

## Chapter 12 - ELECTIONS<sup>[1]</sup>

### Footnotes:

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**Editor's note**— Sections 12-1 through 12-3.1 are originally derived from Ord. No. 67-94, §§ 1—8, adopted Dec. 5, 1967, effective ten (10) days after enactment. This ordinance, nonamendatory of this Code, was codified in the discretion of the editors.

**Annotation**—AO of 5-3-83.

**Charter reference**— County Commission districts, boundary changes, § 1.03; general provisions relating to elections, § 2.01 et seq.

**Cross reference**— Political activity prohibited to certain County employees, § 2-52.

### Sec. 12-1. - Reports to the Board.

The County Mayor or the County Mayor's designee shall prepare and deliver, between sixty and ninety days prior to any Primary or General election, a report to the Board of County Commissioners detailing the Department of Elections' preparations for such election. The report shall, at a minimum, contain: (1) an analysis of the anticipated voter turnout; (2) the anticipated utilization of absentee voting, early voting and Election Day voting by Miami-Dade County voters; (3) the steps taken by the Department to ensure that voters are able to cast ballots in a reasonable amount of time; (4) a summary of the equipment and personnel to be deployed at early voting locations and Election Day precincts; and (5) any additional budgetary or legislative requests necessary to perform the duties of the Department at the General Election. The County Mayor or the County Mayor's designee shall also prepare and deliver, between thirty and sixty days after any Primary or General election, a report to the Board of County Commissioners detailing the performance of the Department of Elections during such election. The report shall, at a minimum, contain: (1) an analysis of the voter turnout; (2) the amount of time taken by voters to cast ballots; (3) any irregularities or problems in the Department's conduct of the election or in the voting process; and (4) budgetary or legislative recommendations for improvement of the voting experience in future elections. Notwithstanding any other provision of the Code to the contrary, such reports shall be placed on the agenda of the next regularly scheduled meeting of the Board of County Commissioners and shall be heard at a time certain to be set by the Chairperson.

(Ord. No. 13-13, § 1, 2-5-13)

Secs. 12-2—12-4. - Reserved.

### Sec. 12-5. - Campaign contributions and expenditures.

Except as otherwise provided by the Home Rule Charter or by ordinance adopted by the Commission, the provisions of the election laws of the State of Florida regarding campaign contributions and expenditures shall apply to elections for the Office of Mayor of Miami-Dade County, Miami-Dade County Board of County Commissioners, Property Appraiser of Miami-Dade County and Miami-Dade County Community Councils.

(Ord. No. 98-183, §§ 1, 2, 12-15-98; Ord. No. 05-214, § 2, 12-6-05; Ord. No. 08-62, § 3, 5-20-08)

### Sec. 12-6. - Straw ballots.

In Miami-Dade County a special election may be called for the purpose of conducting a straw ballot. Notwithstanding the foregoing, special elections for the purpose of conducting a straw ballot regarding raising ad valorem millage rates to provide additional funding for particular services may only be called upon a vote of two-thirds (2/3) of Commissioners then in office.

(Ord. No. 99-37, § 1, 4-27-99; Ord. No. 14-73, § 1, 7-15-14)

Sec. 12-7. - Municipal publication of candidate campaign finance reports.

- (a) Each municipality must, at a minimum, publish the following on the municipality's website:
  - (1) A list of all current candidates for municipal office in the municipality;
  - (2) The campaign finance reports for such current candidates, filed in accordance with section 106.07, Florida Statutes, within seven (7) days of receipt of such reports by the municipality;
  - (3) A list of all candidates in the previous two elections for municipal office in the municipality; and
  - (4) The campaign finance reports for such previous candidates, filed in accordance with section 106.07, Florida Statutes, within six (6) months of the effective date of this ordinance.
- (b) The campaign finance reports published pursuant to subparagraphs (a)(2) and (a)(4) above shall show all contributions received by the candidate's campaign and all expenditures made on behalf of the candidate within the reporting period.

(Ord. No. 23-63, § 2, 9-6-23)

Sec. 12-8. - Payment or offers of payment to candidates for elective office prohibited.

- (a) It shall be unlawful for any person to give, offer or promise to any candidate for any elective public office in this County or any of its municipalities anything of value for the purpose of influencing him to withdraw as a candidate for such elective public office, or for the purpose of influencing anyone to file as a candidate for public office.
- (b) It shall be unlawful for any person to solicit or receive a gift, offer, or promise of anything of value in exchange for his withdrawing or filing as a candidate for any elective public office in this county or any of its municipalities.
- (c) Every person who is convicted of a violation of this section shall be punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment in the County Jail not more than sixty (60) days, or by both such fine and imprisonment.

(Ord. No. 72-98, §§ 1—3, 12-19-72)

**Editor's note**— Ord. No. 72-98 provided that said ordinance be included in this Code, but did not specify the manner thereof, hence inclusion of §§ 1—3 herein as § 12-8 was at the discretion of the editors. This ordinance has been treated as superseding Ord. No. 72-81, adopted Nov. 21, 1972, formerly codified as § 2-11.02.

Sec. 12-9. - Solicitation of payments from candidates and offer of payments by candidates for County or municipal office in exchange for endorsement of such candidates for office.

- (a) It is unlawful for any person to solicit a payment of any kind from a candidate for a County or municipal office in Miami-Dade County, or from such candidate's agents, in exchange for the favorable

endorsement, or promise of favorable endorsement, by the solicitor or otherwise, of said candidate for the office being sought by him.

- (b) It is unlawful for any candidate for a County or municipal office in Miami-Dade County, or for such candidate's agents, to offer money or anything else of value to any person or organization in exchange for the favorable endorsement of such person or organization.
- (c) Any person violating subsection (a) hereof 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, in the discretion of the court.

(Ord. No. 73-10, §§ 1—3, 2-6-73)

**Editor's note**— Ord. No. 73-10 amended this Code, but did not specify the manner thereof; hence, inclusion of §§ 1—3 herein as § 12-9 was at the discretion of the editors.

Sec. 12-10. - Voter solicitation at polling places.

- (a) *Restrictions.* No person may solicit voters within fifty (50) feet of the entrance to any polling place, or polling room where the polling place is also a polling room, on the day of any election.
- (b) *Exceptions.* Solicitation shall not be restricted if:
  - (1) Conducted from a separately marked area within the fifty-foot zone, which may be designated by the Supervisor of Elections, so as not to disturb, hinder, impede, obstruct or interfere with voter access to the polling place or polling room entrance; and
  - (2) The solicitation activities and subject matter are clearly and easily identifiable by the voters as an activity in which they may voluntarily participate; or
  - (3) Conducted on property within the fifty-foot zone which is a residence, established business, private property, sidewalk, park or property traditionally utilized as a public area for discussion; however, no such solicitation shall be permitted within the fifty-foot zone on a public sidewalk or other means of access to the polling room if it impedes, obstructs, or interferes with voter access to the polling room or polling place.
- (c) *Definitions.*
  - (1) *Polling room* means the actual room in which ballots are cast.
  - (2) *Polling place* means the building which contains the polling room where ballots are cast.
  - (3) *Solicitation* includes but it is not limited to:
    - a. Seeking or attempting to seek any vote, fact, opinion or contribution;
    - b. Distributing or attempting to distribute any political or campaign material, leaflet or handout;
    - c. Conducting a poll;
    - d. Seeking or attempting to seek a signature on any petition; and
    - e. Selling or attempting to sell any item.

(Ord. No. 89-64, § 1, 7-11-89)

Sec. 12-11. - Receipt of qualification papers of candidates; examination; determination of compliance with election laws.

