complete all prerequisites required of the Commission under this Charter or any other governing provision of Florida law. After an election, the Commission shall canvass the election returns and declare its results as soon as may be practicable.
- [(c) Reserved.]
- (d) *Candidates, Fee; Rebate of Excess Fees.* Any person who meets the qualifications for a candidate, as outlined in this Charter, may offer himself or herself as a candidate for City Commissioner by submitting a written declaration to the City Clerk and paying a \$200.00 filing fee, which shall be used to off-set the costs of the election. The name of any person so qualified shall be placed on the official ballot. Within 30 days after the election, the City Clerk shall advise the Commission as to the costs of the election and the amount of candidate filing fees collected. If the amount of candidate filing fees collected is greater than the election's cost, the City Commission shall order that such excess be returned to the candidates in a pro rata manner.
- (e) *Qualifying Period.* To be qualified to run for Mayor or Commissioner, candidates must file their written declaration of intent with the City Clerk, and pay the required candidate filing fee, between noon of the 50th day and noon of the 46th day prior to the election. This period shall constitute a four-day qualifying period.

(Compiled Charter, §§ 8, 10; as added, repealed, re-enacted, and/or amended by: Laws of Fla. ch. 16373 (1933); Laws of Fla. ch. 21161 (1941); Laws of Fla. ch. 22240 (1943); Laws of Fla. ch. 23217 (1945); Laws of Fla. ch. 24444 (1947); Ord. No. 2453, § 2, February 8, 1983 (referendum April 12, 1983); Res. No. 24160, § 2, April 13, 1983 (accepting and approving results of April 12, 1983 referendum authorized by Ord. No. 2453); Ord. No. 3216, § 1, January 14, 1997; Ord. No. 3302, § 1, December 16, 1997)

#### Sec. 4. - Rules of Procedure; Expulsion, Quorum.

The Commission may determine its own rules of procedure, censure its own members for misconduct, and may compel the attendance of members. A majority of all the members of the Commission will constitute a quorum to do business, but a smaller number may adjourn from time to time. On a unanimous vote of the other sitting members of the Commission, the Commission may remove a member on any of the grounds provided by general law for the Governor's suspension or removal of a municipal officer. But no member will be removed unless he or she is notified in writing fifteen days before any action is taken on the charge against the member and the member is given an opportunity to be heard in his or her own defense. If the Governor suspends a member before the Commission votes to expel the member, the Commission may not act further to remove the member unless and until the member is restored to office. After any restoration of the member to office, however, the Commission in its discretion may then proceed to remove the member upon notice and hearing as provided herein. The Commission's authority to remove a member hereunder is intended to supplement and not to supersede general law, as amended, regarding the suspension or removal of a municipal officer, including any provisions of general law for the member's entitlement to full back pay and such other emoluments or allowances to which the member would have been entitled for the full period of time of any suspension by the Governor.

(Compiled Charter § 11; Ord. No. 2016-10, §§ 5, 6, 2-9-2016; Res. No. 2016-263, November 15, 2016 (accepting results of the November 8, 2016 referendum authorized by Res. No. 2016-160, June 14, 2016))

#### Sec. 4.1. - Incapacity.

Upon a good faith belief that a member of the City Commission is temporarily incapacitated and unable to perform the duties of office, with reasonable accommodations, a vote of four members of the Commission may suspend the incapacitated Commissioner. The City Commission may appoint a replacement during the time of suspension.

(Res. No. 2016-260, November 15, 2016 (accepting results of the November 8, 2016 referendum authorized by Res. No. 2016-158, June 14, 2016))

#### Sec. 5. - Ordinances, Form, Procedure; Publication.

The Commission shall act only by ordinance or written resolution. All ordinances and resolutions, with the exception of ordinances making appropriations, shall be confined to a single subject, which shall be clearly expressed in the title. Ordinances making appropriations shall be confined to the subject of the appropriation. No ordinance shall be passed until it has been read at a City Commission meeting on two separate days unless the requirement of reading on two separate days has been dispensed with by a four-fifths vote of the members of the Commission. Ordinances shall be read by title only; complete copies of proposed ordinances shall be furnished to each Commissioner and shall be made available to all interested persons prior to their final adoption. Provisions shall be made for posting copies of such proposed ordinances on the City's website or in some other similar electronic format accessible to the public. The yeas and nays shall be taken upon the passage of all ordinances and resolutions and entered into the journal of the Commission's proceedings. On final passage, every ordinance and resolution shall require the affirmative vote of a majority of the Commission. In the event of a tie vote, the proposed ordinance or resolution shall be carried over to the next regular or special meeting of the Commission. In the event that the proposed ordinance or resolution does not receive a majority vote at the subsequent meeting, it shall be deemed to have failed. No member of the Commission shall be permitted to vote on matters involving the consideration of his or her own official conduct or where his or her financial interests are involved.

