

## **Subpart B**

### **RELATED SPECIAL ACTS\***

\* **Editors Note:** Printed in this Part I, Subpart B, are the related special acts consisting of special laws relating to the city in addition to the Charter. Each related law is an article in this subpart B, with section numbers added editorially. The official citation for each section is given in parentheses following the section, with amendments subsequent to 1957 shown by date of approval by the electorate of the city. Amendments to the related laws are indicated by parenthetical history notes following amended provisions. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

#### **Article I. Zoning Boards and Commissions**

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**Sec. 13. Application of these provisions to various positions and persons.**

**Sec. 14. Personnel rules.**

**Sec. 15. Limitations on appointments.**

**Sec. 16. Promotions.**

**Sec. 17. Suspensions, reductions and removals.**

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**Sec. 19. Certification of payrolls.**

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**Sec. 22. Positions abolished, discontinued or vacated.**

**Sec. 23. Prohibitions.**

**Sec. 24. Election on acceptance of Act.**

**Sec. 25. Construction of Act; separability.**

**Sec. 26. Repeal of conflicting laws.**

#### **Article V. Health Plan for City Officers and Employees**

**Sec. 27. Authority to establish; cost; membership.**

**Sec. 28. Administration of plan.**

#### **Article VI. Pension and Retirement System for Officers and Employees Generally**

**Sec. 29. Authority to establish; cost; additional benefits; actuarial evaluations; effect of separation from service; funds, etc., not subject to legal process.**

**Sec. 30. Managerial retirement plan.**

**Sec. 31. Investment of moneys.**

**Sec. 32. Pension board.**

**Sec. 33. Ordinance elections.**

**Sec. 34. Construction of Act; separability.**

## **ZONING BOARDS AND COMMISSIONS\***

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\* **Editors Note:** Sections 1--5 and 8--12 of Laws of Fla., 1923, ch. 9837, have been editorially deleted as any power in a special act which has not been amended by referendum after July 1, 1973, and which is not an extraterritorial power, has been converted to an ordinance by F.S. 166.021; and these sections were editorially deleted as unnecessary as home rule powers of a municipality are derived from the constitution and F.S. ch. 166.

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### **Sec. 1. Zoning commission.**

In order to avail itself of the powers conferred by this Act, said city commission shall appoint a commission to be known as the "Zoning Commission" to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. Such commission shall make a preliminary report and hold public hearings thereon before submitting its official report; and said city commission shall not hold its public hearings, or take action, until it has received the official report of such zoning commission.

(Laws of Fla., 1923, ch. 9837, § 6; election of 11-1-77)

### **Sec. 2. Appointment, composition and duties of board of adjustment.**

The existing board of adjustment, consisting of five members, be and the same is hereby abolished. A new board consisting of seven members, and to be designated as the board of adjustment, is hereby created. Said new board of adjustment shall consist of seven members as follows:

The city's planning and zoning director and public works director shall be ex officio members without the right of vote, and whose presence shall not be counted for the determination of a quorum. The remaining five members shall consist of the following:

One member shall be appointed from one of the following professions or callings: Law, architecture, engineering, real estate development, certified public accounting, financial consultation, and general business. The members representing the professions of law, architecture, engineering and public accounting shall be duly licensed by the State of Florida; the member representing general business shall be of responsible standing in the community, and each member shall be bound by the requirements of the Conflict of Interest Ordinance of the city and shall be subject to removal from office for the violation of the terms thereof. No member shall have any financial or other interest in any matter coming before the board. Members shall be appointed for a term of one year by a five-sevenths vote of the city commission. Members of the board of adjustment must be either residents or have their principal place of business in Miami Beach; provided, however, that this amendment shall not affect the term of existing members of the board of adjustment.

Such board of adjustment shall hear and decide appeals from, and review, any order, requirements, decision or determination made by an administrative official charged with the enforcement of the Zoning Ordinance of the City of Miami Beach. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of said Zoning Ordinance, the board of adjustment shall have the power in passing upon appeals, to vary or modify any regulations or provisions of such ordinance relating to the use, construction, or alteration of buildings or structures, or the use of land, so that the spirit of the Zoning Ordinance shall be observed, public safety and welfare secured, and substantial justice done. In no case shall the board have any power to amend the Zoning Ordinance with reference to the use of land, or jurisdiction over any request for variance which shall constitute an amendment to the Zoning Ordinance as to the use of land. The board shall fix a reasonable time for the hearing of any matter before it and shall give due notice thereof to the parties.