- (a) In elections conducted for the Office of Mayor, members of the Board of County Commissioners, Property Appraiser of Miami-Dade County, members of the Fire Board, and members of community councils, the Miami-Dade County Supervisor of Elections, acting on behalf of the Clerk of the Circuit Court, shall receive the qualification papers and fees from all candidates for such offices. Only those candidates whose qualification papers and fees are in compliance with the applicable election laws of the State of Florida, provisions of the Home Rule Charter, and ordinances relating to such offices by the end of the qualifying period shall be deemed to have qualified.
- (b) Any qualified elector may challenge the qualifications of a candidate for the Office of Mayor, County Commissioner, Property Appraiser of Miami-Dade County, Fire Board member, or Community Council member for whom that elector is eligible to vote by filing a sworn written statement with the Miami-Dade County Supervisor of Elections within ten (10) days from the date on which qualifying ended for such office. Upon receipt of a sworn written statement, the Supervisor of Elections shall forward it to the Inspector General within three (3) business days.
- (c) The Inspector General, upon receipt of a sworn written statement challenging the qualifications of a candidate, shall have ten (10) days to conduct an investigation as to the allegation(s) contained within such statement. If the Inspector General determines that the candidate does not meet the qualifications of the office for which he or she has qualified, the Inspector General is authorized and directed to file and prosecute an appropriate action in Circuit Court with an attorney other than the County Attorney. For purposes of this subsection (c), the provisions of Section 2-1076(f) shall not apply.
- (d) Filing an Affidavit and Proof of Residency to Qualify for Election. Candidates for the office of County Commissioner, Property Appraiser of Miami-Dade County, Community Council, and Mayor shall submit a sworn affidavit at the time of qualifying that provides their current address of legal residence and affirms that they have met the residency requirements pursuant to Section 1.04 of the Miami-Dade County Home Rule Charter and Article II, Section 18-24 of the Code, respectively or the requirements of Section 2-69, as applicable. The affidavit shall be on a form provided by the Miami-Dade County Supervisor of Elections. In addition to filing the affidavit, candidates shall submit proof of residency which shall include one (1) of the following documents: voter's registration, driver's license, property tax receipt, homestead exemption, utility bill or lease agreement.
- (e) Penalties. In addition to any other penalties which may be applicable, any person who knowingly misrepresents their legal residency shall be subject to perjury and punished by a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment not to exceed sixty (60) days, or both such fine and imprisonment.

(Ord. No. 91-29, §§ 1, 2, 3-5-91; Ord. No. 01-107, § 1, 6-19-01; Ord. No. 01-182, § 1, 11-6-01; Ord. No. 03-66, § 1, 4-8-03; Ord. No. 08-62, § 4, 5-20-08)

**Editor's note**— Ord. No. 91-29, §§ 1, 2, adopted March 5, 1991, amended the Code by the addition of provisions which have been designated at the discretion of the editor as § 12-11.

#### Sec. 12-12. - Initiative petitions.

Initiative petitions proposed pursuant to Sections 7.01 or 8.07 of the Miami-Dade County Home Rule Charter shall embrace but one subject and matter directly connected therewith.

(Ord. No. 93-61, § 1, 6-15-93)

#### Sec. 12-13. - Mail ballot election procedures.

- (a) Special elections for incorporation, annexation or special taxing district elections shall be called by resolution of the Board of County Commissioners.

- (b) Notice of such special elections shall be published in accordance with Section 100.342, Florida Statutes.
- (c) The results of such special elections shall be determined by a majority of the qualified electors residing in the designated area voting at such special elections.
- (d) The County registration books shall close in accordance with the provisions of Section 97.055, Florida Statutes.
- (e) The supervisor of elections shall mail all official ballots with a secrecy envelope, a return mailing envelope, and instructions sufficient to describe the voting process to each elector entitled to vote in the election at least ten (10) calendar days prior to the date of the special election. The Supervisor of Elections shall determine the type of official ballot to be mailed, either a paper ballot designed for the votes to be hand counted or a paper ballot used in conjunction with an electronic or electromechanical vote tabulation system. All such ballots, except for ballots mailed overseas, shall be mailed by nonforwardable first class mail. Ballots shall be addressed to each elector at the address appearing in the registration records or to a mailing address upon the voter's request for said election.
- (f) Upon receipt of the ballot the elector shall vote the ballot, place it in the secrecy envelope, sign the return mailing envelope supplied with the ballot, and comply with the instructions provided with the ballot. The elector shall mail, deliver, or have delivered the voted ballot so that it reaches the supervisor of elections no later than 7:00 p.m. on the day of the election. The ballot must be returned in the return mailing envelope.
- (g) (1) The return mailing envelope for special taxing district elections shall contain a statement in substantially the following form:

#### VOTER'S CERTIFICATE

I, (Print Name), do solemnly swear (or affirm) that I am a registered voter of Miami-Dade County, Florida, residing within the boundaries of the proposed Special Taxing District to which the enclosed ballot relates, and that I have not and will not vote more than one ballot in this election.

I understand that failure to sign this certificate and give my residence address will invalidate my ballot.

(Signature)

Residence Address)

- (2) The return mailing envelope for annexation elections shall contain a statement in substantially the following form:

#### VOTER'S CERTIFICATE

I, (Print Name), do solemnly swear (or affirm) that I am a registered voter of Miami-Dade County, Florida, residing within the boundaries of the proposed annexation area to which the enclosed ballot relates, and that I have not and will not vote more than one ballot in this election.

I understand that failure to sign this certificate and give my residence address will invalidate my ballot.

(Signature)

(Residence Address)

- (3) The return mailing envelope for incorporation elections shall contain a statement in substantially the following form:

## VOTER'S CERTIFICATE

I, (Print Name), do solemnly swear (or affirm) that I am a registered voter of Miami-Dade County, Florida, residing within the boundaries of the proposed incorporation area to which the enclosed ballot relates, and that I have not and will not vote more than one ballot in this election.

I understand that failure to sign this certificate and give my residence address will invalidate my ballot.

(Signature)

(Residence Address)

- (h) If the ballot is destroyed, spoiled, lost, or not received by the elector, the elector may obtain a replacement ballot from the supervisor of elections. An elector seeking a replacement ballot shall submit a written request to include a statement that the ballot was destroyed, spoiled, lost, or not received to the supervisor of elections prior to 7:00 p.m. on the day of the election. The supervisor of elections shall keep a record of each replacement ballot issued.
- (i) Special elections for incorporation, annexation special taxing district elections shall be canvassed by a county canvassing board as provided under the election laws of this state.
- (j) The supervisor of elections shall verify the signature of each elector on the return mailing envelope with the signature on the elector's registration records. Such verification may commence at any time prior to the canvass of votes. The supervisor of elections shall safely keep the ballot unopened in his office until the county canvassing board canvasses the vote. If the supervisor of elections determines that an elector to whom a replacement ballot has been issued has voted more than once, the canvassing board shall determine which ballot, if any, is to be counted.
- (k) A ballot shall be counted only if:
  - (1) It is returned in the return mailing envelope;
  - (2) The elector's signature has been verified as provided in subsection (j);
  - (3) The elector has provided his or her residence address on the return mailing envelope and the residence address falls within the boundaries of the proposed Special Taxing District, annexation area or incorporation area to which the ballot relates; and
  - (4) It is received by the Supervisor of Elections not later than 5:00 p.m. on the day of the election.
- (l) Nothing contained in this section shall be interpreted to make mail ballot elections the exclusive method of conducting an annexation, incorporation, or special taxing district election. Such elections may be conducted by the use of touch screens, optical scanning devices, or any other voting procedures authorized by law.

(Ord. No. 96-4, § 1, 1-9-96; Ord. No. 02-90, § 2, 6-6-02; Ord. No. 05-217, § 1, 12-6-05)

**Editor's note**— Ord. No. 96-4, § 1, adopted Jan. 9, 1996, amended the Code by the addition of provisions which have been designated at the discretion of the editor as § 12-13.