(Compiled Charter, § 13; amended by Ord. No. 2133, § 2(F), January 21, 1975 (referendum April 8, 1975); Res. No. 20497, April 9, 1975 (accepting and approving results of April 8, 1975 referendum authorized by Ord. No. 2133, § 2F); Ord. No. 3291, § 1, December 16, 1997)

**Editor's note**— Under Florida law, the term "ordinance" is defined as an "official legislative action of a governing body, which action is a regulation of a general and permanent nature and enforceable as a local law," § 166.041(1)(a), Florida Statutes; while the term "resolution" means an expression of a governing body concerning matters of administration, an expression of a temporary character, or a provision for the disposition of a particular item of the administrative business of the governing body." Fla. Stat. § 166.041(1)(b)(2012).

## Sec. 6. - Duties of Mayor.

The Mayor shall preside at the meetings of the Commission and perform other duties consistent with his or her office and the Charter as may be imposed by the Commission. He or she shall be recognized as the official head of the city for all ceremonial purposes, by the courts for the purpose of serving civil processes, and by the Governor for military purposes. In time of public danger or emergency, he or she may, with the consent of the Commissioners, take command of the police to maintain order and enforce the laws. The Vice Mayor shall be appointed by the Mayor, and, in the event of the Mayor's absence or disability, the Vice Mayor shall undertake these duties. In the event that the Vice Mayor is unable to undertake the Mayor's duties, the Mayor shall appoint a Commissioner to undertake the Mayor's duties.

(Ord. No. 2016-10, §§ 5, 6, 2-9-2016; Res. No. 2016-261, November 15, 2016 (accepting results of the November 8, 2016 referendum authorized by Res. No. 2016-159, June 14, 2016))

#### Sec. 7. - Compensation, Commissioners and Mayor.

The Commission may, by ordinance, provide for the compensation of its members, including the Mayor, and for the allowance of travel and office expenses.

(Compiled Charter, § 16)

#### Sec. 8. - Appointment of City Officers; Record of Proceedings.

The Commission shall keep a complete record of all of its proceedings. A copy of a record of a Commission proceeding, certified by the City Clerk, shall be competent evidence in all courts in the State of Florida. The Commission shall appoint the following officers: City Manager, City Clerk, and City Attorney. These officers shall not be members of the Commission and shall serve at the will of the Commission.

(Compiled Charter, § 17; amended by Ord. No. 3292, § 1, December 16, 1997)

**Editor's note**— The reference to "judge" and "associate judge" of the municipal court have been editorially deleted as municipal courts have been abolished. Moreover, the provisions formerly contained in this Section relating to municipal judges and municipal courts were pre-empted by Art. I, Sec. 5 of the Florida Constitution.

#### Sec. 9. - Authority to Provide Pension Plan.

The Commission of the City of Coral Gables may, by ordinance, provide for a pension plan for the officers and employees of the City. Said ordinance may be amended by the City Commission.

(Compiled Charter, § 17½; as amended by: Laws of Fla. ch. 23218 (1945); Laws of Fla. ch. 24448 (1947))

**Editor's note**— In accordance with Section 8½ of the Charter, the City Commission passed Ordinance No. 483 (December 27, 1945) (entitled "An Ordinance to Create, Maintain, and Administer a Retirement and Benefit System for the Benefit of Regular Employees and their Beneficiaries"), which set forth a proposed pension plan ordinance and called for a referendum on that proposed ordinance. Then, through a referendum, held by special election on January 8, 1946, the qualified electors of the City ratified and approved the proposed ordinance. The City Commission accepted and approved the referendum results and, thereby, adopted the pension plan ordinance through Resolution No. 2582 (January 9, 1946). Through the adoption of the Home Rule Powers Act on July 1, 1973, the Florida Legislature extended to "municipalities the broad exercise of home rule powers granted by the constitution." Fla. Stat. § 166.021(4) (2012). Moreover, pursuant to Section 166.021(4) of the Home Rule Powers Act, the Florida Legislature established that, with limited exceptions, any provisions contained within a city charter (adopted prior to

