

Chapter 20 - MUNICIPALITIES

ARTICLE I. - BOUNDARY CHANGE PROCEDURE

Sec. 20-1. - Initiated by Planning Advisory Board.

- (a) The Director of the Department of Planning and Zoning and the Planning Advisory Board shall conduct a continuing study of all municipal boundaries in cooperation with municipal officials, and make recommendations to the Board of County Commissioners for the orderly adjustment, improvement and establishment of feasible boundaries for all municipalities, commensurate with the comprehensive plan of development for Miami-Dade County, and in compliance with the preliminary land use plan governing the areas involved in any such proposed boundary changes.
- (b) All proposed changes in municipal boundaries initiated by the Planning Advisory Board shall be submitted to the governing bodies of the municipalities concerned for consideration and approval, prior to submission of such proposal to the Board of County Commissioners, and shall be considered by the Board of County Commissioners only upon notice to the municipality or municipalities affected and to the owners of property within the area and within six hundred (600) feet thereof.

(Ord. No. 60-42, § 1, 11-29-60; Ord. No. 70-2, § 1, 1-7-70; Ord. No. 95-215, § 1, 12-5-95; Ord. No. 01-168, § 1, 10-23-01)

Cross reference— Planning Department, § 2-104 et seq.; appointment and duties of Planning Director, §§ 2-104 and 2-105; Planning Advisory Board, § 2-107 et seq.; land use plan, § 2-111.

Sec. 20-2. - Initiated by county commission.

Any proposed change in the boundaries of a municipality shall be initiated by the Board of County Commissioners only by resolution adopted in accordance with rules of procedure governing the meetings and actions of the Board and upon notice to the municipality or municipalities involved, concerned or affected thereby, and shall be accomplished in accordance with the controlling provisions of Section 5.04 of the Home Rule Charter.

(Ord. No. 60-42, § 2, 11-29-60)

Cross reference— Rules of procedure of County Commission, § 2-1.

Sec. 20-3. - Initiated by governing body of municipality.

Any proposed boundary change desired by the governing body of a municipality shall be initiated by resolution of such governing body adopted after a public hearing held pursuant to written notice mailed to all owners of property within the area and within six hundred (600) feet thereof in such proposed boundary changes, according to the current tax assessment roll, and pursuant to published notice; provided, however, that no notice shall be required when all owners of property within the area and within six hundred (600) feet thereof shall consent in writing to the proposed boundary change. The cost of such notice shall be paid by the governing body of the municipality. Three (3) duly certified copies of such resolution requesting the proposed boundary changes, together with proof of compliance

with the notice requirements aforesaid, shall be filed with the Clerk of the County Commission, and shall be accompanied by the following:

- (A) An accurate legal description of the lands or land area involved in such proposed boundary change.
- (B) A map or survey sketch accurately showing the location of the area involved, the existing boundaries of the municipality or municipalities affected, and indicating the relation of the area involved to the existing municipal boundaries.
- (C) Certificate of the County Supervisor of Registration certifying that the area involved in the proposed boundary change contains either more than two hundred fifty (250) residents who are qualified electors, or less than two hundred fifty (250) residents who are qualified electors.
- (D) A brief statement setting forth the grounds or reasons for the proposed boundary changes.
- (E) A statement declaring whether an enclave, as defined in Section 20-7(A)(1)(c), borders the municipality and whether the proposed boundary change includes such enclave.
- (F) In addition to the foregoing, there shall be filed with the Clerk of the County Commission the following information:
 - (1) *Land use plan and zoning.* The municipality shall present a general land use plan and a map showing proposed zoning for the subject area which, if annexed, will be enacted by the municipality. In addition, the municipality shall provide a comparison between existing County land use regulations governing the subject area and the relevant municipal land use regulations, including, but not limited to, any zoning restrictions pertaining to location of businesses and hours and days of sale for businesses, to identify how businesses may be impacted upon annexation. This information shall be submitted regardless of size of area or state of existing development.
 - (2) *List of services to be provided.* In this section the municipality shall describe in detail the character and amount of services which the municipality would provide to the area if annexed. The discussion of service levels shall take into account not only existing development but changes in the character and extent of development which may be reasonably anticipated in the near future based on the land use plan and zoning for the area as submitted by the municipality in accordance with (1) above. The statements pertaining to the various services shall be set forth under the headings listed below. The character and amount of services now being received in the area sought for annexation shall be set forth for comparative purposes.
 - (a) Police protection.
 - (b) Fire protection.
 - (c) Water supply and distribution.
 - (d) Facilities for the collection and treatment of sewage.
 - (e) Garbage and refuse collection and disposal.
 - (f) Street lighting.
 - (g) Street construction and maintenance.
 - (h) Park and recreation facilities and services.

- (i) Building inspection.
 - (j) Zoning administration.
 - (k) Local planning services.
 - (l) Special services not listed above.
 - (m) General government.
- (3) *Timetable for supplying the services listed above.* For each of the services listed the time schedule for the provision of that service shall be set forth. The timetable shall be in terms of how soon after the annexation ordinance is finally adopted will the service be provided. If changes in the character and extent of the development in the area can reasonably be anticipated, these changes shall be taken into account in the proposed timetable.
- (4) *Financing of the services listed above.* For each of the services listed above, estimates of the costs of providing, maintaining and operating the service shall be set forth along with the methods used in making the estimates. The sources of funds which the municipality would utilize in providing, maintaining and operating the services listed shall be stated for each service and the effect this will have on the remainder of the municipality shall be analyzed.
- (5) *The tax load on the area to be annexed.* This section of the report shall discuss in narrative form, including estimated figures, the direct and indirect tax revenue from the area sought for annexation after annexation compared with the current period before annexation. Particularly this section shall clearly and concisely appraise the tax impact on the property owners and others residing and/or doing business in the area, and on those residing and/or doing business within the municipality. Methods utilized in making estimates contained in this section shall be fully and clearly set forth.
- (6) *Identification of any areas designated as terminals in the County's Adopted Land Use Plan Map ("terminals").* The municipality shall set forth the following information in its annexation petition or shall supplement its annexation petition, if such petition is pending as of the effective date of this ordinance:
- a. The reason that any area designated terminals and areas located within one-half ($\frac{1}{2}$) mile surrounding any area designated terminals ("surrounding areas") should be annexed to the municipality;
 - b. The impact that annexation may have on the operation and future development of facilities within any area designated terminals and surrounding areas;
 - c. The municipality's assessment of the present and future importance to the economy, job generation, and future development of the County and the region of any area designated terminals and surrounding areas proposed to be included in the area annexed;
 - d. Whether the land uses within areas designated terminals and surrounding areas are compatible with adjacent land uses within the annexing municipality; and
 - e. A proposed Interlocal Agreement with the County which would include provisions agreeing to the County's retention of master plan and regulatory control over any area designated terminals and surrounding areas, which shall set forth with

specificity the limitations and conditions to be imposed on the municipality's jurisdiction of the area proposed for annexation.

