

ARTICLE II. INCORPORATION PROCEDURE

Sec. 20-20. Petition for incorporation initiated by individual or group; Creation of Municipal Advisory Committee related to petition.

(A) An individual or group of area residents may file a request for approval of the form of a petition and authorization to circulate such petition for incorporation with the Clerk of the Board of County Commissioners.

(1) The petition form shall provide for the following information about the proposed municipality:

(a) General description and map of area boundaries, and

(b) Statement of the reason for seeking incorporation.

(2) The Clerk of the Board of County Commissioners shall report to the Commission that a request to approve the form of a petition for incorporation and authorize the circulation of such petition has been received. The Board of County Commissioners may approve the form of the petition and may authorize the petitioners to circulate the petition for incorporation and obtain signatures of resident electors within the area.

(3) In order for the submitted petition to be complete, the petition shall include consent from no less than twenty-five (25) percent of the electors in the area proposed for incorporation.

(4) Signed petitions shall be submitted to the Clerk of the Board within 90 days of the date the County Commission approves the form and authorizes the circulation of the petition in order for the petition to receive any further review or consideration by the County. Petitioners should submit any resolutions of support or opposition, if any exist, from the closest existing municipality within such 90 day period.

(B) The Clerk of the Board of County Commissioners shall upon receipt of a petition for incorporation transmit a copy to the Office of Strategic Business Management for determination of completeness in accordance with the requirement of subsection (A)(1) and to the Department of Elections for certification as to the sufficiency of signatures on the petition. Upon determining that the petition is complete and that a sufficient number of valid signatures has been obtained, the Office of Strategic Business Management shall notify the Clerk of the Board of such occurrence.

(C) The Clerk of the Board of County Commissioners shall notify the County Commission that the petition is complete and contains sufficient signatures. Upon notification of the completeness and sufficiency of the petition and upon sponsorship of the County Commissioner whose district comprises the majority of the area proposed to be incorporated by the petition, the Board of County Commissioners may create a Municipal Advisory Committee ("MAC"), which shall carry out the functions set forth in the resolution or ordinance creating the MAC and be subject to the requirements of Section 20-29 of the Code of Miami-Dade County (the "Code"), excluding the requirement of consent of resident electors. Notwithstanding the creation of a MAC, the procedures for consideration of a petition set forth in Section 20-20*et seq.* of the Code shall apply. If the boundaries in the completed petition differ from the boundaries of the MAC study area, the boundaries of the MAC study area shall supplant and be substituted for the boundaries included in the petition; provided, however, 25% of the electors residing within the boundaries as revised to conform to the MAC study area shall have signed the completed petition indicating their interest in incorporating the area.

(D) The requirement of filing a petition for incorporation pursuant to Sec. 20-20 of the Code of Miami-Dade County (the "Code") and the procedures for such filing contained in Sec. 20-21(A) of the Code shall not apply to incorporation proposals by the County Commission or County Manager. It is provided, however, that a Commission or Manager-initiated incorporation proposal shall be deemed a petition for proposed incorporation for purposes of Section 20-21; 20-22, and 20-23 and shall be required to comply therewith. Notwithstanding Section 20-23A herein, the Board of County Commissioners may hold a public hearing on a Commission initiated incorporation proposal during any regular or special meeting of the Board of County Commissioners. (Ord. No. 95-78, § 1, 5-2-95; Ord. No. 95-131, § 1, 7-13-95; Ord. No. 95-215, § 1, 12-5-95; Ord. No. 96-136, § 1, 9-17-96; Ord. No. 98-125, § 13, 9-3-98; Ord. No. 00-124, § 1, 10-3-00; Ord. No. 01-168, § 1, 10-23-01; Ord. No. 01-183, § 1, 11-6-01; Ord. No. 05-140, § 1, 7-7-05)

Sec. 20-21. Initial consideration of petition for proposed incorporation.