Sec. 12-14. - Vote-by-mail ballots.

- (a) A vote-by-mail ballot shall be provided to and returned by an elector, except an overseas elector, in person or by mail except as provided herein. For purposes of this section, "mail" means delivery by the United States Postal Service. Vote-by-mail ballots shall be provided to and returned by overseas electors in accordance with federal law and Florida Statutes. The Supervisor of Elections may provide

to and receive vote-by-mail ballots from employees of the Miami-Dade Corrections and Rehabilitation Department who are designated by the Director to facilitate the vote for inmates of correctional facilities who are eligible to vote. The Supervisor of Elections may provide a vote-by-mail ballot to a designee of an elector if the elector is unable to retrieve and/or return the ballot in person or by mail as set forth in this section.

- (b) The designee must provide to the Supervisor of Elections identification from the elector, picture identification of the designee, and a written statement signed by the elector authorizing the designee by name to pick up and/or return the vote-by-mail ballot. If the elector is a member of the designee's immediate family, the signed statement must include the circumstances requiring the designee to pick up and/or return the vote-by-mail ballot. If the elector is not a member of the designee's immediate family, the designee must also provide to the Supervisor of Elections a statement signed by a physician on that physician's stationery that, due to a medical emergency involving the elector or elector's dependent, the named elector is unable to vote at the polls and is unable to pick up and/or return a vote-by-mail ballot in person. A designee may retrieve, pick up and/or return (whether by hand, by mail or by any other method) no more than two vote-by-mail ballots other than his or her own per election, except that additional ballots may be picked up and/or returned for members of the designee's immediate family. For purposes of this section, "immediate family" means the designee's spouse or the parent, child, grandparent, grandchild, or sibling of the designee or designee's spouse. A designee may only pick up and/or return a vote-by-mail ballot on the day before or day of the election for an immediate family member and on the day of the election for a non-family member. The designee must complete an affidavit that states that the designee is authorized by the elector to retrieve and/or return the elector's ballot and shall indicate his or her relationship to the elector, if any. Any person picking up and/or returning vote-by-mail ballots in violation of the provisions of this subsection shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment in the county jail for a period not to exceed sixty (60) days, or by both such fine and imprisonment, in the discretion of the court having jurisdiction over the cause.
- (c) The Supervisor of Elections shall prescribe the form of the affidavit to be completed and signed by a designee of an elector. If the Supervisor of Elections is satisfied that the designee is authorized to retrieve and/or return the vote-by-mail ballot, the ballot shall be provided to or accepted from the designee.

(Ord. No. 98-104, §§ 1—3, 7-7-98; Ord. No. 02-89, § 2, 6-4-02; Ord. No. 11-93, § 1, 12-6-11; Ord. No. 22-76, § 1, 7-7-22)

**Editor's note**— Ord. No. 22-76, § 1, adopted July 7, 2022, changed the title of § 12-14 from "absentee ballots" to "vote-by-mail ballots."

**Sec. 12-14.1. - Absentee Ballot Campaigning Reporting Requirement.**

- (1) Each campaign treasurer designated by a candidate for County or municipal office in Miami-Dade County shall, at the time of filing any contribution or expenditure reports otherwise required by law, file an additional electronic report with the officer responsible for receiving such candidate's contribution or expenditure reports. The report shall identify the names of all paid campaign workers, whether employed by the campaign or any consultant or agent of the campaign, participating in the campaign or undertaking any other activities regarding absentee ballots. The report shall be filed on a form created by the Supervisor of Elections for such purpose.
- (2) Any candidate failing to file a report as required by this section on the designated due date shall be subject to a fine of \$50.00 per day for the first three (3) days and, thereafter, \$500.00 per day for each day late not to exceed \$5,000.00. Such fine shall not be an allowable campaign expense and shall be paid only from the personal funds of the candidate. Any candidate may appeal or dispute the fine to the Miami-Dade County Commission on Ethics and Public Trust based upon, but not limited to, unusual circumstances surrounding the failure to file on the designated due date, and may request, and shall be entitled to, a hearing before the Commission on Ethics and Public Trust, which shall have the

authority to waive the fine in whole or in part. Any such appeal or dispute shall be made within twenty (20) days after receipt of notice that payment is due or such appeal or dispute shall be waived.

- (3) Candidates for County and municipal office in Miami-Dade County may not direct or knowingly permit any paid or volunteer campaign worker to violate any provision of the Miami-Dade County Code or Florida Law regarding the conduct of absentee voting. Any such candidate found to violate this subsection by the Commission on Ethics and Public Trust shall, in addition to any other civil or criminal penalties provided by law, shall be subject to the penalties provided in Section 2-11.1(bb) of the Code of Miami-Dade County.

(Ord. No. 13-05, § 1, 1-23-13)

Sec. 12-14.2. - Availability of Absentee Ballots for Presidential Elections.

To the extent otherwise permitted by and consistent with the requirements Florida law, the Miami-Dade County Supervisor of Elections shall afford registered electors the opportunity to pick up and return absentee ballots on the Sunday and Monday immediately preceding the Election Day of a Presidential Election for any day during which Early Voting is not offered by the Supervisor of Elections. The Supervisor of Elections shall designate locations in Miami-Dade County for electors to pick up or return absentee ballots and shall establish the hours available for such purpose.

(Ord. No. 13-22, § 1, 3-5-13)

Sec. 12-14.2.1. - County and municipal elected officer and candidate reporting requirements for organizations exempt under section 501(c)(4) of the Internal Revenue Code or political party solicitations.

- (1) Effective January 1, 2017, each candidate for County or municipal office in Miami-Dade County shall insure that their designated campaign treasurer shall, within five (5) days of commencing solicitation activities, either directly or indirectly, on behalf of an organization exempt under Section 501(c)(4) of the Internal Revenue Code except for home owners associations ("501(c)(4) Organization") or a political party, file a one-time report with the Supervisor of Elections or other applicable filing officer indicating that the candidate is undertaking solicitation activities on behalf of such 501(c)(4) Organization or political party. The report shall identify the name of the 501(c)(4) Organization or political party on behalf of whom such funds are being solicited and a description of the relationship between the candidate and the 501(c)(4) Organization or political party. The report shall be filed on a form created by the Supervisor of Elections for such purpose.
- (2) Effective January 1, 2017, upon commencement of any solicitation activities undertaken on behalf of a 501(c)(4) Organization or a political party, each County or municipal elected officer in Miami-Dade County who is not also a candidate for another County or municipal office shall, within five (5) days of commencing solicitation activities, either directly or indirectly, on behalf of a 501(c)(4) Organization or a political party, file a one-time report with the Supervisor of Elections or other applicable filing officer indicating that the officer is undertaking solicitation activities on behalf of such 501(c)(4) Organization or political party. The report shall identify the name of the 501(c)(4) Organization or political party on behalf of whom such funds are being solicited and a description of the relationship between the officer and the 501(c)(4) Organization or political party. The report shall be filed on a form created by the Supervisor of Elections for such purpose.
- (3) Any County or municipal elected officer or candidate who fails to file a report as required by this section on the designated due date shall, for the first violation, be sent a letter of instruction regarding the provisions of this Section, and for each subsequent violation, be subject to a fine of \$50.00 per day for the first three (3) days and, thereafter, \$500.00 per day for each day late not to exceed \$5,000.00. Such fine shall not be an allowable campaign expense and shall be paid only from the personal funds of the candidate or officer. Any candidate or officer may appeal or dispute the fine to the Miami-Dade



County Commission on Ethics and Public Trust based upon, but not limited to, unusual circumstances surrounding the failure to file on the designated due date, and may request, and shall be entitled to, a hearing before the Commission on Ethics and Public Trust, which shall have the authority to waive the fine in whole or in part. Any such appeal or dispute shall be made within twenty (20) days after receipt of notice from the Supervisor of Elections that payment is due or such appeal or dispute shall be waived.