(7) *Existing Community Redevelopment Agency.* The municipality shall acknowledge in writing, in a format acceptable to the Office of Management and Budget or its successor department, the existence of any community redevelopment agency operating within the area proposed to be annexed and shall agree to be bound by the provisions of Section 20-8.9 of the Code.

(G) Certificate of the Director of the Department of Planning and Zoning certifying that in the Director's sole determination an area proposed for annexation or separation having two hundred and fifty (250) or fewer registered electors is more than fifty (50) percent developed residential. This certification will determine whether an election of registered electors will be required as provided in Section 20-9.

(H) A petition filed with the Clerk of the County Commission indicating the consent of twenty (20) percent of the electors in the area proposed for annexation provided however, no petition shall be required where the property proposed for annexation is vacant or where there are two hundred fifty (250) or less resident electors.

(Ord. No. 60-42, § 3, 11-29-60; Ord. No. 64-21, § 1, 5-19-64; Ord. No. 66-60, § 1, 11-15-66; Ord. No. 70-2, § 2, 1-7-70; Ord. No. 96-39, § 1, 2-20-96; Ord. No. 96-73, § 1, 5-21-96; Ord. No. 96-136, § 1, 9-17-96; Ord. No. 01-168, § 1, 10-23-01; Ord. No. 05-112, § 2, 6-7-05; Ord. No. 07-176, § 1, 12-4-07; Ord. No. 14-18, § 1, 2-27-14; Ord. No. 17-16, § 1, 3-7-17; Ord. No. 17-33, § 1, 6-6-17)

Sec. 20-3.1. - Exception to filing and consideration of requests for annexation.

No proposed boundary change request shall be filed, nor shall any filed request be heard, considered, or approved, pursuant to Section 20-7 or Section 20-8 by the Board of County Commissioners when the governing body requesting the change has omitted as part of the boundary change application information on an existing enclave, as defined in Section 20-7(A)(1)(c), adjacent to the municipality's boundaries or when the boundary change application creates a new enclave.

(Ord. No. 07-176, § 2, 12-4-07)

Sec. 20-4. - Initiated by individual or group.

Any person or group desiring a proposed boundary change to any municipality shall initiate the same by filing with the Clerk of the County Commission a written petition in substantially the form prescribed and furnished by the Director of the Office of Management and Budget which shall be accompanied by the documents and information prescribed in Section 20-3(A) through (F) hereof, together with a duly certified resolution of the governing body of the municipality involved approving such proposed boundary change, and shall give written notice to all owners of property within the area and within six hundred (600) feet thereof of his proposal for a boundary change. The cost of such notice shall be paid by the initiating individual or group.

(Ord. No. 60-42, § 4, 11-29-60; Ord. No. 70-2, § 3, 1-7-70; Ord. No. 95-215, § 1, 12-5-95; Ord. No. 01-168, § 1, 10-23-01; Ord. No. 14-18, § 1, 2-27-14)

Sec. 20-4.1. - Exception to filing and consideration of requests for annexation.

Notwithstanding anything in this article to the contrary, no annexation request shall be filed, nor shall any filed request be heard, considered, or approved, pursuant to Section 20-7 or Section 20-8 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, § 1, 12-2-97; Ord. No. 01-218, § 1, 12-18-01)

Editor's note— Ord. No. 01-218, § 1, adopted Dec. 18, 2001 amended section 20-4.1. Section 6 of said ordinance provided for the repeal of said ordinance 90 days from its effective date.

Sec. 20-5. - Initial consideration of proposed boundary changes.

The Clerk of the County Commission, upon receipt of a request for boundary change filed in compliance with Section 20-3 or Section 20-4 hereof, shall cause such matter to be placed upon the official agenda of an ensuing regular meeting of the County Commission, and shall notify the person, group or municipality initiating the boundary change of the date of the regular meeting at which such matter will be considered by the County Commission. A representative of the petitioners or of such municipality, as the case may be, may be heard briefly by the County Commission in respect to the merits or propriety of the request for such boundary change. The County Commission shall refer such proposed boundary change to the County Planning Advisory Board for review, study, consideration and recommendations.

(Ord. No. 60-42, § 5, 11-29-60)

Sec. 20-6. - Consideration by Planning Advisory Board.

- (a) The Planning Advisory Board, upon receipt of a petition or resolution referred by the County Commission shall study, review and consider the request for boundary changes embodied therein. The Planning Advisory Board shall conduct a public hearing in respect to such proposed boundary changes and hear from all interested persons and any municipality. The Planning Advisory Board may require the petitioners or the municipality to furnish any additional information, data or instruments deemed necessary or desirable for consideration of such request. The Planning Advisory Board shall give written notice of such public hearing to all owners of property within the area and within six hundred (600) feet thereof. The cost of such notice shall be paid by the individual, group or municipality initiating the proposed change. In notifying area residents of a public hearing to consider an annexation application, written courtesy notices of said public hearing shall be mailed to any adjacent municipality. In the event any municipality other than the municipality initiating the proposed boundary change appears before the Planning Advisory Board claiming to be materially affected by the proposed boundary change, the Planning Advisory Board recommendations shall include the reason the municipality is materially affected, how the municipality's concerns affect the application, and a recommendation on how the Board of County Commissioners should address the materially affected municipality's concern.

Before the Planning Advisory Board studies and reviews the request, the annexation report will be reviewed by the appropriate County personnel. The statements contained in the annexation report

pertaining to the quality, quantity, cost and timing of the services the municipality will extend to the areas requested for annexation will be reviewed by the appropriate County department to determine if the services proposed are adequate. The statements pertaining to the financing of the services and analysis of the tax load on the area to be annexed will be reviewed by the Miami-Dade County Budget Officer. Upon completion of these reviews, the entire application will be reviewed in accordance with this section by the Planning Advisory Board and then forwarded to the County Manager's office for review and recommendation prior to submittal to the Board of County Commissioners for their consideration.

(b) The Planning Advisory Board shall make written recommendations to the County Commission concerning such proposed boundary changes. Copies of such recommendations shall be filed with the Clerk of the County Commission, and copies shall be mailed to a representative of the petitioners or the municipality. In evaluating the appropriateness of a boundary change request, the Planning Advisory Board shall consider the guidelines in Section 20-7, as well as whether the annexation:

- (1) will divide a historically recognized community;
- (2) will if approved result in an annexation area that is compatible with existing planned land uses and zoning of the municipality to which the area is proposed to be annexed;
- (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) will introduce barriers to municipal traffic circulation due to existing security taxing districts, walled communities and/or private roads;
- (6) to the degree possible, will be served by the same public service franchises, such as cable and communication services, as the existing municipality, or will it have full access to all available municipal programming through its franchises provider;
- (7) if identified by the federal government as a flood zone or by emergency planners as an evacuation zone, has the annexing municipality indicated its preparedness to address any extraordinary needs that may arise;
- (8) will be connected to municipal government offices and commercial centers by public transportation; and
- (9) to the degree possible, will be contained in one or more school district boundaries governing admission to elementary, middle and high schools as the adjoining municipal area.

