



Town of Surfside
Special Town Commission Meeting
AGENDA
Wednesday, August 2, 2023
5:00 PM
Commission Chambers

Rule 7.05 Decorum. Any person making impertinent or slanderous remarks or who becomes boisterous while addressing the commission shall be barred from further appearance before the commission by the presiding officer, unless permission to continue or again address the commission is granted by the majority vote of the commission members present. No clapping, applauding, heckling or verbal outbursts in support or opposition to a speaker or his or her remarks shall be permitted. Signs or placards may be disallowed in the commission chamber by the presiding officer. Persons exiting the commission chambers shall do so quietly.

Rule 6.06 (a)3 Agenda. The good and welfare portion of the agenda set for 8:15 p.m. shall be restricted to discussion on subjects not already specifically scheduled on the agenda for discussion and debate. In no event shall this portion of the agenda be allotted more than 45 minutes with each speaker to be given no more than three minutes, unless by vote of a majority of the members of the commission present, it is agreed to extend the time frames. Likewise, commission members shall be restricted to speaking three minutes each unless an extension is granted in the same manner as set forth in the prior sentence.

Any person who received compensation, remuneration or expenses for conducting lobbying activities is required to register as a lobbyist with the Town Clerk prior to engaging in lobbying activities per Town Code Sec. 2-235. "Lobbyist" specifically includes the principal, as defined in this section, as well as any agent, officer or employee of a principal, regardless of whether such lobbying activities fall within the normal scope of employment of such agent, officer or employee. The term "lobbyist" specifically excludes any person who only appears as a representative of a not-for-profit community-based organization for the purpose of requesting a grant without special compensation or reimbursement for the appearance; and any person who only appears as a representative of a neighborhood, homeowners or condominium association without compensation for the appearance, whether direct or indirect or contingent, to express support of or opposition to any item.

Per Miami Dade County Fire Marshal, the Commission Chambers has a maximum capacity of 99 people. Once this capacity has been reached, people will be asked to watch the meeting from the first floor.

1. Opening

1.A Call to Order

1.B Roll Call of Members

1.C Pledge of Allegiance

2. Mayor, Commission and Staff Communication

2.A Charter Review Board Report Presentation and Discussion

[Charter Review Board Final Report.docx](#)

[Exhibit A Charter Review Board Proposed Text Amendments.DOCX](#)

3. Adjournment

Respectfully submitted,

Hector R. Gomez
Town Manager

THIS MEETING IS OPEN TO THE PUBLIC. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990, ALL PERSONS THAT ARE DISABLED; WHO NEED SPECIAL ACCOMMODATIONS TO PARTICIPATE IN THIS MEETING BECAUSE OF THAT DISABILITY SHOULD CONTACT THE OFFICE OF THE TOWN CLERK AT 305-861-4863 EXT. 226 NO LATER THAN FOUR DAYS PRIOR TO SUCH PROCEEDING.

IN ACCORDANCE WITH THE PROVISIONS OF SECTION 286.0105, FLORIDA STATUTES, ANYONE WISHING TO APPEAL ANY DECISION MADE BY THE TOWN OF SURFSIDE COMMISSION, WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING OR HEARING, WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSE, MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE WHICH RECORD SHALL INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

AGENDA ITEMS MAY BE VIEWED AT THE OFFICE OF THE TOWN CLERK, TOWN OF SURFSIDE TOWN HALL, 9293 HARDING AVENUE. ANYONE WISHING TO OBTAIN A COPY OF ANY AGENDA ITEM SHOULD CONTACT THE TOWN CLERK AT 305-861-4863. A COMPLETE AGENDA PACKET IS ALSO AVAILABLE ON THE TOWN WEBSITE AT www.townofsidesidefl.gov.

TWO OR MORE MEMBERS OF THE TOWN COMMISSION AND/OR TOWN BOARDS MAY ATTEND THIS MEETING.

THESE MEETINGS MAY BE CONDUCTED BY MEANS OF OR IN CONJUNCTION WITH COMMUNICATIONS MEDIA TECHNOLOGY, SPECIFICALLY, A TELEPHONE CONFERENCE CALL. THE LOCATION 9293 HARDING AVENUE, SURFSIDE, FL 33154, WHICH IS OPEN TO THE PUBLIC, SHALL SERVE AS AN ACCESS POINT FOR SUCH COMMUNICATION.



July 19, 2023

The Honorable Mayor and
Members of the Town Commission
Town of Surfside
9293 Harding Avenue
Surfside, FL 33154

RE: Charter Review Board Final Report

Dear Mayor and Commissioners:

I am writing to you on the behalf of the 2023 Town of Surfside Charter Review Board (the “Board”). This letter will serve as the Board’s written recommendations as required by Section 128 of the Charter (the “Charter”). The Board’s task was to review and analyze the Charter and make recommendations to the Town Commission. The Board met on eight (8) separate occasions, each a publicly advertised meeting.

During our meetings, we sequentially reviewed, analyzed, and discussed each and every article of the Charter. After each article was reviewed and public input was considered, the Board discussed and suggested potential revisions, additions, or deletions to particular sections. To provide the Town Commission with some of the background of our deliberations and considerations, we will also provide copies of each of our eight (8) agendas as well as minutes from our meetings.

At the Board’s final meeting on June 28, 2023, the Board convened for the purpose of reviewing the draft report with recommended revisions to the Town Commission. Pursuant to Section 128 of the Charter, the Town Commission may consider and approve the Board’s recommendations for submittal to a vote of the Town electors. This report provides background information on the Town’s Charter, a summary of the Board’s proposed recommendations, together with corresponding Charter text amendments, which are attached as Exhibit A to this report.

I. Background

The Town of Surfside (“Town”) was founded and incorporated on May 18, 1935. The Town was incorporated by Special Act of the Florida Legislature, Chapter 17677 (No. 906) of the Laws of Florida, on June 10, 1935, which approved the original Charter for the Town. In 1951, the Florida Legislature recreated, confirmed, and continued the Town’s Charter by Special Act of the Florida Legislature, Chapter 27914 (No. 1435), Laws of Florida.

The Town electors approved the Charter on June 17, 1951. In 1953, the Florida Legislature amended Ch. 27914, (No. 1435), Laws of Florida, by Special Act of the Florida Legislature, Chapter 29543, Laws of Florida. In 1955, the Florida Legislature further amended Ch. 27914, (No. 1435), Laws of Florida, Charter by Special Act of the Florida Legislature, Chapter 31285, Laws of Florida.

In 1973, the Florida Legislature passed the Municipal Home Rule Powers Act (the "Act"), Florida Statutes Section 166.011 et seq., which codified the broad powers granted to municipalities in Article VIII, Section 2(b) of the Florida Constitution. The Act granted to municipalities "governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and [to] exercise any power for municipal purposes, except when expressly prohibited by law." Through the Act, the Town was granted full home rule power and no longer relies on the Florida Legislature to adopt special acts to authorize its day-to-day governance needs. Specifically, Section 166.021(3) of the Act provides that:

"The Legislature recognizes that pursuant to the grant of power set forth in s. 2(b), Art. VIII of the State Constitution, the legislative body of each municipality has the power to enact legislation concerning any subject matter upon which the state Legislature may act, except: (a) The subjects of annexation, merger, and exercise of extraterritorial power, which require general or special law pursuant to s. 2(c), Art. VIII of the State Constitution; (b) Any subject expressly prohibited by the Constitution; (c) Any subject expressly preempted to state or county government by the Constitution or by general law; and (d) Any subject preempted to a county pursuant to a county charter adopted under the authority of ss. 1(g), 3, and 6(e), Art. VIII of the State Constitution."

Section 166.021(4) of the Act further provides that any limitation of power upon any municipality contained in any municipal charter enacted or adopted prior to July 1, 1973 is nullified and repealed (assuming the charter provision has not been readopted or reinstated after July 1, 1973), except that certain changes or provisions in municipal charters as specified in 166.021(4) are preserved and can only be changed by referendum of the electors:

"However, nothing in this act shall be construed to permit any changes in a special law or municipal charter which affect the exercise of extraterritorial powers or which affect an area which includes lands within and without a municipality or any changes in a special law or municipal charter which affect the creation or existence of a municipality, the terms of elected officers and the manner of their election except for the selection of election dates and qualifying periods for candidates and for changes in terms of office necessitated by such changes in election dates, the distribution of

powers among elected officers, matters prescribed by the charter relating to appointive boards, any change in the form of government, or any rights of municipal employees, without approval by referendum of the electors as provided in s. 166.031. *Any other limitation of power upon any municipality contained in any municipal charter enacted or adopted prior to July 1, 1973, is hereby nullified and repealed.*” [Italics emphasis added].

On May 21, 1957, Dade County (today “Miami-Dade County”) was also granted broad home rule powers through the Dade County Home Rule Amendment to the Florida Constitution, Article VIII, Section 11, of the Florida Constitution. Consequently, while the Town has broad home rule powers, it is constrained or pre-empted in certain areas by the Dade County Home Rule Amendment and the Dade County Home Rule Charter that was adopted pursuant to such Amendment.

Likewise, the Town is constrained or pre-empted in certain areas that are expressly or implicitly reserved to the Florida Legislature or County. As a result, over the years some of the Town’s Charter provisions have been repealed, reserved, or converted to ordinances by acts of both the Florida Legislature and/or Miami-Dade County.

At the November 6, 2012 election, the Town electors approved changes to the Charter (pursuant to Resolution No. 2012-2096 adopted on July 17, 2012), and the Charter was amended to add the Preamble, Citizen’s Bill of Rights, and Section 128 (Mandatory Charter Review). Section 128 established the procedures for a mandatory Charter Review process, commencing within the first twelve months after the adoption of this provision, and thereafter every tenth year commencing December, 2022.

II. **Summary of Recommendations¹**

After review of each section in the Charter, the Board recommends the following Charter amendments and corresponding text amendments attached hereto as Exhibit A.

1. **Section 4. – General powers of town; powers not deemed exclusive.**

Currently, the third paragraph of Section 4 of the Charter provides that the density, intensity, and height of developments and structures shall not exceed the maximum allowable units per acre, floor area ratios or the maximum allowable building heights in stories and feet that are set out in the Town Comprehensive Plan or the Town Code, whichever provisions are most restrictive, which were in effect in 2004. Section 4 of the Charter also provides that the maximum height for properties east of Collins Avenue must be measured based on the elevation determined by the Florida Department of

¹ Coding: ~~Strikethrough~~ words are deletions to the existing words. Underlined words are additions to the existing words.

Environmental Protection for the first floor as of 2004 of +16.63 NAVD, such that the maximum height of 125 feet to the structured roof shall not exceed +136.63 NAVD.

After reviewing this provision, the Board adopted a motion to revise paragraph three of Section 4 of the Charter to provide that building height is measured from the design flood elevation for properties west of Collins Avenue and from the wave crest elevation for properties east of Collins Avenue. The Board further amended the method of calculating density. The proposed Charter text amendment to Section 4 is set forth in Exhibit A attached hereto.

2. Section 4. General powers of town; powers not deemed exclusive.

Currently, the first paragraph of Section 4 of the Charter currently restricts the sale, lease, or exchange of any Town-owned real property, unless such sale, lease or exchange is approved by at least four (4) members of the Town Commission and a minimum of 60% of the Town electors voting at a regularly scheduled general election or special election of the voters of the Town on such proposed sale, lease or exchange of Town-owned real property. This language was approved by the Town electors as a Charter amendment at the November 3, 2020 special election.

The Board adopted a motion to revise paragraph one of Section 4 of the Charter to delete this restriction on the sale, lease or exchange of Town-owned real property. The proposed Charter text amendment to paragraph one of Section 4 is set forth in Exhibit A attached hereto. Should the Town Commission elect to present this Charter amendment to the electors, the Town Attorney is seeking clarification from the Town Commission as to whether the following stricken language that existed prior to the 2020 Charter Amendment should be restored, which explicitly permitted the town to sell and lease town property: “The Town may acquire property within or without its corporate limits for any town purpose, in fee simple or any lesser interest or estate, by purchase, gift devise or lease, and may sell, lease, mortgage, hold, manage and control such property as its interests may require.” (stricken language was deleted pursuant to the Charter amendment approved in 2020). The proposed Charter text amendment to Section 4 is set forth in Exhibit A attached hereto.

3. Section 7. – Salary.

Section 7 of the Charter provides that the Mayor and Commissioners are paid the sum of one dollar (\$1.00) per fiscal year for attendance at monthly Commission meetings, irrespective of the number of regular or special meetings attended within such fiscal year.

The proposed Charter amendment would increase the salary for the Mayor and Commissioners to one thousand dollars (\$1,000) per month, plus health insurance consistent with the Town’s group plan provided to general employees, following the

election in 2024. The proposed Charter text amendment to Section 7 is set forth in Exhibit A attached hereto.

4. Section 8. – Presiding Officers.

Section 8 of the Charter currently provides that the Mayor and Commissioners are elected for a term of two (2) years, with candidates for Mayor running in one group and all other candidates for the office of Commission running at-large. The candidate for Commissioner that receives the most votes becoming Vice Mayor.

The proposed Charter amendment would increase the term of office for Mayor and Commissioner to four (4) years beginning with implementation at the 2024 Town General Election. Furthermore, the Board's proposed amendment creates staggered terms and an implementation schedule by providing the Mayor and the two Commissioners receiving the most votes in the 2024 Town General Election with a four (4) year term and the candidates for Commissioner receiving the third and fourth highest votes a two (2) year term. At the March, 2026 General Election, the two Commission places which received the two-year terms of office described above, shall be presented for election for a four-year term of office. Accordingly, the two Commission candidates who are elected with the highest and second highest number of votes at the March 2026 General Election shall be elected for a four-year term of office. As a result of completion of the implementation schedule described above, commencing with the March, 2026 General Election and for every General Election held every two years thereafter, candidates elected to the Offices of Mayor and Commissioner shall receive a four-year term of office.

Finally, the proposed amendment creates procedures to allow the Town Commission to select the Vice Mayor from amongst themselves at the first regularly scheduled Town Commission Meeting following the Town General Election. The proposed Charter text amendment to Section 8 is set forth in Exhibit A attached hereto.

5. Section 6. – Qualifications; Section 15. – Vacancies on commission—When deemed to exist.

Section 6 of the Charter provides the qualifications for commissioners and requires that commissioners be qualified electors of Dade County whose legal residence is in the Town of Surfside, who shall be citizens of the United States, at least twenty-one years of age and residents of the State of Florida and Town of Surfside for at least one year next preceding registration.