(Ord. No. 16-75, § 1, 7-6-16)

Sec. 12-14.2.2. - County and municipal elected officer and candidate reporting requirements for political committee and electioneering communication organization solicitations.

- (a) Effective January 1, 2017, each candidate for County or municipal office in Miami-Dade County shall ensure that their designated campaign treasurer shall, within five (5) days of commencing solicitation activities, either directly or indirectly, on behalf of a political committee or electioneering communications organization, file a one-time report with the Supervisor of Elections or other applicable filing officer indicating that the candidate is undertaking solicitation activities on behalf of such political committee or electioneering communications organization. The report shall identify the name of the political committee or electioneering communications organization on behalf of whom such funds are being solicited and a description of the relationship between the candidate and the political committee or electioneering communications organization. The report shall be filed on a form created by the Supervisor of Elections for such purpose.
- (b) Effective January 1, 2017, upon commencement of any solicitation activities undertaken on behalf of any political committee or electioneering communications organization, each County or municipal elected officer in Miami-Dade County who is not also a candidate for another County or municipal office shall, within five (5) days of commencing solicitation activities, either directly or indirectly, on behalf of a political committee or electioneering communications organization, file a one-time report with the Supervisor of Elections or other applicable filing officer indicating that the officer is undertaking solicitation activities on behalf of such political committee or electioneering communications organization. The report shall identify the name of the political committee or electioneering communications organization on behalf of whom such funds are being solicited and a description of the relationship between the officer and the political committee or electioneering communications organization. The report shall be filed on a form created by the Supervisor of Elections for such purpose.
- (c) Any County or municipal elected officer or candidate who fails to file a report as required by this section on the designated due date shall, for the first violation, be sent a letter of reprimand and instruction regarding the provisions of this section, and for each subsequent violation, be subject to a fine of \$50 per day for the first three (3) days and, thereafter, \$500 per day for each day late not to exceed \$5,000. Such fine shall not be an allowable campaign expense and shall be paid only from the personal funds of the candidate or officer. Any candidate or officer may appeal or dispute the fine to the Miami-Dade County Commission on Ethics and Public Trust based upon, but not limited to, unusual circumstances surrounding the failure to file on the designated due date, and may request, and shall be entitled to, a hearing before the Commission on Ethics and Public Trust, which shall have the authority to waive the fine in whole or in part. Any such appeal or dispute shall be made within twenty (20) days after receipt of notice from the Supervisor of Elections that payment is due or such appeal or dispute shall be waived.

(Ord. No. 16-46, § 1, 5-17-16)

**Editor's note**— Ord. No. 16-46, § 1, adopted May 17, 2016, set out provisions intended for use as § 12-14.2. Inasmuch as there were already provisions so designated, said section has been codified herein as § 12-14.2.2 at the discretion of the editor.

Sec. 12-15. - Requirements for special elections.

Except as mandated by:

- (a) Article 8 of the County Charter relating to initiative petitions and recall;
- (b) Section 8.07 of the County Charter relating to amendments to the Charter;
- (c) Section 1.07 of the County Charter relating to elections to fill vacancies in the offices of Mayor or County Commissioner; and
- (d) Any other Charter provision requiring a special election,

no county-wide special election shall be held in Miami-Dade County unless the Board of County Commissioners determines that an emergency exists that requires a special election. The nature of the emergency shall be set forth with specificity in the resolution calling for the special election and a two-thirds vote of the Commissioners then in office would be required to call the special election.

(Ord. No. 99-115, § 1, 9-21-99)

Sec. 12-16. - [Creole translations in voting booths.]

- (a) In those precincts in which the Supervisor of Elections determines that a significant portion of the electorate is Haitian-American, the Supervisor of Elections shall provide voting booths containing Creole translations in addition to booths containing Spanish translations.
- (b) In those elections in which the Supervisor of Elections determines that it is appropriate to provide ballots in Creole, those ballots shall be advertised in a Creole language newspaper selected by the Supervisor of Elections.
- (c) The provisions of this ordinance shall apply only to ballots provided at voting booths in the precincts described in subsection (a) hereof and shall apply only to county-wide elections and other appropriate elections as determined by resolution of the Board of County Commissioners.
- (d) The provisions of this section shall become operative only upon a written finding provided to this Board by the Supervisor of Elections that a certified Creole translator exists who can perform the translations mandated by this section.

(Ord. No. 99-160, §§ 1—4, 11-16-99)

Sec. 12-17. - Electronic reporting.

Candidates for the Office of Mayor of Miami-Dade County, Miami-Dade County Board of County Commissioners, Property Appraiser of Miami-Dade County, and Miami-Dade County Community Council shall file their Campaign Treasurer's Reports electronically with the Miami-Dade County Department of Elections. The Supervisor of Elections shall determine the required format for Campaign Treasurer's Reports and shall provide copies upon request.

(Ord. No. 00-72, § 1, 6-6-00; Ord. No. 08-62, § 5, 5-20-08; Ord. No. 11-87, § 1, 11-15-11)

Sec. 12-18. - Electronic posting.

Campaign Treasurer's Reports submitted by candidates for the Office of Mayor of Miami-Dade County, Miami-Dade County Board of County Commissioners, Property Appraiser of Miami-Dade County, Miami-Dade County Community Council and Miami-Dade County Fire Board shall be posted on the Supervisor of Election's Website within three (3) business days of receipt of the diskettes or CD-ROMs by the Supervisor of Elections; provided, that diskettes or CD-ROMs required to be filed within four (4) days

of an election shall be posted on the Supervisor of Election's Website no later than two (2) days before the date of the election.

(Ord. No. 00-72, § 2, 6-6-00; Ord. No. 08-62, § 6, 5-20-08)

Sec. 12-19. - Penalties.

In addition to any other penalties which may be applicable, any individual who violates this ordinance shall be subject to a fine up to fifty dollars (\$50.00) per day for the first three (3) days late and, thereafter, five hundred dollars (\$500.00) per day for each day late, not to exceed twenty-five (25) percent of the total receipts or expenditures, whichever is greater, for the period covered by the late report. If it is determined by a court which has jurisdiction over an alleged violation of the ordinance from which this section derives that unusual circumstances caused the Campaign Treasurer's Report to be filed late, no fine shall be imposed by the court. As used herein, "unusual circumstances" shall mean uncommon, rare or sudden events over which the actor has no control and which directly result in the failure to act according to the filing requirements. Unusual circumstances must occur within a time period that would clearly prevent the person legally responsible for filing the report from doing so in a timely manner.

(Ord. No. 00-72, § 3, 6-6-00)

Sec. 12-20. - [Technical assistance.]

The Supervisor of Elections shall, pursuant to an Administrative Order approved by the Commission, provide technical assistance to candidates regarding the electronic filing requirements of this ordinance. The Administrative Order shall also establish a schedule of fees for the provision of diskettes or CD-ROMs, which comply with the requirements of the ordinance from which this section derives, to candidates.

(Ord. No. 00-72, § 4, 6-6-00)

Sec. 12-21. - Reporting of independent expenditure.

(a) *Reporting and Posting of Independent Expenditures.*

- (1) *Reporting and posting of independent expenditures.* Each person who makes an independent expenditure with respect to any candidate for the Office of Mayor of Miami-Dade County, the Office of Commissioner of Miami-Dade County, Property Appraiser of Miami-Dade County, or Miami-Dade County Community Council shall file a report ("Independent Expenditure Report") electronically with the Miami-Dade County Department of Elections. The Supervisor of Elections shall determine the required format for Independent Expenditure Reports and shall provide copies upon request. Independent Expenditure Reports submitted by a person or entity shall be posted on the Supervisor of Election's Website within two (2) business days of receipt of the Independent Expenditure Report.