(c) The Planning Advisory Board's recommendation to the Board of County Commissioners shall be either:

- (1) Approval of the proposed boundary change;
- (2) Approval of the proposed boundary change on a modified basis;
- (3) Deferral of the proposed boundary change for more information;
- (4) Deferral of the proposed boundary change to permit modification; or
- (5) Denial of the proposed boundary change.

(Ord. No. 60-42, § 6, 11-29-60; Ord. No. 64-21, § 2, 5-19-64; Ord. No. 70-2, § 4, 1-7-70; Ord. No. 95-176, § 1, 10-5-95; Ord. No. 05-86, § 2, 5-3-05; Ord. No. 07-176, § 3, 12-4-07; Ord. No. 14-19, § 1, 2-27-14)

Annotation— AO 4-49.

Sec. 20-7. - Public hearing.

The Clerk of the County Commission, upon receipt of the recommendations of the Planning Advisory Board, shall set the matter of such proposed boundary changes 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 a representative of the petitioner or the municipality initiating the proposed boundary change, to all property owners within the area and within six hundred (600) feet thereof and any adjacent municipality. The cost of such notice shall be paid by the individual, group or municipality initiating the proposed change. At such public hearing, the County Commission shall review and consider the recommendations of the Planning Advisory Board, and shall afford to all interested persons an opportunity to be heard upon the merits and propriety of the proposed boundary changes.

- (A) At the conclusion of the public hearing the Board of County Commissioners, in evaluating the appropriateness of a petition for boundary change shall consider the following guidelines:
- (1) The suitability of the proposed boundaries, in conjunction with the existing municipality, provide for a municipal community of interest that is both cohesive and inclusive. The proposed annexation 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 2) of a size that could not be serviced efficiently or effectively,
 - (d) Have natural or built barriers as boundaries, to the extent feasible, and
 - (2) The existing and proposed projected property tax cost for municipal-level services to average homeowners in the area as currently unincorporated and as included as part of the annexing municipality,
 - (3) The proposed annexation area 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,
 - (4) 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,
 - (5) The financial impacts of the proposed boundary change on the remaining unincorporated areas of Miami-Dade County. Specifically in order to insure fiscal equity the per capita taxable property value of the proposed annexation area 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 the unincorporated area. The range of per capita taxable value shall not apply to the annexation of unincorporated enclave areas that are surrounded by more than eighty (80) percent of their boundary by one (1) or more municipalities and are of a size that can not be served efficiently or effectively,

- (6) Any other factor that arises by virtue of recommendations of the Boundaries Commission, pursuant to Section 20-30 of the Code,
 - (7) Any other factor that arises by virtue of any special or unique circumstances of a given area,
 - (8) Whether the proposed annexation excludes areas designated terminals on the County's Adopted Land Use Plan Map; alternatively, if included, the County retains applicable master plan and regulatory authority over any area designated terminals and areas, excluding existing incorporated municipalities, located within one-half (½) mile surrounding any area designated terminals ("surrounding areas") so as to protect the operations, land uses authorized within such area, and future development of areas designated terminals and surrounding areas located therein,
 - (9) Whether the proposed annexation provides that the County retains master plan and regulatory authority over areas designated terminals and surrounding areas to encourage the use of public transportation and urban infill development,
 - (10) How businesses may be impacted upon annexation, based on a comparison between existing County land use regulations governing the subject area and the relevant municipal land use regulations, including, but not limited to, any zoning restrictions pertaining to location of businesses and hours and days of sale for businesses,
 - (11) Whether there is a community redevelopment agency operating within the area proposed to be annexed.
- (B) At the conclusion of such public hearing, the County Commission, in the exercise of its discretion, may deny the requested boundary change, by motion, or may direct the County Attorney to prepare an appropriate ordinance accomplishing the proposed boundary change, which ordinance shall be placed on the official agenda of a subsequent regular meeting of the County Commission for consideration and adoption on first reading, or the County Commission may defer such requested boundary change for further consideration at a subsequent meeting, at which no public hearing or discussion by others than members of the County Commission shall be required.

(Ord. No. 60-42, § 7, 11-29-60; Ord. No. 70-2, § 5, 1-7-70; Ord. No. 95-176, § 1, 10-5-95; Ord. No. 02-99, § 1, 6-18-02; Ord. No. 05-86, § 2, 5-3-05; Ord. No. 05-112, § 2, 6-7-05; Ord. No. 07-176, § 4, 12-4-07; Ord. No. 17-16, § 2, 3-7-17; Ord. No. 17-33, § 1, 6-6-17)

Sec. 20-8. - Enactment of ordinance changing boundaries.

The enactment of any ordinance providing for changes in municipal boundaries shall be accomplished in accordance with the requirements of Section 1.02 of the Home Rule Charter, this Chapter, and the Rules of Procedure governing meetings of the Board of County Commissioners.

(Ord. No. 60-42, § 8, 11-29-60; Ord. No. 96-39, § 1, 2-20-96; Ord. No. 96-73, § 1, 5-21-96)

Cross reference— Ordinances changing municipal boundaries, Appendix B.

Sec. 20-8.1. - Retention of electric franchise revenues.

Any changes in the boundaries of municipalities involving the annexation of unincorporated areas of the County shall be made subject to the provisions of Ordinance No. 89-81 granting an electric franchise to the Florida Power & Light Company, and shall be effective only upon the condition and with the reservation herein stated that the County shall continue to collect and receive all electric franchise revenues accruing within such annexed areas from the effective date of Ordinance No. 89-81 during the full term of the County franchise in the same manner as though such annexed areas remained a part of the unincorporated areas of the County. Every ordinance enacted to effectuate the annexation of unincorporated areas of the County to a municipality shall expressly set forth such condition, unless the Board of County Commissioners, for good cause, shall waive such condition by two-thirds vote of the entire membership of the board.

(Ord. No. 61-8, § 1, 2-21-61; Ord. No. 97-94, § 2, 6-17-97)

Editor's note— Section 20-8.1 was added by Ord. No. 61-8, enacted February 21, 1961, and effective ten (10) days thereafter. Such section was designated as Section 8A of Ord. No. 60-42 and codified as § 20-8.1 by the editor, § 3 of Ord. No. 61-8 providing that the section shall be included in the Code and numbered to conform to the numbering system of the Code.

Sec. 20-8.2. - Retention of all utility tax revenues.

Any changes in the boundaries of municipalities involving the annexation of unincorporated areas of the County, and shall be effective only upon the condition and with the reservation that the County shall forever continue to collect and receive all utility tax revenues accruing within such annexed areas in the same manner as though such annexed areas remained a part of the unincorporated areas of the County. Every ordinance enacted to effectuate the annexation of unincorporated areas of the County to a municipality shall expressly set forth such condition.

(Ord. No. 70-84, § 1, 11-17-70)

Sec. 20-8.4. - Retention of garbage and refuse collection and disposal.

Any changes in the boundaries of municipalities involving the annexation of unincorporated areas of the County shall be effective only upon the condition and with the reservation that the County shall either forever continue to collect and dispose of all residential waste in such annexation areas in the same manner as though such annexed areas remained part of the unincorporated areas of the County, unless the authority to collect such waste is delegated by the County to the governing body of the municipality throughout a twenty (20) year interlocal agreement which provides for collection services, and a twenty (20) year interlocal agreement which provides for disposal services in substantially the form approved by Resolution No. R-1198-95. Every ordinance enacted to effectuate the annexation of unincorporated areas of the County to a municipality shall expressly set forth such condition.