(A) Upon creation of a MAC pursuant to Section 20-20(C) of the Code and receipt of the final resolution and report of the MAC created to study the issues involved in the incorporation petition (the "Municipal Advisory Committee or MAC report"), the Clerk of the Board of County Commissioners shall submit the MAC report to the Board of County Commissioners. Upon receipt of the MAC report and only upon motion of the district commissioner whose district comprises the majority of the area proposed to be incorporated, the Board of County Commissioners, at a regular meeting of the Board of County Commissioners may schedule the petition for consideration by the Planning Advisory Board in accordance with all applicable requirements. The provisions of this section shall apply to petitions filed prior to and subsequent to the effective date of this ordinance. No MAC in existence prior to the effective date of this ordinance shall fulfill the requirements of this Section. No petitions having had their initial public hearing pursuant to Sec. 20-21(C) prior to the effective date of this ordinance shall receive further consideration by the County Commission or any county established board, unless and until the provisions of this section and Section 20-20(C) have been met.

(B) The Clerk shall advertise in a daily newspaper of general circulation that a petition for incorporation has been received and shall include in the advertisement the following information:

- (1) Map of the area proposed for incorporation,
- (2) Date of hearing for initial consideration by the Board of County Commissioners, and
- (3) Contact persons or departments where additional information may be provided.

(C) The Board of County Commissioners at its initial public hearing for considering a petition for incorporation, after determining the requirements for showing of support set forth in Section 20-20 (A)(2) have been fulfilled, may:

- (1) Establish an overall schedule for consideration of the petition, after receiving the County Manager's recommendation on such matter; and
- (2) Refer the petition to the Planning Advisory Board for its review and recommendations.

(Ord. No. 95-78, § 1, 5-2-95; Ord. No. 95-215, § 1, 12-5-95; Ord. No. 98-125, § 13, 9-3-98; Ord. No. 01-168, § 1, 10-23-01; Ord. No. 05-140, § 2, 7-7-05)

Sec. 20-21.1. Exception to filing and consideration of requests for incorporation.

Notwithstanding anything in this article to the contrary, no incorporation request shall be filed, nor shall any filed request be heard, considered, or approved, pursuant to Section 20-23, by the Board of County Commissioners, prior to December 1, 1998, except upon a prior two-thirds (2/3) vote of the membership of the County Commission to allow such filing, hearing consideration or approval.

(Ord. No. 96-146, § 1, 10-8-96; Ord. No. 97-211, § 2, 12-2-97; Ord. No. 01-218, § 2, 12-18-01)

Editor's note: Ord. No. 01-218, § 2, adopted Dec. 18, 2001 amended section 20-21.1. Section 6 of said ordinance provided for the repeal of said ordinance 90 days from its effective date.

Sec. 20-22. Planning Advisory Board's consideration of petition for incorporation.

(A) The Director of the Office of Management and Budget, prior to transmittal to the Planning Advisory Board, shall request the directors of all other applicable County departments to review and comment on the incorporation petition with respect to their areas of expertise and responsibility.

(B) The Director of the Office of Strategic Business Management, upon receipt of comments and information from other departments, shall prepare a report on the petition containing the following information:

- (1) Summary of petition,
- (2) Socio-economic profile of area,
- (3) Development profile of area,
- (4) Any Municipal Advisory Committee Report, and
- (5) Other information outlined in Section 20-23(B)(1),

The report shall be transmitted to the Planning Advisory Board.

(C) The Planning Advisory Board, upon receipt of a petition and appropriate County department staff review and comment shall:

(1) Create a five-member committee of the Planning Advisory Board appointed by its chair for the purpose of studying and making a recommendation to the full Board on the petition. The chair of the Planning Advisory board shall designate a chair for such committee. In making its report and recommendation to the full Board the committee shall utilize the guidelines set forth in subsection (4).

(2) Conduct a properly advertised public hearing within the area proposed for incorporation.

(3) Require additional information from appropriate County departments as needed.