Section 15(3) of the Charter provides that a vacancy is created and deemed to exist when a member ceases to possess the qualification of qualified elector for the office prescribed in section 6 of the Charter and/or by ceasing to be a resident of the Town.

The proposed Charter amendment would revise Section 6 to require continuous maintenance by commissioners of the residency requirement. Section 15 would be revised to add a determination by the Town Commission on whether a vacancy has occurred due to a commissioner ceasing to possess the qualifications as a qualified elector and/or by ceasing to be a resident of the Town, including a public hearing process where the Commission determines the issue of residency. The commissioner in question shall have the burden of establishing residency and an opportunity to present his or her position and would abstain from the vote on the final determination of residency. This public hearing residency determination process may be initiated by either the majority of the Town Commission or by certified petition of 3% of qualified electors of the Town. However, a public hearing to determine the issue of residency may not be initiated by petition of the qualified electors more frequently than once every six months. The proposed Charter text amendments to Sections 6 and 15 are set forth in Exhibit A attached hereto.

6. Section 19. – Induction of commission into office; meetings of commission.

Currently, Section 19 of the Charter provides that the Town Commission meets monthly at 8:00 p.m. on the second Tuesday of each month and on such other days or at such other time or times as may be prescribed by the Town Commission. The Board recommends specifically modifying the Town Commission meeting start time to be determined by the Town Commission on the second Tuesday of each month, and clarifying that the Town Commission may meet at such other days or at such other time or times as may be prescribed by the Town Commission. The proposed Charter text amendment to Section 19 is set forth in Exhibit A attached hereto.

7. Section 29. – Eligibility of the employee; Section 40.1 Nepotism.

Section 29 and Section 40.1 of the Charter contain identical provisions which prohibit the employment of any relative [to the third degree] of a Town official or employee and provide for certain penalties. The prohibition is more stringent than the restrictions on employment of relatives in State Law (Section 112.3135, Florida Statutes).

Specifically, Section 29 and Section 40.1 prohibit any Town official or employee from knowingly employing or appointing to a salaried position with the Town, either directly or indirectly, *any person related* by consanguinity to the third degree or by affinity *to any Town official or employee*. Any town official or employee who violates this prohibition shall be deemed guilty of misfeasance and malfeasance in office, subject to removal therefor, and shall forfeit all unpaid compensation, salary, and emoluments of his office, and the person so employed shall be discharged immediately.

The proposed Charter amendment would be consistent with Florida law and prohibit one who has the authority to employ, appoint, promote, advance or recommend

same, from using that authority with respect to his or her own relatives, as set forth in Section 112.3135, "Restriction on employment of relatives," Florida Statutes. In summary, the nepotism requirements would be less restrictive and would only prohibit a Town Official or employee from employing, appointing, promoting, advancing, or recommending a relative under their jurisdiction or control. The proposed Charter text amendment to Sections 29 and 40.1 are set forth in Exhibit A attached hereto.

8. Section 31.1. – Personnel appeals board.

Section 31.1 of the Charter allows certain employees to file an appeal with the Personnel Appeals Board if they claim to have been discharged or reduced in pay or rank without cause. Currently, Section 31.1 provides that all employees who have been continuously employed by the Town for at least two years may appeal to the Board, except for the town manager, town clerk, town prosecutor, and town attorneys and town judges.

The proposed Charter amendment would remove the Town Clerk (a non-charter officer) from the exceptions in Section 31.1 to conform with Section 18 of the Charter, which provides that the Town Clerk is appointed by (and may be removed by) the Town Manager. The effect of this change would be to allow the Town Clerk, as an employee, to file an appeal with the Personnel Appeal Board. Reference to the town prosecutor and town judges would be removed because such references are superseded by Fla. Const. Art. V, § 20(d)(4). The proposed Charter text amendment to Section 31.1 is set forth in Exhibit A attached hereto.

9. Section 93. – Limitations on indebtedness.

The Board proposes revising Section 93 of the Charter to remove limitations on debt incurred by the Town when the debt is repayable exclusively from revenues generated by Town municipal projects or from special assessments. Specifically, Section 93(e) of the Charter, adopted in 2020, currently provides for limitations on any indebtedness incurred after that date that exceeds 15% of the Town's average annual property tax revenue for the preceding five years and which is not fully repayable within a maximum of seven years by requiring approval by a minimum of three Town Commissioners by ordinance followed by referendum of the Town electors by majority vote.

The proposed changes would clarify that limitations on indebtedness contained under Section 93(e) of the Charter would not be applicable to revenue bonds payable exclusively from revenues generated from municipal projects or special assessments. The proposed Charter text amendments to Section 93 are set forth in Exhibit A attached hereto.

10. Amend Charter By Removing Provisions Repealed or Superseded by Florida Law

As a result of the Municipal Home Rule Powers Act, specifically Section 166.021, the Dade County Home Rule Amendment to the Florida Constitution, and State law preemptions, over the years some of the Town's Charter provisions have been repealed, superseded, or converted to ordinances. The Board proposed to comprehensively revise and update the Charter by removing repealed, superseded, or preempted provisions. This could be accomplished by one comprehensive Charter question posed to the electors, with accompanying Charter text amendments removing obsolete, repealed, preempted or superseded provisions.

On behalf of the full Board, I would like to thank the Town Commission for the opportunity to serve on the Board and look forward to appearing before you should you have any questions or concerns about the report.

Respectfully,

Ben Jacobson
Chair of the Charter Review Board

Cc: Vice Chair, Laurie Swedroe
Board Member, Peter Zuckerman
Board Member, Ezequiel Singer
Board Member, Ruben Bravo
Hector Gomez, Town Manager
Town Attorneys, Lillian Arango, Tony Recio, Roger Pou and Daniela Cimo
Town Clerk, Sandra McCready

EXHIBIT "A"

CHARTER REVIEW BOARD PROPOSED TEXT AMENDMENTS¹

Amendment No. 1.

Section 4. General powers of town; powers not deemed exclusive.

The density, intensity, and height of development and structures buildings within the Town of Surfside shall not exceed 30 feet for any property west of Harding Avenue, 40 feet for any property in the H40 and SD-B40 zones, and 120 feet for properties east of Collins Avenue. Height shall be measured from the Design Flood Elevation (DFE) for all properties west of Collins Avenue, and from the wave crest elevation as determined by the Florida Department of Environmental Protection's most recent report for all properties east of Collins Avenue. ~~the maximum allowable units per acre, floor area ratios or the maximum allowable building heights in stories and feet that are set out in the Town of Surfside Comprehensive Plan or the Code of the Town of Surfside, whichever provisions are most restrictive, which were in effect in 2004. Density of properties shall be derived from the acreage~~ Lot area of lots shall only include the area ~~or acreage~~ within the lot lines of a lot, except that for properties east of Collins Avenue lot area acreage shall be limited to the area bounded by the north, south and west lot lines and the Bulkhead Line on the east (not the Erosion Control Line). ~~Height for properties east of Collins Avenue shall be measured from the elevation determined by the Florida Department of Environmental Protection for the first floor as of 2004 of +16.63 NAVD. such that the maximum height of 120 feet to the structured roof shall not exceed +136.63 NAVD.~~ This amendment to the Town of Surfside Charter shall not be repealed, revised, amended, or superseded unless repeal, revision, amendment, or superseding provisions are placed on the ballot at a regularly scheduled election of the Town of Surfside and approved by a minimum 60% vote of the electors of the Town of Surfside.

Amendment No. 2.

Section 4. General powers of town; powers not deemed exclusive.

The town shall have all the powers granted to municipal corporations and to towns by the constitution and general laws of the state, together with all the implied powers necessary to carry into execution all the powers granted. The town may acquire property within or without its corporate limits for any town purpose, in fee simple or any lesser interest or estate, by purchase, gift, devise or lease. ~~The Town shall not sell, lease for a term in excess of three years or exchange any Town-owned real property, unless such sale,~~

¹ Coding: ~~Strikethrough~~ words are deletions to the existing words. Underlined words are additions to the existing words.

~~lease or exchange is approved by at least four (4) members of the Town Commission and a minimum of 60% of the Town electors voting at a regularly scheduled general election or special election of the voters of the Town on such proposed sale, lease or exchange of Town-owned real property. This restriction shall not apply to existing leases entered into prior to the effective date of this provision, nor shall it apply to any utility, easements or rights-of-way. Except as prohibited by the constitution of this state or restricted in this Charter, the town shall and may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever.~~

Amendment No. 3

Sec. 7. Salary.

Commencing with the term of office, beginning at 8:00 p.m. on the day following the General Election in ~~1978~~ 2024, the mayor and members of commission shall be paid the sum of one thousand dollars (\$1,000.00) per fiscal year month for attendance at monthly Commission meetings, irrespective of the number of regular or special meetings attended within such fiscal year, and shall, at each elected official's option, be entitled to health insurance benefits as provided to general employees by the Town.

Amendment No. 4.

Section 5. - Number; selection; term.

The commission shall have five members elected from the town at large in the manner and for terms provided in section 8(B) or Article VI (as applicable), or until their successors have been elected and take office.

Section 8. - Presiding officers.

A. Except as otherwise provided in paragraph (B), below, and §subject to Charter Section 105, when applicable, candidates receiving the highest number of votes shall be elected as follows: The Mayor shall be elected separately from his/her own group. The four Commissioners shall run at-large and the Commissioner receiving the highest number of votes in the General Election shall, for a term of two years immediately following thereafter, have the title of Vice-Mayor, subject to the limited exception provided for in Charter Section 105(8)C. The Commissioners receiving the second, third and fourth highest number of votes in the General Election shall, for a term of two years immediately following thereafter, serve as the remaining Commissioners.

B. However, commencing with the March, 2024 General Election, a transition shall be made to provide for a four-year term for the Offices of Mayor and Commissioners, in lieu of two-year terms of office. This transition shall be made in

accordance with the following implementation schedule, which is designed to provide for a smooth transition to staggered, four-year terms for the Offices of Mayor and Commissioners, to wit:

(i) At the March, 2024 General Election, the Mayor and the two candidates for Commissioner who are elected with the highest and second highest number of votes shall be elected for a four-year term of office, and the two Commission candidates who are elected with the third and fourth highest number of votes shall be elected for a two-year term of office. Further, in the event that at said election, candidates are elected as Commissioner by operation of law rather than by vote of the electorate, the determination as to which of said candidates so elected by operation of law received the higher number of votes, for the purpose of determining which of said candidates receives the four- year term of office and the two- year term of office, will be made by the drawing of lots in the presence of and under the supervision and direction of the Town Clerk. Following the commencement of terms resulting from the March, 2024 General Election, the Town Commission shall select the Vice Mayor from among the four Commissioners. The Vice Mayor designation shall be made every two years thereafter, in the same manner, following each General Election.

(ii) At the March, 2026 General Election, the two Commission places which received the two-year terms of office described in subparagraph (i) above, shall be presented for election for a four-year term of office. Accordingly, the two Commission candidates who are elected with the highest and second highest number of votes at the March, 2026 General Election shall be elected for a four-year term of office.

(iii) As a result of completion of the implementation schedule described above in this paragraph (B), commencing with the March, 2026 General Election and for every General Election held every two years thereafter, candidates elected to the Offices of Mayor and Commissioner shall receive a four-year term of office.

(iv) The Town Commission may, by ordinance, provide further procedures for the implementation of this paragraph (B), if desired.

Section 105. - General and special elections of commission members.

(8)

D. The provisions of Charter Section 8(B) shall supersede and prevail over any provisions of this Charter Section 105 which are in conflict with section 8(B).

Amendment No. 5.

Sec. 6. Qualifications.

The commissioners shall be qualified electors of the Town ~~Dade County~~ whose legal residence is in the Town of Surfside ~~who~~ and shall be citizens of the United States, at least twenty-one years of age and residents of the State of Florida ~~and Town of Surfside~~ for at least one year next preceding registration, and who shall have no other public office except notary public, local civilian defense or war emergency appointments, membership in the National Guard, naval or military reserve, or membership or memberships on State of Florida or National Boards providing that the duties of the members of such board shall not interfere with the duties of the town commissioners. Once elected, the commissioners shall maintain continuous and permanent residency in the Town.

Sec. 15. Vacancies on commission—When deemed to exist.

Vacancies on the commission shall be created and deemed to exist upon any one of the following circumstances:

- (1) By death or resignation of a member.
- (2) By recall or other removal from office in any manner authorized by law.
- (3) By a member ceasing to possess and maintain the qualification of qualified elector for the office prescribed in section 6 of this Charter and/or by ceasing to be a resident of the Town for the duration of the term office. Subject to determination by the Town Commission, a vacancy on the Commission shall be deemed to exist on the date a commissioner has ceased to be a resident of the Town. The Commission shall determine the issue of residency at a hearing to be publicly noticed in a newspaper of general circulation in the Town at least one week prior thereto, at which hearing the Commissioner in question shall have the burden of establishing residency and shall be afforded the opportunity to present his or her position thereon but shall otherwise abstain from Commission vote and/or related deliberation by the Commission on the final determination of residency. The final determination by the Commission that a Commissioner has forfeited his office by virtue of this subsection shall be by Resolution, and all votes and other acts of the Commissioner in question prior to the effective date of such Resolution shall be valid and otherwise unaffected by the subject Resolution. This public hearing residency determination process may be initiated by majority vote of the Town Commission or after certification of a petition of a minimum of 3% of qualified electors of the Town. Notwithstanding the foregoing.

a public hearing to determine the issue of residency may not be initiated by petition of the qualified electors more frequently than once every six months.

- (4) By a member being convicted of a felony or crime involving moral turpitude.
- (5) By legal declaration of mental incompetence of a member.
- (6) When there are unfilled Commission seats as a result of no candidate(s) having qualified to fill such seats after the end of applicable qualifying periods for the General Election.
- (7) Subject to determination by the Town Commission, a vacancy on the Commission shall be deemed to exist on the date a commissioner has been absent without good cause from three consecutive regular monthly meetings of the commission, or has been absent without good cause from five regular monthly meetings of the commission within a calendar year. The Commission shall determine the issue of good cause at a hearing to be publicly noticed in a newspaper of general circulation in the Town at least one week prior thereto, at which hearing the Commissioner in question shall have the burden of establishing good cause and shall be afforded the opportunity to present his position thereon but shall otherwise abstain from Commission vote and/or related deliberation by the Commission on the final determination of good cause. The final determination by the Commission that a Commissioner has forfeited his office by virtue of this subsection shall be by Resolution, and all votes and other acts of the Commissioner in question prior to the effective date of such Resolution shall be valid and otherwise unaffected by the subject Resolution.