(Ord. No. 96-30, § 6, 2-6-96)

Sec. 20-8.5. - Annexing Municipality's Responsibilities for Bond Indebtedness.

Any changes in the boundaries of a municipality involving the annexation of unincorporated areas of the County shall be effective only upon the condition that such municipality shall be responsible for (i) its pro-rata share of any County debt outstanding for the area annexed at the time of the annexation; and with respect to any municipality that is part of the Stormwater Utility, debt outstanding for the area annexed at the time the municipality elects to be separated from the Stormwater Utility through an interlocal agreement or by exemption and (ii) its pro-rata share of any refunding of such debt. The municipality's annual pro-rata share of debt service for the annexed area shall be determined by multiplying the total debt service on the outstanding debt 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 annexed area during the County's Fiscal Year in which annexation is executed, 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 annexation shall be effective only upon the condition that the County continues to collect and distribute the pledged revenues in a manner that is consistent with the requirements of the debt. The requirements of this section shall be the subject of an interlocal agreement between the County and the annexing municipality that shall be adopted by the annexing municipality prior to the County Commission's adoption of any ordinance authorizing a boundary change.

(Ord. No. 05-97, § 1, 5-17-05)

Sec. 20-8.6. - 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 unincorporated areas annexed after the effective date of this ordinance.
- (e) Condition of Annexation. The provisions of this section shall be considered a condition of annexation for any area annexed after the effective date of this ordinance and shall be the subject of an interlocal agreement between the County and the annexing municipality. This interlocal agreement shall be adopted by the annexing municipality prior to the County Commission's adoption of any ordinance authorizing a boundary change.

(Ord. No. 05-141, § 2, 7-7-05)

Sec. 20-8.7. - Mitigation on proposed boundary changes.

- (a) The Board of County Commissioners may require as a condition of municipal boundary change involving an area that is not revenue neutral, that the municipality shall agree to make an annual mitigation payment to the County's Municipal Services Trust Fund in the Unincorporated Municipal Services Area Budget. The amount of the annual mitigation payment shall be determined by the Board of County Commissioners. For purposes of this section, "a revenue neutral area" 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.
- (b) In determining whether as a condition of any municipal boundary change the annexing municipality will be required to pay an annual mitigation payment to the County's Municipal Services Trust Fund, the Board of County Commissioners may consider, among other factors deemed appropriate by the Board, whether the proposed annexation will eliminate enclave areas in the unincorporated area.

(Ord. No. 05-142, § 1, 7-7-05)

Sec. 20-8.8. - Retention of modification or deletion of covenants or declaration of restrictions.

The Board of County Commissioners shall require, as a condition of municipal boundary change, that the Board retain jurisdiction over the modification or deletion of (i) declarations of restrictive covenants accepted by either the Board or a Community Zoning Appeals Board in connection with a Comprehensive Development Master Plan application or zoning application, and (ii) development agreements subject to the Florida Local Government Development Agreement Act (Sections 163.3220—163.3243, Florida Statutes), regardless of whether such declaration or agreement provides for modification or deletion by a successor governmental body. It is provided, however, that the Board of

County Commissioners may not exercise such jurisdiction unless the applicable municipality has first approved the modification or deletion.

(Ord. No. R-13-06, § 1, 1-23-13; Ord. No. 17-43, § 9, 7-6-17)

Sec. 20-8.9. - Continuation of Existence of Community Redevelopment Agency as a Condition of Annexation; Municipality Required to Agree to Pay Tax Increment; Future Governance of Such Community Redevelopment Agency.

Each municipality proposing to annex a portion of the unincorporated area shall agree that any community redevelopment agency which is operating wholly or partially within the area proposed to be annexed at the time of the annexation shall continue to exist until the expiration of the life of the community redevelopment agency in accordance with the terms of the community redevelopment plan in existence on the date of the annexation or as otherwise provided by law. The municipality shall agree to pay, when due, the tax increment from municipal ad valorem tax revenues that Miami-Dade County would have been required to pay if the area were not annexed. The amount of such payments will be calculated on an annual basis by the County's Office of Management and Budget or successor office and shall be paid into the trust fund established pursuant to Section 163.387, Florida Statutes.

The governing body of the municipality shall have the right to approve any amendments to the community redevelopment plan or bond issuances that will extend the life of the community redevelopment agency that are proposed after the incorporation of the area, subject to approval by the Board of County Commissioners and applicable taxing authorities.

If the Board of County Commissioners is acting as the governing body of the community redevelopment agency, the Board of County Commissioners, in its sole discretion, may, upon the request of the municipality, delegate those certain delegable powers under Chapter 163, Part III, Florida Statutes, to the governing body of the new municipality or to a board of commissioners selected by the municipality that is to be established pursuant to Section 163.356, Florida Statutes.

If the governing body of the community redevelopment agency is comprised of members appointed by the Board of County Commissioners, the municipality, the community redevelopment agency, Miami-Dade County and other taxing authorities will have to agree in order to delegate or transfer those certain delegable powers to the governing body of the municipality or to a board of commissioners selected by the municipality. If the delegable powers are not transferred to the governing body of the municipality, as provided herein, upon each vacancy in office of the governing body of the community redevelopment agency, the Board of County Commissioners, may in its sole discretion, allow the governing body of the municipality to fill the vacancy.

The provisions of this section shall be considered a condition of annexation. Every ordinance enacted to effectuate the annexation of unincorporated areas of the County to a municipality shall expressly set forth such conditions, unless this condition is waived by a 2/3's vote of the membership of the Board. Furthermore, the provisions of this section shall also be included in an interlocal agreement between the municipality, any non-County taxing authorities, and the Board of County Commissioners. Such interlocal shall be approved by the municipality and any non-County taxing authorities prior to the Board's adoption of an ordinance effectuating an annexation.

(Ord. No. 17-33, § 1, 6-6-2017)

Sec. 20-9. - Election on proposed boundary changes; required.

- (a) If a boundary change involves the annexation or separation of an area having two hundred fifty (250) or fewer resident electors, and the area is more than fifty (50) percent developed residential, no proposed boundary change shall be accomplished unless a majority of resident electors voting at such an election approve such boundary change. All costs of such elections shall be paid in advance by the persons, group or municipality initiating the proposed boundary change. If a boundary change involves the annexation or separation of an area having two hundred fifty (250) or fewer resident electors, and the area is less than fifty (50) percent developed residential, the Commission may by ordinance effect the boundary change in accordance with Section 5.04.B of the Home Rule Charter. The determination of whether an area is more or less than fifty (50) percent developed residential shall be made in the sole discretion of the Director of the Department of Planning and Zoning.
- (b) In the event that a boundary change involves the annexation or separation of an area of which more than two hundred fifty (250) residents are electors, the Board of County Commissioners, pursuant to Section 5.04(B) of the Home Rule Charter of Miami-Dade County, Florida, may call an election to be held for the purpose of submitting to these electors the question whether the proposed boundary change shall be approved or disapproved. All costs of such elections shall be paid in advance by the persons, group or municipality initiating the proposed boundary change.

