

ORDINANCE No. 2009-35-207

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, PROVIDING FOR AN AMENDMENT TO SECTION 6.2(B), OF THE CHARTER OF THE CITY OF MIAMI GARDENS, TO PROHIBIT CITY STAFF AND COUNCIL MEMBERS, OTHER THAN THE NONVOTING CITY COUNCIL MEMBER TO BE APPOINTED BY THE MAYOR FROM SERVING ON THE CHARTER REVISION COMMISSION; SUBMITTING THE QUESTION FOR APPROVAL OF THE ELECTORATE OF THE CITY OF MIAMI GARDENS AT THE GENERAL ELECTION TO BE HELD IN AUGUST 2010; PROVIDING FOR THE CALL OF THE ELECTION ON THE ISSUE TO BE PRESENTED ON THE BALLOT; PROVIDING FOR AUTHORITY TO THE CITY ATTORNEY AND CITY CLERK; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

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WHEREAS, in accordance with Sections 6.1 and 6.2 of the City of Miami Gardens Charter, in December 2008, the City Council appointed a Charter Revision Commission ("Commission"), and

WHEREAS, the Charter Revision Commission met and has recommended that the City Council make certain amendments to the City Charter, and

WHEREAS, among other Amendments, the Commission has recommended that Section 6.2(B) of the Charter be amended to prohibit city staff and council members, other than the nonvoting City Council member to be appointed by the Mayor, from serving on the Charter Revision Commission, and

WHEREAS, the City Council agrees with the recommendation made by the Charter Revision Commission and would like to amend the Charter in accordance with the recommendations being made by the Charter Revision Commission, and

WHEREAS, pursuant to Sections 6.1 and 6.2 of the City Charter and Section 6.03 of the Home Rule Charter of Miami-Dade, as applicable, the City Council is

required to submit the Charter Amendments to the electors of the City for approval or rejection,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS as follows:

SECTION 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas Clauses are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Ordinance.

SECTION 2. APPROVAL: The City Council hereby amends Section 6.2(B) of the Charter as follows:

The Commission shall consist of five persons including one from each of the four Residential Areas. One appointment shall be made by the Mayor and each Residential Council member. In addition, the Mayor shall appoint one person to the Commission who is the Vice-Mayor or Council member who is serving a second consecutive term, who shall serve as a non-voting Commission member. In the event a second term Vice-Mayor or Council member is not serving, the Mayor may appoint a sitting Vice Mayor or Council member. The Mayor, City staff, and Council members, other than the nonvoting member referenced above, shall not be eligible for appointment to the Commission. The Commission shall commence its proceedings within 45 calendar days after appointment by the Council.

SECTION 3. ELECTION CALL: The Mayor and City Council hereby call for an election to be held concurrent with the general election to be held in the month of August 2010, at such time as may be convenient for, and determined in accordance with the procedure of the Supervisor of Elections in and for Miami-Dade County, Florida, the City Clerk and City Attorney are hereby directed and empowered to do such things as may be necessary and proper in accordance with the laws of the City of Miami Gardens and the laws of the State of Florida to provide for such election on the proposition herein contemplated; and there should be presented to the electorate of the City of Miami

Gardens, the question of whether or not to amend Section 6.2(B) of the City Charter to prohibit city staff and council members, other than the nonvoting City Council member to be appointed by the Mayor from serving on the Charter Revision Commission.

SECTION 4. ELECTORATE APPROVAL NECESSARY: There shall be placed on the ballot of the General Election to be held in the month of August, 2010, in accordance with the call thereof by the City Council, the following proposition of whether to amend Section 6.2(B) of the Charter to prohibit city staff and council members, other than the nonvoting City Council member to be appointed by the Mayor from serving on the Charter Revision Commission; providing that each elector shall indicate such elector's approval for the proposition; providing further, that in the event the elector shall indicate both approval for and against such change, such elector's vote and ballot shall not be counted in determining the question presented on such ballot and in such election. One ballot shall be established and made available to each elector, by electronic or other means for the purpose of expression of such elector's approval or disapproval of the proposition and such proposition shall be summarized as follows:

**PROHIBITIING CITY STAFF AND CERTAIN COUNCIL MEMBERS FROM SERVING ON THE CHARTER REVISION COMMISSION**

Shall Section 6.2(B) of the City Charter be amended to prohibit city staff and council members, other than the nonvoting member that is to be appointed by the Mayor, from serving on the Charter Revision Commission?

For \_\_\_\_\_

Against \_\_\_\_\_

SECTION 5: AUTHORITY: The City Attorney and City Clerk are hereby authorized to make any such amendments to the ballot title and/or question based upon the rules, regulations and policies of the Miami-Dade Supervisor of Elections, and is

hereby authorized to take all steps necessary to fulfill the intent of this Ordinance.

