

CITY OF MIAMI BEACH CANDIDATE HANDBOOK 2023



MIAMIBEACH

Office of the City Clerk
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MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139

OFFICE OF THE CITY CLERK

Rafael E. Granado, City Clerk

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TO: Prospective Candidate for Mayor or Commissioner

FROM: Rafael E. Granado, City Clerk

SUBJECT: 2023 City of Miami Beach Candidate Handbook

Thank you for your interest in becoming a candidate for the November 7, 2023 City of Miami Beach General Election. Enclosed you will find information and materials needed to answer many of your questions.

As a candidate for public office, it is imperative that you and your campaign staff abide by all applicable Florida Statutes and Miami-Dade County and Miami Beach Ordinances. To assist candidates to comply with local and State election laws, we have created this handbook with useful information and forms.

You are also being provided with a Candidate and Campaign Treasurer Handbook dated April 27, 2022 (latest version available); The Florida Election Code - Chapters 97 – 106, Florida Statutes (Includes legislation through 2022); the VR/VoterFocus Handbook on How to File Financial Reports Online dated August 11, 2021 (latest version available); and the Guide to the Sunshine Amendment and Code of Ethics for Public Officers and Employees dated 2023.

While we attempt to provide thorough information, candidates are legally responsible to ensure that their actions comply with all applicable laws and regulations. The information contained herein is intended as a reference guide only. Investing the necessary time and attention to ensure compliance with the Miami Beach, Miami-Dade County, and Florida Election Codes can help you avoid making errors that could result in monetary fines and negative publicity.

For further interpretation or legal opinion, you may contact the Division of Elections at telephone: 850.245.6200 or e-mail: DivElections@dos.myflorida.com.

For ease of use, all the forms included in this handbook are also available online at: <https://www.miamibeachfl.gov/city-hall/city-clerk/election-information/most-commonly-used-election-forms/>

For additional information, please refer to the Office of the City Clerk's November 7, 2023 Election Webpage located at: www.votemiamibeach.com

If you are considering running for public office, I encourage you to make an appointment with our office for an orientation on the election laws and steps necessary to qualify for office.

The Office of the City Clerk is here to serve you. If you have any questions, please do not hesitate to call the Office of the City Clerk at 305.673.7411. We welcome your suggestions and feedback as you navigate through this challenging effort.

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TABLE OF CONTENTS

<u>TAB</u>	<u>CONTENT</u>
1.	Municipal Election Information / How to Begin Your Campaign
2.	Important Dates and Deadlines
3.	Guidelines to Successful Campaign Treasurer's Reports
4.	City of Miami Beach Campaign Finance Laws
5.	Election/Free Speech Signs
6.	Paid Campaign Workers Participating in Vote-by-Mail Activities
7.	Reporting of Solicitation of Contributions for Political Committees, Electioneering Communications Organizations, 501(c)(4) Organizations, and Political Parties by Municipal Candidates
8.	Use of City Buildings for Political Campaign Activities / Using Services of State, County, Municipal, or District Officers or Employees
9.	Food Distribution Events in The City of Miami Beach.
10.	Miami Beach Precinct/Polling Place List
11.	Most Used Candidate Election Forms
12.	Mandatory Ethics Training for City's Elected Officials
13.	Miami-Dade Elections Department Documents and Items Available
14.	Commission Responsibilities - Miami Beach City Charter – Article II – City Commission (Section 2.01 through 2.08)
15.	Miami Beach City Charter - Article VI - Elections (Sections 6.01 through 6.04)
16.	Miami Beach City Code – Chapter 38 – Elections (Sections 38-1 through 38-11)
17.	Miami Beach City Code – Division 5 – Campaign Finance Reform (Sections 2-487 through 2-491)
18.	Miami Beach City Code – Election/Free Speech Signs – Article III – Specific District Sign Regulations (Section 138-61) and Article IV – Temporary Signs (Sections 138-133 through 138-134)
19.	Miami-Dade County Code - Vote-by-Mail Campaigning Reporting Requirement (Section 12-14.1)
20.	Miami-Dade County Code – Reporting of Solicitations of Contribution for Political Committees, Electioneering Communication Organizations, 501(c)(4) Organizations, and Political Parties (Section 12-14.2.1 through 12.14.2.2)
21.	City of Miami Beach Resolution 2020-31274 – A Resolution Prohibiting Candidates From Hosting Or Campaigning At Any Charitable Or Not For Profit Food

Distribution Event In The City Of Miami Beach, Held During The Period Of Time Between The Last Day Of The Election Qualifying Period Until The Earlier Date Of When The Candidate Is Elected, Defeated, Or Becomes Unopposed; And Further Prohibiting Charitable Or Not For Profit Food Distribution Events From Taking Place Within 200 Feet Of Any Polling Place Located Within The City During The Voting Period For Any Elections, Including Early Voting Period, Beginning When The Polls Open For Voting And Ending When The Polls Close Or The Last Voter Has Voted, Whichever Is Later

22. Miami-Dade County Code – Conflict of Interest and Code of Ethics Ordinance (Section 2-11.1)



MUNICIPAL ELECTION INFORMATION / HOW TO BEGIN A CAMPAIGN

Date of Election

General Election: **Tuesday, November 7, 2023**
Run-Off Election (if required): **Tuesday, November 21, 2023**

Electors

Any person who is a resident of the City of Miami Beach, who has qualified as an elector of the State of Florida, and who registers in the manner prescribed by law shall be a qualified elector of the City. (See 6.01 Miami Beach Charter. See TAB 15.)

Nonpartisan Elections

All elections for the office of the City Commission shall be conducted on a nonpartisan basis without any designation or political party affiliation. (See 6.02 Miami Beach Charter. See TAB 15.)

Qualifying

The City Commission shall cause to be placed on the ballot to be used in the General Election the name of any qualified elector of the City residing within the City at least one year prior to qualifying and who, within the four (4) consecutive days immediately following the first Monday of September prior to said general election (**September 5, 2023 through September 8, 2023**), 1) shall have submitted one (1) or more documents upon which he/she relies upon to evidence that he/she has resided in the City for at least one year prior to qualifying, which type document(s) shall include, but not limited to: a Florida government issued identification, a voter's registration card, driver's license, property tax receipt, homestead exemption, utility bill or lease agreement, 2) shall have paid to the City Clerk of the City of Miami Beach the sum equal to seven and one-half percent (7½%) of the annual salary of the office to which he/she seeks election as a qualifying fee, and 3) shall have been photographed and fingerprinted by the identification bureau of the Police Department of the City, unless such person shall file with the City Clerk no later than noon of the 14th day prior to the first day of qualifying as a candidate for such office (**August 22, 2023**), a petition approving his/her candidacy signed by sufficient qualified and registered voters to constitute not less than two percent (2%) of this number of such voters as the same shall be on the date sixty (60) (**July 7, 2023**) days prior to the first day of qualifying as a candidate for office; in the event the Miami-Dade County Elections Department has not issued its certificate verifying the required number of valid signatures on the subject qualifying petition by 5:00 p.m. on the second day of the City's four-day qualifying period (**September 6, 2023**), the City's 7½% qualifying fee shall be waived by the City in the event the subject candidate should otherwise qualify for office pursuant to this Charter section. All candidates qualifying for office shall have taken, signed, and subscribed to an oath or affirmation in writing in which he/she shall state (1) the title of the office for which he/she is a candidate; (2) that he/she is a qualified elector of the City of Miami Beach, Florida, and has resided in the City at least one year prior to qualifying; (3) his/her legal residence, by street and number; (4) that he/she is qualified under the ordinances (including Miami Beach City Code Chapter 38 governing "Elections") and Charter of the City of Miami Beach, Florida, to hold the office for which he/she is a candidate. (See 6.03 Miami Beach Charter. See TAB 15.)

Offices Up for Election	Incumbent	Term of Office
Mayor:	Dan Gelber (Term Limited)	Two (2) years
Commissioner Group IV:	Steven Meiner	Four (4) years
Commissioner Group V	Ricky Arriola (Term Limited)	Four (4) years
Commissioner Group VI:	David Richardson	Four (4) years

The First Two Documents a Person Must File with the City Clerk to Become a Candidate

- **FORM DS-DE 9** - *Appointment of Campaign Treasurer and Designation of Campaign Depository for Candidates*. This form must be filed before making expenditures, accepting contributions, or circulating petitions. Each candidate shall, at the same time Form DS-DE 9 is filed, designate the office for which he/she is running.

Note: Only persons designated as treasurer or deputy treasurer may sign campaign checks. A candidate may be his/her own treasurer or deputy treasurer. (See Florida Statutes 106.021.)

- **FORM DS-DE 84** - *Statement of Candidate*. The candidate must file this form with the City Clerk within ten (10) days after the candidate files form DS-DE 9, Appointment of Campaign Treasurer and Designation of Campaign Depository for Candidates.

▲ IMPORTANT - All documents filed with the Office of the City Clerk are public records and will be placed on the City's website.

Campaign Treasurers

Pursuant to 106.021(1)(a) Florida Statutes, candidates must appoint one campaign treasurer and not more than three deputy campaign treasurers. Candidates may serve as campaign treasurer or deputy treasurer.

▲ IMPORTANT - A candidate should select a treasurer with knowledge of bookkeeping or accounting procedures, as well as basic computer skills.

Opening a Campaign Account

After filing the "Appointment of Campaign Treasurer and Designation of Depository (DS-DE 9)" with the City Clerk, a candidate may proceed to open a campaign account and begin to receive contributions. Section 106.021(1)(b) Florida Statutes, provides that a campaign depository may be any bank, savings and loan association, or credit union authorized to transact business in the State of Florida. The campaign account must be separate from any personal or business account.

Please consult your bank to determine what documents are required to open a campaign account. Campaign checks must contain specific information outlined in the "Candidate & Campaign Treasurer Handbook."

▲ IMPORTANT - A campaign account must be opened before qualifying. The qualifying fee **MUST** be paid with a check drawn on the candidate's campaign account.

Contribution Limits

The Contribution limit for all municipal candidates is \$1,000 per contributor per election. Contribution limits do not apply to contributions made by a candidate to his/her campaign. (See F.S. 106.08(1)(a).)

Contributions over \$50 must be in the form of a check, money order, credit card or debit card, or wire transfer. Contributions may also be received via the internet through services like PayPal. The candidate's payments to PayPal, and the like, for their services, are reported as expenditures.

Salary

Mayor: \$10,000 per year and \$6,000 vehicle allowance
Commissioner: \$6,000 per year and \$6,000 vehicle allowance

Qualifying Period

Dates: Tuesday, September 5, 2023 through Friday, September 8, 2023

Hours: 8:30 a.m. to 5:00 p.m.

Location: Miami Beach City Hall, 1700 Convention Center Drive, 1st Floor, Office of the City Clerk

▲ IMPORTANT - Please keep in mind that all candidates will be filing their paperwork during this time. As such, please schedule an appointment with the City Clerk by calling 305.673.7411 or emailing rafaelgranado@miamibeachfl.gov to ensure that your paperwork can be received timely and reviewed for completeness promptly.

Total Qualifying Fee

Mayor: **\$1,360** (Municipal Qualifying Fee of \$1,200 + State Election Assessment Fee of \$160)

Commissioner: **\$1,020** (Municipal Qualifying Fee of \$900 + State Election Assessment Fee of \$120)

The total qualifying fee is comprised of a Municipal Qualifying Fee of 7.5% of the salary of the office the candidate seeks (see Charter Section 6.03), plus a State Election Assessment Fee of 1.0% of the salary of the office the candidate seeks (see Section 99.093(1) Florida Statutes).

Any person who seeks to qualify for election who is unable to pay the State Election Assessment Fee without imposing an undue burden on their personal resources or resources otherwise available to him or her shall, upon written certification of such inability given under oath to the City Clerk, be exempt from paying the State Election Assessment Fee. (See Section 99.093(2) Florida Statutes.) An Affidavit of Financial Hardship is included in the "Most Commonly Used Election Forms" webpage located at <https://www.miamibeachfl.gov/city-hall/city-clerk/election-information/most-commonly-used-election-forms/>

▲ IMPORTANT - The qualifying fee **MUST** be paid by a check drawn on the candidate's campaign account. The check from the campaign account is to be made payable to the City of Miami Beach for the total amount due.

Qualifying by Petition in Lieu of Paying the Municipal Qualifying Fee

If you intend to qualify for office by petition, rather than paying the Municipal Qualifying Fee, you may begin circulating your petitions any time after filing your Form DS-DE 9. *Petitions signed before the date Form DS-DE 9 is filed with the Office of the City Clerk are not valid.*

A petition in lieu of paying the Municipal Qualifying Fee shall be filed with the City Clerk **no later than noon** of the 14th day prior to the first day of qualifying as a candidate for such office. **(Noon on August 22, 2023, is the last day to submit to the City Clerk the petition in lieu of paying the Municipal Qualifying**

Fee.) Said petition approving his/her candidacy must be signed by sufficient qualified and registered Miami Beach voters to constitute at least 2% of the number of voters as the same shall be on the date sixty (60) days prior to the first day of qualifying as a candidate for office (**July 7, 2023**). Candidates may utilize the City of Miami Beach Petition in Lieu of Qualifying Fee form or State Form DS-DE 104 Candidate Petition Form. These forms are available in the City's "Most Commonly Used Election Forms" webpage located at <https://www.miamibeachfl.gov/city-hall/city-clerk/election-information/most-commonly-used-election-forms/>

In the event the Miami-Dade County Elections Department has not issued its certificate verifying the required number of valid signatures on the subject qualifying petition by 5:00 p.m. on the second day of the City's four-day qualifying period (**September 6, 2023**), the City's 7.5% qualifying fee shall be waived by the City in the event the subject candidate should otherwise qualify for office pursuant to Section 6.03 of the City Charter.

If the candidate is unable to collect the required number of signatures, he/she may still qualify by paying the qualifying fee.

▲ IMPORTANT - Candidates qualifying by petition in lieu of paying the Municipal Qualifying Fee are still required to pay the State Election Assessment Fee. (For the Office of Mayor, the State Election Assessment Fee is \$160 and for the Office of Commissioner, the State Election Assessment Fee is \$120.) The State Election Assessment Fee **MUST** be paid by a **check drawn on the candidate's campaign account**. The check from the campaign account is to be made payable to the City of Miami Beach for the total amount due. Any person seeking to qualify for election who is unable to pay the State Election Assessment Fee without imposing an undue burden on personal resources or resources otherwise available to him or her shall, upon written certification of such inability given under oath to the City Clerk, be exempt from paying the State Election Assessment Fee (see Section 99.093(2) Florida Statutes). An Affidavit of Financial Hardship is included in the City's "Most Commonly Used Election Forms" webpage located at <https://www.miamibeachfl.gov/city-hall/city-clerk/election-information/most-commonly-used-election-forms/>

▲ IMPORTANT - Common Reasons for Invalid Petitions:

- The voter's name is not listed or printed.
- The voter did not indicate or indicated an incorrect date signed.
- The voter did not include or listed the incorrect date of birth.
- The voter listed the wrong voter registration number.
- The voter's signature does not match the records.
- The voter signed more than one petition for this candidate in this election.
- The voter does not reside in Miami Beach.
- The voter is not registered to vote in Miami Beach.

This is not a complete list of reasons that petitions may not be valid, only the most common.