(4) Make written recommendations with respect to the petition and any Municipal Advisory Committee Report which shall include the following:

- (a) An analysis of the issues outlined in Section 20-23(B);
- (b) Whether the proposed incorporation:
 - (1) will divide a historically recognized community;
 - (2) is compatible, to the degree possible, with existing planned land uses and zoning of the areas surrounding the proposed municipality;
 - (3) will, if currently qualified, continue to be eligible for any benefits derived from inclusion in federal or state enterprise zones, or targeted area assistance provided by federal, state and local government agencies;
 - (4) will impact public safety response times;

- (5) creates barriers to municipal traffic circulation due to existing security taxing districts, walled communities and/or private roads;
- (6) if identified by the federal government as a flood zone or by emergency planners as an evacuation zone, has the proposed municipality indicated its preparedness to address any extraordinary needs that may arise;
- (7) to the degree possible, will be contained in one or more school district boundaries governing admission to elementary, middle and high schools.
- (c) Other considerations deemed relevant by the Board
- (D) The Planning Advisory Board recommendation to the Board of County Commissioners shall be either:
 - (1) Approval of the petition;
 - (2) Approval of the petition on a modified basis;
 - (3) Deferral of the petition for more information;
 - (4) Deferral of the petition to permit modification; or
 - (5) Denial of the petition.
- (E) The Director of the Office of Strategic Business Management shall forward the petition and recommendations of the Planning Advisory Board as well as the Municipal Advisory Committee Report, to the County Manager for review and recommendation. The County Manager shall transmit the Manager's recommendation, the petition, the recommendation of the Planning Advisory Board, as well as the Municipal Advisory Committee Report, to the Clerk of the Board of County Commissioners.
- (F) The Clerk of the Board of County Commissioners, upon receipt of the recommendations by the Planning Advisory Board and County Manager, shall set the matter of such proposed incorporation for public hearing at a regular meeting of the County Commission and cause notice of such public hearing to be published in a daily newspaper of general circulation in Miami-Dade County at least once not less than one (1) week prior to the date of such public hearing. Notice of such public hearing shall be furnished to all property owners within the area and within six hundred (600) feet thereof. (Ord. No. 95-78, § 1, 5-2-95; Ord. No. 95-176, § 2, 10-5-95; Ord. No. 95-215, § 1, 12-5-95; Ord. No. 98-125, § 13, 9-3-98; Ord. No. 01-168, § 1, 10-23-01; Ord. No. 05-86, § 3, 5-3-05; Ord. No. 05-140, § 3, 7-7-05)

Sec. 20-23. Board of County Commissioners consideration of proposed incorporation petition.

- (A) The Board of County Commissioners shall only hold a public hearing on the petitions for incorporation during the period between September 1 and September 30 inclusive and during the period between March 1 and March 31 inclusive in each year, which shall be conducted as follows:
 - (1) Persons requesting incorporation shall make a presentation outlining the merits of their petition,
 - (2) The County Commission shall consider and review the recommendations of the Planning Advisory Board and the County Manager, and
 - (3) The County Commission shall hear from any other interested persons.
- (B) At the conclusion of the public hearing the Board of County Commissioners, in evaluating the appropriateness of a petition for incorporation, shall consider the following guidelines:
 - (1) The suitability of the proposed boundaries to provide for a municipal community of interest that is both cohesive and inclusive. Specifically, the area should:
 - (a) Not divide a U.S. Census Designated Place, to the extent feasible.