Amendment No. 6.

Section 19. Induction of commission into office; meetings of commission.

The term of newly-elected commissioners shall commence at 8:00 p.m., on the day following their election at which time they shall be administered the oath of office. The Town Commission shall meet monthly at 8:00 in the evening of on the second Tuesday of each month at a time to be determined by the Town Commission and. Notwithstanding the foregoing, the Town Commission may meet on such other days or at such other time or times as may be prescribed by the Town Commission, but not less frequently than once each month. All meetings of the Town Commission shall conform to the "Sunshine Law" of Dade County and of the State of Florida.

All meetings of the commission at which ordinances are passed, resolutions adopted, motions are carried, budgets are approved, the tax rate is established, money is appropriated or official action of any kind or character is taken, shall be open to the public.

Amendment No. 7.

Sec. 29. Eligibility of the employee.

No member of the immediate family of a commissioner shall be eligible to hold a salary position with the town.

Any person or persons violating any of the provisions of this section shall be deemed guilty of a misdemeanor and punished accordingly.

~~Any town official or employee, whether elected, hired or appointed, who shall knowingly employ or appoint to a remunerative position with the town, either directly or indirectly, any person related by consanguinity to the third degree or by affinity to any town official or employee, shall be deemed guilty of misfeasance and malfeasance in office, subject to removal therefor, and shall forfeit all unpaid compensation, salary, and emoluments of his office, and the person so employed shall be discharged immediately.~~

Employment of relatives by Town officials or employees shall be governed by Florida Statute, § 112.3135, as may be amended from time to time or set forth in any successor statute.

No member of the commission or any officer or employee of the town shall, directly or indirectly, nor by reason of ownership of stock in any corporation, have a financial interest in any contract or in the sale to the town, or in any land or any rights or interests in any land, material, supplies or services, except, this section shall not apply to ownership of stock in a bank, trust company, public utility or corporation listed on national stock exchanges. Any willful violation of this section shall constitute malfeasance in office and any officer or employee of the town found guilty thereof shall thereby forfeit his office or position. Any violation hereof with the knowledge express or implied of the person or corporation contracting with the town shall render the contract voidable by the town manager or the commission.

Sec. 40.1. Nepotism.

~~Any town official or employee, whether elected, hired or appointed, who shall knowingly employ or appoint to a remunerative position with the town, either directly or indirectly, any person related [by consanguinity to the third degree or by] affinity to any town official or employee, shall be deemed guilty of misfeasance and malfeasance in office, subject to removal therefor, and shall forfeit all unpaid compensation, salary, and emoluments of his office, and the person so employed shall be discharged immediately.~~

Employment of relatives by Town officials or employees shall be governed by Florida Statute, § 112.3135, as may be amended from time to time or set forth in any successor statute.

Amendment No. 8.

Sec. 31.1. Personnel appeals board.

The town commission shall appoint a Personnel Appeals Board consisting of five qualified electors of Dade County, Florida, whose legal residence is in the Town of Surfside, to serve without compensation for two-year terms, and to fill vacancies thereon for unexpired terms. Any employee of the town, except the town manager, ~~town clerk, town prosecutor, and~~ town attorneys ~~and town judges~~, who immediately prior thereto have been continuously employed by the Town of Surfside for at least two years, if he claims to have been discharged or reduced in pay or rank without cause, may file within twenty days from his discharge or reduction in pay or rank, with the Personnel Appeals Board, a statement of appeal which must allege that he has been continuously employed by the Town of Surfside for at least two years next preceding the filing of the statement of appeal set forth the facts regarding the discharge or reduction in pay or rank and request a hearing. Within fourteen days after the filing of such appeal, the Personnel Appeals Board shall notify the employee of the date for formal hearing, which shall be no later than thirty days after the date of the filing of the statement of appeal.

The decision of the Personnel Appeals Board, if concurred in by four members of said Board, shall be binding upon the town and the employee. Such decision may either order a new hearing, or dismiss the appeal on the merits, or order the reinstatement of the employee absolutely or on terms and conditions, or may require such other action as may be just.

The town commission shall make such rules of procedure for the Personnel Appeals Board, by ordinance, from time to time as it may deem necessary.

Amendment No. 9.

Section 93. Limitations on indebtedness.

Indebtedness issued by the Town of Surfside shall be limited as follows:

- (a) The total amount of general obligation bonds of the Town of Surfside outstanding in any one fiscal year shall not exceed fifteen per centum of the assessed value of the taxable property of the town according to the assessment roll;
- (b) Bonds payable exclusively from the revenue of a municipal project may be issued under this Article notwithstanding and without regard to any limitation on indebtedness prescribed by this or any other law, ~~and subject to the requirements of subsection 93(e) below;~~
- (c) Bonds, other than bonds payable exclusively from the revenue of a municipal project, issued by the Town of Surfside under this Article shall be considered in computing the amount of indebtedness which the town may incur under any other law; and
- (d) Bonds, payable exclusively from the revenue of a municipal project or from special assessments, issued by the Town of Surfside under this Article shall not be considered in computing the amount of indebtedness which the Town of Surfside may incur under any other law; and

- (e) ~~Notwithstanding anything to the contrary in this Charter, Any~~ indebtedness incurred, after the effective date of this Charter amendment, exceeding 15% of the Town's average annual property tax revenue for the preceding five years and which is not fully repayable within a maximum of seven years, shall require approval by a minimum of three (3) members of the Town Commission by ordinance followed by approval by referendum of the Town electors by majority vote. The limitations of this Section 93(e) shall not apply to revenue bonds payable exclusively from revenues of a municipal project or special assessments.
- (f) For purposes of this section 93, "Indebtedness" shall be defined as any financial obligation of the town to repay borrowed money or funds.

Amendment No. 10. (Comprehensively revise and update the Charter by removing repealed, superseded, or preempted provisions)

* * *

ARTICLE II. TOWN COMMISSION

* * *

Sec. 11. Powers of commission.

All powers of the town not specifically conferred on other officers and employees and the determination of all matters of policy shall be vested in the commission. Without limitation of the foregoing, the commission shall have power to:

- (1) Appoint and remove the town manager, ~~municipal judge, associate municipal judge,~~ town attorneys, ~~prosecuting attorney~~ and certified public accountants for audits.
- (2) Establish administrative departments as designated and described in the budget adopted under Sections 65 and 66.
- (3) Adopt the budget of the town.
- (4) Levy, assess and collect such general and special taxes and fees on all property within the town, and such special assessments for special and local improvements, and such excise, occupational, privilege and special service fees and taxes, within the limits herein provided, as shall be lawful for carrying out the purpose and powers of the town.
- (5) Authorize the issuance of bonds.
- (6) Adopt plats.
- (7) Appoint members of any or all advisory boards or commissions the commission may establish under this Charter and prescribe by ordinance their duties, responsibilities, authorized procedures and tenure of office.
- (8) Adopt and modify the official map of the town.

- (9) Regulate and restrict: (a) location, number of stories, height, size, cubic contents, construction, appearance and area of buildings and other structures (including billboards, signs and other advertising devices); (b) the percentage and portion of lots and lands that may be occupied or built on; (c) the density of population; (d) the use of buildings, structures and land for trade, industries, residence, apartment houses and all and any other purposes; (e) no authorization or permit shall be issued for the construction, repair, alteration, extension or replacement of any structure or building east of the "ocean bulkhead line" of the Town of Surfside, which "ocean bulkhead line" was established by ordinance no. 95, approved and adopted on the 8th day of February, 1943, and is presently set forth and described as section 6-20 [now section 14-76 et seq.] of the Code of the Town of Surfside, except that the commission may provide for the construction of groins, bulkheads, seawalls, jetties, breakwaters or other protective work east of the "ocean bulkhead line" by ordinance.
- (10) Adopt, modify and carry out plans for the clearance of slum districts and the rehabilitation of blighted areas.
- (11) Adopt, modify and carry out plans for the improvement and redevelopment of neighborhoods and for the replanning, reconstruction or redevelopment of any area or district which may have been destroyed in whole or in part by disaster.
- (12) Grant public utility franchises and regulate the exercise thereof.
- (13) Provide for annual, monthly, continuing or special audits by independent certified public accountants.
- (14) Provide for life and/or disability insurance for employees of the Town of Surfside and/or its agents and/or its officers on a group insurance plan, and to pay all or such portions of the premium or premiums thereon as it may by ordinance determine; and to establish and create by ordinance a pension, annuity and retirement system for any or all groups of officers, or agents or employees of the Town of Surfside. Any pension or retirement system established under the provisions of this section shall be administered by a pension board appointed by the commission.
- ~~(15) Regulate and license the sale, possession and custody of firearms within the town.~~

* * *

Sec. 12. Appointment of town manager.

The commission, by a majority vote of all its members, shall appoint an officer of the town who shall have the title of town manager and shall have the powers and perform the duties in this Charter provided. The town manager may designate the town clerk or other town employee to perform the duties of the town manager during a brief absence or incapacity of the town manager. Nevertheless, the commission shall have the power to appoint an acting town manager in the event of the absence, illness, death, discharge or resignation of the town manager. Within ninety (90) days periods [sic] after the

appointment of an acting town manager, the commission must either appoint a permanent town manager or an acting town manager. ~~The salary of the town manager shall not be decreased during his lawful occupancy of that office.~~

* * *

Sec. 18. Appointment, removal and duties generally of town clerk.

An officer of the town with the title of town clerk shall be appointed and may be removed at will by the town manager, and shall be and remain at all times under the supervision of and subordinate to the town manager. ~~He shall be clerk of the municipal court, charged with the duty to collect and account for fines, costs of court and bond forfeitures.~~ He shall also be the registration officer of the town and supervisor of elections and shall have power and is hereby authorized to administer oaths. He shall also perform such other duties as are required by this Charter, by ordinance or by the town manager. Deputy clerks may be appointed by the town manager and said deputies shall have and exercise the same power as the town clerk himself. The town clerk shall give notice of commission meetings by posting such notice on the bulletin board in the town hall; shall keep the journal of its proceedings, shall authenticate by his signature and record in full, in a book kept for the purpose, all ordinances and resolutions. The town manager may also act as town clerk during any vacancy in the office of town clerk. No compensation shall be paid to the town manager for serving as town clerk.

* * *

Sec. 20. Rules of procedure; journal.

The commission shall fix its rules of procedure and shall act in all matters upon a majority vote of those present unless otherwise provided in this Charter. ~~It shall keep a journal of its proceedings and the journal shall be open to public inspection.~~ A majority of the commission shall be necessary to constitute a quorum, but less than a quorum may adjourn or recess to a specified time. ~~The commission shall not act on any amendment of its rules of procedure during the meeting in which the amendment is made.~~

* * *

~~Sec. 25. Publication of ordinances after final passage; permissive referendum.~~
Reserved.

~~After final passage every ordinance shall be published by title or posted in full in a conspicuous place in the town hall. Except as otherwise provided in this Charter, every ordinance shall be subject to permissive referendum as provided in Article VIII hereof. Every ordinance, unless it shall specify a later date or is adopted as an emergency measure, shall become effective at the expiration of twenty (20) days after such publication following final passage, or, if the ordinance be submitted at a referendum election, then upon favorable vote of a majority of those voting thereon, except as otherwise expressly provided in this Charter.~~

~~An emergency ordinance may be adopted by a vote of not less than four fifths of all of the members of the council on the ground of urgent public need for the preservation of peace, health, welfare, safety or property. An emergency ordinance shall become~~

~~effective upon publication by title, or upon posting in full on the bulletin board of the Town Hall, but no ordinance granting or amending any public utility franchise or amending or repealing any ordinance adopted by the people at the polls or by the commission in compliance with an initiative petition shall be regarded as an emergency measure.~~

~~Anything to the contrary contained herein notwithstanding, an ordinance adopting the annual budget may be adopted by a vote of the majority of the members of the commission and become effective immediately upon publication by title only or by posting in full on the bulletin board in the town hall.~~

~~* * *~~

~~**Sec. 25a. Penalty for violation of ordinances. Reserved.**~~

~~The Commission shall have and hereby is given the power to enforce the observance of the ordinances of the Town and to provide penalties for the violation of such ordinances by a fine not exceeding \$1,000.00 or by imprisonment in the Town Jail for a term not exceeding ninety days, or by both such fine and imprisonment in the discretion of the municipal judge.~~

~~* * *~~

~~**Sec. 26. Municipal court. Reserved.**~~

- ~~(a) There shall be and hereby is established in the Town of Surfside a municipal court to be known as "The Municipal Court of the Town of Surfside", for the trial of all offenders against municipal ordinances. Such court shall be presided over by a municipal judge who may or may not be a resident of the Town. He shall have been licensed to and have been practicing law in the State of Florida for not less than five years prior to his appointment. He shall be a member in good standing of The Florida Bar. He shall be appointed by the Commission; and, subject to the provisions of paragraph (d) of the section, shall be appointed for a term of two years. Sessions of the Municipal Court shall be held as provided by ordinance.~~
- ~~(b) The Commission shall appoint an associate municipal judge to serve in the absence, sickness or disqualification of the municipal judge. He shall possess the same qualifications as the municipal judge, and, subject to the provisions of paragraph (d) of this section, shall be appointed for a term of two years. In the event of the absence, sickness or disqualification of both the municipal judge and the associate municipal judge the Commission may appoint an acting municipal judge to serve only during such absence, sickness or disqualification of the municipal judge and the associate municipal judge.~~
- ~~(c) Subject to the provisions of paragraph (d) of this section, the terms of the first municipal judge and the first associate municipal judge shall commence with the date of their respective appointments following the enactment into law of this provision by the 1955 Session of the Florida State Legislature, and shall expire at midnight May 31, 1957. Subsequent appointments shall be for a term of two years each.~~

~~(d) Either the municipal judge or the associate municipal judge may be removed by the town commission at any time, but only for cause and by not less than a three-fifths vote of the members of commission.~~

~~* * *~~

~~Sec. 27. Powers of municipal judge; search warrants. Reserved.~~

~~The municipal judge shall have power by his warrant to have brought before him any person or persons charged with the violation of town ordinances and shall have original jurisdiction over all proceedings of a criminal nature for the violation of any ordinance of the town.~~