Documents a Candidate Must File with the City Clerk During the Qualifying Period (September 5, 2023 through September 8, 2023)

The following items are required to be correctly submitted before the close of qualifying:

- Form DS-DE 9 - Appointment of Campaign Treasurer and Designation of Campaign Depository for Candidates – **if not already filed.**

- Form DS-DE 84 - Statement of Candidate – **if not already filed.**
- Form 1 (2022 Tax Year) - Statement of Financial Interest.
- Form 9 - Quarterly Gift Disclosure.
- Form DS-DE 302NP- Candidate Oath - Nonpartisan Office. (A candidate's name will appear on the ballot as it was written on the Candidate Oath form. Once the qualifying period has ended, this information CANNOT be changed.)
- City of Miami Beach Oath/Affirmation.
- Document(s) Evidencing Residency in the City of Miami Beach for at Least One Year Before Qualifying - All candidates qualifying for office shall have submitted one (1) or more documents upon which he/she relies to evidence that he/she has resided in the City for at least one year before qualifying, which type document(s) shall include, but not limited to: a Florida government-issued identification, a voter's registration card, driver's license, property tax receipt, homestead exemption, utility bill, or lease agreement.
- Voluntary Statement of Fair Campaign Practices. (Optional)
- Affidavit Attesting to Compliance with Section 2-11.1(bb) of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance. (Optional at the Time of Qualifying)
- A check drawn on the candidate's campaign account to cover the applicable qualifying filing fee(s). The check must be made payable to the City of Miami Beach.
- At the time of qualifying, candidates will be asked to present government-issued picture identification and their Voter Information Card.

If you currently hold an elected or appointed position, please consult with your attorney to determine whether you are required to resign from the office you presently hold to run for this office. (See Section 99.012 Florida Statutes.)

The Office of the City Clerk has notaries available and will notarize required campaign documents at no charge.

When you are prepared to submit your qualifying forms, please make an appointment to visit the Office of the City Clerk by calling 305.673.7411.

Note: All documents filed with the Office of the City Clerk are public records and will be placed on the City's website.

Pursuant to Florida Statutes 99.061(7)(c), the City Clerk, as filing officer, performs only a ministerial function in reviewing qualifying papers. In determining whether a candidate is qualified, the filing officer shall review the qualifying papers to determine whether all items required have been properly filed and whether each item is complete on its face, including whether items that must be verified have been properly verified (by oath or affirmation) pursuant to Florida Statutes 92.525(1)(a). The filing officer may not determine whether the contents of the qualifying papers are accurate.

Fingerprints / Photograph

Before submitting the necessary documents during the qualifying period, each candidate must go to the Miami Beach Police Department Records Section, 1100 Washington Avenue, to be fingerprinted and photographed as required by Section 6.03 of the City Charter. Please contact Police Records Manager Patrick Henry at 305.673.7776 X 23035 for an appointment. Fingerprints are processed Monday through Thursday, from 8:00 a.m. to 2:30 p.m. **Note: All candidates, even those running for reelection or who have previously run for office in Miami Beach, must be fingerprinted and photographed for the 2023 General Election.**

City of Miami Beach Oath or Affirmation

All candidates qualifying for office shall have taken, signed, and subscribed to an oath or affirmation in writing in which he/she shall state (1) the title of the office for which he/she is a candidate; (2) that he/she is a qualified elector of the City of Miami Beach, Florida, and has resided in the City at least one year prior to qualifying; (3) his/her legal residence, by street and number; and (4) that he/she is qualified under the ordinances (including Miami Beach City Code Chapter 38 governing "Elections") and Charter of the City of Miami Beach, Florida, to hold the office for which he/she is a candidate.

Documents Evidencing Residency in the City of Miami Beach for at Least One Year Before Qualifying

All candidates qualifying for office shall have submitted one (1) or more documents upon which he/she relies upon to evidence that he/she has resided in the City for at least one year before qualifying, which type document(s) shall include, but not limited to: a Florida government-issued identification, a voter's registration card, driver's license, property tax receipt, homestead exemption, utility bill, or lease agreement. (See 6.03 Miami Beach Charter. (See TAB 15.)

⚠ IMPORTANT - Given the City Clerk's ministerial role in the processing of qualifying papers, any challenge to a candidate's one-year residency initiated by a private party in a Court of law will require the candidate to defend his/her eligibility as a candidate. Residency is determined by a variety of acts or declarations, all of which will be evaluated by the Court in its determination of residency, including but not limited to the subject residency document filed by the candidate as part of his/her qualifying documents. A 'legal residence' is the place where a person has a fixed abode with the present intention of making it his or her permanent home." *Perez v. Marti*, 770 So. 2d 284 (Fla. 3d DCA 2000), citing *Walker v. Harris*, 398 So. 2d 955 (Fla. 4th DCA 1981). The establishment of one's residence depends on a variety of acts or declarations all of which must be weighed in the particular case as evidence would be weighed as to any other subject. *Bloomfield v. City of St. Petersburg Beach*, 82 So.2d 364 (Fla.1955). The factors considered by a Court in determining residency are thus numerous and may include home ownership, homestead exemption, driver's license, voting registration, etc.

Campaign Treasurer's Reports

The campaign treasurer (or deputy treasurer) designated by a candidate shall file Campaign Treasurer's Reports of all contributions received, and all expenditures made, by or on behalf of such candidate. Campaign Treasurer's Reports shall be filed on the dates listed in the "Important Dates and Deadlines" section of this handbook. Failure to file a Campaign Treasurer's Report on the designated due date will subject the candidate to a fine for each day late. If a candidate fails to file a Report by the designated due date, he/she is subject to a fine of \$50 per day for the first three days and \$500 per day thereafter, not to exceed 25% of the receipts or expenditures, whichever is greater. However, for the Reports immediately preceding the General Election or the Run-Off Election (if required), the fine is \$500 per day, not to exceed 25% of the total receipts or expenditures, whichever

is greater. (See Florida Statutes 106.07(8)(b).) **Such fine shall be paid only from the personal funds of the candidate.**

Within twenty (20) days after receipt of the fine notice, a candidate may:

1. Pay the fine from personal funds (not campaign funds) to the City Clerk; or
2. Appeal the fine to the Florida Elections Commission and notify the City Clerk in writing.

In any reporting period during which a candidate has not received funds, made any contributions, or expended any reportable funds, the filing of the required Report for that period is waived. Candidates must nevertheless file timely a Waiver of Report electronically, with the Office of the City Clerk.

Once the Office of the City Clerk receives the Report, it becomes a public record. The Report will be posted on the Office of the City Clerk's Election webpage and will be available for inspection.

The function of the Office of the City Clerk regarding Campaign Treasurer's Reports is ministerial. The Office of the City Clerk will examine the Reports for completeness, but not correctness. The Office of the City Clerk is required to notify the Florida Elections Commission for failure to submit a report or repeated late filings.

Campaign Treasurer's Report Electronic Submittal

Each candidate required to file a Campaign Treasurer's Report with the City Clerk, pursuant to Chapter 106 of the Florida Statutes, shall file such Reports utilizing the City's electronic filing system. (See Section 38-9 of the Miami Beach City Code.)

After submitting Forms DS-DE 9 and DS-DE 84 to the City Clerk, the candidate and treasurer will receive a User ID Number, generic passwords, and generic PINs to access the City's online electronic filing system. Candidates and treasurers should change their passwords and PINs online.

Candidates and treasurers may access the City's electronic filing system using the below link or by visiting the Office of the City Clerk's November 7, 2023 Election website.

https://www.voterfocus.com/ws/WScand/candidate_login.php?county=munmiamibeach

Detailed instructions on how to use the City's online electronic filing system may be found at:

<https://www.miamibeachfl.gov/wp-content/uploads/2022/07/How-to-File-Financial-Reports-Online.pdf>

A copy of the VR/VoterFocus Handbook on How to File Financial Reports Online dated August 11, 2021 (the latest version available) is also being provided to you.

Make sure to review your Campaign Treasurer's Report before the electronic submission. If the Report is incomplete, an amended Report will have to be filed.

Once the online Report is completed, both the candidate and treasurer must enter their PINs and click submit. Reports must be submitted electronically no later than midnight (Eastern Time) on the due date. Failure to submit a Report on time will result in a fine being assessed based on the date the Report is submitted electronically.

Campaign Treasurer's Reports are public records. These reports will likely be reviewed by opposing candidates, the public, and media outlets. In some cases, investigators from different governmental agencies review these reports. Great care must be taken to ensure that Campaign Treasurer's Reports are complete, accurate, and in compliance with all election laws.

If a campaign report has been accepted and is found to be incomplete, the candidate will be notified and required to file an amended campaign report.

Financial Report Filing Procedures

The candidate will be assigned an identification number and password by the Office of the City Clerk that is required to log in. This information is shared between the candidate and treasurer so both parties may access the system. It is the candidate's responsibility to protect the sign-on credentials from outside disclosure.

Both the candidate and treasurer will be assigned individual PINs used as their electronic signature during the submission of the treasurer's reports. The Office of the City Clerk assigns the PINs.

The City Clerk will notify campaign treasurers of the reports' due dates. The candidate and treasurer will be required to "PIN" each report in order to submit the report. Their PINs serve as their electronic signature. Once submitted, the report will state an Online Submission confirmation number including the date and time of submission. After submission, the Treasurer's Reports should be printed using the online reporting system and maintained by the treasurer. In the event the electronic filing system is inoperable on the date a report is due, the report will be accepted as timely filed if filed no later than midnight (Eastern Standard Time) the first business day the electronic filing system becomes operable again.

The Office of the City Clerk will receive an email that the report has been filed. Reports submitted with errors may be rejected if time permits correction without making the report late. If time does not permit, an amendment to the report will have to be filed to correct the incomplete report. Incomplete reports are accepted on a conditional basis. Examples of incomplete reports include missing names, addresses, descriptive occupations, etc. The treasurer will have seven (7) days to file an amendment to an incomplete report.

Information That Must Be Included In The Campaign Treasurer's Report Relating To Contributions

The treasurer must include in each Campaign Treasurer's Report the full name, complete address, and occupation, if any, of each person who has made one or more contributions to your campaign fund within the reporting period, together with the amount and date of such contributions. However, if the contribution is \$100 or less, or from a relative as defined in 112.312 Florida Statutes, provided the relationship is reported, the occupation of the contributor need not be reported. All monies, regardless of the amount, must be reported with the date the treasurer/candidate received it.

When a candidate receives an anonymous contribution, it must be reported on the candidate's campaign treasurer's report as an anonymous contribution. A letter should be submitted to the City Clerk explaining the circumstances surrounding the acceptance of the anonymous contribution. The candidate cannot spend the anonymous contribution but, at the end of the campaign, they can donate the total amount to an appropriate entity under Section 106.141 Florida Statutes.

▲ IMPORTANT - All contributions must be deposited before the end of the fifth (5th) business day following receipt by the campaign treasurer... Saturdays, Sundays, and legal holidays are excluded.

Note: Expenditures must also be reported on the Treasurer's Report and include the full name and complete address of the vendor as well as the purpose for the purchase with the date being the "purchase" date.

Definition of "Relative" as Defined in 112.312(21) Florida Statutes

"Relative" with respect to a public office means an individual who is related to the public official as a father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, grandparent, great grandparent, grandchild, great-grandchild, step-grandparent, step great grandparent, step-grandchild, step great-grandchild, a person who is engaged to be married to the public officer or employee or who otherwise holds himself or herself out as or is generally known as the person whom the public officer or employee intends to marry or with whom the public officer or employee intends to form a household, or any other natural person having the same legal residence as the public officer or employee.

▲ IMPORTANT - Common Campaign Treasurer's Report Mistakes Made by Candidates and Campaign Treasurers:

- Incomplete addresses.
- Accepting a cash contribution and then spending it before it is deposited into the campaign account.
- Accepting anonymous contributions, such as passing the hat or selling tickets for fundraisers without getting the required information from contributors.
- Accepting cash contributions above \$50, in aggregate, per election, from the same donor.
- Filing Campaign Treasurer Reports late.
- Showing a deficit in campaign contribution and expenditure reports.
- Spending monetary contributions before they are deposited into the campaign account.
- Paying for items with cash and personal check instead of a campaign check.
- Accepting contributions to cover outstanding expenses after the election.
- Listing contributor occupation as "business owner," "sales," or other vague descriptions.
- Listing a contribution from "Mr. and Mrs." – the contribution must be listed from the individual who signed the check. (Division of Elections Opinion 93-10)
- Contributions over \$100 without a clear description of the occupation or type of business of the contributor (unless the contribution is from a relative and the relationship is reported).
- Contributions received outside the reporting period. A contribution is considered received on the day the candidate or treasurer received the contribution, not the date it is deposited.
- Contributions that exceed the contribution limit of \$1,000 per person, per election.
- Expenditures made outside the reporting period.
- The purpose of expenditures is not provided.
- The contribution type is incorrect.

Additional Reporting Requirements

1. *Vote-by-Mail Campaigning Reporting Requirement*

In accordance with Section 12-14.1 of the Code of Miami-Dade County, municipal candidates must file form MD-ED 26 to disclose the names of paid campaign workers engaged in Vote-by-Mail activities. (See TABS 6 and 19 of this handbook for more information.)

2. *Reporting of Solicitation of Contributions For Political Committees, Electioneering Communications Organizations, 501(c)(4) Organizations, and Political Parties*

In accordance with Sections 12-14.2.1 and 12-14.2.2 of the Code of Miami-Dade County, Florida, municipal elected officers, and municipal candidates must file form MD-ED 28 to publicly disclose their fundraising activities for Political Committees, Electioneering Communications Organizations, organizations exempt under Section 501(c)(4) of the Internal Revenue Code (except for homeowners associations) and/or Political Parties. (See TABS 7 and 20 of this handbook for more information.)

Early voting

If authorized by the City Commission, early voting shall occur at Miami Beach City Hall, 1700 Convention Center Drive, and the North Shore Branch Library, 7501 Collins Avenue, in accordance with the following schedule:

1. *General Election*: Early voting shall commence 15 days immediately preceding the General Election for a total of 14 consecutive days. (Monday, October 23, 2023 through Sunday, November 5, 2023.)
2. *Run-Off Election (if required)*: Early voting shall occur on the Friday, Saturday, and Sunday immediately preceding any Run-Off Election. (Friday, November 17, 2023 through Sunday, November 19, 2023.)

The City Commission may, by Resolution, adopted in advance of a General or Run-Off Election that is not held in conjunction with a County or State election, alter the sites and/or schedule of days (and times, when early voting is either not conducted by the County Supervisor of Elections, or when the Supervisor is conducting the early voting but has not exercised the discretion to determine the early voting hours) for early voting. See Section 38-6 of the Miami Beach City Code.

Vote-by-Mail Drop Boxes

Secure ballot intake stations (Vote-by-Mail Drop Boxes) will be available and staffed at the two Miami Beach Early Voting locations during Early Voting hours of operation. Vote-by-Mail ballots can be dropped into a secure Ballot Drop Box located outside any of the two Miami Beach Early Voting locations: Miami Beach City Hall, 1700 Convention Center Drive and North Shore Branch Library, 7501 Collins Avenue. Voters should look for the "Official Ballot Drop Box!" banner. Vote-by-Mail Drop boxes are drive-up and are safe.

Contact Information

The Office of the City Clerk must be able to always contact a candidate and/or campaign treasurer in case of questions or last-minute instructions. Please ensure that the Office of the City Clerk has accurate cellular telephone numbers, mailing addresses, and e-mail addresses for the candidate and the campaign treasurer.