- (2) *Definitions.*

- a. For purposes of this section, "person" shall have the meaning ascribed to such term in Chapter 106, Florida Statutes, as amended and supplemented.
- b. For purposes of this section, "independent expenditure" shall have the meaning ascribed to such term in Chapter 106, Florida Statutes, as amended and supplemented.

(Ord. No. 00-125, §§ 1, 2, 10-3-00; Ord. No. 08-62, § 7, 5-20-08; Ord. No. 11-87, § 1, 11-15-11)

**Editor's note**— Ord. No. 00-125, §§ 1, 2, adopted Oct. 3, 2000 did not specifically amend the Code. Its inclusion as section 12-21 was at the discretion of the editor.

Sec. 12-22. - Election Campaign Financing Trust Fund.

(a) *Definitions.* The following terms, as used in this section, shall mean:

- (1) "Contribution" shall have the meaning ascribed to such term in Chapter 106, Florida Statutes, as amended and supplemented.
- (2) "Expenditure" shall have the meaning ascribed to such term in Chapter 106, Florida Statutes, as amended and supplemented.
- (3) "Unincorporated association" means a partnership or any other legal entity other than a natural person.

(b) *Election Campaign Financing Trust Fund.* There is established the Election Campaign Financing Trust Fund to be utilized by the Miami-Dade County Department of Elections as provided in this section. If necessary, each year in which a general election is to be held for the election of the Mayor or any County Commissioner, additional funds shall be transferred to the Election Campaign Financing Trust Fund from general revenues in an amount sufficient to fund qualifying candidates pursuant to this section.

(c) *Election campaign financing; eligibility.* Each candidate for the Office of Mayor of Miami-Dade County or the Board of County Commissioners of Miami-Dade County who desires to receive contributions from the Election Campaign Financing Trust Fund (the "Fund") shall file an irrevocable declaration of intent to seek public financing no later than ninety (90) days after opening a campaign account, or thirty (30) days before the first day of qualifying, whichever shall come first. Each candidate for the Office of Mayor of Miami-Dade County or the Board of County Commissioners of Miami-Dade County who has filed a declaration of intent and has satisfied the eligibility requirements shall file an application by the filing deadline for such contributions with the filing officer on forms provided by the Miami-Dade County Supervisor of Elections. As used in this subsection, "filing deadline" shall be twenty (20) business days prior to the first day a candidate may qualify for the elective office sought. Each application for contributions from the Fund shall be signed by both the candidate and campaign treasurer under oath. If a candidate requesting contributions from the Fund desires to have such funds distributed by electronic fund transfers, the request shall include information necessary to implement that procedure. To be eligible to receive contributions from the Fund, a candidate shall not be an unopposed candidate and shall:

- (1) Sign a statement of understanding wherein the candidate states that he or she has read, understands and agrees to abide by Section 12-22 of the Code and the applicable Administrative Order regarding the Election Campaign Financing Trust Fund.
- (2) Qualify as a candidate pursuant to Chapter 99, Florida Statutes and section 2.04 of the Home Rule Charter;
- (3) Limit loans or contributions from the candidate's personal funds to twenty-five thousand dollars (\$25,000.00), which loans or contributions shall not qualify for meeting the threshold amounts in subsection (c)(5);
- (4) Submit to audits of the campaign account by the Commission on Ethics and Public Trust as provided in subsection (f)(3); and
- (5) Raise contributions as follows:
  - a. Candidates for Board of County Commissioners. Each candidate for the Board of County Commissioners shall have received by the filing deadline at least three hundred (300) separate contributions between one hundred dollars (\$100.00) and five hundred dollars (\$500.00) from three hundred (300) different qualified contributors totaling at least thirty thousand dollars (\$30,000). As used in this subsection, a "qualified contributor" means a

Miami-Dade County registered voter residing in the Commission district which the candidate is seeking to represent or a bank, corporation or unincorporated association with a place of business in the Commission district which the candidate is seeking to represent. As used herein, a "place of business" means a physical location in the applicable commission district where business is conducted as evidenced by an occupational license, a permit or license issued by a governmental entity, or income or property tax returns or notices. A post office box shall not constitute a place of business. Any candidate who satisfies the requirements stated in the preceding sentence shall be eligible for a contribution of fifty thousand dollars (\$50,000) as provided in subsection (f)(3). Each candidate for the Board of County Commissioners who receives by the filing deadline an additional twenty thousand dollars (\$20,000) in contributions between one hundred dollars (\$100.00) and five hundred dollars (\$500.00) for a total of fifty thousand dollars (\$50,000) shall be eligible for a contribution of an additional twenty-five thousand dollars (\$25,000) as provided in subsection (f)(3). These contributions must be in the form of:

1. A personal check drawn on a personal bank account;
2. A business check drawn on a corporate or other business bank account;
3. Traveler's check that includes the contributor's full name and address; or
4. Electronic transfer of funds where the full name of the contributor is clearly stated.

Notwithstanding the foregoing, each candidate for the Board of County Commissioners during the 2006 election cycle shall be required to satisfy all of the requirements of section 12-22 except that: (1) one hundred and fifty (150) of the three hundred (300) qualifying contributions shall come from qualified contributors as defined in this subsection (c)(5)a; and (2) the remaining one hundred and fifty (150) qualifying contributions shall come from qualified contributors as defined in subsection (c)(5)b who, in the case of registered voters, do not reside in the Commission district which the candidate is seeking to represent or, in the case of corporate contributors, do not have a place of business in the Commission district which the candidate is seeking to represent.

- b. Candidates for Mayor. Each candidate for Mayor of Miami-Dade County shall have received at least one thousand five hundred (1,500) contributions between one hundred dollars (\$100.00) and five hundred dollars (\$500.00) from one thousand five hundred (1,500) different qualified contributors. As used in this subsection, a "qualified contributor" means a Miami-Dade County registered voter residing in Miami-Dade County or a bank, corporation or unincorporated association (hereinafter "corporate contributor") with a place of business in Miami-Dade County. As used herein, a "place of business" means a physical location in Miami-Dade County where business is conducted as evidenced by an occupational license, a permit or license issued by a governmental entity, or income or property tax returns or notices. A post office box shall not constitute a place of business. These contributions must be in the form of:
  1. A personal check drawn on a personal bank account;
  2. A business check drawn on a corporate or other business bank account;
  3. Traveler's check that includes the contributor's full name and address; or
  4. Electronic transfer of funds where the full name of the contributor is clearly stated.
- c. Each individual contributor shall sign a contributor's statement on forms provided by the Supervisor of Elections that contains the full name, date of birth and voter registration number of the contributor. Each corporate contributor shall sign a contributor's statement on forms provided by the Supervisor of Elections that contains the full name of the business entity, the place of business of the entity and the full name and title of the person executing the business check.