~~A sworn or verified complaint shall not be necessary to give the municipal court jurisdiction of offenses triable in that court, but the accused may be tried for the offense as docketed provided such docket entry is sufficient to put the accused upon notice of the offense with which he is charged.~~

~~The municipal judge shall have power to set and take bail for the appearance of all accused persons, to administer oaths, to take affidavits, to decide on the guilt or innocence of the accused and to fix and impose such penalties or sentences as are prescribed and provided for under the ordinances of the town and to have all powers incidental and usual to the due enforcement of such town ordinances. He shall also have power to punish for contempt of court by a fine not exceeding fifty dollars, or imprisonment not exceeding thirty days, or both. The cost of prosecution in said court shall be the same as are allowed by law in criminal courts of record, being taxed against persons convicted and collected by the town clerk to be paid over by him to a town depository and placed to the credit of the fines and forfeitures account.~~

~~The municipal judge shall have power to issue search warrants upon any of the following grounds:~~

- ~~(1) When the property shall have been stolen or embezzled in violation of law.~~
- ~~(2) When any property shall have been used:
 - ~~(a) As a means to commit any misdemeanor, or~~
 - ~~(b) In connection with gambling, gambling implements and appliances, or~~~~
- ~~(3) When any property is being held or possessed:
 - ~~(a) In violation of any of the laws prohibiting the manufacture, sale and transportation of narcotics or intoxicating liquors;~~
 - ~~(b) In violation of any of the federal or state laws, or ordinances of the Town of Surfside.~~~~
- ~~(4) A search warrant cannot be issued except upon probable cause supported by affidavit or affidavits, naming or describing the person, place or thing to be searched and particularly describing the property or thing to be seized; no such warrant shall be issued in blank and any such warrant shall be returned within ten days after issuance thereof.~~

- ~~(5) The municipal judge, before issuing the warrant, must have the application of some person for said warrant duly sworn to and subscribed and may receive further testimony from witnesses or supporting affidavits, or depositions in writing, to support the application. The affidavit and further proof, if same be had or required, must set forth the facts tending to establish the grounds of the application or probable cause for believing that they exist.~~
- ~~(6) The judge of the municipal court, upon examination of the application and proofs submitted, if satisfied that probable cause exists for the issuing of the search warrant, shall thereupon issue a search warrant signed by him with his name and office, to any sheriff and his deputies or police officer or other person authorized by law to execute process, commanding the officer or person forthwith to search the property described in the warrant, or the person named, for the property specified and to bring the same before him.~~
- ~~(7) The search warrant shall, in all cases, be served by any of the officers mentioned in its direction, but by no other person except in aid of the officer requiring it, said officer being present and acting in its execution.~~
- ~~(8) The officer may break open any outer door, inner door or window of a house or other building, or any part of a house or other building or anything therein, to execute the warrant, if after due notice of his authority and purpose, he is refused admittance to said house or other building or access to anything therein.~~
- ~~(9) A search warrant issued under the provisions of this Article may, if expressly authorized in such warrant by the judge issuing the same, be executed by being served either in the daytime or in the nighttime, as the exigencies of the occasion may demand or require.~~
- ~~(10) All search warrants shall be issued in duplicate. The duplicate shall be delivered to the officer with the original warrant, and when the officer serves the warrant, he shall deliver a copy to the person named in the warrant, or, in his absence, to some person in charge of or living on the premises. When property is taken under the warrant the officer shall deliver to such person a written inventory of the property taken and receipt for same, specifying the same in detail, and if no person is found in possession of the premises where such property is found, shall leave the said receipt on the premises.~~
- ~~(11) Upon the return of the warrant, which shall be as soon as practicable after service, the officer shall attach thereto or thereon a true inventory of the property taken under this warrant, and at the foot of the inventory shall verify the same by affidavit taken before some officer authorized to administer oaths, or before the issuing officer, said verification to be to the following effect:~~
- ~~I, _____, the officer by whom the warrant was executed, do swear that the above inventory contains a true and detailed account of all the property taken by me on said warrant.~~
- ~~(12) The judge to whom the warrant is returned, upon the request of any claimant or any person from whom said property is taken, or the officer who executed the~~

~~search warrant, shall deliver to said applicant a true copy of the inventory of the property mentioned in the return on said warrant.~~

~~(13) If it appears to the judge before whom the warrant is returned that the property or papers taken are not the same as described in the warrant, or that there is no probable cause for believing the existence of the grounds upon which the warrant was issued, the judge may order a return of the property taken.~~

~~(14) Whoever shall knowingly and wilfully obstruct, resist or oppose any officer or person aiding such officer, in serving or attempting to serve or execute any search warrant, or shall assault, beat or wound any person or officer, or his deputies or assistants, knowing him to be such an officer or person so authorized, shall be punished by a fine of not more than five hundred dollars, or by imprisonment for not more than sixty days, or by both such fine and imprisonment in the discretion of the municipal judge.~~

~~(15) Any person who maliciously and without probable cause procures a search warrant to be issued and executed shall be punished by a fine of not more than five hundred dollars, or by imprisonment for not more than sixty days, or by both such fine and imprisonment in the discretion of the municipal judge.~~

* * *

Sec. 32. General laws to apply.

All general laws of the state applicable to municipal corporations heretofore or hereafter enacted, and which are not in conflict with the provisions of this Charter or with ordinances or resolutions hereafter enacted by the commission pursuant to authority conferred by this Charter, shall be applicable to the Town of Surfside; provided, however, that nothing contained in this Charter shall be construed as limiting the power of the commission to enact any ordinance or resolution not in conflict with the constitution of the state or with the express provisions of this Charter.

In addition to the powers set forth herein, the Town of Surfside is specifically empowered to impose a license tax upon occupations, professions, or businesses and collect the same and provide a penalty for the conduct of any occupation, profession or business so taxed without the payment of such tax. ~~The town shall also be empowered to license privileges, businesses, occupations and professions carried on and engaged in within the town limits, the amount of such license taxes shall be fixed by ordinance, which amounts of said taxes shall not be dependent upon a general state revenue law.~~

* * *ARTICLE III. TOWN MANAGER

* * *

Sec. 39. Duties of other town manager appointees

-

~~The chief of police shall be responsible for the enforcement of order in the town under the direction of the town manager. He shall execute the orders of the town manager and all processes issued to him by the town manager. He shall attend in person, or by deputy,~~

~~the municipal court during its sittings; execute the commands and processes of said court, aid in the enforcement of order therein, and perform such other duties as may be imposed upon him by law, the ordinances of the town, and the direction of the town manager consistent with this Charter. When such power has been delegated to him by the town manager, he may hire and discharge his subordinates without specific approval of the town manager.~~

~~The superintendent of the water department shall be responsible for the efficient and economical operation of the municipal water department, and for the purity and safety of the water supplied to the municipality and to other individuals or communities to whom water is sold. He shall perform such other duties, both with respect to the water department or other department or departments of the town, as may be imposed upon him by law, the ordinances of the town, and the direction of the town manager consistent with this Charter. When such power has been delegated to him by the town manager, he may hire and discharge his subordinates without specific approval of the town manager.~~

~~The superintendent of outside services shall be responsible, under the direction of the town manager, for the collection and disposal of garbage and refuse; for the maintenance of the garbage disposal site; for the mowing and cleanup of vacant lots, boulevards, public parks, playgrounds and other public property; and for the maintenance of pavements, bridges and traffic signs; and for such other duties as may be prescribed by ordinance or directed by the town manager. When such power has been delegated to him by the town manager, he may hire and discharge his subordinates without specific approval of the town manager.~~

~~* * *~~

~~ARTICLE IV. ANNUAL BUDGET AND TAX LEVY~~

~~* * *~~

~~Sec. 42. Preparation and submission of budget. Reserved.~~

~~The town manager, at least ninety days prior to the beginning of each budget year, shall submit to the commission a budget and an explanatory budget message in the form and with the contents provided by sections 43 to 58 inclusive, of this Charter. For such purpose, at such date as he shall determine, he, or an officer designated by him, shall obtain from the head of each office, department or agency of the town, estimates of revenue and expenditure of that office, department or agency detailed by organization units and character and object of expenditure, and such other supporting data as he may request; together with an estimate of all municipal projects pending or which such department head believes should be undertaken (a) within the budget year and (b) within the five next succeeding years. In preparing the budget, the town manager shall review and revise the estimates as he may deem advisable.~~

~~* * *~~

~~Sec. 43. Budget message—To explain budget plan; to set forth reasons for changes, etc. Reserved.~~

~~The budget message submitted by the town manager to the commission shall be explanatory of the budget, shall contain a table of contents and an outline of the proposed~~

~~financial policies of the town for the budget year and shall describe in connection therewith the important features of the budget plan. It shall set forth the reasons for salient changes from the previous year in cost and revenue items and shall explain any proposed major changes in financial policy.~~

~~* * *~~

Sec. 44. ~~Same—Municipal improvements.~~ Reserved.

~~As a part of the budget message, with relation to the proposed expenditures for down payments and other proposed expenditures for municipal projects stated in the budget, the town manager shall include a statement of pending municipal projects, and proposed new municipal projects for the budget year and for the five fiscal years succeeding the budget year, together with his comments thereon and any estimates of costs prepared by him or by any other office, department or agency of the town. The budget message shall also detail the prospective amounts for municipal projects it is proposed be raised by appropriation in the budget, and the respective amounts, if any, it is proposed be raised by the issuance of bonds during the budget year or thereafter.~~

~~* * *~~

Sec. 45. ~~Same—Supporting schedules, etc.~~ Reserved.

~~Attached to the budget message shall be such supporting schedules, exhibits and other explanatory material, in respect to both current operations and municipal projects, as the town manager shall believe useful to the commission.~~

~~* * *~~

Sec. 46. ~~Scope of budget; contents.~~ Reserved.

~~The budget shall provide a complete financial plan for the budget hearing which shall contain in tabular form:~~

- ~~(a) A table of contents;~~
- ~~(b) A general summary;~~
- ~~(c) Detailed estimates of all anticipated income and revenue from any sources;~~
- ~~(d) Detailed estimates of all anticipated revenues applicable to proposed expenditures;~~
- ~~(e) Detailed estimates of proposed expenditures;~~
- ~~(f) Estimated statement of surplus for the current fiscal year.~~

~~The total of such anticipated sums should equal the total of such proposed expenditures and allocations.~~

~~* * *~~

Sec. 47. Anticipated revenues—Classification. Reserved.

~~Anticipated revenues and receipts from any source shall be classified as "surplus", "miscellaneous revenues" and "amount to be raised by property tax"; "miscellaneous revenues" shall be subclassified by sources and shall be estimated as prescribed in sections 48 to 54, inclusive, of this Article.~~

~~* * *~~

Sec. 48. Same—Comparison with other years. Reserved.

~~In parallel columns opposite the several items of anticipated revenues there shall be placed the amount of each such item in the budget of the last completed fiscal year, the amounts of such items actually received during the fiscal year, the amount of each such item in the budget of the current fiscal year and the amount actually received to the time of preparing the budget plus receipts for the remainder of the current fiscal year estimated as accurately as may be.~~

~~* * *~~

Sec. 49. Surplus. Reserved.

~~Surplus shall include:~~

- ~~(a) Revenue receipts made available by the lapsing of unencumbered appropriation balances at the beginning of the budget year;~~
- ~~(b) Receipts from unanticipated miscellaneous revenues of the preceding fiscal year;~~
- ~~(c) Receipts from anticipated miscellaneous revenues of the preceding fiscal year in excess of the estimates in the budget;~~
- ~~(d) Receipts during the previous fiscal year from taxes or liens against which a complete reserve has been established;~~
- ~~(e) Unexpended, unencumbered and unappropriated funds derived from any source whatsoever, except that this provision shall not be in derogation of any agreement in any indenture entered into by the Town of Surfside in connection with any of its bonded indebtedness.~~

~~* * *~~

Sec. 50. Miscellaneous receipts—Enumerated. Reserved.

~~Miscellaneous revenues shall include anticipated receipts from the collection of taxes other than the general property tax; the amount of state aid to be received; the amount by which the town is expected to benefit from taxes collected by the state; the amounts estimated to be received from leases, services and sales, fines and forfeitures, pension assessments, special assessments and any other special or nonrecurring sources.~~

~~* * *~~

Sec. 51. ~~Same—From utilities and public service enterprises. Reserved.~~

~~The anticipated revenues and proposed expenditures of each utility or other public service enterprise owned, leased or operated by the town shall be stated in a separate section of the budget (each bearing the name of the utility); and as to each such utility, an anticipated surplus, if legally available for general purposes, shall be stated as an item of miscellaneous revenue in the budget.~~

~~* * *~~

Sec. 52. ~~Same—Measure of estimates. Reserved.~~

~~No miscellaneous revenue from any source shall be included as an anticipated revenue in the budget in an amount in excess of the average of the amount actually realized in cash from the same source in the next preceding fiscal year, or that actually realized in the first nine months of the current fiscal year plus that to be received in the remaining three months of the year estimated as accurately as may be, unless the town manager shall determine that facts clearly warrant the expectation that such excess amount will actually be realized in cash during the budget year and shall certify such determination in writing to the commission.~~

~~* * *~~

Sec. 53. ~~Same—From special assessments. Reserved.~~

~~Revenues from the collection of special assessments on property specially benefited shall not be stated in an amount which is in excess of the amount of the receipts which it is estimated will be held in cash on the first day of the budget year.~~

~~* * *~~

Sec. 54. ~~Same—From new sources. Reserved.~~

~~No revenue from a new source not previously stated in the budget shall be included unless the town manager shall determine that the facts clearly warrant the expectation that such revenue will be actually realized in cash during the budget year in the amount stated and shall certify such determination in writing to the council. If the new revenue is to be received from the state, the anticipated amount shall not exceed the amount which the proper officer of the state shall declare in writing to be the amount which may reasonably be anticipated in the budget year.~~

~~* * *~~

Sec. 55. ~~Proposed expenditures—To be itemized; enumeration of items for which separate provisions required. Reserved.~~

~~The proposed expenditures shall be itemized in such form and to such extent as shall be provided by law, and in the absence of such provision, by regulations established by ordinance. Separate provision shall be included in the budget for at least:~~