- (b) Include adjacent areas of ethnic minority and lower income residents in which a majority of those residents have so petitioned.
 - (c) Have contiguity and not create any unincorporated enclave area(s). An unincorporated enclave area is defined as an area that would be 1) surrounded on more than eighty (80) percent of its boundary by one (1) or more municipalities and of a size that could not be serviced efficiently or effectively.
 - (d) Have natural or built barriers as boundaries, to the extent feasible, and
 - (e) Include a mixture of residential and non-residential land uses.
 - (2) Evidence of support of area residents and property owners sufficient to warrant the costs of balloting of electors,
 - (3) Existing and projected property tax costs for municipal-level services to average homeowner in the area as currently unincorporated and as incorporated as a comparable Miami-Dade County city with a similar per capita property tax base.
 - (4) There are no suitable alternatives to incorporation, including annexation to an existing municipality,
 - (5) Is totally contained within the Urban Development Boundary depicted on the future Land Use Plan map of the Miami-Dade County Comprehensive Development Master Plan,
 - (6) The impact of the proposal on the revenue base of the unincorporated area, and on the ability of the County to efficiently and effectively provide services to adjacent remaining unincorporated areas, including the potential for the area to:
 - (a) Continue to participate in the County's Fire-Rescue and Library Districts, and
 - (b) Contract with the County for other municipal services,
 - (7) Potential revenue sources and facilities to be made available to the proposed municipality upon incorporation, and
 - (8) The financial impacts of the proposed incorporation on the remaining unincorporated areas of Miami-Dade County. Specifically in order to insure fiscal equity the per capita taxable property value of the area proposed for incorporation should fall between twenty thousand dollars (\$20,000.00) and forty-eight thousand dollars (\$48,000.00) in order to assure that fiscal viability is maintained in both the potential new municipality and the remaining unincorporated area.
 - (9) Any other factor that arises by virtue of recommendations of the Planning Advisory Board, pursuant to Section 20-22 of the Code.
 - (10) Any other factor that arises by virtue of any special or unique circumstances of a given area.
 - (C) The Board of County Commissioners shall at the conclusion of the public hearing take one (1) of the following actions:
 - (1) Call for the election of the area electors on the incorporation petition as presented by the applicant(s),
 - (2) Call for the election of the area electors on the incorporation petition as modified with respect to boundaries or other aspects,
 - (3) Deny the proposed incorporation petition, or
 - (4) Defer such petition for further consideration by the applicant(s), Board of County Commissioners, the County Manager or the Planning Advisory Board.
- (Ord. No. 95-78, § 1, 5-2-95; Ord. No. 95-131, § 1, 7-13-95; Ord. No. 95-176, § 2, 10-5-95; Ord. No. 02-99, § 1, 6-18-02; Ord. No. 05-86, § 3, 5-3-05)

Sec. 20-24. Appointment of Charter Commission.

Upon the affirmative vote approving the requested incorporation by a majority of electors voting and residing in the proposed boundaries, in an election conducted pursuant to Section 20-23(C)(1) or (2), the Board of County Commissioners may

approve the incorporation of the municipality. If they so act, the Board of County Commissioners shall appoint a Charter Commission consisting of five (5) electors residing in the proposed boundaries who shall propose a charter be submitted to the electors in the manner provided in Section 5.03 of the Miami-Dade County Home Rule Charter.

(Ord. No. 95-78, § 1, 5-2-95)

Sec. 20-25. Retention of garbage and refuse collection and disposal.

The County shall forever retain authority for residential garbage and refuse collection and disposal in all areas which incorporate subsequent to the effective date of this ordinance.

(Ord. No. 96-30, § 7, 2-6-96)

Sec. 20-26. Future Municipalities' Obligations to the County.

(a) As a condition of incorporation approved pursuant to Article V of the Miami-Dade County Home Rule Charter, each new municipality shall include a provision in its charter and shall agree to remain a part of the Miami-Dade County Fire-Rescue District and the Miami-Dade County Library System in perpetuity.

(b) As a condition of incorporation approved pursuant to Article V of the Miami-Dade County Home Rule Charter, each new municipality shall include a provision in its charter and shall agree in perpetuity to contract with the Miami-Dade County Police Department ("MDPD") and pay for specialized police services from its municipal millage or other municipal funds. For purposes of this subsection, specialized police services include, but are not limited to, narcotics, criminal intelligence, economic crimes, homicide, robbery, sexual crimes, environmental crimes, domestic crimes, and crime scene investigations; property and evidence efforts; tactical operations activities; and aviation patrol.

(c) As a condition of incorporation approved pursuant to Article V of the Miami-Dade County Home Rule Charter, each new municipality shall include a provision in its charter and shall agree to contract with the Miami Dade County Police Department ("MDPD") and pay for local patrol police services for three years or such longer period of time as may be requested by the municipality.

(d) The fiscal impact of an incorporation on the remainder of the unincorporated area shall be revenue neutral; provided, however, any municipality which does not meet the foregoing requirement, as a condition of incorporation pursuant to Article V of the Miami-Dade County Home Rule Charter, shall agree to make an annual mitigation payment to the County's Municipal Services Trust Fund in the Unincorporated Municipal Service Area Budget, the amount of which shall be determined by the Board of County Commissioners, in the event of a negative fiscal impact of the municipality's incorporation on the unincorporated area. For purposes of this subsection, "a revenue neutral municipality" is defined as an area that previously, as part of the unincorporated municipal service area, generated revenues equal to or less than the cost of services provided to the area by the County. Any annual mitigation amount determined by the Board of County Commissioners pursuant to the provisions of this paragraph shall be established so as not to trigger "most-favored-nation-status" clauses which are contained in any municipal charter.