SECTION 6. CONFLICT: All ordinances or Code provisions in conflict herewith are hereby repealed.

SECTION 7. SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 8. INCLUSION IN CODE: It is the intention of the City Council of the City of Miami Gardens that in the event the ballot question presented herein is approved by the electors of the City that the provisions of this Ordinance shall become and be made a part of the Charter as included in the Code of Ordinances of the City of Miami Gardens and that the sections of this Ordinance may be renumbered or relettered and the word "Ordinance" may be changed to "Chapter," "Section," "Article" or such other appropriate word or phrase, the use of which shall accomplish the intentions herein expressed

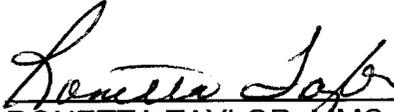
SECTION 9. EFFECTIVE DATE: This Ordinance shall become immediately upon its passage.

PASSED ON FIRST READING ON THE 28<sup>th</sup> DAY OF OCTOBER.

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE 10<sup>th</sup> DAY OF NOVEMBER, 2009

  
SHIRLEY GIBSON, MAYOR

ATTEST:

  
RONETTA TAYLOR, MMC, CITY CLERK

Prepared by SONJA K. DICKENS, ESQ.  
City Attorney

SPONSORED BY: City Council

MOVED BY: Councilwoman Watson  
SECOND BY: Councilman Campbell

**VOTE: 5-0**

Mayor Shirley Gibson	<u> X </u> (Yes)	<u>   </u> (No)
Vice Mayor Oliver Gilbert, III	<u> X </u> (Yes)	<u>   </u> (No)
Councilman Melvin L. Bratton	<u>   </u> (Yes)	<u>   </u> (No) (out of town)
Councilwoman Barbara Watson	<u> X </u> (Yes)	<u>   </u> (No)
Councilman Andre' Williams	<u> X </u> (Yes)	<u>   </u> (No)
Councilwoman Sharon Pritchett	<u>   </u> (Yes)	<u>   </u> (No) (out of town)
Councilman Aaron Campbell	<u> X </u> (Yes)	<u>   </u> (No)



## City of Miami Gardens Agenda Cover Memo

<b>Council Meeting Date:</b>	11/10/2009		<b>Item Type:</b> <i>(Enter X in box)</i>	<b>Resolution</b>	<b>Ordinance</b>	<b>Other</b>	
					X		
<b>Fiscal Impact:</b> <i>(Enter X in box)</i>	Yes	No	<b>Ordinance Reading:</b> <i>(Enter X in box)</i>	<b>1<sup>st</sup> Reading</b>		<b>2<sup>nd</sup> Reading</b>	
		X		<b>Public Hearing:</b> <i>(Enter X in box)</i>	Yes	No	Yes
						X	
<b>Funding Source:</b>	<i>(Enter Fund &amp; Dept)</i> N/A		<b>Advertising Requirement:</b> <i>(Enter X in box)</i>	<b>Yes</b>		<b>No</b>	
					X		
<b>Contract/P.O. Required:</b> <i>(Enter X in box)</i>	Yes	No	<b>RFP/RFQ/Bid #:</b>	NA			
<b>Sponsor Name</b>	City Council		<b>Department:</b>	NA			

**Short Title:**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, PROVIDING FOR AN AMENDMENT TO SECTION 6.2(B), OF THE CHARTER OF THE CITY OF MIAMI GARDENS, TO PROHIBIT CITY STAFF AND COUNCIL MEMBERS, OTHER THAN THE NONVOTING CITY COUNCIL MEMBER TO BE APPOINTED BY THE MAYOR FROM SERVING ON THE CHARTER REVISION COMMISSION; SUBMITTING THE QUESTION FOR APPROVAL OF THE ELECTORATE OF THE CITY OF MIAMI GARDENS AT THE GENERAL ELECTION TO BE HELD IN AUGUST 2010; PROVIDING FOR THE CALL OF THE ELECTION ON THE ISSUE TO BE PRESENTED ON THE BALLOT; PROVIDING FOR AUTHORITY TO THE CITY ATTORNEY AND CITY CLERK; PROVIDING FOR REPRESENTATIONS; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

**Staff Summary:**

In accordance with Sections 6.2(B) of the City of Miami Gardens Charter, in December 2008, the City Council appointed a Charter Revision Commission. The Charter Revision Commission met on several occasions, and has made recommendations to the City Council for certain amendments to the City Charter. Among other amendments, the Commission has recommended that the City Council amend Sections 6.2(B) of the Charter to prohibit city staff and council members, other than the nonvoting City Council member to be appointed by the Mayor, from serving on the Charter Revision Commission. Pursuant to Sections 6.1 and 6.2 of the City Charter and Section 6.03 of the Home Rule Charter of Miami-Dade, as applicable, the City Council is required to submit the Charter Amendments to the electors of the City for approval or rejection.