- d. The maximum number of qualifying contributions that a candidate for the Board of County Commissioners may submit is three hundred and sixty (360). The maximum number of qualifying contributions that a candidate for the Office of Mayor may submit is one thousand eight hundred (1,800). All qualifying contributions shall be submitted at the time the candidate submits his or her application for funds. Each application for funds shall include, among other things, a hard copy of all contributions submitted in support of the application. Each application shall also be submitted on diskettes, CD-ROMs or other approved electronic means utilizing forms prescribed by the Department of Elections and shall include a detailed schedule of all contributions submitted in support of the application including, but not limited to, the name of the contributor, voter registration number if applicable, date of birth if applicable, address of the person or entity making the contribution, amount of contribution and nature of the contribution; and
- (6) Attend a seminar, along with the campaign treasurer, conducted by the Ethics Commission regarding state and local campaign financing laws which shall be completed prior to the receipt of contributions from the Fund.
- (d) *Election campaign financing; participation in run-off; eligibility.* Each candidate for the Office of Mayor of Miami-Dade County or the Board of County Commissioners of Miami-Dade County who is in a run-off election and did not participate in the Election Campaign Financing Trust Fund prior to the initial election as provided in subsection (c), and desires to receive contributions from the Election Campaign Financing Trust Fund during the run-off election shall file a request by the filing deadline for such contributions with the filing officer on forms provided by the Miami-Dade County Supervisor of Elections. As used in this subsection (d), "filing deadline" shall mean the third business day after the certification of the results of the initial election. If a candidate requesting contributions from the fund desires to have such funds distributed by electronic fund transfers, the request shall include information necessary to implement that procedure. To be eligible to receive contributions from the Fund during the run-off election, a candidate shall not be an unopposed candidate and shall:
  - (1) Sign a statement of understanding wherein the candidate states that he or she has read, understands and agrees to abide by Section 12-22 of the Code and the applicable Administrative Order regarding the Election Campaign Financing Trust Fund.
  - (2) Sign an affidavit stating that the candidate did not exceed the expenditure limits provided in section (e)(1) during the initial election;
  - (3) Limit loans or contributions from the candidate's personal funds to twenty-five thousand dollars (\$25,000); and
  - (4) Submit to audits of the campaign account by the Commission on Ethics and Public Trust as provided in subsection (f)(3).
  - (5) Attend a seminar, along with the campaign treasurer, conducted by the Ethics Commission regarding state and local campaign financing laws which shall be completed prior to the receipt of contributions from the Fund.
- (e) *Expenditure limits.*
  - (1) Any candidate for Mayor or the Board of County Commissioners who requests contributions from the Election Campaign Financing Trust Fund shall limit his or her total expenditures during the initial election as follows:
    - a. Mayor: Six hundred and fifty thousand dollars (\$650,000.00).
    - b. Board of County Commissioners: Two hundred thousand dollars (\$200,000.00).
  - (2) If a run-off election occurs, a candidate for Mayor may expend a total of four hundred and fifty thousand dollars (\$450,000.00), and a candidate for the Board of County Commissioners may expend a total of one hundred and fifty thousand dollars (\$150,000.00) during the run-off election.
  - (3) Expenditure limits shall be adjusted by the Supervisor of Elections quadrennially to reflect the rate of inflation or deflation as indicated in the Consumer Price Index (CPI) calculated by the U.S.

Department of Commerce as applied to Miami-Dade County. The first adjustment shall occur in 2005 using the CPI figures provided for the calendar year ended December 31, 2004. Adjustments shall be made thereafter on a quadrennial basis using the CPI figures provided for the calendar year preceding the year of adjustment.

- (4) For the purposes of this section, the term "expenditure" does not include the payment of compensation for legal and accounting services rendered on behalf of a candidate.
  - (5) Any candidate who requests contributions from the Election Campaign Financing Trust Fund and subsequently exceeds the expenditure limit set forth in this section shall, within fifteen (15) days from the date the candidate exceeds the limit, pay to the Election Campaign Financing Trust Fund an amount equal to the excess expenditures. The total amount required to be paid under this section shall not exceed the total public financing received by the candidate. Such amount shall not be an allowable campaign expense and shall be paid from personal funds of the candidate.
- (f) *Distribution of funds.*
- (1) The Supervisor of Elections shall review each request for contributions from the Election Campaign Financing Trust Fund and certify whether the candidate is eligible for such contributions. Notice of the certification decision shall be provided to the candidate.
  - (2) An adverse decision may be appealed to a hearing examiner. The Supervisor of Elections shall adopt rules providing a procedure for such appeals. Hearing examiners shall be selected from a panel of retired judges who have served ten (10) or more years as Circuit Judges in the Eleventh Judicial Circuit in and for Miami-Dade County, Florida. Hearing examiners may be selected from alternate sources where the County Attorney recommends in writing that such action is necessary to achieve greater diversity. Appeals shall be filed with the Clerk of the Board and to the County Attorney within ten (10) days of the filing of the Supervisor of Election's decision. Such appeal shall be in writing, shall state the particular grounds on which it is based, shall include all pertinent documents and evidence and shall be accompanied by a bond in the amount of five hundred dollars (\$500.00) in a form and with a surety acceptable to the Supervisor of Elections. Any grounds not stated shall be deemed waived. Such bond shall be retained by the Clerk of the Board and shall be returned at the conclusion of the appeal proceedings unless the hearing examiner imposes costs against the appellant and such costs are not separately paid by the appellant within fourteen (14) calendar days of the hearing examiner's decision. The Clerk of the Board shall refer an appeal to a hearing examiner within three (3) business days of receipt of the notice of appeal. The hearing examiner shall hear the appeal within three (3) business days unless otherwise agreed to by the appellant. The decision of the hearing examiner shall be final unless appealed. The decision of the hearing examiner may be appealed pursuant to the Florida Rules of Appellate Procedure.
  - (3) a. Each candidate who has been certified to receive contributions from the Election Campaign Financing Trust Fund shall be entitled to distribution of funds as provided as follows:
    1. Each candidate for the Board of County Commissioners who has satisfied the requirements of subsection (c) shall be entitled to a maximum contribution of seventy-five thousand dollars (\$75,000.00) from the Election Campaign Trust Fund. Any candidate who has raised between thirty thousand dollars (\$30,000) and forty-nine thousand nine hundred and ninety nine dollars (\$49,999) and has complied with all of the requirements of subsection (c) shall be entitled to a contribution of fifty thousand dollars (\$50,000). Any candidate who has raised fifty thousand dollars (\$50,000) or more and has complied with all of the requirements of subsection (c) shall be entitled to a contribution of seventy-five thousand dollars (\$75,000), which sum shall be disbursed in two (2) installments. The first installment shall be fifty thousand dollars (\$50,000) and shall be disbursed within seven (7) days after the Supervisor of Elections has certified that the candidate is eligible for such contribution. The second installment shall be disbursed within seven (7) days after the candidate has submitted his or her 32nd day report, as required by section 106.07, Florida Statutes, and the Supervisor of Elections has determined that the candidate has submitted an additional report which

contains sufficient information to allow for the audit of campaign contributions and expenditures ("Campaign Financing Report"). Both the candidate and the candidate's treasurer shall sign each Campaign Financing Report. If a run-off election occurs, a candidate who has satisfied the requirements of subsections (c) or (d) and subsection (e) and has submitted a Campaign Financing Report which contains sufficient information to allow for the audit of campaign contributions and expenditures shall be entitled to fifty thousand dollars (\$50,000.00). Distribution of funds during a run-off election shall be made within seven (7) days after the Supervisor of Elections has certified that the candidate is eligible for such contribution. Notwithstanding the foregoing, a candidate shall not be entitled to a distribution from the fund which, when combined with the funds raised by the candidate, would exceed the applicable expenditure limit. Under such circumstances, the candidate shall only be eligible for an amount which, when combined with the funds raised by the candidate, equals the applicable expenditure limit. Both the candidate and the candidate's treasurer shall sign each Campaign Financing Report. Each candidate receiving contributions from the Fund shall submit to a post-election audit of his or her campaign account, and shall within ninety (90) days after the election provide the Commission on Ethics and Public Trust with detailed information to substantiate all campaign contributions and expenditures, which have not been previously substantiated, including, but not limited to, all original cancelled checks, invoices, bank statements, receipts that include the name and business address of the person or entity providing the receipt copies of contracts for consulting services, a breakdown of dates and hours of work provided by campaign staff, copies of 1099s and any other information required by the Commission on Ethics and Public Trust.