(e) As a condition of incorporation approved pursuant to Article V of the Miami-Dade County Home Rule Charter, each new municipality shall include in its charter that such municipality shall be responsible for (i) its pro-rata share of any County debt outstanding at the time the municipality incorporates and with respect to the Stormwater Utility, outstanding at the time the municipality elects to be separate from the Stormwater Utility

through an interlocal agreement or by exemption and (ii) its prorata share of any refunding of such debt. The municipality's annual pro-rata share of debt service shall be determined by multiplying the total debt service in each Fiscal Year by the municipality's percentage share of pledged revenues (revenues pledged by the County to the repayment of the debt). The municipality's percentage share shall be determined by dividing the pledged revenues collected within the municipality during the County's Fiscal Year in which municipality incorporates, and with respect to the Stormwater Utility in the Fiscal Year in which the municipality elects to separate from the Stormwater Utility district; by the total pledged revenues collected in that same Fiscal Year. It is further provided that the municipality's charter shall authorize the County to continue to collect and distribute the pledged revenues in a manner that is consistent with the requirements of the debt and shall recognize the municipality's obligations pursuant to this subsection.

(f) The Board of County Commissioners may by way of resolution allow the distribution of existing unincorporated bond proceeds to municipalities created after September 1, 2000 for the same type of project originally described in the bond documents.

(Ord. No. 02-26, § 2, 2-26-02; Ord. No. 05-97, § 2, 5-17-05; Ord. No. 05-98, § 1, 5-17-05; Ord. No. 05-142, § 2, 7-7-05)

Sec. 20-26A. Process for Amending Pre-agreed Conditions of Incorporation in a Municipal Charter.

(a) Any municipality which is desirous of amending the pre-agreed conditions to incorporation contained in its municipal charter shall request the County's approval of the proposed amended charter language indicating language to be added and deleted and stating the ballot question, prior to calling an election on the question of amending the municipal charter.

(b) The municipality shall submit the proposed amended charter language and ballot question to the Clerk of the Board of County Commissioners with copies to the County Attorney and County Manager for placement by the Clerk on the agenda of the appropriate committee. Upon review of the municipality's proposed amended charter language and ballot question, the Board of County Commissioners may direct the County Attorney to prepare a resolution approving such amendment for placement on a subsequent County Commission agenda.

(c) If the County Commission by resolution approves the proposed amended charter language and ballot question by an affirmative vote of two-thirds (2/3) of its members then in office, the municipality may consider and adopt a resolution calling an election on the proposed charter changes, subject to compliance with Section 5.03 of the Miami-Dade County Home Rule Charter.

(Ord. No. 04-201, § 1, 11-30-04)

Sec. 20-27. Future Municipalities' Elections.

(A) As a condition of incorporation approval pursuant to Article V of the Miami-Dade County Home Rule Charter, each new municipality shall conduct its regular election(s) to fill municipal elective offices as follows:

(1) For those municipalities that elect their officeholders in a single election without a provision for a run-off, elections shall be held on the second Tuesday in March of even numbered years.

(2) For those municipalities that elect their officeholders by means of a primary election, used to narrow down the list of candidates to appear on the general election ballot, and a general election, primary elections shall be held on the second Tuesday in March of even numbered years and general elections shall be held on the second Tuesday in

April of even numbered years. In those election years where it is not necessary to conduct a primary election, the general election shall be held on the second Tuesday in March.

(3) For those municipalities that elect their office holders by means of a general election and a run-off election held for those races in which no candidate receives a majority of the votes cast in the general election, general elections shall be held on the second Tuesday in March of even numbered years and run-off elections shall be held on the second Tuesday in April of even numbered years.

(4) The election dates specified in (A)(1)-(3) above shall not apply to the election or elections held to fill the municipal elective offices following the vote to approve the charter of a new municipality.

(B) As a condition of incorporation approval pursuant to Article V of the Miami-Dade County Home Rule Charter, each new municipality shall provide a period for candidates for municipal elective office to file such qualifying papers and pay such fees as may be required by law with the applicable city clerk no earlier than noon on the first workday in January and no later than noon on the 14th day following the first weekday in January of the calendar year in which the election is to be held.