- ~~(a) Interest, amortization and redemption charges on the public debt for which the faith and credit of the town is pledged;~~

- ~~(b) Other statutory expenditures;~~
- ~~(c) The payment of all judgments;~~
- ~~(d) The amount by which the total receipts of miscellaneous revenues in the last completed fiscal year failed to equal the total of the budget estimates of receipts from miscellaneous revenues in that year;~~
- ~~(e) An amount equal to the aggregate of all taxes levied for the third fiscal year prior to the budget year which are delinquent and outstanding on the ninetieth day prior to the beginning of the budget year, except to the extent the town may have made provision therefor by reserving the full amount of said delinquent taxes;~~
- ~~(f) An amount equal to the aggregate of all cancellations, remissions, abatements and refunds of taxes, that have been made during the current fiscal year;~~
- ~~(g) An amount equal to the aggregate of all special revenue notes which it is estimated will be outstanding at the end of the current year in anticipation of the collection of revenues other than the property tax;~~
- ~~(h) An amount equal to the aggregate of all emergency notes which it is estimated will be outstanding at the end of the current year;~~
- ~~(i) If the town is required to make up the deficit arising from the operations of utility or other public service enterprises, an amount equal to the deficit from such operations during the last completed fiscal year, separately stated for each utility or other public service enterprise which appears in a separate section of the budget;~~
- ~~(j) Administration, operation and maintenance of each office, department or agency of the town itemized by character and object of expenditure;~~
- ~~(k) Contingent expense in an amount not more than three per centum of the total amount stated pursuant to subsection (j) of this section;~~
- ~~(l) Expenditures proposed for municipal projects.~~

~~* * *~~

~~Sec. 56. Same—Comparison with other years. Reserved.~~

~~In parallel columns opposite the several items of proposed expenditures, there shall be placed the amount of each such item in the budget of the last completed fiscal year, the amount of such items actually expended during such year, the amount of each such item in the budget of the current year and the amount actually expended to the time of preparing the budget plus the expenditures for the remainder of the current fiscal year estimated as accurately as may be.~~

~~* * *~~

~~Sec. 57. Appropriation of surplus funds for capital expenditures. Reserved.~~

~~Surplus funds, as defined in Section 49 hereof, may, from time to time, be appropriated for capital expenditures.~~

* * *

Sec. 57a. ~~Appropriation of proceeds from real property sale or lease.~~ Reserved.

~~Any or all proceeds from the sale or leasing of real property owned by the town may, from time to time, be appropriated to purchase and retire bonds or other securities issued by the town, or to retire or pay any indebtedness of the town, notwithstanding anything in this Charter to the contrary.~~

* * *

Sec. 58. ~~Budget summary.~~ Reserved.

~~At the head of the budget there shall appear a summary of the budget, which need not be itemized further than by principal sources of anticipated revenue, stating separately the amount to be raised by property tax, and by departments and kinds of expenditures, in such manner as to present to taxpayers a simple and clear summary of the detailed estimates of the budget.~~

* * *

Sec. 59. ~~Budget and message to be public record.~~ Reserved.

~~The budget and budget message and all supporting schedules shall be a public record in the office of the town clerk, open to public inspection by anyone.~~

* * *

Sec. 60. ~~Publication of notice of public hearing.~~ Reserved.

~~At the meeting of the commission at which the budget and budget message are submitted, the commission shall determine the place and time of the public hearing on the budget, and shall cause to be published, or posted on the town hall bulletin board, a notice of the place and time at which the commission will hold a public hearing, which hearing shall commence not later than thirty days from the submission of the budget and budget message provided for in section 42.~~

* * *

Sec. 61. ~~Public hearing.~~ Reserved.

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

* * *

Sec. 62. ~~Changes in budget after public hearing.~~ Reserved.

~~After the conclusion of such public hearing, the commission may insert new items or may increase or decrease the items of the budget, except items in proposed expenditures~~

~~fixed by law or prescribed by subsections (a), (b), (c), (d), (e), (f), (g), (h) and (i) of section 55. The commission may not vary the titles, descriptions or conditions of administration specified in the budget. Before inserting any additional item or increasing any item of appropriation, it must cause to be published or posted a notice setting forth the nature of the proposed increases and fixing a place and time, not less than five days after publication, at which the commission will hold a public hearing thereon.~~

~~* * *~~

~~**Sec. 63. Anticipated revenue to at least equal proposed expenditures. Reserved.**~~

~~After such further hearing, the commission may insert the additional item or items, and provide for an increase in each case indicated by the published or posted notice, or to a lesser amount, but where it shall increase the total proposed expenditures, it shall also increase the total anticipated revenue to at least equal such total proposed expenditures.~~

~~* * *~~

~~**Sec. 64. Vote required to adopt budget. Reserved.**~~

~~The budget shall be adopted by ordinance or resolution of the commission.~~

~~* * *~~

~~**Sec. 65. When budget shall be adopted; failure to adopt. Reserved.**~~

~~The budget shall be finally adopted not later than the last day of the last month of the fiscal year. Should the commission take no final action on or prior to such day, the budget, as submitted, shall be deemed to have been finally adopted by the commission.~~

~~* * *~~

~~**Sec. 66. Effective date of budget; certification; copies to be made available. Reserved.**~~

~~Upon final adoption, the budget shall be in effect for the fiscal year. A copy of the budget, as finally adopted, shall be certified by the town manager and town clerk. The budget so certified shall be printed, mimeographed or otherwise reproduced and copies thereof shall be made available for the use of all offices, departments and agencies of the town and for the use of interested residents of the town and local civic organizations.~~

~~* * *~~

~~**Sec. 67. Proposed expenditures shall become appropriated after effective date. Reserved.**~~

~~From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes therein named.~~

~~* * *~~

Sec. 68. Millage for ordinary purposes. Reserved.

~~The commission shall have power to assess not to exceed ten mills upon the taxable property of the town for ordinary purposes. The words "ordinary purposes" shall be construed to mean all expenses for salaries of officers and employees, police force maintenance, cleaning and upkeep of streets, illumination, incidental expenses of administration of the public business, and all other purposes strictly municipal in their character, which are annual and continuing, including reasonable expenditures for promoting the interest of the municipality, and for the promotion of the welfare and the protection of the health of the people of the town by such means as will contribute towards making the town more attractive as a place of residence, and including in such ordinary purposes shall be that of maintaining public reading rooms, public buildings and beautifying and keeping up public beaches, public playgrounds, public parks, public boulevards and areas belonging to the town that adjoin street and alley pavements.~~

~~The words "ordinary purposes" shall also be construed to mean and include reasonable annual expenditures, not to exceed one-half mill, for promoting the interest of the municipality and for advertising through legitimate and recognized channels and media for the accomplishment of such purposes.~~

~~The words "ordinary purposes" shall also be construed to mean and include public libraries maintained and operated by the town or by a municipal or nonprofit library corporation contracting with the town.~~

* * *

Sec. ~~68.1. Payment of appropriations in installments; expenditure of appropriations beyond five years; contracts to be approved by ordinance.~~ Reserved.

~~Appropriations of any one year for ordinary purposes (as defined in section 68 hereof) shall not be paid in installments or otherwise expended beyond a period of five years; nor shall any written contract involving expenditures not provided for in the budget be valid unless made or approved by ordinance.~~

* * *

Sec. 69. Millage to pay bonds and interest. Reserved.

~~The commission shall also have power to levy and collect annually upon its taxable property aforesaid such sums as may be necessary to pay interest upon the bonded indebtedness of the town as it now exists or as may be incurred, pursuant to the provisions of the Charter, as to pay off the bonds of the town already issued or any additional bonds which may be issued in accordance with law.~~

* * *

Sec. 73. ~~When taxes due and payable; discounts; when delinquent.~~ Reserved.

~~All general taxes shall become due and payable at the town office on November 1st of each year, and the following discounts shall be allowed for prompt payments thereof:~~

~~4% in November;~~

~~3% in December;~~

~~2% in January;~~

~~1% in February;~~

~~No discount in March.~~

~~Taxes shall become delinquent April 1st of the year following the assessment.~~

~~* * *~~

~~Sec. 75. Tax sale notices.~~ Reserved.

~~It shall not be necessary to publish the lists of land to be offered for sale for the nonpayment of taxes or local assessments, but the town manager shall, at the time provided by general law for the publication of notice of sale for delinquent taxes, cause to be published once each week for four successive weeks in a newspaper published in Dade County, Florida, a notice stating that all lots and lands delinquent for nonpayment of taxes or local assessments will be offered for sale at the time specified in such notice and that a complete list of such delinquent lots and lands is available for public inspection at the office of said town manager.~~

~~* * *~~

~~Sec. 76. Correcting assessments, etc.~~ Reserved.

~~All provisions in the Charter relating to the assessment and enforcement of taxes and special assessments are directory and any errors, defects, or omissions in levies, assessments, sales or proceedings may be corrected at any time.~~

~~* * *~~

~~Sec. 77. Tax deeds presumed valid.~~ Reserved.

~~Deeds made by the Town of Surfside pursuant to tax sale shall be deemed prima facie valid in all proceedings wherein such deeds may be questioned.~~

~~* * *~~

~~Sec. 78. Redemption before loss of title by delinquent tax proceedings.~~ Reserved.

~~Prior to loss of title in proceedings to enforce delinquent taxes or liens, the property involved may be redeemed by any party interested therein paying to the town, or to the circuit court clerk of Dade County, or to the master or officer of the court, as the case may be, all amounts due on all town tax sale certificates, liens or deeds on such land, with interest to such date, and the costs or prorated costs of suit, together with all expenses incurred, including cost of abstract and title searches, attorney's fees, notices and~~

postage, but no land shall be redeemed after delivery of a tax deed by the town nor after delivery of a deed by the master or other officer pursuant to foreclosure decree and sale.

* * *

Sec. 79. ~~Purchase of land sold for delinquent taxes by town.~~ Reserved.

~~The Town of Surfside is authorized and may purchase lands offered for sale by its town manager for delinquent taxes owing the town, to the same extent and in the same manner as private persons and corporations are by the general law permitted and authorized to purchase lands offered for sale for delinquent taxes.~~

* * *

ARTICLE V. BORROWING FOR MUNICIPAL PROJECTS

* * *

Sec. 80. ~~Municipal projects enumerated; definitions.~~ Reserved.

~~For the purpose of this Charter the term "municipal project" shall cover only any one or more or any combination of the following: Heliports, auditoria, bridges, tunnels, buildings, hospitals, viaducts, community houses or centers and all facilities therein, dispensaries, jails, gas, electric and/or water distribution systems, memorials, parking lots and garages, garbage and trash disposal, parks including recreational facilities, playgrounds, recreation centers, structures, buildings, piers, public buildings and plazas, reservoirs, schools, sewers, sewerage or drainage systems and sewage disposal or treatment plants, stadia, streets, roads, avenues, alleys and highways, sidewalks and curbs, gutters and stormwater sewers or drains, toll bridges or causeways, swimming pools and public emergency or disaster shelters; and all property real and personal appurtenant thereto or connected with such work, undertaking or project and the existing work, undertaking or project, if any, to which such work, undertaking or project is an extension, addition, betterment or improvement.~~

- ~~(a) The term "to construct" shall mean to build, to construct, to reconstruct, to erect, to replace, to extend, to repair, to better, to equip, to develop, to embellish, to improve, to acquire by gift, purchase or the exercise of the right of eminent domain, or any one or more of all of the foregoing.~~
- ~~(b) The term "construction" shall mean building, construction, reconstruction, erection, replacement, extension, repairing, betterment, equipment, development, embellishments, improvements, acquisition, by gift, purchase, or the exercise of the right of eminent domain, or any one or more or all of the foregoing.~~
- ~~(c) The term "pending" when applied to a municipal project, means authorized but not yet completed.~~

* * *

**Sec. 81. Enumeration of projects, etc., for which indebtedness may be incurred.
Reserved.**

The Town of Surfside shall have power and is hereby authorized:

- ~~(a) To construct any municipal project, as defined in section 80 hereof, within or without the municipality, or partially within and partially without the municipality;~~
- ~~(b) To operate and maintain any municipal project for public and private users and consumers within and without the municipality;~~
- ~~(c) To issue bonds as provided in this Charter to finance such construction, and to provide for the rights of the holders of the bonds and to secure the bonds all as hereinafter provided;~~
- ~~(d) To enter into a trust agreement with any bank or trust company within or outside the state, or with any agency of the state or federal government in connection with the construction of a project as may be required to facilitate the sale of bonds to be refunded exclusively from revenues;~~
- ~~(e) To fix, levy and collect fees, rents, tolls, or other charges for the use of or in connection with any municipal project, and in the event any trust agreement with holders of bonds shall be made as hereinafter provided, to fix, levy and collect such fees, rents, tolls and other charges in accordance with such agreements and subject thereto;~~
- ~~(f) To acquire by purchase, gift or the exercise of the right of eminent domain and to hold and dispose of any property, real or personal, tangible or intangible, or any right or interest in any such property, in connection with any municipal project, whether or not subject to mortgages, liens, charges or other encumbrances, and to construct any municipal project subject thereto, and whether within or without the municipality, or partially within and partially without the municipality, subject to the limitations imposed by section 4 of article I;~~
- ~~(g) To enter on any lands, waters and premises for the purpose of making surveys, soundings and examinations in or for the furtherance of any municipal project;~~
- ~~(h) To perform any acts authorized under this article through or by means of its own officers, agents and employees, or by contracts with private corporations, firms or individuals;~~
- ~~(i) To award any contract for the construction of any municipal project or any part thereof upon any day at least fifteen days after one publication of a notice requesting bids upon such contract in a newspaper of general circulation in the municipality;~~
- ~~(j) To do all acts and things necessary or convenient to carry out the powers expressly given in this article.~~

* * *

~~Sec. 85. General obligation bonds subject to referendum; each individual proposal to be approved. Reserved.~~

~~If the initial ordinance authorized the issuance of bonds not payable exclusively from the revenue of a municipal project, such bonds may be issued only after the issuance of such bonds shall have been approved by a majority of the vote cast at an election at which a majority of the freeholders who are qualified electors, residing in the Town of Surfside, shall participate. Such election shall be called and held as provided for by law.~~

~~Where two or more bond proposals are submitted to the freeholders on the same ballot or in the same election, only those individual and specific proposals on which a majority of the freeholders vote (as distinguished from general participation in the election) shall qualify for approval, as prescribed in the foregoing.~~