(Ord. No. 60-42, § 9, 11-29-60; Ord. No. 64-21, § 3, 5-19-64; Ord. No. 68-83, § 1, 12-17-68; Ord. No. 96-39, § 1, 2-20-96; Ord. No. 96-73, § 1, 5-21-96; Ord. No. 01-168, § 1, 10-23-01)

Secs. 20-10—20-19. - Reserved.

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 (20) percent of the electors in the area proposed for incorporation. Each circulator of the petition shall certify that the circulator has witnessed the signatures of all resident electors signing such petition. Where a circulator certifies that the circulator has witnessed the signatures, but has failed to do so, such failure shall constitute a violation of this

Code and upon conviction shall be punished by a fine of not to exceed five hundred dollars (\$500.00) or imprisonment in the County Jail for not more than sixty (60) days, or by both such fine and imprisonment.

- (4) Signed petitions shall be submitted to the Clerk of the Board within 180 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 180 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, 20% 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 Section 20-20 of the Code of Miami-Dade County (the "Code") and the procedures for such filing contained in Section 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; Ord. No. 13-113, § 1, 12-3-13)

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 Section 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)

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) Conduct a properly advertised public hearing within the area proposed for incorporation.
- (2) Require additional information from appropriate County departments as needed.
- (3) 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;
 - (8) contains an existing community redevelopment area operating within its boundaries.

(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; Ord. No. 14-19, § 2, 2-27-14; Ord. No. 17-33, § 2, 6-6-17)

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, as updated by the Office of Strategic Business Management prior to the public hearing, 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,
- (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, and
- (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; Ord. No. 07-177, § 1, 12-4-07)

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 6 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 6 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 6 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 6 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 6 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.
- (g) As a condition of incorporation approved pursuant to Article 6 of the Miami-Dade County Home Rule Charter, each new municipality, as a part of its charter, shall provide for adoption of Miami-Dade County's workforce housing development program established at Chapter 33, Article XA of the Code of Miami-Dade County, as amended, provided, however, that any municipality may establish and enforce more stringent regulations as necessary to ensure provision of workforce housing units within its jurisdiction.
- (h) As a condition of incorporation approved pursuant to Article 6 of the Miami-Dade County Home Rule Charter, each new municipality shall provide, as a part of the charter, that the Board of County Commissioners retains jurisdiction over the modification or deletion of (i) declarations of restrictive covenants accepted by either the Board of County Commissioners or a Community Zoning Appeals Board in connection with a Comprehensive Development Master Plan application or zoning application, and (ii) development agreements subject to the Florida Local Government Development Agreement Act (Sections 163.3220—163.3243, Florida Statutes, regardless of whether such declaration or agreement provides for modification or deletion by a successor governmental body. It is provided, however, that the Board of County Commissioners may not exercise such jurisdiction unless the applicable municipality has first approved the modification or deletion.
- (i) As a condition of incorporation approved pursuant to Article 6 of the Miami-Dade County Home Rule Charter, each new municipality shall agree that any community redevelopment agency which is operating wholly or partially within the boundaries of the municipality at the time of the incorporation of the municipality shall continue to exist until the expiration of the life of the community redevelopment agency in accordance with the terms of the community redevelopment plan in existence on the date that the new municipality is incorporated or as otherwise provided by law. The new municipality shall also agree to pay, when due, the tax increment from municipal ad valorem tax revenues that Miami-Dade County would have been required to pay if the area were not annexed. The amount of these payments will be calculated on an annual basis by the County's Office of Management and Budget or successor office.

The governing body of the municipality shall have the right to approve any amendments to the community redevelopment plan or bond issuances that will extend the life of the community redevelopment agency that are proposed after the incorporation of the area, subject to approval by the Board of County Commissioners and applicable taxing authorities.

If the Board of County Commissioners is acting as the governing body of the community redevelopment agency, the Board of County Commissioners, in its sole discretion, may upon the request of the municipality delegate those certain delegable powers under Chapter 163, Part III, Florida Statutes, to the governing body of the municipality or to a board of commissioners established in accordance with Section 163.356, Florida Statutes.

If the governing body of the community redevelopment agency is comprised of members appointed by the Board of County Commissioners, the new municipality, the community redevelopment agency, Miami-Dade County and other taxing authorities will have to agree in order to delegate or transfer those certain delegable powers to the governing body of the new municipality or to a board of commissioners selected by the municipality. If the delegable powers are not transferred to the governing body of the new municipality, as provided herein, upon each vacancy in office of the governing body of the community redevelopment agency, the Board of County Commissioners, may in its sole discretion, allow the governing body of the municipality to fill the vacancy.

The provisions of this section shall be considered a condition of incorporation of a new municipality. Therefore, unless waived by a two-thirds ($\frac{2}{3}$) vote of the membership of the Board of County Commissioners, (1) any ordinance of the Board of County Commissioners authorizing the incorporation of an area containing a community redevelopment agency, in whole or in part, shall set forth the provisions of this section as a condition of incorporation and (2) each new municipality shall include a provision in its charter and enter into an interlocal agreement agreeing to the requirements of this section.

(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; Ord. No. 07-05, § 20, 1-25-07; Ord. No. 08-51, § 1, 5-6-08; Ord. No. R-13-06, § 2, 1-23-13; Ord. No. 17-33, § 2, 6-6-17; Ord. No. 17-43, § 10, 7-6-17)

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 ($\frac{2}{3}$) 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 subsection (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)

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)

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

- (A) A Municipal Advisory Committee may only be created by ordinance 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 (20) 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 by ordinance. It is provided, however, that where a Municipal Advisory Committee has been established, 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. Upon receipt of the Municipal Advisory Committee report, which shall include findings of fiscal feasibility, evidence of desirability, and a plan for the development of a viable community, 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.
- (E) Notices of any public hearings held by a municipal advisory committee shall include a summary of the municipal advisory committee's pro forma budget for the proposed municipality, as well as a summary of the budget review report submitted by the consultant retained to advise the municipal advisory committee, pursuant to County Resolution No. R-130-05 (Consultant). Such notices shall also include a side-by-side comparison of the following budgetary information for the proposed new municipality as estimated by the municipal advisory committee and the Consultant: (1) total annual revenues, (2) total annual expenditures, (3) millage rate and (4) increase, decrease or lack of change in ad valorem taxes. The full budgetary information described in such notices shall be displayed on the website related to municipal advisory committees that is maintained by the Office of Management and Budget or its successor department. Additionally, the Consultant shall be present at any such public hearings to make a presentation regarding the municipal advisory committee's pro forma budget, the Consultant's budget review report and the Consultant's conclusions regarding the proposed new municipality, prior to the commencement of public testimony at the public hearing. Notwithstanding the preceding provisions, this ordinance does not require a municipal advisory committee to hold any additional public hearings beyond the two public hearings required by ordinances of the Board of County Commissioners. The Municipal Advisory Committee shall complete the required feasibility and desirability study within twenty-four (24) months of its initial creation. If the Municipal Advisory Committee does not meet the required deadline, the Municipal Advisory Committee shall automatically sunset. Any Municipal Advisory Committee in existence as of the effective date of this Section shall include as part of its report a study of the feasibility and desirability of incorporating and shall be required to complete its study and submit the required report within twenty-four (24) months of the adoption of this section. If a Municipal Advisory Committee in existence as of the effective date of this Section does not meet this required deadline it shall automatically sunset. It is provided however, in the event that the Board of County Commissioners adopts an ordinance which suspends the processing of incorporation requests, the calculation of the twenty-four (24) month period of time provided by this section shall be tolled during the pendency of such suspension.
- (F) Any public hearing held by the Board of County Commissioners to consider a proposed incorporation of an unincorporated area shall required that prior to such hearing the Office of Strategic Business Management provide the Board an updated Impact to the Unincorporated Municipal Service Area Analysis.