Campaign Headquarters

Each candidate may have up to four campaign headquarters, each of which shall be registered with the City Clerk. See Section 138-134 of the Miami Beach City Code. (See TAB 18.)

Poll Watcher Information

Pursuant to Florida Statutes 101.131, each candidate may have one poll watcher in each polling room or early voting area at any one time during the election. Each candidate requesting to have poll watchers shall designate, in writing, utilizing Form DS-DE 125, before **noon** of the second Tuesday preceding the Election, poll watchers for each polling room on Election Day, and before **noon** at least 14 days before early voting begins for early voting sites. Form DS-DE 125 **MUST** be submitted to the City Clerk. See Other Important Dates Section – TAB 2.

No candidate, sheriff, deputy sheriff, police officer, or other law enforcement officer may be designated as a poll watcher. A poll watcher must be a qualified and registered voter of the county in which they serve as a poll watcher.

▲ IMPORTANT - If there is a chance of a Run-Off, Candidates are recommended to designate their Poll Watchers for both the General Election and the Run-Off at the same time, as the deadline for submitting Poll Watchers for the Run-Off is November 7, 2023, the day of the General Election.

Commission Agendas

Candidates for Miami Beach elected office frequently ask about the distribution of agenda packets so they may be kept fully informed of issues being considered by the City Commission. Commission agendas, including backup documents, are available at <https://www.miamibeachfl.gov/city-hall/city-clerk/agenda-archive-main-page-2/>

Voter Data Request Packet

Voter data information (such as lists, labels, and demographics) is available upon request, for a fee, by contacting the Miami-Dade County Elections Department at 305.499.VOTE (8683). (See TAB 13 of this handbook for more information.)

Election Results

The Miami-Dade County Elections Department's website is the best and most up-to-the-minute source for election night results. On election night, there will be a link on the Elections Department's homepage that takes viewers directly to the results. Viewers may filter the races that appear on the screen to only those races that they are interested in. The Miami-Dade County Elections Department homepage is located at www.iamelectionready.com

Disposition of Funds

Any candidate who withdraws, becomes unopposed, is eliminated, or is elected to office must dispose of his/her funds and file a report reflecting the disposition within 90 days after withdrawing, becoming unopposed, being eliminated, or being elected. (See Florida Statutes 106.141.)

Additional Information

For additional information, please refer to the Office of the City Clerk's Election Webpage located at: www.votemiamibeach.com

Frequently Dialed Telephone Numbers/e-mail addresses

Office of the City Clerk

- Rafael E. Granado, City Clerk 305.673.7411 RafaelGranado@miamibeachfl.gov
- Regis Barbou, Assistant City Clerk 305.673.7411 RegisBarbou@miamibeachfl.gov

Miami-Dade County Elections Department

- Main Number 305.499.VOTE (8683)
- TTY Number 305.499.8480

Florida Division of Elections

- Main Number 1.850.245.6200



AMENDED IMPORTANT DATES AND DEADLINES

**November 7, 2023 General Election and
November 21, 2023 Run-Off Election (if required)**

Date of Election:

General Election: 11.07.23
Run-Off Election, if required: 11.21.23

Voter Registration:

Deadline to register to vote: 10.10.23
Deadline to register to vote: 10.23.23

Qualifying Period:

Dates: Tuesday, September 5, 2023 through Friday, September 8, 2023

Hours: 8:30 a.m. to 5:00 p.m.

Location: Office of the City Clerk
Miami Beach City Hall, 1st Floor
1700 Convention Center Drive
Miami Beach, FL 33139

Report(s) Due Dates

DUE DATE	Campaign Treasurer’s Report, and if applicable, Paid Campaign Workers Participating in Vote-by-Mail Activities Report (MD-ED 26)	PERIOD COVERED FROM/TO
	CODE/TYPE	
01.10.23	2022-M12	12.01.22 to 12.31.22
02.10.23	2023-M01	01.01.23 to 01.31.23
03.10.23	2023-M02	02.01.23 to 02.28.23
04.10.23	2023-M03	03.01.23 to 03.31.23
05.10.23	2023-M04	04.01.23 to 04.30.23
06.12.23	2023-M05	05.01.23 to 05.31.23
07.10.23	2023-M06	06.01.23 to 06.30.23
*08.10.23	2023-M07	07.01.23 to 07.31.23
*09.11.23	2023-M08	08.01.23 to 08.31.23
*10.10.23	2023-M09	09.01.23 to 09.30.23

Campaign Treasurer's Report, and if applicable, Paid Campaign Workers Participating in Vote-by-Mail Activities Report (MD-ED 26)		
DUE DATE	CODE/TYPE	PERIOD COVERED FROM/TO
10.13.23	2023-G01 (25 days before the General Election)	07.01.23* to 10.06.23
10.27.23	2023-G02 (11 days before the General Election)	10.07.23 to 10.20.23
11.03.23	2023-G03 (4 days before the General Election)	10.21.23 to 11.02.23
11.10.23	2023-R01 (11 days before the Run-Off Election)	11.03.23 to 11.03.23
11.17.23	2023-R02 (4 days before the Run-Off Election)	11.04.23 to 11.16.23
12.07.23	TR - 90 Days Termination Report After Qualifying. For candidates who are unopposed or do not qualify, following the last day of qualifying for office	09.01.23 to 12.07.23
01.10.24*	2023-Q4 (Quarterly Campaign Report) Applicable only to Political Committees (PC) and Electioneering Communications Organizations (ECO)	11.03.23 to 12.31.23 - If there is no Run-Off Election 11.17.23 to 12.31.23 – If there is a Run-Off Election
02.05.24	TR - 90 Days After General Election. For candidates elected or eliminated in the General Election.	11.03.23 to 02.05.24
02.19.24 (Presidents' Day)	TR - 90 Days After Run-Off Election. For candidates elected or eliminated on the Run-Off Election.	11.17.23 to 02.19.24

▲ IMPORTANT: On May 24, 2023, Governor Ron DeSantis signed CS/SB 7050. The Bill revised the reporting frequency of the Campaign Treasurer's Reports filed by Candidates, Political Committees (PC), and Electioneering Communications Organizations (ECO). CS/SB 7050 takes effect July 1, 2023.

*Denotes a change.

Updated on June 2, 2023.

Other Important Dates

07.07.23	Sixty (60) days before the first day of qualifying – The City Clerk is to obtain from the Miami-Dade Elections Department what constitutes at least 2% of the number of voters. (See 6.03 Miami Beach Charter.)
08.22.23	Last day to submit Petitions in Lieu of Paying the Municipal Qualifying Fee. Must submit <u>no later than noon</u> on the 14 th day prior to the first day of qualifying as a candidate. (See 6.03 Miami Beach Charter.)
09.05.23 through 09.08.23	Qualifying Period
10.09.23 (Columbus Day)	Last day to designate poll watcher(s) for the Early Voting – General Election. Due <u>before noon</u> to the City Clerk. Candidates may have one watcher in each early voting area at any one time. Must utilize Form DS-DE 125. (See Florida Statutes 101.131.)
10.10.23	Last day to register to vote for the General Election.
10.23.23 through 11.05.23	Early voting - General Election – (14 days of Early Voting) Locations: <ul style="list-style-type: none"> • Miami Beach City Hall – 1700 Convention Center Drive, Miami Beach • North Shore Branch Library – 7501 Collins Avenue, Miami Beach <p>Subject to authorization by the City Commission. See Section 38-6 of the Miami Beach City Code.</p>
10.23.23	Last day to register to vote for the Run-Off Election (if required).
10.24.23	Last day to designate poll watcher(s) for Election Day – General Election. Due <u>before noon</u> to the City Clerk. Candidates may have one watcher in each early voting area at any one time. Must utilize Form DS-DE 125. (See Florida Statutes 101.131.)
11.02.23*	Last day to accept contributions before the General Election. (See Florida Statutes 106.08(3)(a).)
11.03.23	Last day to designate poll watcher(s) for Early Voting – Run-Off Election (if required). Due <u>before noon</u> to the City Clerk. Candidates may have one watcher in each early voting area at any time. Must utilize Form DS-DE 125. (See Florida Statutes 101.131.)
11.07.23	General Election Day
11.07.23	Last day to designate poll watcher(s) for Election Day – Run-Off Election (if required). Due <u>before noon</u> to the City Clerk. Candidates may have one watcher in each polling room at any one time. Must utilize Form DS-DE 125. (See Florida Statutes 101.131.)

11.16.23*	Last day to accept contributions before the Run-Off Election. (See Florida Statutes 106.08(3)(a).)
11.17.23 through 11.19.23	<p>Early voting – Run-Off Election (if required) (3 days of Early Voting)</p> <p>Locations:</p> <ul style="list-style-type: none"> • Miami Beach City Hall – 1700 Convention Center Drive, Miami Beach • North Shore Branch Library – 7501 Collins Avenue, Miami Beach <p>Subject to authorization by the City Commission. See Section 38-6 of the Miami Beach City Code.</p>
11.21.23	Run-Off Election Day (if required)

***Denotes a change.**

Updated on October 30, 2023.

Contributions

1. Contributions entered must fall within the time period covered by the report.
2. All Contributions must have complete itemized information including the date, name, complete address, contribution type, occupation (if over \$100) and dollar amount.
3. Occupation needs to be specific. Do not use "Businessman/woman, Business Owner, Salesman/woman, Sales," etc. Examples of acceptable occupations include Car Sales, Printing Shop Owner, Bank Manager, Attorney, etc.
4. There is no contribution limit to a political committee.
5. The maximum cash contribution per election is \$50. A cashier's check is considered as cash.
6. The contribution limit to a candidate is \$1,000 per election. For reporting purposes, a credit card, debit card, money order, or Paypal contribution is considered a check.
7. Contributions collected via Paypal or a third-party vendor to collect contributions must be reported in full (transaction fees are not deducted from the contribution amount, but rather reflected as an expenditure).
8. The person signing the check is the contributor, except for a company check that is a "Business" entity.
9. In-kind contributions are subject to contribution limitations (\$1,000 per election, per contributor).
10. Candidates cannot accept contributions from an Electioneering Communications Organization (ECO).

Expenditures

1. Expenditures entered must fall within the time period covered by the report.
2. All expenditures must have complete itemized information including the date, name, complete address, purpose of expenditure, and dollar amount.
3. A reimbursement from the campaign account is allowable directly to an individual/organization that has incurred approved expenses on behalf of the campaign. The report must include the full name, full address, specific purpose, and amount of reimbursement.
4. Campaign accounts may not provide a direct payment to the credit card of an individual/organization as a form of reimbursement.
5. Poll workers should be paid with a campaign check and each poll worker paid should be itemized.
6. Bank fees and fees assessed by Paypal or a third-party vendor to collect contributions must be reported as expenditures (not deducted from the contribution amount).
7. ECOs are limited to electioneering communications and may not make contributions to candidates or political parties.

Petty Cash

1. The Petty Cash Withdrawn limit is \$500 per calendar quarter prior to the end of qualifying. Thereafter, \$100 per week.
2. It shall be spent only in amounts less than \$100 and only for office supplies, transportation expenses and other necessities.
3. Petty Cash may not be used for time, space, or services from communications media.

4. The Petty Cash Withdrawn must be reported in the period that it was withdrawn from the bank.
5. The Petty Cash Spent must also be reported in the period that it was spent. Petty Cash Spent does not impact the Total Expenditures for the period, only when it is withdrawn.
6. Petty Cash Withdrawn and Petty Cash Spent must equal at the end of the campaign.

Notices

1. You will be notified of any deficiencies or violations.
2. Typical violations include late filing, fine due, and incomplete information on a campaign report.
3. ***Following these guidelines will reduce notices sent to you and thus the number of amendment reports that will need to be filed.***

Amending a Report

1. To make any changes to a submitted report, click on the "amend" button of the Original Report to create an Amendment Report.
2. In the Amendment Report, first click on the type of transaction to amend (i.e. "Enter Contributions", etc):
 - To add new item, add a new sequence.
 - To amend existing item, click "Amend Item from Orig Report" to view list of all items previously submitted. Click on desired sequence, enter edits, and click submit. This will display two transactions (one to "delete" original item and one to "add" new item).
 - To delete existing item, click "Amend Item from Orig Report", click on desired sequence, and just click submit. This will display two transactions (one to "delete" original item and one to "add" new item). Delete the "add" sequence, leaving only the "delete" sequence.

Fines

1. **Fines assessed to candidates must be paid from candidate's personal funds.**
2. Fines assessed to political parties, political action committees, electioneering communication organizations, and "independent expenditures over \$5,000" are to be paid from their campaign account.
3. Fines must be paid to the filing officer within 20 days after receipt of the notice of payment due, unless an appeal is made to the Florida Elections Commission within 20 days after receipt of the notice of payment due.
4. If fine was appealed to the Florida Elections Commission, and the fine is upheld, payment is due to the Elections Department as stated in the Final Order.
5. Reference Florida Statute 106.07(8)(b) for fine amounts.

Termination Report


1. At the end of the campaign, or when closing out a political committee, the "Total Contributions to Date" and the "Total Expenditures to Date" on the Termination Report must equal; and, the campaign account must be closed.
2. Prior to closing the campaign account, any remaining funds must be disposed of according to F.S. 106.141 (for candidates) and F.S. 106.03 (for political committees).

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LTC No. 241-2023

LETTER TO COMMISSION

TO: Mayor Dan Gelber and Members of the City Commission

FROM: Rafael A. Paz, City Attorney 

DATE: May 24, 2023

SUBJECT: **Updated Overview of City of Miami Beach Campaign Finance Laws – Restrictions on City Commission Members and Candidates for City Elected Office and Related Filing Requirements.**

This LTC has been prepared in order to update the prior guidance the City Attorney's Office has provided concerning the City's Campaign Finance laws¹, in view of recent amendments approved by the Mayor and City Commission.

Specifically, the Mayor and City Commission amended Chapter 2 of the City Code to strengthen the City's Campaign Finance laws, effective May 27, 2023, by:

- Prohibiting incumbent members of the City Commission and candidates for such offices from soliciting "vendors," "real estate developers,"² and their lobbyists for contributions to an Electioneering Communication Organization that makes expenditures for electioneering communications relating to candidates for City elected office or accepts contributions for the purpose of making such electioneering communications; and
- Establishing certain filing requirements for incumbent Commission members and candidates for such office, requiring disclosure of their upcoming solicitation of contributions for Political Committees or Electioneering Communications Organizations, as well as disclosure of any letter of instruction or other findings of a violation of the City's Campaign Finance laws or related County disclosure laws (and corresponding requirements, as set forth below).

I. SUMMARY OF CAMPAIGN FINANCE RESTRICTIONS:

The following chart sets forth the Code's prohibited actions relating to the solicitation or acceptance of campaign-related contributions, as well actions not otherwise prohibited, as applicable to members of the City Commission, candidates for the City Commission, and their campaign committees:

¹ See City Code Chapter 2, Article VII, Division 5, at Sections 2-487 through and including 2-490, at: https://library.municode.com/fl/miami_beach/codes/code_of_ordinances?nodeId=SPAGEOR_CH2A_D_ARTVIISTCO_DIV5CAFIRE

² See City Code section 2-487 defining "Vendor", and City Code section 2-489 defining "Real Estate Developer."