**ITEM I-3) ORDINANCE  
SECOND READING  
Proposed Charter Amendment  
Section 6.2(B)**

**Proposed Action:**

Approve an ordinance amending sections 6.2(B) of the Charter of the City of Miami Gardens

**Attachment:**

Charter Commission Recommendations.

## **<sup>1</sup>RECOMMENDED CHARTER AMENDMENTS**

### **Section 2.2**

There shall be a City Council (the “Council”) vested with all legislative powers of the City, including the right to hire staff persons to assist the City Council in its legislative affairs. The Council shall consist of the Mayor, and six Council members (“Council members”). References in this Charter to the Council and/or Council members shall include the Mayor, unless the context dictates otherwise.

### **Section 3.3**

The Manager shall:

(1) Be responsible for the appointing, hiring, promoting, supervising and removing of all City employees, except the City Attorney, the City Clerk, and all employees of the Office of the City Attorney, ~~and all employees of the Office of the City Clerk,~~ and employees of the City Council.

### **Section 5.2(D)**

(D) Procedure for filing.

(1) Certificate of Clerk: Amendment. Within 20 calendar days after an initiative Petition is filed or within five business days after a referendum Petition is filed, the City Clerk shall complete a certificate as to its sufficiency (“the Certificate”). If insufficient the Certificate shall specify the particulars of the deficiency. A copy of the Certificate shall be promptly sent to the Committee by registered mail. Grounds for insufficiency are only those specified in subsection (C) of this Section. A Petition certified insufficient for lack of the required number of valid signature may be amended once if the Committee files a notice of intention to amend it with the City Clerk within two calendar days after receiving the copy of the Certificate and files a Supplementary Petition (“Supplementary Petition”) with the City Clerk with additional valid signatures within ten calendar days after receiving the copy of such Certificate. Such Supplementary Petition shall comply with the requirements of subsection (C) of this section. Within five business days after a Supplementary Petition is filed, the City Clerk shall complete a Certificate as to the sufficiency of the Petition as amended (“Amended Petition”) and promptly send a copy of such Certificate to the Committee by registered mail. If a Petition or Amended Petition is certified sufficient, or if a Petition or Amended Petition is certified insufficient and the Committee does not elect to amend or request Council review under paragraph (2) of this subsection within the time required, the City Clerk shall promptly present his/her certificate to the Council

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<sup>1</sup> The Charter Revision Commission considered all sections of the Charter. This list merely contains items where motions were actually made.

and such Certificate shall then be a final determination as to the sufficiency of the Petition. The Clerk shall be required to verify all signatures required by this section with the Miami-Dade County Supervisor of Elections.

### **Section 6.2(B)**

The Commission shall consist of five persons including one from each of the four Residential Areas. One appointment shall be made by the Mayor and each Residential Council member. In addition, the Mayor shall appoint one person to the Commission who is the Vice-Mayor or Council member who is serving a second consecutive term, who shall serve as a non-voting Commission member. In the event a second term Vice-Mayor or Council member is not serving, the Mayor may appoint a sitting Vice Mayor or Council member. The Mayor, City staff, and Council members, other than the nonvoting member referenced above, shall not be eligible for appointment to the Commission. The Commission shall commence its proceedings within 45 calendar days after appointment by the Council.

### **PROVISIONS THE COMMISSION VOTED NOT TO AMEND**

- 1.2 Form of Government – The Commission determined that the form of government is sufficiently clear in the Charter
- 2.1(a)(3) – Amendments to Council Committees – The Commission determined that no amendments were necessary because the City Council has discretion to determine whether to appoint laypersons to Committees of the Council.
- 2.6 Compensation/Reimbursement of Expense (Mayor and Council) – The Commission determined that no changes need to be made at this time to this provision.
- 3.2 City Manager Residency Requirement – The Commission determined that no changes need to be made at this time to this provision.
- 2.3(e)- Clarification on definition of term – The Commission determined that no amendments need to be made to clarify that “term” for purposes of term limits, means a complete term, and does not refer to instances when a person fills an incomplete term.
- 2.3(e) – Amendments to Term Limits- The Commission determined that no amendments needed to be made to this provision.
- 5.1 Election Dates - The Commission determined that since this provision was already amended by Ordinance that no changes are required.