(Ord. No. 02-130, § 1, 7-23-02; Ord. No. 03-128, § 1, 6-3-03; Ord. No. 05-140, § 4, 7-7-05; Ord. No. 07-177, § 2, 12-4-07; Ord. No. 13-113, § 2, 12-3-13; Ord. No. 17-47, § 1, 7-6-17)

ARTICLE III. - RESERVED^[2]

Secs. 20-30—20-39. - Reserved.

ARTICLE IV. - COMMUNITY COUNCILS

Sec. 20-40. - Community Councils; creation and purposes.

There are hereby established and created Community Councils to serve the unincorporated Miami-Dade County. Community Councils are established for the following purposes:

- (1) Providing the residents of unincorporated Miami-Dade County with increased governmental accountability, and responsiveness in decision-making processes for the delivery of municipal-type services;
- (2) Improving the effectiveness of services by making them more responsive to community desires and needs;
- (3) Retaining efficiencies of services by maintaining economies of scale;
- (4) Maintaining the ability to match unincorporated area needs with available resources; and
- (5) Fostering a sense of community identity, inclusiveness and empowerment.

(Ord. No. 96-126, § 1, 9-4-96)

Sec. 20-41. - Community Councils; responsibilities.

(A) Community Councils shall perform the duties and responsibilities of Community Zoning Appeals Boards as set forth in Section 33-306 of the Code of Miami-Dade County.

(B) Community Councils may, at their option, perform the following duties and responsibilities:

- (1) *Planning.*
 - (a) Compile profiles of their respective community's social, physical and economic conditions to assist them in performing their duties;
 - (b) Prepare an annual statement of community needs including development patterns and regulations, public facilities and services to assist the Council;
 - (c) Make recommendations to the Planning Advisory Board and Board of County Commissioners on proposed Miami-Dade County Comprehensive Development Master Plan amendments that impact each Council's area; and
 - (d) Make recommendations to the County Commission on the location and siting of specific public facility and infrastructure projects.
- (2) *Protection of persons and property programming.*
 - (a) Recommend policies to coordinate the Fire Rescue District and Police Department in the enhancement of public safety and protection of property in the council area through improved communications and service needs assessments.
- (3) *Budgeting.*

- (a) Make recommendations to the County Manager and County Commission on priorities for community facilities and services and on community based organization grants for the council area; and
 - (b) Make recommendations to the County Manager and County Commission on revenue needs including unincorporated area property taxes millages and special taxing districts.
- (4) *Communication.*
- (a) Conduct forums on council area issues to facilitate the exchange of information between residents, property owners, businesses, institutions and County Officials and Administrators;
 - (b) Disseminate information about council area related organizations, programs and activities; and
 - (c) Coordinate with Miami-Dade County's Team Metro in the exercise of that agency's responsibilities within the council area.
- (C) No member of a Community Council shall appear at any public hearings or meetings before the Board of County Commissioners or any other federal, state, or local board or tribunal, to advocate concerning any zoning application that was heard by, or that could reasonably be expected to be heard by, any Community Council.

(Ord. No. 96-126, § 1, 9-4-96; Ord. No. 05-139, § 1, 7-7-05)

Sec. 20-42. - Community Councils; configuration.

- (A) There shall be no more than (10) Community Councils each of which shall have jurisdiction within its boundary within the unincorporated area. Council areas should be large enough to reasonably accommodate local zoning issues without unduly increasing staffing requirements. The boundaries of Community Councils' jurisdiction, to the extent feasible, shall coincide with those of groupings of Census Designated Places.
- (B) Each Community Council area shall contain no more than six (6) subareas. The boundaries of these subareas, to the extent feasible, shall coincide with those of existing election precincts. Enclave areas that are fully surrounded by municipal boundaries and are not large enough to be subareas shall be part of the nearest subarea.
- (C) The boundaries and numerical designations of the Community Councils and of the subareas within them are depicted and described in Attachment I attached hereto and incorporated herein by reference [which can be found in the County Clerk's office]. These boundaries may be amended from time to time by resolution of the County Commission after public hearing. The names of the Community Councils shall be designated by the respective Community Council.
- (D) Notwithstanding anything in this Code to the contrary, when, as a result of municipal incorporation or annexation, a Community Council does not have enough members in office to act, the Board of County Commission may by resolution after public hearing, reassign the remaining areas of the affected Community Council to a different Community Council and modify the total number of Councils accordingly.

(Ord. No. 96-126, § 1, 9-4-96; Ord. No. 97-16, § 2, 2-25-97; Ord. No. 97-163, § 1, 9-23-97; Ord. No. 01-17, § 1, 1-23-01; Ord. No. 04-101, § 1, 5-11-04)

Sec. 20-43. - Community Councils; membership.

Except as provided in subsection (E), Community Councils shall have seven (7) members, six (6) of whom shall be elected at large within the council area and one (1) of whom shall be appointed by the Board of County Commissioners as follows:

(A) *Elected Council Members.*

- (1) Elected Council Members shall, for at least six (6) months prior to qualifying, have been resident electors of the council area for which they are qualifying, and, for at least three (3) years prior to qualifying, resident electors of Miami-Dade County. Additionally, each elected Council Member seeking to represent a subarea shall, for three (3) months prior to qualifying, have been a resident elector of the separate subarea of the council area for which the Member is qualifying. At the time of qualifying candidates shall submit proof of residency for the prescribed period to the supervisor of elections. Proof of residency shall establish that the qualifying candidate has met the residency requirements for the required period. Any person misrepresenting their residency shall, upon conviction, be punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment not to exceed sixty (60) days in the County jail or both, at the discretion of the court. No Council Member shall be employed by Miami-Dade County or be a member of the County Commission.
- (2) The term of office of Community Council members shall be for four (4) years. It is provided, however, that when a Community Council has been modified to establish new subareas or at large areas, in the initial election of Council Members, those members representing even-numbered subareas shall serve a two-year term and those members representing odd-numbered subareas or at large areas shall serve a four-year term so as to create staggered terms. Thereafter all Council Members shall serve four-year terms. When a subarea is dissolved and is replaced by an at large area, the at large representative shall serve until expiration of the term of office that was provided for the dissolved subarea. It is further provided that when a Community Council consisting of one (1) subarea is created in the initial election three (3) seats shall be designated as two-year terms and three (3) seats shall be designated as four-year terms so as to provide staggered terms. Thereafter, all Council members shall serve four-year terms.
- (3) All elections for Community Council Members shall be non-partisan. The initial general election for Council Members shall be held at the time of the 1996 General Election. Subsequent elections of Council Members shall be held in each even numbered year, in conjunction with state primary elections. The terms of Council Members shall commence on the second Tuesday next succeeding the date provided for the state general election.
- (4) All candidates for Community Councils shall qualify with the Clerk of the Circuit Court no earlier than the 72nd day and no later than noon of the 70th day prior to the date of the election at which he or she is a candidate, in the manner provided by law or ordinance. Each candidate shall pay a filing fee of one hundred dollars (\$100.00).
- (5) All elections for Community Councils shall be canvassed by the County Canvassing Board as provided under the election laws of this state.
- (6) The election ballot for the Council Member of each council area shall contain the names of all qualified candidates for election for Council positions from each subarea and shall instruct the electors to cast one (1) vote for the subarea position for which an election is