PROHIBITED ACTIONS	ACTIONS NOT PROHIBITED
<p>May not “directly” (i.e., the incumbent, candidate or candidate’s committee) solicit, accept or deposit into that candidate’s campaign account a campaign contribution from a vendor, real estate developer, or lobbyist of a vendor or real estate developer.</p>	<p>May directly solicit, accept or deposit into a candidate’s campaign account a campaign contribution from a donor, so long as the donor is not a vendor, real estate developer, or lobbyist of a vendor or real estate developer.</p> <p>NOTE: Incumbents, candidates and their campaign committees are directed to make reasonable efforts to ensure that potential donors solicited on a wide-scale basis (such as open invitations to a particular class of invitees, or solicitations via e-mail blasts) do not include City vendors, real estate developers, or their lobbyists³.</p>
<p>May not “indirectly” (i.e. through a third party, where the incumbent, candidate or candidate’s committee has coordinated with, or directed another person/entity to act) solicit, accept or deposit into that candidate’s campaign account a campaign contribution from a vendor, real estate developer, or lobbyist of a vendor or real estate developer.</p>	<p>May indirectly solicit, accept or deposit a campaign contribution into a candidate’s campaign account from a donor, so long as the donor is not a vendor, real estate developer, or lobbyist of a vendor or real estate developer.</p> <p>NOTE: Incumbents, candidates and their campaign committees are directed to make reasonable efforts to ensure that those potential donors solicited on a wide-scale basis (such as open invitations to a particular class of invitees, or solicitations via e-mail blasts) do not include City vendors, real estate developers or their lobbyists.</p>

³ Were an incumbent or candidate, in the midst of a wide-scale solicitation, to inadvertently solicit a vendor, real estate developer, or their lobbyist, such action would constitute a per se violation of the City’s Code, subject to review by the Miami-Dade County Ethics Commission. In such a situation, the Ethics Commission would presumably consider all reasonable efforts made by the incumbent/candidate to pre-determine whether such prohibited donors would be within the class of persons targeted for solicitation, as well as all efforts made by the incumbent/candidate to mitigate the prohibited solicitation (such as timely correspondence withdrawing requests for contributions and/or returning such contributions).

PROHIBITED ACTIONS	ACTIONS NOT PROHIBITED
<p>May not directly or indirectly solicit a vendor, real estate developer, or lobbyist of a vendor or real estate developer for a campaign contribution to a Political Committee (PC)⁴ that supports or opposes candidates for City elected office; and/or to an Electioneering Communication Organization (ECO) that makes expenditures for electioneering communications relating to candidates for City elected office or accepts contributions for the purpose of making such electioneering communications.</p>	<p>May directly or indirectly solicit a vendor, real estate developer, or lobbyist of a vendor or real estate developer, for a campaign contribution to a PC that does not support or oppose candidates for City elected office; to an ECO that does not make expenditures for electioneering communications relating to candidates for City elected office or accept contributions for the purpose of making such electioneering communications; or to a candidate for office other than City Mayor or Commissioner.</p> <p>May directly or indirectly solicit persons other than a vendor, real estate developer, or lobbyist of a vendor or real estate developer for a campaign contribution to a PC (regardless of whether it supports or opposes candidates for City elected office), and/or to an ECO (regardless of whether it makes expenditures for electioneering communications relating to candidates for City elected office or whether it accepts contributions for the purpose of making such electioneering communications).</p> <p>NOTE: Notwithstanding the foregoing City Code restrictions, incumbents and candidates for City office are not prohibited from otherwise associating with or serving as an officer of a PC (regardless of whether it does or does not support/oppose candidates for City elected office), or as an officer of an ECO (regardless of whether it does or does not make expenditures for electioneering communications relating to candidates for City elected office or accepts contributions for the purpose of making such electioneering communications).</p>

⁴ The City Code defines the terms “Political Committee” and “Electioneering Communications Organization” in accordance with Chapter 106, Florida Statutes, and the term "candidate" in accordance with Section 97.021(5), Florida Statutes.

PROHIBITED ACTIONS	ACTIONS NOT PROHIBITED
<p>May not solicit, accept, or deposit into a candidate’s campaign account a campaign contribution from a potential donor without first checking the City’s website, as well as verifying with the City’s Procurement Division, the “vendor” status of any potential donor, verifying with the City Clerk’s records the “real estate developer” status of any potential donor, and verifying with the City Clerk’s records whether a potential donor is a “lobbyist” for a vendor or real estate developer.</p> <p>Visit: https://www.miamibeachfl.gov/city-hall/city-clerk/election-information/campaign-finance/</p>	<p>Once this verification process has occurred and the incumbent, candidate, and/or the candidate’s campaign committee has confirmed that a potential donor is not a vendor, real estate developer, or a lobbyist for a vendor or real estate developer, then the incumbent, candidate, and/or the candidate’s campaign committee may solicit, accept, or deposit into the candidate’s campaign account a campaign contribution from the subject potential donor.</p>

II. RELATED CITY FILING REQUIREMENTS:

In addition to the above, the following City filing requirements are applicable to incumbent City Commission members and candidates for such Offices:

PRE-SOLICITATION FILING	POST-SOLICITATION FILING
<p>Must file prior to solicitation (not otherwise prohibited by City’s Campaign Finance laws) the attached Reporting of Solicitation of Contributions Form, disclosing any direct or indirect solicitation on behalf of a PC that supports or opposes candidates for City elected office, and/or ECO which makes expenditures for electioneering communications relating to candidates for City elected office or accepts contributions for the</p>	<p>Any candidate or incumbent member of the City Commission who was issued a letter of instruction or other finding of violation of the City’s Campaign Finance laws or sections 12-14.2.1 or 12-14.2.2 of Miami-Dade County Code,⁵ must provide the City Clerk with a copy of such letter of instruction or other finding of violation within ten (10) days of receipt thereof, to be posted by City Clerk on the City’s website.</p>

⁵ These sections of the County Code establish County requirements for disclosure by incumbent County or municipal Commission members and candidates for such offices, of solicitation activities undertaken on behalf of, *inter alia*, any Political Committee and/or Electioneering Communications Organization, to be filed within five (5) days of commencing solicitation activities. **NOTE:** Considering the subject City restrictions on solicitation, County disclosure law is to be interpreted as the disclosure of solicitation activities *not otherwise prohibited by City law*--see above column entitled “Actions Not Prohibited.”

PRE-SOLICITATION FILING	POST-SOLICITATION FILING
<p>purpose of making such electioneering communications.</p> <p>NOTE: This filing requirement is a one-time report, to be filed with the City Clerk indicating that the candidate or member of the City Commission is undertaking solicitation activities on behalf of a particular PC and/or ECO (form available on City Clerk’s website at: https://www.miamibeachfl.gov/city-hall/city-clerk/election-information/campaign-finance/</p>	<p>NOTE: If the letter of instruction or other finding of violation involves failure to comply with the requirements of County Code Sections 12-14.2.1 or 12-14.2.2, the candidate or City Commission member shall notify the City Clerk in writing, at the time of submission to the City Clerk of the letter of instruction or other finding of violation, whether the contribution or proceeds associated with such letter of instruction or other violation has been returned to the donor.</p>

The above is intended as an overview of the City’s Campaign Finance Laws’ applicability to members of the City Commission and candidates for City office. Should you have any specific questions pertaining to this matter or otherwise wish to discuss the above issues in greater detail, please do not hesitate to contact me.

RAP/REG/ag
 Attachment: MBCC1 – Reporting of Solicitation of Contributions Form

CITY OF MIAMI BEACH REPORTING OF SOLICITATION OF CONTRIBUTIONS FOR POLITICAL COMMITTEES AND ELECTIONEERING COMMUNICATIONS ORGANIZATIONS

In accordance with City of Miami Beach Ordinance 2023-4557, codified in Sections 2-487 through and including 2-490 of the Miami Beach City Code, a candidate for the offices of Mayor or Commissioner or a member of the City Commission must file, prior to engaging in solicitation activities (not otherwise prohibited by the aforementioned City Code sections), this Form to publicly disclose their solicitation fundraising activities for Political Committees or Electioneering Communications Organizations. Upon completion, this Form must be filed with the City Clerk (see filing instructions below), to be filed on a one-time basis disclosing solicitation for a particular Political Committee or Electioneering Communications Organization.

OFFICE USE ONLY

Elected Official's or Candidate's Name

Address (number and street)

City, State, Zip Code

Prior to commencing solicitation activities (not otherwise prohibited by Article VII, Division 5, Sections 2-487 through and including 2-490 of the Miami Beach City Code), either directly or indirectly, on behalf of a Political Committee which supports or opposes candidates for City elected office, or Electioneering Communications Organization which makes expenditures for electioneering communications relating to candidates for City elected office or accepts contributions for the purpose of making such electioneering communications, a candidate for the offices of Mayor or Commissioner, or a member of the City Commission shall file this one-time Report with the City Clerk indicating that the candidate or member of the City Commission is undertaking solicitation activities on behalf of such Political Committee or Electioneering Communications Organization.

Filing as :

Candidate for the offices of Miami Beach Mayor or Commissioner

Office: _____

Member of the Miami Beach City Commission

Office: _____

I will be commencing solicitation activities on behalf of a :

Political Committee

Electioneering Communications Organization

- Full Name of the Political Committee or Electioneering Communications Organization:

- Address of the Political Committee or Electioneering Communications Organization:

- Telephone number of the Political Committee or Electioneering Communications Organization:

- Name of the Registered Agent for the Political Committee or Electioneering Communications Organization:

- Name of the Chairperson or Treasurer for the Political Committee or Electioneering Communications Organization:

- Name of the jurisdiction where the Political Committee or Electioneering Communications Organization filed its statement of organization (e.g., either the City of Miami Beach, Miami-Dade County, or the State of Florida):

- Describe the relationship between the Candidate or member of the City Commission (as applicable) and the Political Committee or Electioneering Communications Organization:

CERTIFICATION

It is a first-degree misdemeanor for any person to falsify a public record (sec. 839.13, Fla. Stat.)

I hereby acknowledge that it is my responsibility to read, understand, and follow the campaign finance requirements described in this Article VII, Division 5 of the Miami Beach City Code.

I certify that I have examined this report and it is true, correct, and complete.

X

Signature

Type or Print Name

Date

Elected Official Candidate

Form # MBCC 1 Created On May 17, 2023

Ordinance 2023-4557

Once the form is completed, print it, sign it, and submit an electronic copy to the Office of the City Clerk at CityClerk@miamibeachfl.gov. You may also mail or hand deliver the form to the Office of the City Clerk, Miami Beach City Hall, 1700 Convention Center Drive, Miami Beach, FL 33139.

For more information, please contact the Office of the City Clerk at 305.673.7411 or via email at CityClerk@miamibeachfl.gov.

ELECTION/FREE SPEECH SIGNS

Thank you for taking the time out of your busy campaign schedule to learn about the rules and regulations regarding the placement of temporary election/free speech signs within the City of Miami Beach. I urge you to review these rules with your campaign volunteers. Copies of the Miami Beach City Code Section referenced herein are included in TAB 18 of this handbook.

Display of election/free speech signs on vehicles

Vehicles, including trailers, carrying, or having attached advertising signs dealing with the candidacy of individuals for elected office or advertising propositions to be submitted and voted upon by the people are authorized to be parked on public or private property. Such signs shall be removed within seven days after the date of the election. (See Sec. 138-61(a)(2) of the Miami Beach City Code.)

Regulations of temporary election/free speech signs

Setback, height regulations for temporary election/free speech signs: Unless affixed to a fence or an existing building, detached temporary election/free speech signs shall be setback ten feet from any property line. The maximum height to the top of a detached temporary election/free speech sign affixed to posts or a fence shall be five feet above grade in single-family and multifamily residential districts, and 12 feet above grade in all other districts. Maximum height to the top of a flat temporary election/free speech sign affixed to a building shall not extend above the first floor in single-family and multifamily residential districts and shall not extend above the second story of such building in all other districts. (See Sec. 138-133(b) of the Miami Beach City Code.)

Timeframe, removal: Temporary election/free speech signs shall only be allowed for a period beginning with the temporary activity that is the subject of the sign, i.e., the candidacy of individuals for elected office or advertising propositions to be submitted and voted upon by the people, and must be removed within seven days from the date of the election. (See Sec. 138-133(c) of the Miami Beach City Code.)

Number: No more than one temporary election/free speech sign per residential or commercial unit is permitted. (See Sec. 138-133(d) of the Miami Beach City Code.)

Type: Temporary election/free speech signs may be flat wall signs, part of a fence, rigid detached signs, or affixed to posts. Banners are prohibited. The sign area for window signs shall not exceed ten percent of the total window area. (See Sec. 138-133(f) of the Miami Beach City Code.)

Size, single-family: The temporary election/free speech sign area in a single-family residential district shall not exceed four square feet. (See Sec. 138-133(g) of the Miami Beach City Code.)

Size, multifamily: The temporary election/free speech sign area in a multifamily residential district shall not exceed 16 square feet. (See Sec. 138-133(h) of the Miami Beach City Code.)

Size, all other districts: The temporary election/free speech sign area for all other districts shall not exceed one square foot per three linear feet of street frontage, not to exceed 75 square feet. (See Sec. 138-133(h) of the Miami Beach City Code.)

Election headquarter signs

The temporary election/free speech sign area in commercial or industrial districts for campaign headquarters shall not have a sign area limitation. Each candidate may have four campaign headquarters, which shall be registered with the City Clerk. (See Sec. 138-134 of the Miami Beach City Code.)

Election/free speech signs prohibited on State or National Highways

No election/free speech sign shall be erected, used, operated, or maintained that is located upon the right-of-way of any highway on the State Highway System, Interstate Highway System, or Federal-Aid Primary Highway System. (See Florida Statutes 479.11(8).)

How to file a complaint regarding an election/free speech sign

The City Clerk does not have the authority to investigate, enforce, or impose penalties for violations of sign ordinances. If a person believes that a candidate has violated the sign regulations of the City, he/she may contact Miami Beach Code Compliance Department at 305.673.7555, to file a complaint.

Questions

If you have any questions regarding election/free speech signs, please do not hesitate to contact the Code Compliance Department at 305.673.7555.

▲ IMPORTANT – The City of Miami Beach does not regulate the content or wording of election/free speech signs, however, there are sign restrictions under Florida Statutes with potential fines and penalties for violations. For further provisions relating to election/free speech signs please refer to Florida Statutes Chapter 106 provided to you. It is important that each candidate understand the specifics of Florida law when it comes to political advertising.

PAID CAMPAIGN WORKERS PARTICIPATING IN VOTE-BY-MAIL ACTIVITIES

Pursuant to Section 12-14.1 of the Code of Miami-Dade County, candidates running for municipal office, whose paid poll workers are engaged in Vote-by-Mail (formerly known as absentee ballot) activities must file form MD-ED 26, entitled "Vote-by-Mail Campaign Report" (formerly known as "Paid Campaign Workers Participating in Absentee Ballot Activities") with the Office of the City Clerk. No reporting or submittal of form MD-ED 26 is required if no paid campaign workers participated in Vote-by-Mail activities during the applicable reporting period. The MD-ED 26 form is due at the same time Campaign Treasurer's Reports are due.