~~* * *~~

~~Sec. 86. Tax ordinance required on general obligation bonds. Reserved.~~

~~At any time before delivering any bonds to be issued pursuant to this Article, not payable exclusively from the revenue of a municipal project, the commission of the Town of Surfside shall pass an ordinance (herein called the "tax ordinance") which shall recite in substance that adequate provision will be made for raising annually by tax upon all property subject to taxation by the Town of Surfside a sum sufficient to pay the interest on and principal of such bonds as the same shall become due. A tax sufficient to pay when due such principal and such interest shall be levied annually and assessed, collected and paid, in like manner with the other taxes of the Town of Surfside, and shall be in addition to all other taxes authorized or limited by law.~~

~~It shall be the duty of the commission of the Town of Surfside to include in the annual levy a tax sufficient to pay the interest on and principal of such bonds as the same become due; provided, however, that if the bonds are payable from taxes only in the event of a deficiency in revenues or are payable from taxes and additionally secured by a pledge of revenues, and if the tax ordinances shall so provide, then in such events, the tax to be levied and assessed by the commission of the Town of Surfside may be reduced by such amount and under such conditions as may be determined in such tax ordinance. When for any reason all or any part of the principal of or interest on any bonds issued by the Town of Surfside pursuant to this Article, not payable exclusively from the revenues of a municipal project, shall not be paid when due there shall be levied and assessed by the Town of Surfside and collected by the proper collecting officers at the first assessment, levy and collection of taxes in the Town of Surfside, after such omission or failure, a tax sufficient to pay the same.~~

~~* * *~~

~~Sec. 87. Form and general requirements of bonds. Reserved.~~

~~Bonds may be issued under this Charter in one or more series, may bear such date or dates; may bear interest at such rate or rates, not exceeding seven and one-half per centum per annum, payable semi-annually; may be in such denomination; may be in such form, either coupon or registered; may be payable at such place or places; may carry such registration and conversion privileges; may be executed in such manner; may be~~

~~payable in such medium of payment at such times and places; may be subject to such terms and redemption, with or without premium; and may be declared or become due before the maturity date thereof, as may be provided by ordinance of the commission of the Town of Surfside.~~

~~* * *~~

~~Sec. 88. Maximum period of bonds. Reserved.~~

~~Bonds may be issued for terms not exceeding thirty years.~~

~~* * *~~

~~Sec. 89. Sale of bonds; all bonds to be negotiable instruments. Reserved.~~

~~The bonds authorized to be issued by this Article shall be sold in the manner provided by law. The bonds may be sold in any such manner and for such price as the commission of the Town of Surfside may by ordinance determine to be for the interests of the town, but no bonds shall be sold at a price so low as to require the payment of interest on the money received therefor at more than seven and one-half per centum per annum, computed with relation to the absolute maturity of the bonds in accordance with standard tables of bond values, excluding, however, from such computation the amount of any redemption premium. The bonds shall be fully negotiable for all purposes.~~

~~All bonds issued under the provisions of this Charter shall have, and are hereby declared to have, as between successive holders, all the qualities and incidents of negotiable instruments under the negotiable instruments laws of the State of Florida. Bonds issued under this Article bearing the signature of officers in office on the date of the signing thereof shall be valid and binding obligations, notwithstanding that before the delivery thereof any or all of the persons whose signatures appear thereon shall have ceased to be officers of the Town of Surfside.~~

~~* * *~~

~~Sec. 90. Interim certificates, etc. Reserved.~~

~~Pending the preparation or delivery of the definitive bonds for the purpose of financing the construction of a municipal project, and subject to the requirements of Section 93 - "Limitations on Indebtedness," interim certificates or other temporary obligations may be issued by the Town of Surfside to the purchaser of such bonds. Such interim certificates or other temporary obligations shall be in such form and contain such terms, conditions and provisions as the commission of the Town of Surfside may determine.~~

~~* * *~~

~~Sec. 92. Municipal projects to be self-supporting when financed by revenue bonds; fixing project rates, etc. Reserved.~~

~~The commission of the Town of Surfside issuing bonds payable exclusively from the revenue of a municipal project shall prescribe and collect reasonable rates, fees or charges for the services, facilities and commodities of such municipal projects, and shall~~

~~revise such rates, fees or charges from time to time whenever necessary so that such municipal projects shall be and always remain self-supporting. The rates, fees or charges prescribed shall be such as will produce at least sufficient revenue to (a) pay when due all bonds and interest thereon, for the payment of which such revenue is or shall be pledged, charged or otherwise incumbered, including reserves therefor, and (b) provide for all expense of operation and maintenance of such municipal project, including reserves therefor.~~

~~* * *~~

Sec. 94. Pledge of security for payment of bonds. Reserved.

~~In order to secure the payment of any of the bonds issued pursuant to this Article and interest thereon, or in connection with such bonds, the Town of Surfside shall have all power as to such bonds:~~

- ~~(a) To pledge the full faith and credit and unlimited taxing power of the town to the punctual payment of the principal of and interest on such bonds.~~
- ~~(b) To pledge all or any part of the fees, rents, tolls or other charges, received or receivable by the Town of Surfside, from any municipal project then existing or thereafter to be constructed to the punctual payment of bonds issued for such municipal project, and interest thereon, and to covenant against thereafter pledging any such fees, rents, tolls, or charges to any other bonds or any other obligations of the Town of Surfside for any other purposes.~~
- ~~(c) To provide for the terms, form, registration, exchange, execution and authentication of such bonds.~~
- ~~(d) To provide for the replacement of lost, destroyed or mutilated bonds.~~
- ~~(e) To covenant as to the use and disposition of the proceeds from the sale of such bonds.~~
- ~~(f) To covenant as to the fees, rents or tolls to be charged in connection with the municipal project for which such bonds are to be issued, and as to the use and disposition to be made thereof.~~
- ~~(g) To covenant to set aside or pay reserves and sinking funds for such bonds and as to the disposition thereof.~~
- ~~(h) To redeem such bonds, as to covenant for their redemption, and to provide the terms and conditions thereof.~~
- ~~(i) To covenant as to its books of account and as to the inspection and audit thereof and as to the accounting methods.~~
- ~~(j) To make covenants other than, and in addition to, the covenants herein authorized.~~
- ~~(k) To execute all instruments necessary or convenient in the exercise for the powers herein granted or in the performance of its covenants or duties, including trust indentures to secure bonds payable exclusively from revenues.~~

~~(l) To make such covenants and do any and all such acts and things as may be necessary or convenient or desirable in order to secure such bonds, or in the absolute discretion of the commission of the Town of Surfside tends to make such bonds more marketable, notwithstanding that such covenants, acts or things may not be enumerated herein; it being the purpose hereof to give the Town of Surfside power to do all things in the issuance of the bonds and for their security that may be consistent with the constitution of the State of Florida.~~

~~* * *~~

Sec. 96. Procedure for issuance of bonds.

All action required or authorized to be taken under this Article by the commission of the Town of Surfside shall be by ordinance in accordance with the provisions of this Charter respecting the passing of ordinances.

~~Any ordinance authorizing bonds under this Article may provide that such bonds shall contain a recital that they are issued pursuant to this Article, which recital shall be conclusive evidence of their validity and the regularity of their issuance. Bonds to be issued under this Article may be validated as provided in Article 7 of Chapter IX of Title III of the Second Division of the Compiled General Laws of Florida, 1927, and amendments thereto.~~

~~The powers conferred by this Article shall be in addition to and the limitations imposed by this Article shall not affect the powers conferred by any other law and not in substitution for the powers conferred by any other law. Bonds may be issued hereunder for any municipal project notwithstanding that any other law may provide for the issuance of bonds for like purposes, and without regard to the requirements, restrictions of procedural provisions contained in any other law. Any proceedings heretofore taken by the Town of Surfside relating to the subject matters of this Article, whether or not commenced under any other law, may be continued under this Article, or, at the option of the commission of the Town of Surfside, may be discontinued and new proceedings instituted under this Article.~~

If any provisions of this Article, or the application of such provisions to any person, body or circumstances shall be held invalid, the remainder of this Article, or the application of such provisions to persons, bodies or circumstances other than those as to which it shall have been invalid, shall not be affected thereby.

* * *

Sec. 96.01. State election code applicable to bond elections. Reserved.

~~All bond elections called pursuant to this Article V shall be held in accordance with the Election Code of the State of Florida.~~

* * *ARTICLE Va. REFUNDING BONDS

* * *

Sec. 96.1. Definitions and statement of purpose. Reserved.

~~(a) *Town* as used in this Article shall mean the Town of Surfside, Florida.~~

- ~~(b) The words *net interest cost* when referring to a proposed issue of refunding bonds as used herein, mean the total amount of interest to accrue on the refunding bonds from their date to their respective maturities, without regard to any retained options of redemption, plus the amount of any discount below par or less the amount of any premium above par at which the bonds may be sold.~~
- ~~(c) The words *net interest cost* when referring to an outstanding issue of bonds to be refunded, as used herein, mean the total amount of interest which would accrue on such bonds from the date of the refunding bonds to the respective maturity dates of the outstanding bonds to be refunded, without regard to any retained options of redemption.~~
- ~~(d) The words *net effective interest rate* when referring to a proposed issue of refunding bonds, mean the net interest cost of said refunding bonds divided by the product obtained by multiplying the aggregate principal amount of such refunding bonds maturing on each maturity date by the number of years from the date of the refunding bonds to their respective maturities, without regard to any retained options of redemption.~~
- ~~(e) The words *net effective interest rate* when referring to an outstanding issue of bonds to be refunded, mean the net interest cost of such bonds divided by the product obtained by multiplying the aggregate principal amount of such bonds maturing on each maturity date by the number of years from the date of the proposed refunding bonds to the respective maturities of the bonds to be refunded, without regard to any retained options of redemption.~~
- ~~(f) For the purpose of the foregoing computation as to bonds which, pursuant to the proceedings authorizing their issuance, are subject to mandatory redemption prior to maturity, the amount of any premium required to be paid upon such redemption shall be included as interest and the interest which would accrue on said bonds from the mandatory call date to maturity shall not be included.~~
- ~~(g) It is the purpose of this Article to make it possible for the Town to refinance all or part of its outstanding general obligation bonds in accordance with modern principles of municipal finance, whenever such refinancing can be effected to the benefit of the Town, and this Article is adopted for such purpose.~~

~~* * *~~

Sec. 96.2. Authority to refund. Reserved.

~~The Town may issue refunding bonds for the purpose of refunding all or any part of its general obligation bonds now or hereafter outstanding, whether or not such bonds are at the time of the refunding due or optional for redemption, under the circumstances and restrictions hereinafter set forth. An issue of refunding bonds may refund part or all of one or more issues of outstanding general obligation bonds, but only those payable from taxes levied on the same taxable property may be refunded into a single issue of refunding bonds. Refunding bonds may be issued in one or more series, either alone or in combination with general obligation bonds issued for any other lawful purpose which are payable in whole or in part from the same source.~~

~~Refunding bonds may be issued hereunder whenever the Town Commission deem it expedient, provided that the issuance thereof is approved at a freeholders election. The net effective interest rate on the refunding bonds shall not exceed that of the bonds being refunded. This requirement shall be satisfied if, because a smaller principal amount of refunding bonds is being issued than the total principal amount of bonds being refunded, the aggregate amount of principal and interest payable on said refunding bonds will not in any year exceed the aggregate amount of principal of and interest on the bonds being refunded which would have fallen due in such year. As used above, "year" means any twelve-month period. If two or more issues of outstanding bonds are to be refunded, in whole or in part, by the issuance of a single issue of refunding bonds, the net interest cost and net effective interest rate of the bonds to be refunded shall, for the purpose of this section, be computed as if all of said bonds had originally been combined as a single issue aggregating the total of the individual issues, and the net interest cost and net effective interest rate of the combined issue shall be compared with the net interest cost and net effective interest rate of the refunding issue to determine compliance with this section.~~

~~* * *~~

~~Sec. 96.3. Refunding bond details. Reserved.~~

~~Refunding bonds issued hereunder shall, consistent with the other provisions of this Article, be in coupon form but may be made registrable as to principal or as to principal and interest, may be in the denomination of \$100 or any multiple thereof, shall not bear interest at a rate or rates in excess of seven and one-half per cent (7½%) per annum, shall mature serially or otherwise, but not later than thirty (30) years from their date, may be made redeemable at the option of the Town prior to maturity at a premium of not more than seven and one-half per cent (7½%) of the principal amount thereof, and shall otherwise have such details and shall be executed and issued in such manner as may be provided by the Town Commission. Such changes in the security and revenues pledged to the payment of the bonds refunded may be made by the Town Commission as may be provided by it in the proceeding authorizing the refunding bonds.~~

~~* * *~~

~~Sec. 96.4. Issuance of refunding bonds. Reserved.~~

~~Refunding bonds issued hereunder may be exchanged for not less than a like principal amount of the bonds to be refunded, may be sold in such manner as may be determined by the Town Commission, but at not less than ninety-five per cent of the par value thereof, or may be exchanged in part and sold in part. The principal amount of the refunding bonds may be the same or less, but not greater than the aggregate principal amount of the bonds to be refunded plus interest accrued to the date or dates on which the bonds being refunded are scheduled to be redeemed and redemption premiums which must be paid in order to refund said bonds. If the principal amount of the refunding bonds exceeds the aggregate principal amount of the bonds to be refunded, the net interest cost of the refunding bonds may not exceed the net interest cost of the bonds being refunded. If sold, the net proceeds shall either be immediately applied to the payment or redemption and retirement of the bonds to be refunded and the cost and~~

~~expense incident thereto and to the authorization and issuance of the bonds, or the net process of the refunding bonds may be invested, in whole or in part, (a) in direct obligations issued by the United States Government or one of its agencies, (b) in obligations fully guaranteed by the United States Government as to principal and interest, or (c) in certificates of deposit of a banking corporation or association which is a member of the Federal Deposit Insurance Corporation, or successor; but said certificates of deposit must be fully secured as to both principal and interest by pledged collateral consisting of direct obligations of the United States of America having a market value at all times at least equal to the amount of such principal of and accrued interest on such certificates of deposit. Any such investments must mature or be payable in advance of maturity at the option of the holder and must bear interest in such manner as to provide funds which, together with uninvested money placed in the hereinafter mentioned escrow, will be sufficient to pay when due or called for redemption the bonds refunded, together with interest accrued and to accrue thereon and redemption premiums, if any, and such refunding bond proceeds or obligations so purchased therewith shall, and other funds legally available to the Town for such purpose may be deposited in escrow with a banking corporation or association which is a member of the Federal Deposit Insurance Corporation or any successor thereto, to be held in trust for the payment and redemption of the bonds refunded, and such money and obligations and any re-investment thereof shall be held in trust by such escrow agent for the payment of interest on the refunded bonds when due, and principal thereof and applicable redemption premiums, if any, when due, or upon the date or dates for which they shall have been called for redemption, or upon an earlier voluntary surrender with the consent of the Town Commission. If the outstanding bonds are optional for redemption on more than one date, the Town Commission may determine which redemption date or dates shall be used when calling bonds for redemption. The term "net proceeds" as used above shall mean the gross proceeds of the refunding bonds after the deduction therefrom of all accrued interest, and expenses incurred in connection with the authorization and issuance of the refunding bonds and the refunding of the outstanding obligations, including all cost and expenses resulting from price variations to par or otherwise incurred in the purchase of obligations for escrow and in the disposition of the refunding bonds.~~

~~* * *~~

~~Sec. 96.5. Determination to be conclusive. Reserved.~~

~~The determination of the Town Commission that the limitations herein imposed upon the issuance of refunding bonds have been met, shall be conclusive in the absence of fraud.~~

~~* * *~~

~~Sec. 96.6. Authority for escrow agreement. Reserved.~~

~~The Town Commission shall have power to enter into such escrow agreement and to insert therein such protective and other covenants and provisions as it may consider necessary to permit the carrying out of the provisions of this Article and to insure the prompt payment of principal of and interest and redemption premiums on the bonds refunded.~~

* * *

Sec. 96.7. Application of debt limits.