being held. The candidate receiving the greatest number of votes shall be duly elected to that Council Seat. If there is a tie vote among the two (2) candidates receiving the greatest number of votes, there shall be a run-off election.

The ballot for any run-off election for a Council Seat shall contain the names of the two (2) candidates for the Council Seat who received the most votes. The ballot shall instruct electors of the council area to cast one (1) vote for each subarea position. The candidate for each Council Seat receiving the most votes in such run-off election shall be duly elected to that Council Seat. Provided, however, where there are fewer than six (6) subareas in a council area the number of persons to be elected from each subarea shall be as follows:

- (a) Where there are five (5) subareas the electors of the entire council area shall elect one (1) member from each subarea and one (1) member at large.
- (b) Where there are four (4) subareas the electors of the entire council area shall elect one (1) member from each subarea and two (2) members at large.
- (c) Where there are three (3) subareas the electors of the entire council area shall elect two (2) members from each subarea.
- (d) Where there are two (2) subareas the electors of the entire council area shall elect three (3) members from each subarea.
- (e) Where there is one (1) subarea there shall be six (6) members elected from the subarea.

Where there is more than one (1) position available in a subarea for election, the candidates with the largest number of votes shall be elected to those positions. In the event that a subarea election has positions for both expired and unexpired terms, the candidates elected with the least number of votes shall fill the positions for the unexpired terms. It is provided, however, where the number of persons qualifying for a Community Council election is equal to the number of positions both for expired and unexpired terms the candidates filling the unexpired terms shall be determined by lot.

- (7) *Vacancies.* The County Commissioner whose district encompasses the greatest total population within the Community Council area, based on population data from the decennial Census, shall fill any vacant Council positions, by the appointment of an individual meeting the qualifications provided in subsection (1) above from a list of one or more names supplied by the Community Council. A person appointed shall serve until the earlier of the following: (1) the next primary election; or (2) expiration of the term of office for which the appointment is made. This limitation on term length shall apply to any person appointed by either a Community Council or a County Commissioner, whether appointed prior to or after the effective date of this ordinance. A person elected at such county-wide election shall serve for the remainder of the unexpired term. It is provided, however, in the event there is an insufficient number of Community Council Members in office to constitute a quorum, the County Commissioner whose district encompasses the greatest total population within the Community Council area, based on population data from the decennial Census, shall appoint a sufficient number of members necessary to constitute a quorum. Further, should any Community Council fail to supply a list of one or more names for any vacant Council position within ninety (90) days from the date such position becomes vacant or that the names supplied within such time period are not acceptable to the appointing County Commissioner,

the County Commissioner whose district encompasses the greatest total population within the Community Council area, based on population data from the decennial Census, shall appoint an individual meeting the qualifications set forth in subsection (1) above to fill such vacancy, except that such County Commissioner may appoint any resident elector within the council area, regardless of whether that elector resides within the subarea represented by the vacant position. In the event any Council Member no longer resides in a Council subarea for a subarea position or Council area for an at large position, that person shall be deemed to have tendered their resignation from such Council; provided, however, any Council Member who, as a result of a modification to the configuration of a Council subarea pursuant to Section 20-42, is no longer qualified to be an elected member of such Council, shall be permitted to complete the term of office commenced prior to the subarea boundary modification.

(B) *Appointed Council Members.*

(1) The County Commissioners shall appoint one (1) member to each Community Council following each election of Council Members. Each appointed Community Council Member shall have been for at least six months prior to appointment a resident elector of the Council area, and, for at least three (3) years, a resident elector of Miami-Dade County. No appointed Council Member shall be employed by Miami-Dade County or be a member of the County Commission. These members shall be appointed by the County Commissioner whose district includes the greatest total population within the Community Council area, based on population data from the decennial Census. Appointments shall be confirmed by a majority of the Board of County Commissioners.

(2) The term of each appointed Council Member shall be four (4) years; provided, however, the term of each member expires when the Commissioner who appointed that member leaves office. Each member shall hold office until a successor has been duly appointed, qualified and confirmed. Vacant Council Member positions shall be filled for the unexpired term in the same manner as other appointed Council Members.

(C) *Organizational meeting.* The first organizational meeting of each Community Council shall take place on the 30th day, or as soon thereafter as is practical, after the date of the general election. In the event of a tie vote for one (1) or more Council seats in the general election such Community Council shall meet on the 30th day, or as soon thereafter as is practical, after the date of the run-off election. At the organizational meeting, or as soon thereafter as is practical, each Community Council shall elect a chair and vice-chair from its members who shall serve a one-year term.

(D) *Reimbursements of expenses.* All Council Members shall serve without compensation but shall be entitled to reimbursement for necessary expenses incurred in the performance of their official duties, upon approval of the County Commission.

(E) *Reassignment of Community Council Members.* When, as a result of incorporation or annexation, subareas or portions thereof are reassigned to a different Community, elected or appointed Council Members who continue to reside in the unincorporated area, whether at-large or subarea representatives representing the reassigned areas, shall serve as additional members to the reassigned Community Council. The reassigned Council Members shall serve until the next first state primary election.

(F) Community Councils shall have the following nonvoting members when acting as Community Zoning Appeals Boards:

- (1) A representative appointed by the School Board of Miami-Dade County, who may attend those meetings at which a Board considers a zoning action that would, if approved, increase residential density on the property that is the subject of the application.
- (2) A representative appointed by the commanding officer of the Homestead Air Reserve Base, who may attend those meetings at which a Board considers a zoning action that, if approved, would affect the intensity, density, or use of the land adjacent to or in close proximity to the military installation.