July 1, 1973) that placed limitations upon a municipality's home rule powers were nullified and repealed. Fla. Stat. § 166.021(4)(2012). Consequently, all provisions contained in this Charter that placed limitations upon the City of Coral Gables' home rule powers were nullified and repealed by Section 166.021(4) of the Home Rule Powers Act. As such, those nullified and repealed provisions have been editorially deleted from the City Charter. Additionally, the referendum provisions previously contained in this Section were editorially deleted to ensure compliance with Article I, Section 6 of the Florida Constitution. See City Attorney's Opinion No. 2016-004, dated January 6, 2016. See also *City of Miami Beach v. Bd. of Trs. of the City Pension Fund for Firefighters*, 91 So. 3d 327 (Fla. 3d DCA 2012); *General Employees Retirement Comm. v. City of North Miami Beach*, 151 So. 3d 1271 (Fla. 3d DCA 2014).

#### Sec. 10. - Initiative and Referendum.

With the exception of an appropriation ordinance or an ordinance making the annual tax levy, the electors shall have the power to approve or reject at the polls any ordinance passed by the Commission or submitted by the Commission for a vote of the electors. This power shall be known as referendum.

- (A) *Effective Dates for Ordinances.* No ordinance shall go into effect until thirty days after its passage, unless: (1) the text of the ordinance declares it to be an emergency measure for urgent public need, and for the preservation of peace, health, safety or property; and (2) the ordinance is passed by a vote of at least four-fifths of the members of the Commission. No ordinance granting or amending any public utility measure, or amending or repealing any measure adopted by the electors through a referendum, shall be regarded as an emergency ordinance.
- (B) *Referendum Petitions.* Within thirty days after the Commission passes an ordinance that is subject to referendum, a petition signed by at least ten percent of the total number of registered voters in the City may be filed with the City Clerk requesting that such ordinance, or any specified part thereof, be repealed or submitted to a vote of the electors. A referendum petition shall clearly specify the ordinance or part thereof for which repeal or a vote of the electors is sought; however, the petition is not required to contain the text of the ordinance. For purposes of determining whether at least ten percent of the City's registered voters have signed a referendum petition, the total number of registered voters in the City shall be evidenced by Miami-Dade County's official voter registration records for the City's regular election that immediately preceded the filing of the referendum petition.
  - (i) *Commission Action in Relation to Referendum Petitions.* If the City Clerk finds a referendum petition or an amended referendum petition to be sufficient: (1) the City Clerk shall certify that fact to the Commission at its next regular meeting; and (2) until the electors approve the ordinance, as provided herein, the ordinance or the part thereof specified in the referendum petition shall not go into effect and further action under the ordinance shall be suspended if the ordinance has already gone into effect. Moreover,

upon receipt of the Clerk's certification of a referendum petition, the Commission shall formally reconsider the ordinance or part thereof at issue in the referendum petition. As part of its reconsideration, the Commission shall vote on the question of: "shall the ordinance or the part thereof set forth in the referendum petition be repealed?" If the ordinance or part thereof at issue in the referendum petition is not repealed after the Commission's reconsideration of said ordinance or part thereof, the referendum petition shall be submitted to the electors at a municipal election held at least thirty days after the Commission's reconsideration vote. The Commission, by a vote of at least four-fifths of its members, may submit the ordinance or part thereof at issue in the referendum petition to the electors at a special election to be held at least thirty days after the Commission's reconsideration vote. If when submitted to the electors any ordinance or part thereof is not approved by a majority of those voting thereon, it shall be deemed repealed.

- (ii) *Form of Referendum Ballot.* Ordinances or parts thereof submitted to a vote of the electors in accordance with the referendum provisions of this Charter shall be submitted by ballot title, which shall only be prepared by the City Attorney. The ballot title may be distinct from the regular title of the ordinance at issue. The ballot title, moreover, shall be a clear and concise statement without argument or prejudicial language, which describes the substance of the ordinance or part thereof at issue. The ballot used in voting upon any ordinance or part thereof shall have below the ballot title the following proposition, one above the other in the order indicated "For the Ordinance" and "Against the Ordinance." Furthermore, any number of ordinances or parts thereof may be voted on in the same election and may be submitted on the same ballot. The form of the ballot shall also comply with all applicable requisites of the Miami-Dade County Elections Department and the applicable provisions of Florida law.
- (iii) *Preliminary Steps - Referendums for Expenditures, Bond issues, Appropriations, and Franchises.* If a referendum petition filed in relation to an ordinance passed by the Commission involves the expenditure of money, a bond issue, the granting of a franchise, or a public improvement, all preliminary steps to such actual expenditure, actual issuance or sale of bonds or actual execution of the contract for such franchise or improvement may be taken prior to the referendum election.
- (iv) *Emergency Ordinances Subject to Referendum.* Any emergency ordinance or other ordinance which, according to the provisions of Section 10(A) of this Charter, have gone into effect prior to the filing of a referendum petition thereon shall be subject to referendum as in the case of other ordinances and further action thereunder shall be suspended from the date of the Clerk's certification to the Commission that a sufficient referendum petition has been filed. If, when submitted to a vote of the electors any such ordinance is not approved by a majority of those voting, said ordinance shall be