2. Each candidate for the Office of Mayor who has satisfied the requirements of subsection (c) shall be entitled to a contribution of three hundred thousand dollars (\$300,000.00) from the Election Campaign Trust Fund. If a run-off election occurs, a candidate who has satisfied the requirements of subsections (c) or (d) and section (e) shall be entitled to two hundred thousand dollars (\$200,000.00). Notwithstanding the foregoing, a candidate shall not be entitled to a distribution from the fund which, when combined with the funds raised by the candidate, would exceed the applicable expenditure limit. Under such circumstances, the candidate shall only be eligible for an amount which, when combined with the funds raised by the candidate, equals the applicable expenditure limit. Distribution of funds shall be made within seven (7) days after the Supervisor of Elections has certified that the candidate is eligible for such contributions. For run-off elections, distribution of funds shall be within seven (7) days from the date of the initial election. Each candidate receiving contributions from the Fund shall submit to a post-election audit of his or her campaign account, and shall within ninety (90) days after the election provide the Commission on Ethics and Public Trust with detailed information to substantiate all campaign contributions and expenditures, which have not been previously substantiated, including, but not limited to, all original cancelled checks, invoices, bank statements, receipts that include the name and business address of the person or entity providing the receipt copies of contracts for consulting services, a breakdown of dates and hours of work provided by campaign staff, copies of 1099s and any other information required by the Commission on Ethics and Public Trust.

- (4) a. Certification and distribution of funds shall be based upon the eligibility criteria provided in this section. Prior to certifying whether a candidate is eligible for contributions from the Fund, the Inspector General shall perform an independent investigation to determine whether the candidate has satisfied the eligibility requirements of this section. Upon completion of the investigation, the Inspector General shall submit to the Supervisor of Elections a report detailing his or her findings. The Supervisor of Elections shall review each report prior to authorizing the release of funds. The Supervisor of Elections may prescribe separate reporting forms for candidates for Mayor and the Board of County Commissioners.



- b. A candidate who is eligible for a distribution of funds based upon qualifying contributions received and certified to the Supervisor of Elections as provided in this section, may obligate funds not to exceed the amount which the campaign treasurer's report shows the candidate is eligible to receive from the Election Campaign Financing Trust Fund without the funds actually being on deposit in the campaign account.
  - c. All funds received by a candidate from the Fund shall be deposited in a sub-account, with separate checks, in the candidate's primary campaign depository as defined in section 106.021, Florida Statutes. All expenditures from the sub-account shall be subject to the expenditures requirements and limitations on the use of funds as provided in this section.
- (5) The Supervisor of Elections shall adopt rules relating to, among things, reports including, but not limited to, Campaign Financing Reports, and the certification and distribution of funds required by this section. Such rules shall, at a minimum, provide for specifications for printed campaign treasurer's reports outlining the format for such reports, including size of paper, typeface, color of print, and placement of required information on the form.
- (6) Any candidate required to dispose of surplus funds pursuant to Section 106.141, Florida Statutes, who has received contributions from the Election Campaign Financing Trust Fund shall, except as provided in this subsection, return all surplus campaign funds to the Election Campaign Financing Trust Fund. Any surplus funds in excess of the amount contributed to the candidate by the Election Campaign Financing Trust Fund shall be disposed of as provided in Section 106.141, Florida Statutes.
- (g) *Use of Funds.* Funds distributed to a candidate from the Fund shall not be used for the following expenditures: (i) clothing for a candidate or an immediate family member of the candidate, with the exception of clothing that is a political advertisement as defined in section 106.001(17), Florida Statutes; (ii) the purchase or rental of any vehicle for a candidate; (iii) the enhancement of any vehicle owned by a candidate or an immediate family member of the candidate; (iv) personal grooming or cosmetic enhancements for a candidate; (v) payment to a candidate or an immediate family member of the candidate for the purchase of any goods or services; and (vi) payment to any corporation, firm, partnership, or business entity owned or controlled by a candidate or an immediate family member of the candidate for the purchase of any goods or services. As used herein, "immediate family member" shall refer to the spouse, parents, children and siblings of the candidate. As used herein, "controlled by" shall mean ownership, directly or indirectly, of five (5) percent or more of the outstanding capital stock in any corporation or direct or indirect interest of five (5) percent or more in a firm, partnership, or other business entity.
- (h) *Candidates voluntarily abiding by election campaign financing limits but not requesting public funds; irrevocable statement required.* Not later than qualifying for office, each candidate for the Office of Mayor or the Board of County Commissioners who has not made a request to receive contributions from the Election Campaign Financing Trust Fund, but who wishes to voluntarily abide by the applicable expenditure limit set forth in subsection (e) and the loan or contribution limits on personal funds set forth in subsection (c)(3), shall file an irrevocable statement to that effect with the Supervisor of Elections. Any candidate who files such a statement and subsequently exceeds such limits shall, within fifteen (15) days from the date the candidate exceeds the limits, pay to the Election Campaign Trust Fund an amount equal to the amount of the excess expenditures and/or the amount of the excess personal contributions or loans. Such an amount shall not be an allowable campaign expense and shall be paid from the personal funds of the candidate.
- (i) *Trigger Reporting and Notice of Intention Not to Participate.*
  - (1) *Trigger Reporting.* Whenever a candidate for Mayor or the Board of County Commissioners who has elected to participate in election campaign financing under the provisions of this section receives contributions or makes expenditures that exceed 100 percent of the applicable expenditure ceiling provided in subsection (e), the candidate shall, within 24 hours of reaching that level, file a report with the Supervisor of Elections, on forms to be provided by the Supervisor of Elections, stating that fact and any additional information required by the Supervisor of Elections. All reports required by subsection (i) shall be filed on diskettes, CD-ROMs or other

approved electronic means simultaneously with and in addition to an original signed report as required by section 12.17 of the Code. The Supervisor of Elections shall electronically post the reports required by subsection (i) as provided in section 12.18 of the Code.

- (2) *Notice of Intention Not to Participate.* Whenever a candidate for Mayor or the Board of County Commissioners elects not to participate in election campaign financing under the provisions of this section, the candidate shall file a Notice of Intention Not to Participate in Campaign Financing ("Notice of Intention") by the filing deadline with the Supervisor of Elections on forms to be provided by the Supervisor of Elections. As used in this subsection (i), "filing deadline" shall mean the last day upon which a candidate may qualify for the elective office sought. For the purposes of this section, a contribution shall not be considered to be received if it is not negotiated, deposited, or utilized, and it is returned to the donor within seventy-two (72) hours of receipt.
- (j) *Enforcement and Penalties.*
- (1) *Enforcement by the Ethics Commission.* The Ethics Commission shall be empowered to review, interpret, render advisory opinions and letters of instruction and enforce section 12-22 of the Code. In addition to any other penalties which may be applicable, a finding by the Ethics Commission that a person has violated subsections (c), (d), (e), (f), (g) or (i) shall subject said person to an admonition or public reprimand and/or a fine of two hundred fifty dollars (\$250.00) for the first such violation and five hundred dollars (\$500.00) for each subsequent violation. The Ethics Commission may also order a person to pay restitution when the person or a third party has received a pecuniary benefit as a result of the person's violation. The procedure for determining restitution shall be governed by an administrative order adopted by the County Commission and rules of procedure promulgated by the Ethics Commission.
  - (2) *Prosecution by the State Attorney in State Court.* In addition to any other penalties which may be applicable, any individual who violates subsections (c), (d), (e), (f), (g) or (i) shall be subject to a fine up to five thousand dollars (\$5,000.00) or imprisonment not to exceed three hundred sixty-four (364) days, or both.
  - (3) *Action for injunctive and other appropriate relief.* In the event that contributions from the Fund have been improperly distributed to a candidate, the State Attorney or Inspector General shall be empowered to seek appropriate relief including, but not limited to, injunctive relief, costs and restitution in a court of competent jurisdiction.
  - (4) Any person who has pled guilty, pled nolo contendere, been found guilty or been convicted of a violation of subsections (e), (f), (g) or (i) as provided in subsections (j)(1) or (j)(2) or of any offense arising out of or relating to the distribution of funds to a candidate shall be barred from receiving funds from the Fund for a period of eight (8) years. A candidate shall also be barred from receiving contributions from the Fund for a period of eight (8) years if a volunteer, agent or employee over whom the candidate has control has pled guilty, pled nolo contendere, been found guilty or been convicted of a violation of subsections (e), (f), (g) or (i) as provided in subsections (j)(1) or (j)(2) or of any offense arising out of or relating to the distribution of funds to a candidate. The term "control" as used in the preceding sentence shall mean the power to prevent a violation from occurring.