Upon the hearing, any person may appear in person or by agent or by attorney. The board may require that all testimony given before it shall be under oath. Any order or decision of the board of adjustment shall require an affirmative four-fifths vote of the board. The decision of the board of adjustment shall be final and there shall be no further review thereof except by resort to a court of competent jurisdiction by petition for writ of certiorari.

All variance requests shall be first submitted to the city attorney for a determination whether the requested variance is properly such, and does not constitute a change or amendment to the Zoning Ordinance. The jurisdiction of the board of adjustment shall not attach unless and until the board has before it a written certificate of the city attorney that the subject matter of the request is properly before the board. The separate written recommendations of the planning and zoning director and of the public works director shall be before the board prior to its consideration of any matter before it.

(Laws of Fla., 1923, ch. 9837, § 7; election of 5-29-62; election of 11-5-68; election of 4-23-70; election of 3-8-77; election of 11-1-77)

## ARTICLE II.

### PUBLIC LIBRARY\*

\* **Editors Note:** The public library is operated pursuant to an interlocal agreement which is on file in the city clerk's office.

#### Sec. 3. Authority to acquire, maintain and operate.

The City of Miami Beach, in Dade County, Florida, is hereby authorized and empowered to acquire, maintain and operate a public library or libraries within the corporate limits of the City of Miami Beach; to provide by ordinance of its city commission for the manner and method of such operation, administration and financing of such public library or libraries.  
(Laws of Fla., 1949, ch. 26027, § 1; election of 11-1-83)

#### Sec. 4. Board of trustees.

Any ordinance passed and adopted hereunder by the said City of Miami Beach, or on its behalf by its city commission, shall provide for a board of trustees for the management and administration of such public library or libraries, which board of trustees shall consist of members who shall be appointed or removed by the city manager by and with the approval of the city commission, in a manner and on such terms as may be established by the ordinance. Said board of trustees shall have the power to adopt bylaws, rules or regulations for the conduct of its own meetings or business and for the regulation and control of the operation of such library or libraries.  
(Laws of Fla., 1949, ch. 26027, § 2; election of 11-1-83)

#### Sec. 5. Personnel subject to provisions of article IV hereof.

All personnel, except unclassified personnel, employed in the operation, maintenance and administration of said public library or libraries shall be subject to the provisions of Laws of Florida, 1937, ch. 18696 entitled:

"An act creating a civil service system for certain officers and employees of the City of Miami Beach, Florida; creating a department of personnel, defining its membership, powers and duties; designating the officers and employees who are within the terms of said act; defining the certain terms of said act; providing for appointments, promotions, suspension, reductions and removal of officers and employees; providing for the status of officers and employees holding positions when this act takes effect; providing for referendum when said act shall take effect and other matters relating thereto."

(Laws of Fla., 1949, ch. 26027, § 3; election of 11-1-83)

#### Sec. 6. Repeal of conflicting laws.

All laws and parts of laws in conflict herewith are hereby repealed.

(Laws of Fla., 1949, ch. 26027, § 4; election of 11-1-83)

## ARTICLE III.

### MUNICIPAL PROJECTS\*

\* **Editors Note:** Sections 3--16 of Laws of Fla., 1941, ch. 21401, regarding the issuing and servicing of bonds for the projects authorized in the areas within and beyond the city limits have been editorially deleted as any provision which has not been amended by referendum after July 1, 1973, and which is not an extraterritorial power may be editorially deleted as unnecessary as home rule powers of a municipality are derived from the constitution and F.S. ch. 166 and the authority and procedure for issuance of bonds is contained in state law.

**State Law References:** Municipal borrowing authority, F.S. § 166.101 et seq.; bonds, F.S. §§ 130.01 et seq., 132.01 et seq., 159.01 et seq., 163.385, 215.43, 215.431, 215.84, 218.37--218.385; bond validation, F.S. ch. 75; maximum rate of interest, F.S. § 215.84.