considered repealed and all rights and privileges conferred by it shall be null and void. Nonetheless, any such repealed ordinance shall be deemed to have sufficient authority for any payments made or expenses incurred in accordance therewith prior to the date of the Clerk's certification to the Commission that a sufficient referendum petition has been filed as to the ordinance.

- (v) *Publication.* At least fifteen days prior to an election in which an ordinance is to be submitted to the voters for approval or repeal, the City Clerk shall publish the full text of every such ordinance in a newspaper of general circulation in the City of Coral Gables.
- (vi) *Conflicting ordinances.* If two or more ordinances adopted or approved at the same election conflict with respect to any of their provisions, the provisions of said ordinances that do not conflict shall go into effect. With regard to the provisions that do conflict, the provisions contained in the ordinance that receives the highest affirmative vote shall prevail.
- (vii) *Signatures and Affidavits for Referendum and Recall Petitions.* The signatures for referendum or recall petitions are not required to be appended to one paper; however, for each separate petition paper there shall be attached an affidavit of the petition circulator, as provided by this Section. Each person who signs such petition paper shall sign his or her name in ink or indelible pencil and shall indicate after their name his or her place of residence by street and number or other description sufficient to identify the place of residence. All such papers pertaining to one ordinance shall have written or printed thereon the names and addresses of at least five City of Coral Gables' electors who shall be officially regarded as filing the petition. The names and addresses of these five electors shall be provided on each paper accompanying any petition paper. These five electors, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition. All referendum petition papers shall be filed in the office of the City Clerk as one instrument. The affidavit required to be attached to each referendum and recall petition shall substantially comport with the following:

State of ____	)	
	)	SS.
County of ____	)	

BEFORE ME, the undersigned authority, personally appeared \_\_\_\_\_, who, after being first by me duly sworn, deposes and states that he/she and he/she only, personally circulated the foregoing paper, and that all signatures appended thereto were made in his/her presence and are the genuine signatures of the persons whose names they purport to be.

WITNESS my hand and official seal at the State and County aforesaid, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Notary Public, State of \_\_\_\_\_

My commission expires: \_\_\_\_\_

The foregoing affidavit shall be strictly construed and any affiant swearing falsely as regards any particular matter contained therein shall be guilty of perjury and attempted election fraud.

(viii) *Referendum and Recall Petition Papers.* All petition papers concerning a referendum or recall petition shall be assembled and filed with the City Clerk as one instrument. Within ten days after a petition is filed, the City Clerk shall determine whether each paper of the petition is properly attested and whether the petition is signed by a sufficient number of electors. The City Clerk shall declare any petition paper entirely invalid when not attested by the circulator thereof as required by Section 10(B)(i) of this Charter or upon which the affidavit of the circulation can be shown to be false in any regard. Upon completing his or her examination of the petition, the City Clerk shall attach thereto a certificate showing the result of the examination. If the City Clerk should certify that the petition is insufficient, he or she shall set forth in his or her certificate the particular manner(s) in which the petition is defective and shall at once notify the petitioners' committee of his or her findings.

(ix) *Amendment of Referendum and Recall Petitions.* A referendum or recall petition may be amended within ten days of the City Clerk certifying that the petition is insufficient, by filing an amended petition containing additional papers signed and filed in conformance with the requirements applicable to the original petition, as set forth in this Section. The City Clerk shall examine the amended petition within five days after filed. If the City Clerk determines that the amended petition is again insufficient, he or she shall file the amended petition in his or her office, notify the petitioners' committee of his or her findings, and take no further action on such insufficient petition. The City Clerk's finding that a petition is insufficient shall not prejudice the filing of a new petition for the same purpose.

(C)

*Power to Institute Ordinances, Initiatives.* The people shall have the power to propose ordinances, including the ones that grant franchises or privileges, and to have them being adopted by the voters. This power shall be known as the Initiative. The person(s) proposing the exercise of this power shall submit the proposal to the City Commission which shall, without delay, approve as to form a petition for circulation in one or several copies as the proposer(s) may desire.