A copy of Form MD-ED 26 is included in the City's "Most Commonly Used Election Forms" webpage located at <https://www.miamibeachfl.gov/city-hall/city-clerk/election-information/most-commonly-used-election-forms/>

- Each campaign treasurer designated by a candidate for municipal office in Miami-Dade County shall, at the time of filing any contribution or expenditure reports otherwise required by law, file an additional report with the City Clerk listing 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 Vote-by-Mail ballots. The report shall be filed on Form MD-ED 26. No reporting or submittal of form MD-ED 26 is required if no paid campaign workers participated in Vote-by-Mail activities during the applicable reporting period.
- Any candidate failing to file a report as required by Section 12-14.1 on the designated due date shall 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. 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.
- Candidates for 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 Vote-by-Mail. 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.

A copy of Miami-Dade County Section 12-14.1, entitled "Vote-by-Mail Campaign Reporting Requirement" (formerly known as "Absentee Ballot Campaign Reporting Requirement") is included in TAB 19 of this handbook.

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REPORTING OF SOLICITATION OF CONTRIBUTIONS FOR POLITICAL COMMITTEES, ELECTIONEERING COMMUNICATIONS ORGANIZATIONS, 501(c)(4) ORGANIZATIONS, AND POLITICAL PARTIES BY MUNICIPAL CANDIDATES

In accordance with Sections 12-14.2.1 and 12-14.2.2 of the Code of Miami-Dade County, Florida, municipal candidates must file form MD-ED 28 to publicly disclose their fundraising activities for Political Committees, Electioneering Communications Organizations, organizations exempt under Section 501(c)(4) of the Internal Revenue Code (except for homeowners associations) or Political Parties.

A copy of Form MD-ED 28 is included in the City's "Most Commonly Used Election Forms" webpage located at <https://www.miamibeachfl.gov/city-hall/city-clerk/election-information/most-commonly-used-election-forms/>

Candidate Reporting Requirements

Each candidate for 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, Electioneering Communications Organization, 501(c)(4) Organization or Political Party, file a one-time report with the City Clerk indicating that the candidate is undertaking solicitation activities on behalf of such Political Committee, Electioneering Communications Organization, 501(c)(4) Organization or Political Party. The report shall identify the name of the Political Committee, Electioneering Communications Organization, 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 Political Committee, Electioneering Communications Organization, 501(c)(4) Organization or Political Party. The report shall be filed on a form MD-ED 28.

Failure to Report / Appeals

Any candidate for municipal office who fails to file the report as required by Miami-Dade County Code Sections 12-14.2 and 12-14.2.1 on the designated due date shall, for the first violation, be sent a letter of reprimand and instruction regarding the provisions of these Sections, 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 for municipal office.

Any candidate for municipal office 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 City Clerk that payment is due or such appeal or dispute shall be waived.

A copy of Sections 12-14.2.1 and 12-14.2.2 of the Code of Miami-Dade County is in TAB 20 of this handbook.

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USE OF CITY BUILDINGS FOR POLITICAL CAMPAIGN ACTIVITIES

Prohibition on the solicitation or knowing acceptance of political contributions in City buildings

Pursuant to Florida campaign finance law, "[n]o person shall make, and no person shall solicit or knowingly accept any political contribution in a building owned by a governmental entity." (Section 106.15(4) Florida Statutes.) For purposes of this Statute, "accept" means "to receive a contribution by personal hand delivery from a contributor or the contributor's agent." This prohibition applies to all City-owned buildings, including City buildings managed by private entities (e.g., the Jackie Gleason Theater, Miami Beach Convention Center, Miami Beach Botanical Garden, and the North Beach Oceanfront Center (managed by UNIDAD)).

Soliciting contributions in a building owned by a governmental entity includes correspondence such as USPS mail, e-mail, or fax that is sent to a government address. As a reminder, please remove any addresses associated with the City of Miami Beach from campaign distribution lists.

The Statute does not apply when a City building, or any portion thereof, is rented for the specific purpose of holding a campaign fundraiser. Any other political campaign activity may occur in a City building, provided that such activity is not otherwise prohibited by law.

Public access (including access by candidates) to City buildings

At its regular meeting on May 17, 2017, the City Commission adopted a motion reaffirming the City's policy that all City-owned buildings (whether managed by the City or by a private entity) that are intended to be open to the public shall also be open to candidates for office, including during public events. Therefore, City staff and private entities that manage City buildings should not prohibit candidates for office from entering those facilities and conducting campaign activities, unless any such activities are prohibited by Florida law, as described above.

However, a candidate may be excluded from a City building if the building (or a portion thereof) has been rented or leased to a third party for a private event. In such an instance, the City building (or a portion thereof) would not be "open to the public."

Additionally, candidates for office may also conduct campaign activities in privately owned facilities when such a facility is rented by the City to host an event that is open to the public.

For more information see LTC 297-2017 at:

<https://docmgmt.miamibeachfl.gov/WebLink/DocView.aspx?id=157979&dbid=0&repo=CityClerk>

USING SERVICES OF STATE, COUNTY, MUNICIPAL OR DISTRICT OFFICERS, OR EMPLOYEES

A candidate may not, in the furtherance of his or her candidacy for nomination or election to public office in any election, use the services of any state, county, municipal, or district officer or employee during working hours. (See Florida Statutes 106.15(3).)

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FOOD DISTRIBUTION EVENTS IN THE CITY OF MIAMI BEACH

In accordance with City of Miami Beach Resolution 2020-31274, passed and adopted on March 13, 2020:

1. Candidates for City elected office (including incumbents seeking reelection) are prohibited from hosting or campaigning at any charitable or not-for-profit food distribution event in the City of Miami Beach, held during the period of time between the last day of the election qualifying period until the earlier date of when the candidate is elected, defeated, or becomes unopposed.
2. Charitable or not-for-profit food distribution events are prohibited from taking place within 200 feet of any polling place located within the City during the voting period for any elections, including the early voting period, beginning when the polls open for voting and ending when the polls close or the last voter has voted, whichever is later.

A copy of Resolution 2020-31274 is in TAB 21 of this handbook.

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MIAMI BEACH PRECINCT/POLLING PLACE LIST

Polling and Precinct Place No.	Name	Location
011.0	Biscayne Beach Elementary School *	800 77 Street
013.0	North Shore Branch Library	7501 Collins Avenue
014.0	North Shore Park Youth Center	501 72 Street
015.0	Normandy Shores Golf Club	2401 Biarritz Drive
018.0	Indian Creek Fire Station #4	6860 Indian Creek Drive
019.0	Normandy Park & Pool	7030 Trouville Esplanade
020.0	Ronald W. Shane Center	6500 Indian Creek Drive
023.0/023.1	Miami Beach Fire Station #3	5303 Collins Avenue
024.0	Nautilus Middle School	4301 N. Michigan Avenue
025.0	St. Johns on the Lake Methodist Church	4760 Pine Tree Drive
028.0/028.1	Temple Beth Sholom	4144 Chase Avenue
029.0/029.1	North Beach Elementary School	4100 Prairie Avenue
030.0	Miami Beach Botanical Garden	2000 Convention Center Drive
031.0	Miami City Ballet	2200 Liberty Avenue
032.0/032.1	Miami Beach Regional Library	227 22 Street
033.0/033.1	Miami Beach Senior High School	2231 Prairie Avenue
036.0	Miami Beach Police Athletic League	999 11 Street
037.0	Miami Beach City Hall	1700 Convention Center Drive
038.0	South Shore Community Center	833 6 Street # 2
040.0	South Pointe Elementary School	1050 4 Street
041.0	South Shore Community Center	833 6 Street # 2

042.0	Feinberg Fisher K-8 Center	601 14 Place
043.0	Miami Beach Police Department	1100 Washington Avenue
048.0	South Pointe Elementary School	1050 4 Street

The Miami Beach Precinct/Polling Place List is subject to change if needed.

** Name Change: Formerly named Biscayne Elementary School.*

Miami-Dade County election officials establish the Miami Beach voting precincts. All questions concerning voting locations and voting precincts should be directed to the Miami-Dade County Elections Department, 2700 NW 87 Avenue, Miami, Florida 33172; Telephone: 305.499.VOTE (8683) or TTY: 305.499.8480.

Early voting

Early voting shall occur at:

Miami Beach City Hall
1700 Convention Center Drive

and

North Shore Branch Library
7501 Collins Avenue

Campaigning Near Polling Places

No person, political committee, or other group or organization may solicit voters inside the polling place or within 150 feet of a drop box or the entrance to any polling place, a polling room where the polling place is also a polling room, an early voting site, or an office of the supervisor where vote-by-mail ballots are requested and printed on demand for the convenience of electors who appear in person to request them. Before the opening of a drop box location, a polling place, or an early voting site, the clerk or supervisor shall designate the no-solicitation zone and mark the boundaries.

The no solicitation zone applies to early voting sites and polling locations. If private property “takes over” before the 150-foot zone is reached, you must have permission from the property owner to campaign on their property.

For the purpose of this subsection, the terms “solicit” or “solicitation” shall include, but not be limited to, seeking or attempting to seek any vote, fact, opinion, or contribution; distributing or attempting to distribute any political or campaign material, leaflet, or handout; conducting a poll except as specified in this paragraph; seeking or attempting to seek a signature on any petition; selling or attempting to sell any item; and engaging in any activity with the intent to influence or effect of influencing a voter. The terms “solicit” or “solicitation” may not be construed to prohibit an employee of, or a volunteer with, the supervisor from providing nonpartisan assistance to voters within the no-solicitation zone such as, but not limited to, giving items to voters, or to prohibit exit polling.

See Florida Statutes 102.031(4)(a) and (b).

MOST COMMONLY USED ELECTION FORMS

Below is a list of the most used election forms. For ease of use, all the forms listed herein are available at: <https://www.miamibeachfl.gov/city-hall/city-clerk/election-information/most-commonly-used-election-forms/>

State of Florida Information and Forms

The Florida Election Code (Includes legislation through 2022) (Last Updated August 22, 2022)

Candidate and Campaign Treasurer's Handbook (Last Updated April 27, 2022)

Political Committee Handbook (Last Updated November 16, 2021)

Electioneering Committee Organization Handbook (Last Updated November 16, 2021)

Candidate Petition Handbook (Last Updated November 2, 2021)

Florida Commission on Ethics Guide to the Sunshine Amendment and Code of Ethics for Public Offices and Employees (Last Updated 2023)

DS-DE 2: Contributions Returned (Last Updated December 2019)

DS-DE 5: Statement of Organization for Political Committee (Last Updated June 2011)

DS-DE 6: Appointment of Campaign Treasurer and Designation of Campaign Depository for Political Committees (Last Updated April 2019)

DS-DE 9: State of Florida Appointment of Campaign Treasurer and Designation of Campaign Depository for Candidates (Last Updated October 2010)

DS-DE 19A: English Affidavit of Undue Burden - Petitions (Last Updated November 2021)

DS-DE 19A: Español Declaración Jurada de Carga Excesiva - Peticiones (Last Updated November 2021)

DS-DE 41: Registered Agent Statement of Appointment (Last Updated June 2011)

DS-DE 48: Office Account Report (Last Updated August 2003)

DS-DE-48A: Office Account Disbursement or Deposit Information (Last Updated August 2003)

DS-DE 73: Campaign Loans Reports (Last Updated August 2003)

DS-DE 73A: Campaign Loans Report Itemized (Last Updated August 2003)

DS-DE 84: Statement of Candidate (Last Updated May 2011)

DS-DE 86: Request for Return of Contribution (Last Updated September 1995)

DS-DE 103: Electioneering Communication Statement of Organization (Last Updated June 2011)

DS-DE 104: Candidate Petition (Last Updated September 2011)

DS-DE 104: Spanish Postulación de Candidato (Last Updated September 2011)

DS-DE 125: Poll Watcher Designation (Last Updated August 2016)

DS-DE 302NP: Candidate Oath - Nonpartisan Office (Last Updated August 2021)

CE Form 1 - Statement of Financial Interest - 2022 Tax Year

CE Form 9 Quarterly Gift Disclosure (Last Updated January 2016)

Affidavit of Financial Hardship

Miami-Dade County Information and Forms

MD-ED 26 Vote by Mail Ballot Campaign Report (Last Updated October 2017)

MD-ED 28 Reporting of Solicitation of Contributions for PACs, ECOs, 501(c)(4) Organizations, and Political Parties (Last Updated March 2017)

Declaration and First Amendment Waiver for Candidates who Agree to Comply with the VOLUNTARY Statement of Fair Campaign Practices (optional) (Last Updated May 2010)

Declaration for Candidates not Automatically Covered by the Mandatory Provisions of the Miami-Dade Ethical Campaign Practices Ordinance (optional) (Last Updated April 2010)

Affidavit Attesting to Compliance with Section 2-11.1 (bb) of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance

Miami Beach Information and Forms

City of Miami Beach Candidate Handbook 2023

VoterFocus Handbook on How to File Financial Reports Online (Last Updated August 11, 2021)

City of Miami Beach Oath / Affirmation

Initiative Petition for Charter Amendment

Initiative Referendum Petition for City Code Amendment

Petition in Lieu of Qualifying Fee Form Multiple Signatures English / Spanish (Last Updated 2023)

Oath of Withdrawal

Disclosure by City Commission Member of Solicitation on Behalf of a Nonprofit Organization

Disclosure by City Commission Member of Certain Business Relationship Established Within 12 Months After Commission Vote

MANDATORY ETHICS TRAINING FOR CITY'S ELECTED OFFICIALS

I. Miami Dade County Ethics Training:

Pursuant to Miami-Dade County Code Section 2-11.1(bb), the City's elected officials must:

- Execute an affidavit, on a form prepared by the Ethics Commission, stating that he or she has read the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance and agrees to comply with the provisions of said ordinance, and shall file the required affidavit with the Ethics Commission before being sworn into office; and
- Within ninety (90) days after being sworn into office, submit to the Clerk of the Board of County Commissioners a certificate of completion of an ethics course offered by the Miami-Dade County Commission on Ethics and Public Trust ("Ethics Course").

Accordingly, the Mayor and City Commissioners must within 90 days of their respective inductions into office complete the County Ethics Commission's ethics course and have their certificates of completion filed with the Ethics Commission.⁴

If you have any questions about the County's ethics training, please contact the Miami-Dade Commission on Ethics and Public Trust by telephone at 305.579.2954 or by e-mail at ethics@miamidade.gov,

II. State of Florida Ethics Training:

Unlike the above County Code Section that requires mandatory ethics training to be taken only once during a City Commission member's term of office, the Mayor and City Commissioners must take the State ethics training every year⁵ during a Commission member's term. Specifically, pursuant to Florida Statutes Section 112.3142 (2)(b), municipal elected officers must:

- Annually complete 4 hours of ethics training on the topics of **State Ethics laws** (s. 8, Art. II of the State Constitution and Chapter 112, Florida Statutes), **Public Records laws** (Chapter 119, Florida Statutes.), and **Public Meetings laws** (Chapter 286, Florida Statutes.); and

⁴ Since the County Code requires that its required ethics training be completed "...within 90 days after being sworn into office," upon completion of his/her present term of office on the City Commission, any incumbent member of the City Commission who in the future is reelected and/or appointed to the City Commission must retake the COE ethics course for any such subsequent term(s).

⁵ Pursuant to Florida Statute 112.3142(d): "...An elected municipal officer assuming a new office or new term of office on or before March 31 must complete the annual training on or before December 31 of the year in which the term of office began. An elected municipal officer assuming a new office or new term of office after March 31 is not required to complete ethics training for the calendar year in which the term of office began."