If there shall be applicable to the bonds of the Town to be refunded under this Article, any statutory, Charter or other limitation on the amount of such indebtedness, the bonds which have been refunded hereunder by the placing of money or obligations, or both, in escrow as above provided, shall not be deemed to be outstanding bonds or indebtedness of the Town within the meaning of or subject to such limitation from and after the date of the issuance of the refunding bonds.

* * *

Sec. 96.8. ~~Time limitation.~~ Reserved.

~~No bonds not voluntarily surrendered by the holders thereof for immediate exchange or payment may be refunded hereunder unless such bonds either mature or are callable for redemption prior to maturity under their terms not later than fifteen (15) years from the date of issuance of the refunding bonds.~~

* * *

Sec. 96.9. ~~Negotiability.~~ Reserved.

~~All bonds issued under the provisions of this Article shall constitute negotiable instruments for all purposes of the laws of Florida relating to negotiable instruments.~~

* * *

Sec. 96.10. ~~Security provisions.~~ Reserved.

~~All acts required to be authorized hereunder may be authorized by resolution. Any such resolution shall provide for the creation of a fund into which shall be paid money fully sufficient to pay principal and interest on the refunding bonds promptly as principal and interest become due. Money paid into such fund may be derived from ad valorem taxes and other sources described in Article V of this Charter, together with those which are specifically available to municipalities under the laws of Florida. The resolution authorizing the issuance of the bonds may contain such covenants with the future holders of the bonds as to the management and operation of any utility or facility the revenues of which are pledged, the imposition and collection of fees and charges for the products, commodities or services furnished by such utility or facility, the collection, keeping and disposition of all revenues pledged, the issuance of future bonds, the creation of future liens and encumbrances against the revenues pledged or utilities and facilities producing such revenues, the carrying of insurance on such utilities or facilities, and the disposition of insurance proceeds, the keeping of books and records, remedies in the event of default, including the appointment of a receiver for utilities or revenue producing facilities, the appointment and duties of a trustee, the priority of the lien of the bonds on the pledged revenues, and other pertinent matters, as may be deemed necessary or proper by the Town Commission to assure the marketability of the refunding bonds at the most favorable price. If the revenues of any ability or other revenue producing facility have been pledged to the payment of the bonds, it shall be the duty of the Town Commission to impose and collect fees and charges for the products, commodities, and services furnished by the utility or facility in such amounts and at such rates as shall be fully~~

~~sufficient to pay the expenses of the operation and maintenance thereof, and, with the other pledged revenues, provide a sinking fund sufficient to assure the prompt payment of principal and interest on the bonds and to provide such reasonable funds for contingencies, reserves and renewals, extensions and improvements as may be considered desirable. No board or commission other than the Town Commission shall have authority to fix or supervise the making of such fees and charges.~~

~~* * *~~

~~Sec. 96.11. Call of bonds for redemption. Reserved.~~

~~Where any bonds to be refunded are not to be surrendered for exchange or repayment and are not to be paid at maturity with escrowed refunding bond proceeds or money derived from escrowed obligations, but are to be paid from such source prior to maturity pursuant to call for redemption exercised under a right of redemption reserved in such bonds, the Town shall, prior to the issuance of the refunding bonds, call such bonds for redemption and provide for the giving of the notice of redemption required by the proceedings authorizing such bonds. Where such notice is to be given at a time subsequent to the issuance of the refunding bonds, the necessary notices may be deposited with the bank acting as escrow agent of the refunding bond proceeds and the bank appropriately instructed and authorized to give the required notices at the prescribed time or times. If any officer of the Town signing any such notice shall be no longer in office at the time of the utilization of the notice, the notice shall nevertheless be valid and effective for its intended purpose.~~

~~* * *~~

~~Sec. 96.12. Convertibility. Reserved.~~

~~In authorizing refunding bonds hereunder, the Town Commission may provide for the exchange of any such bonds after issuance for bonds of larger or smaller denominations in such manner as may be provided in the authorizing resolution, provided the bonds in changed denominations shall be exchanged for the original bonds in like aggregate principal amounts and in such manner that no overlapping interest is paid, and such bonds in changed denominations shall bear interest at the same rate or rates, shall mature on the same date or dates, shall be in the same form except for an appropriate recital as to the exchange, and shall in all other respects except as to denominations and numbers, be identical with the original bonds surrendered for exchange. Where any exchange is made pursuant to this paragraph, the bonds surrendered by the holders at the time of exchange shall be cancelled, any such exchange shall be made only at the request of the holders of the bonds to be surrendered, and the Town Commission may require all expenses incurred in connection with such exchange, including the authorization and issuance of the new bonds, to be paid by such holders.~~

~~* * *~~

~~Sec. 96.13. Election. Reserved.~~

~~An election shall be necessary to the issuance of refunding bonds hereunder and such bonds shall be issued only after having been approved by the majority of the votes cast in an election in which a majority of the free holders who are qualified electors~~

~~residing in such Town shall participate, which election may be held under the provisions of F.S. §§ 100.201—100.351, inclusive, as such sections now or may hereafter exist.~~

~~* * *~~

~~Sec. 96.14. Circuit court validation. Reserved.~~

~~Any bonds issued pursuant hereto and the proceedings pursuant to which they are to be issued, may be validated under the provisions of F.S. ch. 75, as amended, in the manner and with the effect now or hereafter provided in said chapter.~~

~~* * *~~

~~Sec. 96.15. Article complete in itself. Reserved.~~

~~This Article is an alternate and additional means of effecting the acts herein authorized and shall constitute full authority for the accomplishment of all acts herein authorized to be done. Any resolution adopted pursuant hereto may be adopted on a single reading at any regular meeting, and need not be published. No act or proceeding other than those specifically herein required shall be necessary to the carrying out of the powers herein granted. No other law restricting or affecting the carrying out of any such act shall be construed as applying to any proceeding had or act done under this Article.~~

~~* * *~~

ARTICLE VI. NOMINATIONS AND ELECTIONS

~~* * *~~

Sec. 97.1. Charter amendments.

Amendments to this Charter shall be proposed, presented or initiated and implemented in accordance with the requirements of section ~~5.03~~ 6.03 of Article ~~5~~ 6 of The Home Rule Charter for Metropolitan Miami-Dade County.

~~* * *~~

~~Sec. 98. Qualifications of electors. Reserved.~~

~~Any person who is at least eighteen years of age, or any person who will attain the age of eighteen prior to the next succeeding special or general election of the town, who is a citizen of the United States and a resident of the State of Florida and Town of Surfside, and who is registered to vote on the registration books of Dade County, Florida, shall be eligible to vote in Surfside elections.~~

~~* * *~~

~~Sec. 99. Rules and regulations, supervision, etc., of elections. Reserved.~~

~~The commission shall by ordinance establish such rules and regulations as it considers needful or desirable, not inconsistent with this Charter, governing the conduct~~

of municipal elections, for the prevention of fraud in such elections, and for the recount of ballots in case of doubt or fraud. Municipal elections shall be supervised by the town clerk and conducted by an election board consisting of an election clerk and four or more qualified electors appointed by the mayor who shall act as inspectors of the election.

* * *

Sec. 100. Electors qualified to vote. Reserved.

Qualified electors of Dade County, Florida, residing in the Town of Surfside, shall constitute the electors qualified to vote in Surfside elections; provided, however, that any person qualifying as an elector less than thirty days prior to the date of a Surfside election shall not be qualified to vote in such election.

* * *

Sec. 103. Ballots. Reserved.

All ballots used in any general or special election of commissioners held under authority of this Charter shall be without party mark or designation and without any insignia or mark of any association or organization thereon and shall be substantially in the same form as the election ballot used in all general state elections. The following additional provisions with respect to ballots used in any general or special election of commissioners shall also apply:

- (a) The full names of all candidates nominated for the commission as hereinbefore provided, except such as may have withdrawn, died or become ineligible, shall be printed on the official ballots. If two candidates with the same surname, or with names so similar as to be likely to cause confusion, are nominated, the addresses of their places of residences may be placed with their names on the ballot.
- (b) The names of the candidates shall be arranged in the alphabetical order of their surnames.
- (c) Where voting machines are not used, commissioners shall be voted for on ballots separate and distinct from ballots used for any other office or question and the ballot boxes used for the election of commissioners shall be separate and distinct from ballot boxes used for any other office or question.
- (d) Absentee voting shall be as provided under the authority of F.S. § 101.70.

* * *

Sec. 104. Voting machines. Reserved.

When voting machines are used the laws of the State of Florida shall be applicable and the council may modify the form of the ballot, the method of expressing choices and the arrangements for conducting the election and the count, but no change shall be made which will alter or impair the principles of the voting or of the counting.

* * *

Sec. 107. Hours of voting. Reserved.

~~The polls shall open at seven o'clock a.m. and close at seven o'clock p.m., by whatever time is officially used by the town.~~

* * *

ARTICLE VII. RECALL

* * *

Sec. 110. Procedure generally.

~~The procedure for recall of the Mayor and Commissioners shall be as provided in Section 100.361, Florida Statutes. As may be amended from time to time. Any commissioner shall be subject to removal from office upon the filing of a recall petition and the affirmative vote of a majority of those voting on the question of removal at any regular or special municipal election.~~

~~No less than ten per cent of the qualified electors of the town may make and file with the town clerk a petition containing the name or names of the commissioner or commissioners whose removal is sought.~~

~~The recall petition, to be effective, must be completed within sixty days after the filing of the petition, and, if sufficient, the town clerk shall forthwith attach his certificate of sufficiency and within forty eight hours thereafter actify in writing the commissioner or commissioners whose recall is sought in said petition. The town clerk shall also submit the petition, together with his certificate, to the commission at its next regular meeting and the commission shall, within ten days of the receipt of the clerk's certificate, order an election to be held not less than thirty days nor more than forty five days thereafter. Provided, that if any other municipal election is to occur within sixty days after the receipt of the said clerk's certificate, the commission may in its discretion provide for the holding of the recall election on the date of such other municipal election.~~

~~Unless the commissioner or commissioners whose removal is sought shall have resigned within ten days after the receipt by the commission of the clerk's certificate, the form of ballot at such election shall be as nearly as may be: "Shall A be recalled?" "Shall B be recalled?" etc., the name of the commissioner or commissioners whose recall is sought being inserted in place of A, B, etc., and the ballot shall also contain the names of the candidates to be elected in place of the commissioner or commissioners recalled, as follows: "Candidates for the place of A, if recalled; candidates for the place of B, if recalled," etc., but the commissioner or commissioners whose recall is sought shall not themselves be candidates upon such ballot. Candidates to succeed a commissioner, if recalled, shall qualify in the same manner as provided for candidates in sections 101 and 102 hereof, except that the last day for qualifying shall be fifteen days before the date of the election rather than twenty days.~~

~~If a majority of votes in connection with the recall of any commissioner be in favor of the recall, the term of office of such commissioner shall terminate upon the certification~~

~~of the results of election by the town commission which shall canvass the results the day following the election.~~

~~If the canvassing of the results of such recall election shall be shown to be against the recall of the commissioner he shall continue in office as if no recall election had been held, and the vote for the election of the successor of such commissioner taken at the time of such attempted recall shall be void.~~

~~No court shall stay or enjoin any proceeding hereunder unless the person seeking such process shall first file with the clerk of the court having jurisdiction of such a case a bond in the penal sum of four thousand dollars with sufficient security, and conditioned to pay to the town all costs, damages and expenses, including reasonable attorney fees, if such order is thereafter set aside or the case dismissed.~~

~~Should the commission fail or refuse to order an election as herein provided within the time required such election may be ordered by any court of competent jurisdiction.~~

~~* * *~~

ARTICLE VIII. INITIATIVE AND REFERENDUM

~~* * *~~

Sec. 119. Ballots; use of voting machines. Reserved.

~~Ordinances submitted to vote of the electors in accordance with the initiative and referendum provisions of this Charter shall be submitted by ballot title, which shall be prepared in all cases by the legal advisor of the town. The ballot title may be different from the legal title of any such initiated or referred ordinance and shall be a clear, concise statement, without argument or prejudice, descriptive of the substance of such ordinance. The ballot used in voting upon any ordinance, if a paper ballot, shall have below the ballot title the following propositions, one above the other, in the order indicated: "For the Ordinance," and "Against the Ordinance."~~

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

~~* * *~~

ARTICLE IX. MISCELLANEOUS PROVISIONS

~~* * *~~

Sec. 139. Records and accounts to be open to public; exception.

All records and accounts of every office, department or agency of the town shall be open to inspection by any citizen, any representative of the press, or citizens' organization, or any owner of property within the town, at all reasonable times and under reasonable regulation established by the town manager.