(C) As a condition of incorporation approval pursuant to Article V of the Miami-Dade County Home Rule Charter, each new municipality shall provide for all of its elections to be canvassed by a County Canvassing Board as provided under the election laws of this state.

(Ord. No. 04-19, § 2, 1-20-04)

Sec 20-28. Policy Regarding Incorporation and Annexation of Commercial, Business, or Industrial Areas.

(1) Policy. It is the policy of the Board of County Commissioners that any proposed municipal incorporation which would result in a donor municipality having any Commercial Business or Industrial or "CBI Area" within its boundaries or any municipality that proposes the annexation of any CBI Area in the area it proposes to annex shall as a condition of incorporation or annexation, pay to the County 100% of the net excess of revenues minus expenses attributable to the CBI Area within the boundaries of the proposed municipality or the annexed area. In the case of incorporation, the agreement to pay net excess of revenues minus expenses shall be included in the charter of the proposed municipality. In the case of annexation, the agreement to pay net excess of revenues minus expenses shall be included in an interlocal agreement between the municipality and the County.

(2) Exceptions: (a) Any annexing municipality having a below average per capita taxable value as compared to all other cities within Miami-Dade County, including UMSA, and an above average tax effort as compared to all other cities in Miami-Dade County, including UMSA, shall be exempt from the application of Section 1 to the extent necessary to achieve an average per capita taxable value. It is provided, however, that if after the annexation, the municipality reduces its tax effort to below the average tax effort as compared to all cities including UMSA, it shall pay a mitigation fee into a municipal services trust fund equal to the revenues generated in the proposed annexed area less the cost of services which the County provided to the area prior to annexation; (b) Any annexing municipality having a below average per capita taxable value as compared to all cities in Miami-Dade County, including UMSA, wherein over ten per cent (10%) of families or individuals are below the poverty level status, as reported by the United States Bureau of the Census, shall be exempt from the application of Section 1,

provided they maintain their existing tax effort at the time of the annexation. Provided, however, the County may negotiate the terms of mitigation with such municipality.

(3) Definitions. For purposes of this section, the term:

(a) "Donor Municipality" is defined as a municipality where the revenue generated from the area as part of UMSA is more than the expenses incurred by the County to serve that area.

(b) "Commercial, Business or Industrial Area ("CBI Area") is a high-value area used primarily for commercial, business or industrial purposes and each of which is identified and described in Composite Exhibit I hereto, which is incorporated herein by reference.

(Ord. No. 05-73, § 1, 4-19-05)

Editor's note: Ord. No. 05-73, § 1, adopted April 19, 2005, amended the Code with the addition of a new section 20-27. In order to avoid duplication of section numbers, the provisions of said ordinance have been included herein as section 20-28 at the discretion of the editor.

Sec. 20-28.1. Areas and Facilities of Countywide Significance.

(a) Definition. "Areas and Facilities of Countywide Significance" consist of any private or public lands, including surface, subsurface, and appurtenant airspace and improvements thereupon, located in unincorporated Miami-Dade County as of the date of this ordinance that are deemed necessary by the Board of County Commissioners for the coordinated use of lands, development and service delivery within the County to promote the health, safety, order, convenience, prosperity, and welfare of the current and future residents and tourists of this County.

(b) Designation. The Board of County Commissioners hereby designates each of the following lands listed on Exhibit A, as an "Area or Facility of Countywide Significance". Any future designation of lands as an Area or Facility of Countywide Significance may be made by resolution of the Board of County Commissioners, upon a finding that:

- 1) The area or facility is susceptible to substantial change and development that will detrimentally affect the facility or land;
- 2) There is a need for the continued, unimpaired functioning of the area or facility by the greater community and;
- 3) The service provided at or by the area or facility, or at a combination of areas or facilities, is a significant resource to the greater community.

If the Board of County Commissioners determines that an area or facility no longer meets the definition of an "Area or Facility of Countywide Significance" as defined herein, the Commission, by resolution, may relinquish regulatory control to the municipality in which such area or facilities are located.