- Certify on their annual statement of financial disclosure that they have completed the State-required ethics training⁶

The Statute does not require that the ethics training be provided from any particular source (unlike the County law that requires the County Ethics Commission to provide the training) or that the required 4 hours of training consist of any particular combination of training.⁷ So long as the required subjects are covered⁸, the State's requirement may be satisfied by completion of a continuing legal education class or other continuing professional education class, seminar, or presentation (whether via live attendance or webinar), and that any knowledgeable person or entity (other than the reporting City Commission member⁹) may provide the training.

For a listing of available online tutorials, go to the State of Florida Commission on Ethics at: <http://www.ethics.state.fl.us> and click on "training" at the top of the page.

⁶ Elected municipal officers are required by s. 8, Art II of the State Constitution to file annually CE Form 1, "Statement of Financial Interests" for disclosure of the preceding year's financial interests; accordingly, members of the City Commission's certification of having completed the State ethics training will be reflected on Form 1, ad infinitum. (Form 1 is available at <http://www.ethics.state.fl.us/financialdisclosure/downloadaform.aspx>)

⁷ See, State COE 13-24.

⁸ A Commission member's prior training on the required topics may be used towards the required 4 hours only if the prior training was completed in same calendar year as the subject reporting period; moreover, a 50-minute "hour" will satisfy one hour of the training requirement, whether it is a Bar Continuing Legal Education for attorneys or is other training for attorney or non-attorney municipal officer.

⁹ "... [T]he requirement [can]not be satisfied by a self-directed learning program consisting of the official's review of materials he-or-she selects independently. By using the term 'training' the statute contemplates education which is provided by persons proficient in the subject matter, rather than self-study." *COE 13-24*.

A variety of items are available through the Miami-Dade Elections Department Public Services Section to assist candidates, committees, political parties, government agencies, courts, students, media and interested citizens.

PROCEDURES FOR ORDERING ITEMS FOR SALE

All orders will be processed with 3-5 business days and must be prepaid in full as follows:

- Candidates: Campaign check, Personal check, Cash
- Citizens: Personal check, Cash
- Elected Officials: For office use only: Office Account check, Personal Check, Campaign Check, Cash
- Political Parties: Party Check, Personal; Check, Cash
- Political Action Committees & Committees of Continuous Existence: Committee check, Personal Check, Cash

Checks must be made payable to Miami-Dade County

Color Maps (available at \$40.00 per map):

- County Commissioner - Single District
- County Commissioners - all Districts (13)
- State House Districts
- Congressional Districts
- Countywide Precincts with municipalities
- School Board Districts

Specialized maps may be ordered through the Information Technology Department (ITD) via telephone at 305-596-8148 or online at:
http://www.miamidade.gov/etsd/pa_data.asp

The following data may be requested on CD ROM for a flat fee of \$20 per CD:

- Households
- New Voters/ Registered Voters
- Petitions
- Voters Who Voted
(only available as of 2/13/96 on CD ROM)
- Vote-By-Mail Ballot Requests*
(only available as of 2/13/96)

Orders may be extracted by Party, Race, Gender, or Age. Orders may be sorted by name, precinct, registration number, residence address, residence address by precinct, or by zip code.

* Notice for Vote-By-Mail Ballot Requests:

Only qualified requestors under Section 101.62(3), Florida Statutes may obtain VBM Information after the end of the qualifying period (canvassing board members; elected officials; political party or official thereof; candidate who has filed qualification papers and is opposed in an upcoming election; political committee; committee of continuous existence). Eligible requestors must fill out the [Application to Obtain Vote-By-Mail Ballot Information Form](#).

Important: Candidate/Chairperson: Please be advised that the Department requires the request for vote-by-mail ballot information to come from you. You may designate a representative to pick up the data on your behalf, and are affirming that all parties will use this data for political purposes only.

GENERAL ELECTION INFORMATION

The following items are available free of charge on the Elections Department website at <http://www.miamidade.gov/elections>. Copies may be obtained at a charge of \$0.15 per page. Certified copies incur an additional \$1.00 per page.

- List of Florida Supervisors of Elections
- List of Municipal Clerks
- Elected Officials and Offices to be Elected
- Voter Registration Statistics
- Campaign reports for local (County) candidates
(Reports for municipal candidates are available from respective municipal clerks)
- Elections Results and Book Closing Statistics
- Financial Disclosures Lists

INFORMATION FOR CANDIDATES & COMMITTEES

The Candidate Qualifying Handbook (including the Election Laws and Campaign Treasurer Handbook) is available free of charge on the Elections Department website at <http://www.miamidade.gov/elections>. The handbook may also be obtained free of charge on a CD-Rom (\$10 per additional copy).

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CITY OF MIAMI BEACH

CHARTER

ARTICLE II. - CITY COMMISSION

Sec. 2.01. - Number and selection.

The City Commission shall consist of six (6) City Commissioners and a Mayor who shall be elected at large. Each City Commissioner shall be a qualified elector of the City. City Commissioners shall be elected for groups numbered and designated I—VI. No candidates for the office of Commissioner shall be permitted to qualify for more than one (1) group, or for the office of Mayor.

Commissioners in groups numbered I, II and III shall be elected at the general election to be held on the first Tuesday in November, 1997 and at each general election each four (4) years thereafter. Commissioners in groups numbered IV, V, and VI shall be elected at the general election to be held on the first Tuesday in November, 1995 and at each general election each four (4) years thereafter. The Mayor shall be elected at the general election to be held on the first Tuesday in November, 1995 and at each general election each two (2) years thereafter.

A candidate must receive a majority of the votes cast to be deemed elected. If no candidate receives a majority of the votes cast, there will be a runoff election between the two candidates in each group receiving the highest number of votes; should a tie result, the outcome shall be determined by lot. This runoff election shall occur two weeks from the date of general election.

In the event that no candidate has qualified in any group, or for Mayor, a vacancy shall be deemed to have occurred, and shall be filled as provided by the Charter of the City of Miami Beach for the filling of a vacancy.

(Res. No. 2003-25289, 7-30-03; Res. No. 2003-25391, 7-30-03)

Sec. 2.02. - Term, term limits and compensation.

The term of office of the Mayor shall be two (2) years. The term of office of the City Commissioners shall be four (4) years.

The lifetime term limit for Miami Beach Commissioners shall be two (2) four-year terms and the lifetime term limit for Miami Beach Mayor shall be three (3) two-year terms respectively, measured retroactively from their first elections, said terms not including time served as a member of the City of Miami Beach Commission as a result of having filled a vacancy in the Commission pursuant to Section 2.07 of the City of Miami Beach Charter so long as such time served in filling a vacancy does not exceed 50 percent of that subject term. Service by a Commission member in excess of 50 percent of any term of office shall be considered a full term for purposes of the term limit provisions in this section.

The annual compensation for the Office of Commissioner shall be six thousand dollars (\$6,000.00) and the compensation for the Office of Mayor shall be ten thousand dollars (\$10,000.00); any increase in salary for Mayor and/or Commissioner shall require approval of a majority of the electorate voting at a City election.

(Res. No. 96-22083, § 8, 7-17-96/11-6-96; Res. No. 2014-28603, 5-21-14, passed by voters 8-26-14)

Sec. 2.03. - Powers of the city commission.

All powers of the City shall be vested in the City Commission except those powers specifically given to the Mayor, the City Manager, the City Attorney, and the City Clerk, as provided in this Charter and except those powers specifically reserved in this Charter to the electors of the City. Moreover, the City Commission shall have all powers and privileges not inconsistent herewith, granted to the City Commission of cities and towns by the general laws of the State of Florida, and shall have power to do and perform all things necessary for the government of the City not inconsistent with the constitution of the State of Florida, the Constitution and laws of the United States, and the terms and provisions of this Charter.

The City Commission shall appoint a City Manager, a City Attorney, and a City Clerk; the City Commission shall have the power to remove the City Manager, City Attorney, and/or City Clerk at any time by a majority vote of the Commission, or, in the event of an employment agreement between the parties removal shall occur pursuant to the terms of said agreement.

The Commission may also investigate the official acts and conduct of any City official, and by similar investigations may secure information upon any matter. In conducting such investigations, the Commission may require the attendance of witnesses and the production of books, papers and other evidence.

The Inspector General shall be appointed by the Ad Hoc Inspector General Selection Committee, as further established by ordinance; however, before any appointment by the Ad Hoc Inspector General Selection Committee shall become effective, the appointment must be approved by a majority vote of the City Commission. The Inspector General may be removed from office upon a five-sevenths (5/7) vote of the City Commission.

The independent City Auditor shall be appointed by the City Commission; both appointment and removal of the independent City Auditor shall be made by the City Commission. Duties, method of selection and method of compensation of the independent City Auditor shall be established by ordinance.

(Res. No. 2003-25291, 7-30-03; Res. No. 2012-27962, 7-18-12, passed by voters on 11-6-12; Res. No. 2018-30437, 7-25-18, passed by voters on 11-6-18)

Sec. 2.04. - Election of Vice-Mayor and meetings.

The City Commission shall, at its first meeting after each general election (or at its first meeting after the runoff election, if a runoff election is held), initially elect from its membership a Vice-Mayor who, during the absence or disability of the Mayor, shall perform the duties of Mayor. In the absence or disability of both the Mayor and Vice-Mayor, the said duty shall be performed by another member appointed by the Commission.

The City Commission shall meet at such times as may be prescribed by ordinance or resolution. The Mayor, or the City Manager, may call special meetings of the Commission upon at least twenty-four (24) hours written notice to each member, served personally, or left at his usual place of abode; provided, however, that the requirement of such written notice may be waived at a special meeting by the unanimous vote of the Commission. In addition, special meetings of the City Commission may be called by a majority of the members of the Commission upon written notice to the City Clerk and in accordance with the procedures set forth in a resolution of the City Commission.

No member of the City Commission shall, during the time for which he/she was elected, be appointed or elected to any City office that has been created or the emoluments thereof shall have been increased during such time.

(Res. No. 2012-27903, approved by electorate Aug. 14, 2012; Res. No. 2014-28604, 5-21-14, passed by voters 8-26-14)

Sec. 2.05. - Procedures for passing ordinances generally.

The City Commission shall have the power to make, establish and ordain for the government of the City of Miami Beach and the officers of said City, ordinances in writing not inconsistent with this Charter, the Constitution and laws of the State of Florida and of the United States, as it may deem necessary provided a majority of the City Commission shall consent thereto.

Each ordinance shall be introduced in writing and shall embrace one subject and matters properly connected therewith. The subject shall be clearly stated in the title. The enacting clause shall be "BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION..." No ordinance shall be revised or amended by reference to its title only. Ordinances to revise or amend shall set out in full the revised or amended act or section or subsection or paragraph of a section or subsection. A proposed ordinance may be read by title, or in full, on at least two (2) separate dates and shall, at least ten (10) days prior to adoption, be noticed once in a newspaper of general circulation in the municipality. The notice of proposed enactment shall state the date, time, and place of the meeting, the title or titles of proposed ordinances, and the place or places within the municipality where such proposed ordinance or ordinances may be inspected by the public. Said notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance or ordinances. No ordinances shall be declared invalid by reason of any defect in publication or title if the published summary gives reasonable notice of its intent. At the time and place so advertised, or at any time and place to which such public hearing may, from time to time, be adjourned, the ordinance shall be read by title and a public hearing shall be held. After the hearing, the City Commission may pass the ordinance with or without amendment. The effective date shall not be earlier than ten (10) days after its enactment.

Proposed ordinances which enact or amend the City's Zoning Ordinance or comprehensive Plan of the City of Miami Beach shall be adopted according to the procedures set forth in the City of Miami Beach's Zoning Ordinance.

To meet a public emergency affecting life, health, property or public safety, the City Commission by two-thirds (2/3) vote of the members of the City Commission may adopt an emergency ordinance at the meeting at which it is introduced and may make it effective immediately. After adoption of an emergency ordinance, the City Commission shall cause it to be published in full within ten (10) days in a newspaper of general circulation in the municipality. No emergency ordinance shall be enacted which enacts or amends a land use plan or which rezones private property.

State Law reference - Uniform minimum mandatory procedure for passage of ordinances, F.S. § 166.041.

Sec. 2.06. - Duties of elected mayor.

The Mayor shall be the presiding officer at the meetings of the Commission and shall bear the title of Mayor and shall have a voice and a vote in the proceedings of the City Commission but no veto power, and he/she may use the title of Mayor in any case in which the execution of legal instruments in writing or other necessity arising from the general laws of the state so requires; he/she shall sign all deeds, contracts, bonds or other instruments of writing to which the City is a party when authorized to do so by ordinance or resolution of the City Commission, but he/she shall not have the administrative or judicial functions and powers of the Mayor under the general laws of the state. He/she shall be recognized as the official head of the City by the

Courts for the purpose of serving civil processes, by the Governor in the exercise of military law and for all ceremonial purposes and he/she shall, in addition thereto, perform such other duties as may be by ordinance prescribed by the City Commission. The Mayor shall be the appointing authority for the employees in the Mayor's Office who are in the unclassified service.

Sec. 2.07. - Vacancies in City Commission.

Any vacancy occurring in the City Commission shall be filled as follows:

- (a) *Vacancy for reasons other than resignation.* The City Commission shall, within 30 days after the vacancy occurs, decide whether to fill said vacancy by City election or by Commission appointment. Should the Commission choose to appoint, said action shall be taken by vote of the majority of the remaining members of the City Commission within 30 days after the expiration of the above subject initial 30-day period, with the appointee serving the remainder of the unexpired term until the next succeeding General City Election and with any further remainder of said unexpired term to be filled by a Commission member elected at said General Election. If the members of the City Commission shall choose instead to fill such vacancy by election, then a Special Election shall be called to be held within 90 days after the expiration of the subject 30-day period to elect a Commission member to fill such vacancy for the remainder of the unexpired term.
- (b) *Vacancy due to resignation.* Resignations from office shall be filed with the City Clerk and shall be irrevocable upon such filing, thus creating a vacancy in office. The Commission shall, within 30 days from submittal of a resignation to the City Clerk, decide whether to fill said vacancy by City election or by Commission appointment.
 1. Should the Commission choose to appoint, said action shall be taken by vote of the majority of the remaining members of the Commission within 30 days after expiration of the subject 30-day period (referenced in (b) above), with the appointee serving the remainder of the unexpired term from the date the resigning official would take office, if elected (assuming the resignation was filed pursuant to Section 99.012, Florida Statutes) until the next succeeding General City Election, and with any further remainder of the unexpired term to be filled by a Commission member elected at said General Election. However, if the resignation was not filed pursuant to Section 99.012, Florida Statutes, then the appointee shall serve the remainder of the unexpired term from either the resignation's effective date or from the date the appointee is appointed, whichever occurs later, and shall serve until the next succeeding General City Election, and with any further remainder of the unexpired term to be filled by a Commission member elected at said General Election.
 2. If the members of the City Commission shall choose instead to fill such vacancy by election, then a Special Election shall be called to be held within 120 days after expiration of the subject initial 30-day period (referenced in (b) above) to elect a Commission member to fill such vacancy for the remainder of the unexpired term; but if a City or County-wide election is otherwise scheduled to be held during the intervening period from expiration of the subject initial 30-day period through and including the resignation's effective date, the Special Election to fill the vacancy for the unexpired term as provided above may occur at any such City or County-wide election. Any person who has been elected to fill a vacancy due to resignation filed pursuant to Section 99.012, Florida Statutes, shall be installed and take office following the date the resigning official would take office, if elected; any person who has been elected to fill a vacancy due to resignation not filed pursuant to Section 99.012, Florida Statutes, shall be installed and take office following the effective date set forth in said resignation.