- (i) *Preparation of Initiative Petition; Affidavit of Genuineness of Signatures.* Signatures for Initiative petitions are not required to all be on one paper; however, for each separate initiative petition paper there shall be attached an affidavit of the Initiative petition paper circulator attesting that each signature appended to the paper is the genuine signature of the person whose name it purports to be. The affidavit shall be in the form as set forth above in subsection (vii)(B) of this Section. Each person who signs such Initiative petition paper shall indicate after their name his or her place of residence by street and number or other description sufficient to identify the place. All papers pertaining to any one ordinance shall include either written or printed thereon the names and addresses of at least five City of Coral Gables' registered voters who shall be officially regarded as filing the petition, and shall constitute a committee of the petitioners for purposes of this Section. All Initiative petition papers shall be filed in the office of the City Clerk as one instrument.
- (ii) *Circulating and Filing of Initiative Petition.* Within thirty days of the Commission's approval of the form of the Initiative petition, the person(s) circulating the petition shall obtain the signatures of at least twenty percent of the City's registered voters as evidenced by the official voter registration records for the regular election that immediately preceded the filing of the Initiative petition. The petition shall then be filed with the City Clerk. Within ten days after the petition is filed with him or her, the City Clerk shall determine whether the signatures therein are sufficient. Upon completing his or her examination of the petition, the City Clerk shall attach thereto a certificate showing the result of the examination. If the City Clerk finds that the petition is insufficient, he or she shall set forth in his or her certificate the manner(s) in which such petition is defective and shall at once notify the petitioners' committee of his or her findings. An insufficient petition may be amended within thirty days of the City Clerk certifying that the petition is insufficient, by filing an amended petition containing additional papers signed and filed in conformance with the requirements applicable to the original petition, as set forth in this Section. The City Clerk shall examine an amended petition within ten days after it is filed. If the City Clerk determines that the amended petition is again insufficient, he or she shall file the amended petition in his or her office, notify the petitioners' committee of his or her

findings, and take no further action on such insufficient petition. The City Clerk's finding that a petition is insufficient shall not prejudice the filing of a new petition for the same purpose.

- (iii) *Submission of Initiative Petition to Commission.* If the City Clerk finds the Initiative petition to be sufficient, he or she shall so certify and submit the proposed ordinance to the Commission at its next regular meeting. Upon receiving the proposed ordinance, the Commission shall at once proceed to consider it and take final action thereon within thirty days from the date it is filed with the Commission.
- (iv) *Election on Initiated Ordinances.* If the Commission shall fail to pass the proposed ordinance or shall pass it in a form different from that set forth in the Initiative petition, then the Commission shall submit the proposed ordinance to a vote of the electors at the next regular election scheduled at least sixty days after the Commission's final action on the proposed ordinance. If, however, no regular election is scheduled within six months from the date of the Commission's final action on the proposed ordinance, the Commission shall submit the proposed ordinance to a vote of the electors through a special election to be held not less than sixty days and not more than one hundred and twenty days from the date of the Commission's final action on the proposed ordinance. The proposed ordinance submitted to a vote of the electors shall be in its original form as set forth in the underlying Initiative petition.
- (v) *Form of Initiative Ballots.* The ballots used when voting on any such proposed ordinance shall state the substance of the proposed ordinance, and, below it, shall appear the two propositions: "for the ordinance" and "against the ordinance." The form of the ballot shall also comply with any and all applicable requisites of the Miami-Dade County Elections Department and the applicable Florida law. If the majority of the electors voting on any such proposed ordinance vote in favor thereof, it shall thereupon become an ordinance of the City. When an ordinance proposed by Initiative petition is passed by the Commission but not in the same form as the proposed ordinance set forth in such Initiative petition submitted to a vote of the electors, the following shall apply: 1) the ordinance that the Commission passed shall not take effect until after the vote on the proposed ordinance set forth in the Initiative petition; and 2) if a majority of the electors approve the proposed ordinance set forth in the Initiative petition, then it shall thereupon become an ordinance of the City and the ordinance passed by the Commission shall be deemed repealed.
- (vi) *Number of Ordinances to be Initiated.* Any number of proposed ordinances may be voted upon at the same election in accordance with the provisions of this Charter.

(Compiled Charter, § 18; amended by Ord. No. 1972, § 2(l), July 11, 1972 (referendum November 11, 1972); Res. No. 18110, November 13, 1972 (accepting and approving results of November 7, 1972, referendum authorized by Ord. No. 1972, § 2(l)); Ord. No. 3294, § 1, December 16, 1997)