All records, documents and accounts will remain in the affected department or agency of the town, and no such records, documents or accounts will be allowed to be taken from these offices without prior written permission of the town manager.

* * *

Sec. 141. Bonds of officers and employees. Reserved.

All officers and employees of the town shall give bond in such amount and with such surety as may be approved by the commission. The premiums on such bonds shall be paid by the town.

* * *

Sec. 145. Same—When bond or security required. Reserved.

The town depositories of the general fund, water revenue funds derived from special assessments other than sinking funds [sic], shall furnish such bond or security as required by the town commission.

* * *

Sec. 146. Investment of sinking funds. Reserved.

It shall be the duty of the town commission through the town manager to invest as savings accounts or otherwise all monies belonging to the town, collected and held as sinking funds; the investment of such funds to be done and made in such manner as, in the judgment of the town commission, may be to the best interest of the town. In making investments the town commission may purchase only interest bearing United States Government bonds or bonds of the Town of Surfside, and none of these bonds at a higher price than the market price at the time of purchase. Deposits of the sinking fund cash balances shall be secured in the same manner and to the same extent as required for the general fund, the water revenue fund and funds derived from special assessments.

* * *

Sec. 147. Deposit of interest; interest to be credited to proper fund. Reserved.

All moneys collected as interest shall be placed in a depository and credited by the town manager to the fund from which derived.

* * *

Sec. 148. Acceptance of dedicated streets. Reserved.

No streets or alleys hereafter dedicated to public use by the owner of land in the town shall be deemed a public street or alley, or under the care and control of the council, unless the dedication be accepted and confirmed by ordinance passed for such purpose,

~~or unless the provisions of this Charter or town ordinances relating to subdivisions shall have been complied with.~~

~~* * *~~

~~ARTICLE X. IMPROVEMENTS AND SPECIAL ASSESSMENTS GENERALLY RESERVED~~

~~* * *~~

~~**Sec. 157. Scope of authority.**~~

~~The Town Commission is hereby authorized and empowered in the manner herein provided to cause any waterway within said town to be bulkheaded; to cause groynes or jetties to be constructed along the shore and into the Atlantic Ocean to protect the mainland from the effects of erosion, the tides and winds; to cause boardwalks or other walks or sea walls to be constructed along any property owned by the town, or in which it has a perpetual easement, or which is dedicated to the town or the public along or near the shore of the Atlantic Ocean; to cause any and all highways and streets, by whatever designation they may be known, or any part thereof, to be lighted, "whiteway" lighted, graded, paved, repaved, and to cause curbs and gutters to be constructed thereupon, and sanitary sewers, storm sewers and other drains to be laid or constructed in any such highway or street, or part thereof, and/or in any right of way or easement granted to or acquired by the town or any dedicated way, and may provide for the payment of all or any part of the costs of any such improvements by levying and collecting special assessments on the abutting, adjoining or other specially benefited property.~~

~~* * *~~

~~**Sec. 158. Method of prorating special assessments.**~~

~~Special assessments against property deemed to be specially benefited by the improvements provided for hereinabove shall be assessed upon the property specially benefited by the improvement in proportion to the benefits to be derived therefrom, said special benefits to be determined and prorated according to the front footage of the respective properties specially benefited by said improvement, or by such other method as the Town Commission may prescribe.~~

~~* * *~~

~~**Sec. 159. Resolution required to declare special assessment.**~~

~~The initial proceedings for local improvements hereunder shall be the passage, at a regular or special meeting of the Town Commission, of a resolution ordering the same to be made, stating the nature of the proposed improvement, designating the streets, sidewalks, lot, block or other area or property to be so improved or the location of said sanitary sewers, storm sewers or drains, and the part or portion of the expense thereof to be paid by special assessments, the manner in which said assessments shall be made, when said assessments are to be paid, what part, if any, shall be apportioned to be paid~~

~~from funds of the town, and said resolution shall also designate the lands upon which the special assessments shall be levied, and in describing said lands it shall be sufficient to describe them as "all lots and lands adjoining and contiguous or bounding and abutting upon such improvements or specially benefited thereby and further designated by the assessment plat hereinafter provided for." Nothing herein contained, however, shall be construed to prevent the designation of lots or lands which are not adjoining, contiguous to, bounding or abutting each other in connection with the bulkheading, groynes, jetties, sea walls and other improvements to waterfront properties subject to erosion or tides. Such resolution shall also state the total estimated cost of the improvement.~~

~~* * *~~

~~Sec. 160. Plans and specifications, with estimated cost of proposed improvement required before adoption of resolution.~~

~~At the time of the adoption of the resolution provided for in section 159, there shall be on file with the town clerk, an assessment plat showing the area to be assessed, with plans and specifications, and an estimate of the cost of the proposed improvement, which assessment plat, plans and specifications and estimate shall be open to the inspection of the public.~~

~~* * *~~

~~Sec. 161. Publication of resolution.~~

~~Following the adoption of the resolution provided for in section 159, the town clerk shall cause said resolution to be published once a week for a period of two weeks in a newspaper of general circulation published in Dade County.~~

~~* * *~~

~~Sec. 162. Assessment roll.~~

~~Upon the adoption of the resolution aforesaid, the town manager shall cause to be made an assessment roll in accordance with the method of assessment provided for in said resolution, which assessment roll shall be completed and filed with the town commission as promptly as possible; said assessment roll shall show the lots and lands assessed, the amount of the assessment against each lot or parcel of land, and if said assessment is to be paid in installments, the number of annual installments in which the assessment is divided shall also be entered and shown upon said assessment roll.~~

~~* * *~~

~~Sec. 163. Publication of assessment roll.~~

~~Upon the completion of said assessment roll, the Town Commission shall by resolution fix a time and place at which the owners of the property to be assessed, or any other persons interested therein may appear and be heard as to the propriety and advisability of making such improvements, as to the cost thereof, as to the manner of payment therefor and as to the amount thereof to be assessed against each property so~~

improved. Twenty days' notice in writing of such time and place shall be given to such property owners, which shall be served by mailing a copy of such notice to each of such property owners at his last known address, the names and addresses of such property owners to be obtained from the records of the tax assessor or from such other sources as the town clerk deems reliable, proof of such mailing to be made by the affidavit of the town clerk; provided that failure to mail such notice or notices shall not invalidate any of the proceedings hereunder. Notice of the time and place of such hearing shall also be given by two publications a week apart in a newspaper of general circulation in Dade County, Florida; provided that the last publication shall be at least one week prior to the date of the hearing. Said notice shall describe the nature of the improvement and advise all persons interested that the description of each property to be assessed and the amount to be assessed to each piece or parcel of property may be ascertained at the office of the town clerk. Such service by publication shall be verified by the affidavit of the publisher and filed with the town clerk.

* * *

~~Sec. 164. Equalizing board to hear complaints and adjust assessments; rebate or difference in cost and assessment.~~

~~At the time and place named in the notice provided for in section 163, the town commission shall meet as an equalizing board to hear and consider any and all complaints as to such special assessments on a basis of justice and right, and when so equalized and approved by resolution or ordinance of the council, such assessments shall stand confirmed, and remain legal, valid and binding first liens, upon the property against which such assessments are made, until paid; provided however, that upon completion of the improvement the town shall credit to each of said assessments the difference in the assessment as originally made, approved and confirmed, and the proportionate part of the actual cost of said improvement to be paid by special assessments as finally determined upon the completion of said improvement, provided that in no event shall the final assessments exceed the amount originally assessed. Promptly after such confirmation, the assessments shall be recorded by the town clerk in a special book, to be known as the "improvement lien book," and the record of the lien in said book shall constitute prima facie evidence of its validity.~~

* * *

~~Sec. 165. Priority of lien, interest and method of payment.~~

~~Said assessments shall be payable at the time and in the manner stipulated in the resolution providing for said improvements, and said special assessments shall remain liens, co-equal with the lien of other taxes, superior in dignity to all other liens, titles and claims, until paid, and shall bear interest at the rate of not to exceed seven per cent per annum from the date of the acceptance of said improvement and may, by the resolution aforesaid, be made payable in not more than ten equal yearly installments, to which, if not paid when due, there shall be added a penalty at the rate of one per cent per month, until paid; provided that said assessments may be paid without interest at any time within~~

thirty days after the improvement is completed, and a resolution accepting the same has been adopted by the Town Commission.

* * *

~~Sec. 166. Legal proceedings instituted upon failure of property owner to pay special assessment or interest when due; foreclosure; service of process.~~

~~Each annual installment provided for in section 165 shall be paid upon the dates specified in said resolution, with interest upon all deferred payments, until the entire amount of said assessment has been paid, and upon the failure of any property owner to pay any annual installment due, or any part thereof, or any annual interest upon deferred payments, the Town Commission shall cause to be brought the necessary legal proceedings by a bill in chancery to enforce payment thereof with all accrued interest and penalties, together with all legal costs incurred, including a reasonable attorney's fee to be assessed as part of the costs, and in the event of default in the payment of any installment of an assessment, or any accrued interest on said assessment, the whole assessment, with the interest and penalties thereon, shall immediately become due and payable and the property assessed subject to foreclosure. In the foreclosure of any special assessment, service of process against unknown or non-resident defendants may be had by publication, as now provided by law in other chancery suits. The foreclosure proceedings shall be prosecuted to a sale and conveyance of the property involved in said proceedings as now provided by law in suits to foreclose mortgages.~~

* * *

~~Sec. 167. Bonds may be issued to an amount not exceeding the amount of liens assessed for the cost of improvements to be paid by special assessment.~~

~~After the equalization, approval and confirmation of the levying of the special assessments for improvements as provided by section 164 and as soon as a contract for said improvement has been finally let, the Town Commission may by ordinance authorize the issuance of bonds, to be designated "Improvement Bonds, Series No. _____," in an amount not in excess of the aggregate amount of said liens levied for such improvements. Said bonds shall be payable from a special and separate fund to be known as the "Improvement Fund, Series No. _____," which shall be used solely for the payment of the principal and interest of said "Improvement Bonds, Series No. _____," and for no other purpose. Said fund shall be deposited in a separate bank account and all the proceeds collected by the town from the principal, interest and penalties of said liens shall be deposited and held in said fund. Said bonds so issued shall never exceed the amount of liens assessed, and said bonds shall mature not later than six months after the maturity of the last installment of said liens. Said bonds shall bear certificates signed by the town clerk certifying that the amount of liens levied, the proceeds of which are pledged to the payment of said bonds, are equal to the amount of the bonds issued. The bonds may be delivered to the contractor in payment for his work or may be sold at public or private sale for not less than par and accrued interest, the proceeds to be used in paying for the cost of the work. Said bonds shall not be a charge on, or payable out of, the general revenues of the town, but shall be payable solely out of said assessments, installments, interest~~

and penalties. Any surplus remaining after payment of all bonds and interest thereon shall revert to the town and shall constitute surplus as defined in section 49 of this Charter.

* * *

~~Sec. 168. Assessments to be made until valid.~~

~~If any special assessment made under the provisions of this article to defray the whole or any part of the expense of any said improvement shall be either in whole or in part annulled, vacated or set aside by the judgment of any court, or if the Town Commission shall be satisfied that any such assessment is so irregular or defective that the same cannot be enforced or collected, or if the Town Commission shall have omitted to make such assessment when it might have done so, the Town Commission shall take all necessary steps to cause a new assessment to be made for the whole or any part of any improvement or against any property specially benefited by any improvement, following as nearly as may be the provisions of this article and in case such second assessment shall be annulled, the Town Commission may obtain and make other assessments until a valid assessment shall be made.~~

* * *

~~Sec. 169. Portion of cost of improvement and items considered improvement cost may be paid out of general funds or any special fund for the purpose.~~

~~The Town Commission may pay out of its general funds or out of any special fund that may be provided for that purpose such portion of the cost of any improvement as may be provided in the resolution adopted under section 159.~~

* * *

~~Sec. 170. Assessment roll sufficient evidence of assessment and other proceedings of this article; variance not material unless party objecting materially injured thereby.~~

~~Any informality or irregularity in the proceedings in connection with the levy of any special assessment under the provisions of this article shall not affect the validity of the same where the assessment roll has been confirmed by the Town Commission, and the assessment roll as finally approved and confirmed shall be competent and sufficient evidence that the assessment was duly levied, that the assessment was duly made and adopted, and that all other proceedings adequate to the adoption of the said assessment roll were duly had, taken and performed as required by this article; and no variance from the directions hereunder shall be held material unless it be clearly shown that the party objecting was materially injured thereby.~~

* * *

02876

~~Sec. 171. Denomination of bonds, interest, place of payment, form, signatures, coupons and delivery.~~

~~All bonds issued under this article shall be the denomination of one hundred dollars, or some multiple thereof, and shall bear interest at a uniform rate not exceeding six per cent per annum, payable annually or semi-annually thereafter until maturity, and not exceeding ten per cent per annum after maturity, and both principal and interest shall be payable at such place or places as the Town Commission may determine. The form of such bonds shall be fixed by ordinance of the Town Commission and said bonds shall be signed by the mayor and the town clerk, under the seal of the town; the coupons, if any, shall be executed by the facsimile signatures of said officers. The delivery of any bond and coupons so executed at any time thereafter shall be valid although before the date of delivery the person signing such bonds or coupons shall cease to hold office.~~

~~* * *~~

~~Sec. 172. Construction and authority of article.~~

~~This article shall, without reference to any other law of Florida, be full authority for the issuance and sale of the bonds by this article authorized, and shall be construed as an additional and alternative method for the financing of the improvements referred to herein. No ordinance, resolution, election or proceedings in respect to the issuance of any bonds hereunder shall be necessary, except such as is required by this article, and no publication of any resolution, ordinance, election, notice or proceeding relating to the issuance of the bonds provided for by this article shall be required, except such as required by this article.~~

~~* * *~~

~~Sec. 173. Bonds negotiable.~~

~~Bonds issued hereunder shall have all the qualities of negotiable paper under the law merchant, and shall not be invalid for any irregularity or defect in the proceedings for the issue and sale thereof, and shall be incontestible in the hands of bona fide purchasers or holders thereof for value.~~

~~* * *~~

~~Sec. 174. Provisions of article supplemental, additional and alternative procedure.~~

~~This article shall not preclude the use by the town of any general or special law of the State of Florida relating to the subject matter hereof, but shall be deemed to provide a supplemental, additional and alternative method of procedure for the benefit of the town.~~

~~* * *~~