(c) *Resolution calling Special Election.* Provisions related to a Special Election called pursuant to this section, including the qualifying period and Runoff Election (if required), shall be established in the City Resolution calling the Special Election.

(Res. No. 2019-30901, 7-17-19)

Sec. 2.08. - Removals and suspensions from office of city commission.

The mayor and any City Commissioner, in addition to being removed by recall pursuant to State law, may be removed from office pursuant to the Miami Beach City Code.

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CITY OF MIAMI BEACH

CHARTER

ARTICLE VI. - ELECTIONS^[3]

Sec. 6.01. - Electors.

Any person who is a resident of the City of Miami Beach, who has qualified as an elector of the State of Florida and who registers in the manner prescribed by law shall be a qualified elector of the City.

State Law reference— Registration of electors, F.S. § 97.105; qualification of electors, F.S. §§ 97.041, 166.032.

Sec. 6.02. - Nonpartisan elections.

All elections for the office of City Commission shall be conducted on a nonpartisan basis without any designation or political party affiliation.

Sec. 6.03. - Qualifying.

The City Commission shall cause to be placed on the ballot to be used in the general election the name of any qualified elector of the City residing within the City at least one year prior to qualifying and who, within the four (4) consecutive days immediately following the first Monday of September prior to said general election, 1) shall have submitted one (1) or more documents upon which he/she relies upon to evidence that he/she has resided in the City for at least one year prior to qualifying, which type document(s) shall include, but not limited to: a Florida government issued identification, a voter's registration card, driver's license, property tax receipt, homestead exemption, utility bill or lease agreement, 2) shall have paid to the City Clerk of the City of Miami Beach the sum equal to seven and one-half percent (7½%) of the annual salary of the office to which he/she seeks election as a qualifying fee, and 3) shall have been photographed and fingerprinted by the identification bureau of the Police Department of the City, unless such person shall file with the City Clerk no later than noon of the 14th day prior to the first day of qualifying as a candidate for such office, a petition approving his candidacy signed by sufficient qualified and registered voters to constitute not less than two percent (2%) of this number of such voters as the same shall be on the date sixty (60) days prior to the first day of qualifying as a candidate for office; in the event the Miami-Dade County Elections Department has not issued its certificate verifying the required number of valid signatures on the subject qualifying petition by 5:00 p.m. on the second day of the City's four-day qualifying period, the City's 7½% qualifying fee shall be waived by the City in the event the subject candidate should otherwise qualify for office pursuant to this Charter section. All candidates qualifying for office shall have taken, signed and subscribed to an oath or affirmation in writing in which he/she shall state (1) the title of the office for which he/she is a candidate; (2) that he/she is a qualified elector of the City of Miami Beach, Florida, and has resided in the City at least one year prior to qualifying; (3) his/her legal residence, by street and number; (4) that he/she is qualified under the ordinances (including Miami Beach City Code Chapter 38 governing "Elections") and Charter of the City of Miami Beach, Florida, to hold the office for which he/she is a candidate.

Such oath or affirmation shall be substantially in the following form:

STATE OF FLORIDA)	
		SS:
COUNTY OF DADE)	

Before me, an officer authorized to administer oaths, personally appeared to me well known who, being sworn, says that he/she is a candidate for the office of City Commissioner (Group No. _____ (or Mayor) for the City of Miami Beach, Florida; that he/she is a qualified elector of said City residing within the City at least one year before qualifying for City of Miami Beach elected office; that his/her legal residence is: _____, Miami Beach, Dade County, Florida; that he/she is qualified under the ordinances (including Miami Beach City Code Chapter 38 governing "Elections") and Charter of said City to hold such office; and that he/she has paid the required qualification fee.

Signature of Candidate

Sworn to and subscribed before me this ____ day of _____ A.D., 20 ____.

Authorized Officer

The City Commission shall, by ordinance, prescribe the manner of holding general and special elections not inconsistent with the provisions hereof, and shall, by ordinance or resolution, prescribe polling places in the various voting precincts in the City.

(Res. No. 2003-25290, 7-30-03; Res. No. 2003-25391, 7-30-03; Res. No. 2012-27964, 7-18-12, passed by voters 11-6-12; Res. No. 2012-27965, 7-18-12, passed by voters 11-6-12; Res. No. 2022-32166, 5-4-22, passed by voters 8-23-22)

Sec. 6.04. - Vacancy in Candidacy.

If the death, withdrawal or removal of a qualified candidate for Miami Beach City Commission following the end of the qualifying period results in fewer than two candidates remaining on the ballot for that office, there shall be one supplemental qualifying period of five (5) days beginning on the first business day following the vacancy in candidacy. No further supplemental qualifying period shall thereafter be established at all if a vacancy in candidacy occurs within forty-five (45) days prior to the date of the election for the office of City Commissioner or Mayor. If within forty-five (45) days prior to the date of the election for the office of City Commissioner or Mayor, there is only one candidate on the ballot for an elected office, said candidate shall be declared elected and no election for that office shall be required.

(Res. No. 2014-28605, 5-21-14, passed by voters 8-26-14)

State Law reference— Filling vacancy in candidacy, F.S. § 166.031(6).

Footnotes:

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State Law reference— Florida Election Code, F.S. chs. 97—106.

CITY OF MIAMI BEACH

CODE

Chapter 38 - ELECTIONS^[1]

Sec. 38-1. - State law adopted.

Subject to provisions of F.S. § 100.3605, general laws of the State relating to elections which are not inconsistent or in conflict with the provisions of the Charter or this chapter are hereby adopted as part of this chapter.

(Code 1964, § 10-2; Ord. No. 2013-3804, § 1, 7-17-13)

State Law reference— State election code, F.S. chs. 97—106.

Sec. 38-2. - City commission to perform duties of County Board of Commissioners.

Subject to provisions of F.S. § 100.3605, the city commission shall perform all acts in relation to general city elections which, by the state law, are made the duty of the board of county commissioners.

(Code 1964, § 10-3; Ord. No. 2013-3804, § 1, 7-17-13)

Sec. 38-3. Resolution by city commission calling election and noticing thereof.

- (a) For the purpose of making proper provision for each municipal election held in the city, the city commission shall, not less than 30 days prior to the proposed date of such election, adopt a resolution calling the subject election setting forth the following:
- (1) The date upon which such election is to be held.
 - (2) The purpose of such election, including if a special election for the purpose of presenting to the city's voters a proposed ballot question:
 - i. The ballot title and ballot summary consistent with F.S. § 101.161(1) (and, in cases of bond referenda, consistent with Florida law governing bond elections held by municipalities, including F.S. § 100.341), as drafted by the city attorney, as well as (where applicable) the proposed city Charter or city Code text change.
 - ii. The effective date of the proposal, specifying that if the city's electors voting on a ballot question approve same, it shall become effective upon the city commission's acceptance of certification of final election results.
 - iii. All other details necessary to submit such proposed measure to the city's electors.
 - (3) The days and hours, prior to the date of such election during which persons qualified to vote therein may register for the election.
 - (4) The form of ballot to be used in such elections, prepared in compliance with all statutory requirements relating to the use of mechanical or other approved voting machines or devices.

- (5) The results of all city elections shall become effective upon the city commission's acceptance of certification of final election results, as set forth in the resolution calling each election.
- (b) The city commission shall further authorize and direct the city clerk to give notice of the adoption of such resolution and of the provisions thereof prescribed in subsection (a), by and through the publication of an appropriate advertisement in a newspaper meeting the requirements set forth in F.S. § 50.031 once a week for four consecutive weeks next preceding the day upon which such municipal election is to be held. The city clerk shall further publish, in a newspaper meeting the requirements set forth in F.S. § 50.031 and on the city's website, the polling places for the election twice, once in the third week and once in the first week prior to the week in which the election is to be held.

(Code 1964, § 10-4; Ord. No. 2013-3804, § 1, 7-17-13; Ord. No. 2017-4080, § 1, 3-1-17; Ord. No. 2022-4476, § 1, 3-9-22)

Charter reference(s) - Qualifying for office, § 6.03.

Sec. 38-4. - Acceptance of election returns; installation of new officers.

On the first business day immediately following the county elections supervisor's issuance of final election results for any city general or special election, the city commission shall meet for the purpose of accepting the returns of such election(s) and ascertaining the results thereof.

- (a) Should no run-off election be necessary, new officers shall be declared elected subsequent to the city commission's acceptance of final general (or special, as the case may be) election returns results at which time the new officers shall be installed and shall enter upon the discharge of their duties, except as otherwise provided by the city Charter; if a run-off election is necessary, all new officers shall be declared elected subsequent to the city commission's acceptance of final run-off election returns results on the first business day following the county elections supervisor's issuance of such final election results, at which time the new officers shall be installed and shall enter upon the discharge of their duties, except as otherwise provided by the city Charter.
- (b) If a run-off election is necessary, the commission meeting(s) occurring between the date of general election and the commission's acceptance of final run-off election returns results shall occur for the limited purpose of accepting the returns of such general election, and/or to address any emergency matter, pursuant to Florida law and city Charter section 2.05.

(Code 1964, § 10-5; Ord. No. 97-3101, § 1, 10-21-97; Ord. No. 2013-3804, § 1, 7-17-13; Ord. No. 2017-4080, § 1, 3-1-17; Ord. No. 2022-4476, § 1, 3-9-22)

Sec. 38-5. - Appointment and duties of city clerk in connection with elections.

The city clerk is nominated and appointed as the responsible official of the city and is hereby empowered, authorized and directed to perform all duties and functions and to exercise all powers of the supervisor of elections required to be performed under this Code, the City Charter, the County Charter or Code and the laws and constitution of the state in connection with municipal elections; however, whenever any act or duty with respect to an election has been, or may be, performed by the supervisor of elections of the county, it shall not be necessary for the city clerk to duplicate that act, but the clerk may rely upon the actions of the supervisor of elections of the county.

(Code 1964, § 10-7; Ord. No. 2013-3804, § 1, 7-17-13)

Sec. 38-6. - Early voting.

- (a) Pursuant to F.S. § 101.657(1)(e), (the "Early Voting Statute"), the City of Miami Beach may provide for early voting in city elections that are not held in conjunction with county or state elections, with the ability of the city to designate as many early voting sites as necessary and to conduct its activities in accordance with the provisions of F.S. § 101.657(1)(a)—(c).
- (b) If authorized by the city commission per subsection (a) above, early voting shall occur at Miami Beach City Hall and the North Shore Branch Library in accordance with the following schedule:
 - (1) *General election*: Early voting shall commence 15 days immediately preceding the general election for a total of 14 consecutive days.
 - (2) *Run-off election*: Early voting shall occur on the Friday, Saturday and Sunday immediately preceding any run-off election.
 - (3) *Special election-stand-alone (not otherwise held in conjunction with general or run-off election)*²: Early voting shall commence 15 days immediately preceding such special election for a total of 14 consecutive days. In the event of a special election to fill a vacancy on the city commission, early voting for any resulting run-off election shall occur on the Friday, Saturday and Sunday immediately preceding such run-off election.
- (c) The hours of early voting shall be noticed in a newspaper(s) of general circulation within the City of Miami Beach.
- (d) The remaining paragraphs of F.S. § 101.657, exclusive of paragraph (1)(d) thereof, shall continue to apply to the city's general, run-off and special elections as provided by law.
- (e) The city commission may, by resolution, adopted in advance of a general, run-off or special election that is not held in conjunction with a county or state election per subsection (a) above, alter the sites and/or schedule of days (and times, when early voting is either not conducted by the county supervisor of elections, or when the supervisor is conducting the early voting but has not exercised the discretion to determine the early voting hours) for early voting from that which is provided above.
- (f) The city clerk is hereby authorized to take any action not otherwise inconsistent with state or county law, which is necessary or expedient to implement early voting in accordance with this section.

(Ord. No. 2005-3492, § 2, 9-8-05; Ord. No. 2013-3804, § 1, 7-17-13; Ord. No. 2020-4326, § 1, 1-15-20)

² The early voting time period for any special election held in conjunction with a general or run-off election shall occur in accordance with the respective time periods set forth above in Code section 38-6(b)(1), (2).

Sec. 38-7. - Petitions.

Each qualified elector of the city who signs an initiative, referendum or recall petition shall place thereon, his or her name (both the printed and original signature of the elector), his or her street address including city and state, his or her date of birth or voter registration number, and the date (including day, month, and year) on which he or she signed the petition. Elector signatures which do not comply with any one or more of the provisions set forth in this section shall be disqualified.

(Ord. No. 2013-3804, § 1, 7-17-13; Ord. No. 2017-4087, § 1, 4-26-17)

Sec. 38-8. - Canvassing board.

All elections conducted pursuant to the City Charter shall be canvassed by the canvassing board as provided for herein, and under the election laws of this state.

- (a) The canvassing board for city elections held on the same date as a countywide election shall be the Miami-Dade County Canvassing Board.
- (b) The canvassing board for city elections not held on the same date as a countywide election shall be comprised of a county court judge appointed by the chief judge of the Eleventh Judicial Circuit of Miami-Dade County, the city clerk, and a member of the city commission appointed by the city commission. In the event the county court judge selected by the chief judge under this subsection is unable to serve on the canvassing board, such county court judge shall be replaced with another county court judge appointed by the chief judge to serve as substitute member; in the event any other member of the canvassing board under this subsection is unable to serve such member shall be replaced with a qualified elector of the city appointed by the city clerk to serve as a substitute member; the city clerk shall also select a qualified elector of the city to serve as an alternate member who will serve as a member of the canvassing board in the event the substitute or other member (besides the county court judge) is unable to serve.
- (c) No member of the canvassing board shall be a candidate who has opposition in the election being canvassed, or is an active participant in the campaign or candidacy of any candidate who has opposition in the election being canvassed.
- (d) The scheduling of canvassing board meetings, powers, and duties of the canvassing board, not otherwise inconsistent with the above, shall be conducted in accordance with state law.

(Ord. No. 2017-4080, § 1, 3-1-17)

Sec. 38-9. - Electronic reporting/penalties.

- (a) Each person, candidate, political committee, electioneering communications organization, or other individual or organization required to file campaign treasurer's reports with the city clerk in his/her official capacity as filing officer for the City of Miami Beach, pursuant to F.S. ch. 106 shall file such reports by means of the city's electronic filing system.
 - (1) Any failure to file reports on the designated due date shall subject the violator to those penalties provided in said [F.S.] ch. 106.
 - (2) The city clerk shall determine the required format and related process for the campaign treasurer's reports and shall provide copies of information upon request.
- (b) Definitions.
 - (1) "Person," "candidate", "political committee," and "electioneering communications organization" shall have the meanings ascribed to such terms in F.S. ch. 106.
 - (2) "Campaign treasurer's reports" shall mean the campaign finance reports required to be filed by each person, candidate, political committee, electioneering communications organization, or other individual or organization, pursuant to F.S. ch. 106.

(Ord. No. 2016-4066, § 1, 12-14-16)

Sec. 38-10. - Electronic posting.