(c) Regulatory Jurisdiction Over Areas or Facilities of Countywide Significance Reserved to the County. Jurisdiction for purposes of comprehensive planning, zoning and building and other development approvals (including but not limited to land use, site plan approvals, issuance of building permits, building inspections, issuance of certificates of occupancy, zoning applications, special exceptions, variances, building or zoning moratoria, and all other types of functions typically performed by the departments responsible for building, planning and/or zoning), water and sewer installations, compliance with environmental regulations, and utility regulation shall be and are hereby vested in Miami-Dade County regardless of any municipal code, charter, or ordinance provision to the contrary. If an "Area or Facility of Countywide Significance" is located in an area which is sought to be annexed to a municipality or incorporated, the County shall not transfer operation, maintenance, or regulatory jurisdiction of such Area or Facility to a municipality, unless expressly permitted herein.

(d) Applicability. The requirements of this ordinance apply to municipalities created after the effective date of this ordinance.

(e) Condition of Incorporation. The provisions of this section shall be considered a condition of incorporation for any area incorporated after the effective date of this ordinance and shall be included in the municipal charter of such area.

(Ord. No. 05-141, § 3, 7-7-05)

Editor's note: Ord. No. 05-141, § 3, adopted July 7, 2005, amended the Code with the addition of a new section 20-28. In order to avoid the duplication of section numbers, the provisions of said ordinance have been included herein as section 20-28.1 at the discretion of the editor.

Sec. 20-29. Municipal Advisory Committee--Creation and Limitation of Study Area.

(A) A Municipal Advisory Committee may be created by ordinance or resolution of the Board in accordance with the provisions of this section to study and give advice to the County Commission regarding the creation of a proposed municipality. However, as of the effective date of this ordinance, no Municipal Advisory Committee shall be created by the County Commission, unless no less than twenty-five (25) percent of the resident electors in the area to be studied consent to the creation of a Municipal Advisory Committee on a consent form which shall be approved by the Office of Strategic Business Management. The signed consent forms shall be submitted to the Clerk of the Board of County Commissioners. Upon submission of the signed consent forms, the Clerk of the Board of County Commissioners shall submit the signed consent forms to the Department of Elections for certification as to the sufficiency of signatures on the consent forms. Upon notification of certification by the Department of Elections, the Clerk of the Board shall forward to the County Commission the signed consent forms of area residents and the certification of the sufficiency of the consent forms. Following public hearing, the County Commission may create a Municipal Advisory Committee. It is provided, however, that where a Municipal Advisory Committee has been established by resolution, prior to the effective date of this ordinance, no consent of resident electors shall be required for the adoption of an ordinance creating a Municipal Advisory Committee involving the same study area. It is further provided that where a Municipal Advisory Committee is established by resolution after obtaining the consent of the resident electors as required by this subsection, no further consent shall be required to create by ordinance a Municipal Advisory Committee involving the same study area. Upon receipt of the Municipal Advisory Committee report and upon motion of the district commissioner whose district comprises the majority of the proposed area to be incorporated, the Board of County Commissioners, at a regular meeting of the Board, may schedule the Municipal Advisory Committee report and resolution for consideration by the Planning Advisory Board.

(B) In the event a Municipal Advisory Committee is created where part of the study area is outside the sponsoring Commissioner's district, such area shall automatically be excluded from the Municipal Area Committee's consideration.

(C) The restriction set forth in Paragraph (B) may be waived by the Commissioner(s) whose district the study area comes within by filing a memorandum with the Clerk of the Board indicating consent to all or part of the study area.

(D) This section shall apply to existing as well as to all future Municipal Advisory Committee's created after the effective date of the ordinance from which this section derives.

(Ord. No. 02-130, § 1, 7-23-02; Ord. No. 03-128, § 1, 6-3-03; Ord. No. 05-140, § 4, 7-7-05)

ARTICLE III. RESERVED*

***Editor's note:** Ord. No. 05-86, § 1, adopted May 3, 2005, repealed article III, sections 20-30--20-32, in its entirety. Former article III pertained to the boundaries commission and derived from Ord. No. 95-209, § 1, adopted Nov. 21, 1995; Ord. No. 02-99, § 1, adopted June 18, 2002.

Secs. 20-30--20-39. Reserved.