(Ord. No. 01-39, § 2—11, 3-8-01; Ord. No. 02-22, § 1, 2-12-02; Ord. No. 02-98, § 1, 6-18-02; Ord. No. 02-127, § 1, 7-23-02; Ord. No. 04-91, § 1, 5-11-04; Ord. No. 04-204, § 1, 12-2-04; Ord. No. 05-215, § 1, 12-6-05)

**Editor's note—** Ord. No. 01-39, §§ 2—11, adopted March 8, 2001, did not specifically amend the Code. Hence its inclusion as section 12-22 was at the discretion of the editor.

Sec. 12-23. - Initiative, referendum and recall petitions—Verification of signatures; disqualification of non-complying petitions; prohibition on improper signature gathering practices.

- (1) No person may circulate a petition or solicit signatures unless he or she is a registered elector in Miami-Dade County.
- (2) *Form of Petition.* All petitions for initiative, referendum, and recall submitted pursuant to Article 8 of the Miami-Dade County Home Rule Charter shall be in 12-point font with no more than one signature per page and in a format determined by the Supervisor of Elections; providing, however, each petition shall contain the following information:
  - A. A statement in each petition circulator's own handwriting, setting forth his or her own name, both in printed and signature form.
  - B. The residence address of the circulator.
  - C. Dates between which all the signatures on each individual petition were obtained.
  - D. A sworn statement that the circulator personally circulated the petition, witnessed each signature as it was being written and that to the best information and belief of the circulator, each signature is the genuine signature of the person whose name it purports to be.
  - E. A sworn statement signed by the circulator certifying to the truthfulness and the correctness of the certificate set forth in Section (1)(D) hereof; stating that it is being given under penalty of perjury under the laws of the State of Florida; and setting forth the date and the place of execution of the certification.
  - F. Any individual who knowingly signs more than one petition or who attempts to sign another person's name, or a fictitious name, shall be punishable by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment in the county jail for a period not to exceed sixty (60) days, or by both.
  - G. The title and text in English, Spanish, and Creole of the ordinance or the Charter provision sought to be enacted or repealed.
- (3) *Disqualification of Forms.* Within thirty (30) days, excluding weekends and legal holidays, of the date of filing a petition of initiative or referendum, the Supervisor of Elections, or in the case of recall, the Clerk of the Circuit Court, shall disqualify the following petition forms:
  - A. Those that do not include in English, Spanish and Creole the title and text of the ordinance or the Charter provision sought to be enacted or repealed.
  - B. Those that do not comply with any one or more of the provisions relating to the circulator set forth in Section (1) hereof.
  - C. Those where the notary failed to comply with the provisions of F.S. § 117.05, requiring the notary to certify that to the best of his or her knowledge he or she knows the circulator or has seen documentary evidence to substantiate the authenticity of the circulator.
  - D. Those where the notary is the same person as the circulator.
  - E. Those where the signatures of the circulator or notary are dated earlier than the dates on which the electors signed the petition.
- (4) *Disqualification of Signatures.* The Supervisor of Elections in the case of the initiative or referendum, or the Clerk of the Circuit Court in the case of recall, shall disqualify the following signatures:
  - A. Those signatures that are not accompanied by a residence address or precinct number of the voter.
  - B. Those signatures that are illegible.
  - C. Those signatures not dated.
  - D. Those signatures representing persons who were not registered voters in Miami-Dade County on the date they signed the petition.
  - E. The second and any additional signatures of an otherwise eligible voter.

- F. Those signatures that appear different to the extent that it cannot be determined that the person signing the petition and the person who is registered to vote are one and the same.
- G. Any signature that, within fifteen (15) days, excluding weekends and legal holidays, of the date of filing the petition, the signer, on a form prescribed by the Supervisor of Elections, has withdrawn his or her signature because the signature was fraudulently obtained.

(5) *Prohibited Signature Gathering Practices*

- A. It shall be unlawful for any person, entity, or elector intentionally to make or cause to be made any false statement concerning the contents or effect of any petition for initiative, referendum, or recall submitted pursuant to Article 7 of the Miami-Dade County Home Rule Charter to any person who is requested to sign any such petition or who makes an inquiry with reference to any such petition and who relies on such statement.
- B. Any person, entity, or elector convicted of a violation of section 12-23(5)A. of this Code shall be punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment in the County Jail not more than sixty (60) days, or by both such fine and imprisonment.

(Ord. No. 01-181, §§ 1—3, 11-6-01; Ord. No. 06-167, § 1, 11-28-06; Ord. No. 06-168, § 1, 11-28-06; Ord. No. 07-39, § 1, 3-6-07)

Sec. 12-24. - Mailing of Voter Identification Cards After Precinct Boundaries Are Changed.

Whenever precinct boundaries are changed such that voters must be issued new voter identification cards, the Supervisor of Elections shall, when practicable, mail such cards at least twenty-one (21) days prior to the book closing date for the next countywide election.

(Ord. No. 03-03, § 1, 1-23-03)

Sec. 12-25. - Use of ballot position numbers.

This Board authorizes the use of Ballot Position Numbers in elections for Miami-Dade County Commissioners and Mayor.

(Ord. No. 04-134, § 1, 7-13-04)

**Editor's note**— Ord. No. 04-134, § 1, adopted July 13, 2004, did not specifically amend the Code. Hence, its inclusion herein as section 12-25 was at the discretion of the editor.

Sec. 12-26. - Pre-payment of costs for certain referendum elections.

When permitted by state law, the costs of any referendum election shall be paid either by the County or by an interested party designated by the Board of County Commissioners upon a written recommendation by the Mayor. The Mayor shall include in such written recommendation the estimated costs for holding such election. Any referendum election costs pre-paid by an interested party shall not be refunded, in whole or in part, regardless of the outcome or the actual costs of the election.

(Ord. No. 13-84, § 1, 9-17-13)

Sec. 12-27. - General Obligation Bond Referendum Ballot Questions.

Subject to the requirements of Florida Statutes Sections 100.211 and 101.161 and unless expressly waived by a vote of two-thirds (2/3) of the Board members present, all resolutions calling a special

election to place a bond referendum before the voters must include a statement disclosing the estimated annual operating and maintenance expenses of the project or projects for which the bond proceeds are sought as well as the proposed funding source for such expenses and must also include a statement within the ballot summary which informs voters that such general obligation bonds if approved will be "paid or secured by taxes derived from the assessed value of property in the County". The required inclusion of such language in the general obligation bond referendum ballot summary is directory only and the failure to include such language shall not be used as a basis to invalidate the bond referendum or the ballot summary in any litigation. Additionally, in accordance with Florida Statutes Section 100.31, no suit may be brought to test the validity of any bond referendum or the validity of any bond issued as a result of the bond referendum based on the provisions of this section unless such suit is instituted within 60 days after the declaration of the results of the referendum.

(Ord. No. 14-04, § 1, 1-22-14; Ord. No. 15-119, § 1, 10-6-15)