(Ord. No. 96-126, § 1, 9-4-96; Ord. No. 96-165, § 1, 11-12-96; Ord. No. 96-185, § 1, 12-17-96; Ord. No. 97-16, § 2, 2-25-97; Ord. No. 99-108, § 1, 9-9-99; Ord. No. 00-35, § 1, 3-21-00; Ord. No. 02-28, § 1, 2-26-02; Ord. No. 02-41, § 1, 3-26-02; Ord. No. 02-91, § 1, 6-6-02; Ord. No. 03-267, § 1, 12-8-03; Ord. No. 04-101, § 1, 5-11-04; Ord. No. 06-115, § 1, 7-18-06; Ord. No. 07-123, § 1, 9-4-07; Ord. No. 07-146, § 2, 10-2-07; Ord. No. 08-20, § 1, 2-7-08; Ord. No. 12-85, § 1, 10-2-12; Ord. No. 13-60, § 1, 6-18-13)

Sec. 20-43.1. - Community Councils; recall.

Any elected member of a Community Council or any member appointed by the Community Council pursuant to Section 20-43(A)(7) may be removed from office by the electors of the Council area. The procedure for removal by electors shall be as follows:

- (1) The person proposing the exercise of recall shall submit the recall petition to the Clerk of the Circuit Court for approval of the form of the petition. Recall petitions shall be submitted for approval during the months of January and June only.
- (2) The person or persons circulating the recall petition shall, within sixty (60) days after approval of the form of the petition, obtain the valid signatures of electors in the council area in numbers at least equal to ten (10) percent of the registered voters in the council area on the date on which the recall petition is approved, according to the official records of the County Supervisor of Elections. Each signer of a petition shall place thereon, after his or her name, the date and the signer's place of residence or precinct number. Each person circulating a copy of the petition shall attach to it a sworn affidavit stating the number of signers and the fact that each signature was made in the presence of the circulator of the petition.
- (3) The signed petition shall be filed with the Clerk of the Circuit Court which shall within thirty (30) days after filing order a canvass of the signatures thereon to determine the sufficiency of the signatures. If the number of signatures is insufficient or the petition is deficient as to form or compliance with this section, the Clerk shall notify the person filing the petition that the petition is insufficient and has failed. The Clerk shall certify the petition if the number of signatures is sufficient and the petition if sufficient as to form and compliance with this section.
- (4) The Board of County Commissioners must provide for a recall election not less than forty-five (45) days nor more than ninety (90) days after certification of the petition.
- (5) The question of recall shall be placed on the ballot in a manner that will give the elector a clear choice for or against the recall. The result shall be determined by a majority vote of the electors voting on the question.
- (6) If the majority is against recall the Community Council member shall continue in office under the terms of the member's previous election or appointment. If the majority is for recall, the

member shall, regardless of any defect in the recall petition, be deemed removed from office immediately.

- (7) No recall petition against an elected Community Council member shall be certified within one (1) year after the member takes office nor within one (1) year after a recall petition against the member is defeated.
- (8) Any vacancy created by recall in a Community Council shall be filled for the remaining term by appointment in the manner prescribed for filling vacant positions.

(Ord. No. 97-196, § 1, 11-4-97; Ord. No. 01-72, § 1, 4-10-01)

Sec. 20-43.2. - Community Councils; removal.

Any elected or appointed member of a Community Council may be removed from office for cause by resolution of the Board of County Commissioners. The following events shall be deemed sufficient cause for removal: malfeasance, including failure to file financial disclosure required by law, misfeasance, neglect of duty, drunkenness, incompetence, permanent inability to perform official duties, or indictment for crime. Any vacancy created by removal in a Community Council shall be filled for the remaining term by appointment in the manner prescribed for filling vacant positions. Nothing herein prohibits any appropriate authority from taking other lawful action, including the imposition of fines or criminal sanctions.

The Clerk of the Board of County Commissioners shall determine the names of Community Council members who have failed to file financial disclosure and shall notify such members of County boards who have failed to file their required financial disclosure for the previous calendar year by February 1 of each year, the Board of County Commissioners, the Mayor or designee, and the County Attorney.

(Ord. No. 97-196, § 1, 11-4-97; Ord. No. 14-62, § 2, 7-1-14)

Sec. 20-44. - Community Councils; organization; new member orientation; Community Council workshop.

- (A) The County Manager shall assign existing County staff positions to provide support for the Community councils, to the fullest extent feasible. Such staff may include: a Community Council Administrator, an Administrative Assistant, clerical staff and others as the County Manager deems needed. Team Metro shall develop strong linkages to each Community Council.
- (B) The County Manager shall coordinate the activities and schedules of Community Councils with other County activities to ensure maximum effectiveness and efficiency. The County Manager may limit the total staff time available to each Community Council.
- (C) Within parameters recommended by the County Manager and approved by the County Commission, Community Councils shall be empowered to establish their own procedures for conducting their business and to select from the activities described in Section 20-41(B) those in which it wishes to engage. It is provided however that zoning procedures shall be adopted pursuant to Sections 33-308 of the Code. It is further provided that no zoning or non zoning meeting of a Community Council or Community Zoning Appeals Board shall extend beyond 11:00 p.m.
- (D) Prior to serving on a Community Council, a Community Council member appointed or elected to a Council after the effective date of this ordinance shall attend a New Member Orientation Seminar

conducted by the Department of Planning and Zoning, the Commission on Ethics, Team Metro and the County Attorney's Office. The seminar shall include, but shall not be limited to, review of the Comprehensive Development Master Plan and issues related thereto, review of zoning regulations, incorporation and annexation issues, workforce and affordable housing issues and applicable laws, rules and regulations pertaining to duties and responsibilities of Community Council members.

- (E) All Community Council members shall attend in every even-numbered year a Community Council Workshop organized and conducted by the Department of Sustainability, Planning and Economic Enhancement, the Department of Permitting, Environment and Regulatory Affairs, the Commission on Ethics, and the County Attorney's Office. The Workshop shall include, but shall not be limited to, review of the Comprehensive Development Master Plan and issues related thereto, review of zoning regulations, incorporation and annexation issues, workforce and affordable housing issues and applicable laws, rules and regulations pertaining to duties and responsibilities of Community Council members.
- (F) Notwithstanding Section 20-43.2, failure of any elected or appointed member of a Community Council to attend a Community Council Workshop shall be deemed sufficient cause for removal.

(Ord. No. 96-126, § 1, 9-4-96; Ord. No. 99-67, § 1, 6-8-99; Ord. No. 05-171, § 1, 9-8-05; Ord. No. 12-40, § 1, 6-5-12)

Sec. 20-45. - Community Councils; conflict of interest.

In addition to the provisions of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance, each Community Council member is prohibited from voting on or participating in any way in any matter presented to the Community Council on which the member serves if the member has any of the following relationships with any of the persons or entities which would be or might be directly or indirectly affected by any action of the Community Council on which the member serves: (i) officer, director, partner, of counsel, consultant, employee, fiduciary or beneficiary; or (ii) stockholder, bondholder, debtor, or creditor, if in any instance the transaction or matter would affect the Community Council member in a manner distinct from the manner in which it would affect the public generally. Any Community Council member who has any of the above relationships or who would or might, directly or indirectly, profit or be enhanced by the action of the Community Council on which the member serves shall absent himself or herself from the Community Council meeting during the discussion of the subject item and shall not vote on or participate in any way in said matter.

(Ord. No. 97-196, § 1, 11-4-97)