Campaign treasurer reports electronically filed pursuant to this chapter shall be posted on the city's website by the city clerk within two business days of any such report's electronic filing date.

(Ord. No. 2016-4066, § 1, 12-14-16)

Sec. 38-11. - Technical assistance.

The city clerk shall provide technical assistance to those subject to the electronic filing requirements set forth above. The city commission may, by resolution, establish a schedule of fees for such technical assistance.

(Ord. No. 2016-4066, § 1, 12-14-16)

Footnotes:

--- (1) ---

Charter reference— Elections, art. VI; initiative and referendum elections, art. VII.

Cross reference— Any ordinance calling elections or prescribing the manner of conducting the election in accordance with state law saved from repeal, § 1-10(a)(16); administration, ch. 2; city commission, § 2-31 et seq.; election signs, § 138-134.

State Law reference— Florida election Code, F.S. chs. 97—106.

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ORDINANCE NO. 2023-4557

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING MIAMI BEACH CITY CODE CHAPTER 2 "ADMINISTRATION", ARTICLE VII "STANDARDS OF CONDUCT", AT DIVISION 5 "CAMPAIGN FINANCE REFORM", SECTIONS 2-487 THROUGH AND INCLUDING 2-490 THEREOF TO PROHIBIT CANDIDATES FOR CITY ELECTED OFFICE AND MEMBERS OF THE CITY COMMISSION FROM SOLICITING VENDORS, REAL ESTATE DEVELOPERS AND THEIR LOBBYISTS FOR CONTRIBUTIONS TO ELECTIONEERING COMMUNICATIONS ORGANIZATIONS THAT EXPEND FUNDS RELATED TO CANDIDATES FOR CITY ELECTED OFFICE, AND FURTHER ESTABLISHING DISCLOSURE REQUIREMENTS OF SUCH CITY CANDIDATES AND CITY COMMISSION MEMBERS FOR THEIR SOLICITATION OF CONTRIBUTIONS FOR POLITICAL COMMITTEES AND ELECTIONEERING COMMUNICATIONS ORGANIZATIONS; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, as reflected by its prior adoption of legislation on the issue of Campaign Finance Reform, the Miami Beach City Commission has found and determined that legislation is necessary for the preservation of the integrity of representative democracy in the City of Miami Beach, in order to combat quid pro quo and its appearance; and

WHEREAS, pursuant to Section 106.11 of the Florida Statutes, Electioneering Communications Organization ("ECO") means any group, other than a political party, affiliated party committee, or political committee, whose election-related activities are limited to making expenditures for electioneering communications or accepting contributions for the purpose of making electioneering communications and whose activities would not otherwise require the group to register as a political party or political committee under Chapter 106 of the Florida Statutes; and

WHEREAS, although the City's campaign finance laws prohibit candidates for the City Commission and members of the City Commission from soliciting lobbyists, vendors and real estate developers ("prohibited donors") for contributions to political committees, a "loophole" exists in that the City Code does not address solicitations of prohibited donors for contributions for ECOs that expend funds relating to candidates for City elected office; and

WHEREAS, the City Commission has determined that responsible and effective use of legislative power requires that candidates for City elected office and incumbent members of the City Commission be insulated from actual or perceived quid pro quo, which is accomplished in part by proscribing their solicitation of prohibited donors for

contributions to both political committees and ECOs related to candidates for City elected office; and

WHEREAS, the below legislation is thus presented as an amendment to the City's Code of Conduct in order to provide for stricter ethics laws than currently exist in the City Code, and extend existing restrictions regarding solicitations for contributions for ECOs expending funds relating to candidates for City elected office; and

WHEREAS, in addition, in furtherance of the City's interests in transparency in government, this Ordinance seeks to establish a requirement for a candidate for City elected office, or a member of the city commission, to file a one-time report with the city clerk indicating that they are undertaking solicitation activities on behalf of a political committee or electioneering communications organization, prior to commencing such solicitation activities; and

WHEREAS, the following amendments to Chapter 2, Article VII, Division 5 of the City Code are necessary to accomplish this objective.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AS FOLLOWS:

SECTION 1. Miami Beach City Code Chapter 2, Article VII, Division 5 thereof at Sections 2-487 through and including 2-490 are hereby amended as follows:

CHAPTER 2 ADMINISTRATION

* * *

ARTICLE VII. STANDARDS OF CONDUCT

* * *

DIVISION 5. CAMPAIGN FINANCE REFORM

Sec. 2-487. Prohibited campaign contributions by vendors.

A. General.

(1) (a) No vendor shall give a campaign contribution directly or indirectly to a candidate, or to the campaign committee of a candidate, for the offices of mayor or commissioner. Commencing on the effective date of this ordinance, all proposed city contracts, purchase orders, standing orders, direct payments, as well as requests for proposals (RFP), requests for qualifications (RFQ), requests for letters of interest (RFLI), or bids issued by the city, shall incorporate this section so as to notify potential vendors of the proscription embodied herein.

(b) i. No candidate or campaign committee of a candidate for the offices of mayor or commissioner, or member of the city commission, shall directly or

indirectly solicit, accept² or deposit into such candidate's campaign account any campaign contribution from a vendor. Candidates (or those acting on their behalf), as well as members of the city commission, shall ensure compliance with this code section by confirming with the procurement division's city records (including City of Miami Beach website) to verify the vendor status of any potential donor.

ii. For purposes of subsection A(1)(b)i. hereinabove, the term "indirectly solicit" shall be defined as the situation in which a candidate, campaign committee of a candidate, or member of the city commission actively coordinates or directs another person or entity to solicit a vendor for a campaign contribution, as prohibited above. The term "indirectly" shall also be defined to include those instances in which a candidate for the offices of mayor or commissioners, or a member of the city commission, solicits a vendor for campaign contributions for a political committee which supports or opposes candidates for city elected office, or solicits a vendor for contributions for an electioneering communications organization (ECO) which makes expenditures for electioneering communications relating to candidates for city elected office or accepts contributions for the purpose of making such electioneering communications.

(2) (a) A fine of up to \$500.00 shall be imposed on every person who violates this section. Each act of soliciting, giving, accepting or depositing a contribution in violation of this section shall constitute a separate violation. All contributions deposited by a candidate in violation of this section shall be forfeited to the city's general revenue fund.

(b) Any candidate or member of the city commission that is issued a letter of instruction or other finding of a violation of this section or sections 12-14.2.1 or 12-14.2.2 of the Code of Miami-Dade County, Florida shall provide the city clerk with a copy of such letter of instruction or other finding of violation within ten (10) days of receipt thereof, and the city clerk shall post such letter of instruction or other finding of a violation on the city's website.

(c) If the letter of instruction or other finding of a violation involves any failure to comply with the requirements of sections 12-14.2.1 or 12-14.2.2 of the Code of Miami-Dade County, Florida, the candidate or member of the city commission shall notify the city clerk in writing, at the time of submission to the city clerk of the letter of instruction or other finding of a violation, whether the contribution or proceeds associated with such letter of instruction or other violation has been returned to the donor.

(d) Notwithstanding the provisions of section 2-487(D) herein, the provisions of sections 2-487(A)(2)(b) and (c) shall apply to any letter of instruction or other finding of a violation issued on or after the effective date of this ordinance.

(3) (a) Disqualification from serving as vendor.

1. A person or entity other than a vendor who directly or indirectly makes a contribution to a candidate who is elected to the office of mayor or commissioner shall be disqualified for a period of 12 months following the swearing in of the subject elected official from serving as a vendor with the city.
 2. i. A vendor who directly or indirectly makes a contribution to a candidate who is elected to the office of mayor or commissioner shall be disqualified from serving as a vendor with the city for a period of 12 months from a final finding of violation, or from action on a waiver request by the Miami Beach City Commission (per subsection B herein below) in the event a waiver of said violation is sought.
 - ii. In the event such waiver request for a particular transaction is granted, the affected vendor shall nonetheless be disqualified from serving as a vendor with the city as to all other vendor projects for the stated 12-month period. In the event such waiver request is denied for a particular transaction, the 12-month disqualification period shall apply to both the particular transaction which was the subject of the waiver request, as well as all other vendor projects during that 12-month period.
- (b) Definition. For purposes of this section, the term "disqualified" shall be defined to include:
1. Termination of a donor/vendor's existing contract with the city, subject to the waiver provisions of subsections B(1)(d) and B(2) herein; and
 2. Disqualification of a donor's response to solicitation requests for prospective vendor contracts with the city, subject to the waiver provisions of subsections B(1)(a), (b) and (c) herein.
- (4) As used in this section:
- (a) 1. A "vendor" is a person and/or entity who has been selected by the city as the successful contractor on a present or pending solicitation for goods, equipment or services, or has been approved by the city on a present or pending award for goods, equipment or services prior to or upon execution of a contract, purchase order, standing order, direct payment or purchasing card payment. The term "vendor" shall not include those persons and/or entities who provide goods, equipment or services not exceeding \$10,000.00 in a City of Miami Beach fiscal year wherein city commission action is not required.
 2. "Vendor" shall include natural persons and/or entities who hold a controlling financial interest in a vendor entity. The term "controlling financial interest" shall mean the ownership, directly or indirectly, of ten percent or more of the outstanding capital stock in any corporation or a direct or indirect interest of ten percent or more in a firm. The term "firm" shall mean a corporation, partnership, business trust or any legal entity other than a natural person.

3. For purposes of this section, "vendor" status shall terminate upon completion of the agreement for the provision of goods, equipment or services.
- (b) For purposes of this section, the term "services" shall mean the rendering by a vendor through competitive bidding or otherwise, of labor, professional and/or consulting services to the city.
- (c) The term contribution shall have the meaning ascribed to such term in F.S. ch. 106, as amended and supplemented (copies available in city clerk's office).
- (d) The term "political committee" shall have the meaning ascribed to such term in Florida Statutes Ch. 106, as amended and supplemented.
- (e) The term "electioneering communications organization" or ("ECO") shall have the meaning ascribed to such term in Florida Statutes Ch. 106, as amended and supplemented.
- (fe) The term "candidate" shall have the meaning ascribed to such term in Florida Statutes, section 97.021(5), as amended and supplemented.

B. Registration with City Clerk.

Prior to commencing solicitation activities (not otherwise prohibited by this Section), either directly or indirectly, on behalf of a political committee which supports or opposes candidates for city elected office, or electioneering communications organization which makes expenditures for electioneering communications relating to candidates for city elected office or accepts contributions for the purpose of making such electioneering communications, a candidate for the offices of mayor or commissioners, or a member of the city commission shall file a one-time report with the city clerk indicating that the candidate or member of the city commission is undertaking solicitation activities on behalf of such political committee or electioneering communications organization.

1. The report shall be filed on a form created by the city clerk for such purpose, and shall include:

a. the full name, address and telephone number of the political committee or electioneering communications organization on behalf of whom such funds are being solicited;

b. the name of the registered agent for the political committee or electioneering communications organization, as well as the name of the chairperson or treasurer thereof;

c. the jurisdiction where the political committee or electioneering communications organization filed its statement of organization (e.g., either City of Miami Beach, Miami-Dade County, or the State of Florida);

d. a description of the relationship between the candidate or member of city commission (as is applicable) and the political committee or electioneering communications organization; and

e. a certification that the candidate or member of the city commission acknowledging that it is their responsibility to read, understand, and follow the campaign finance requirements described in this article VII, division 5.

CB. Waiver of prohibition.

- (1) *Conditions for waiver.* The requirements of this section may be waived by a five-sevenths vote for a particular transaction by city commission vote after public hearing upon finding that:
 - (a) The goods, equipment or services to be involved in the proposed transaction are unique and the city cannot avail itself of such goods, equipment or services without entering into a transaction which would violate this section but for waiver of its requirements; or
 - (b) The business entity involved in the proposed transaction is the sole source of supply as determined by the city's procurement director in accordance with procedures established in subsection 2-367(c) of this Code; or
 - (c) An emergency contract (as authorized by the city manager pursuant to section 2-396 of this Code) must be made in order to protect the health, safety or welfare of the citizens of the city, as determined by a five-sevenths vote of the city commission; or
 - (d) A contract for the provision of goods, equipment or services exists which, if terminated by the city, would be adverse to the best economic interests of the city.
- (2) *Conditions for limited waiver.* Notwithstanding the denial by the city commission of a waiver request regarding an existing contract per subsection BC(1)(d) above, upon a five-sevenths vote of the city commission at a public hearing, a limited waiver may be granted on an existing contract upon a finding that in order to protect the health, safety and welfare of the citizens of the city, continuation of said contract for a limited period of time (not to exceed six months) is necessary in order for the city to obtain a replacement vendor.
- (3) *Full disclosure.* Any grant of waiver by the city commission must be supported with a full disclosure of the subject campaign contribution.

DG. Applicability. This section shall be applicable only to prospective transactions, and the city commission may in no case ratify a transaction entered into in violation of this section.

Sec. 2-488. Prohibited campaign contributions by lobbyists on procurement issues.

- (1) No lobbyist on a present or pending solicitation for goods, equipment or services or on a present or pending award for goods, equipment or services prior to or upon execution of a contract, purchase order, standing order, direct payment, or purchasing card payment shall solicit for or give a campaign contribution directly or

indirectly to a candidate, or to the campaign committee of a candidate, for the offices of mayor or commissioner. The term "lobbyist" shall not include those individuals who lobby on behalf of persons and/or entities in connection with their provision of goods, equipment or services not exceeding \$10,000.00 in a City of Miami Beach fiscal year wherein city commission action is not required.

(a) Commencing on the effective date of this ordinance, all proposed city contracts, purchase orders, standing orders, direct payments, as well as requests for proposals (RFP), requests for qualifications (RFQ), requests for letters of interest (RFLI), or bids issued by the city, shall incorporate this section so as to notify lobbyists of the proscription embodied herein.

(b) i. No candidate, or campaign committee of a candidate for the offices of mayor or commissioner, or member of the City Commission, shall directly or indirectly solicit, accept, or deposit into such candidate's campaign account any campaign contribution from a lobbyist subject to the provisions of this ordinance. Candidates (or those acting on their behalf), as well as members of the City Commission, shall ensure compliance with this code section by confirming with the city clerk's records to verify the lobbyist status of any potential donor.

ii. For purposes of Subsection (1)(b)i. hereinabove, the term "indirectly solicit" shall be defined as the situation in which a candidate, campaign committee of a candidate, or member of the City Commission actively coordinates or directs another person or entity to solicit a lobbyist on a procurement issue for a campaign contribution, as prohibited above. The term "indirectly" shall also be defined to include those instances in which a candidate for the offices of Mayor or Commissioners, or a member of the City Commission, solicits a lobbyist on a procurement issue for campaign contributions for a political committee which supports or opposes candidates for City elected office, or solicits a lobbyist for contributions for an electioneering communications organization (ECO) which makes expenditures for electioneering communications relating to candidates for city elected office or accepts contributions for the purpose of making such electioneering communications.

(2) (a) A person other than a lobbyist on a procurement issue as set forth in subsection (1) above, who directly or indirectly solicits for or makes a contribution to a candidate who is elected to the office of mayor or commissioner shall be disqualified for a period of 12 months following the swearing in of the subject elected official from lobbying the city commission in connection with a present or pending bid for goods, equipment or services or on a present or pending award for goods, equipment or services.

(b) A lobbyist on a procurement issue as set forth in subsection (1) above, who directly or indirectly makes a contribution to a candidate who is elected to the office of mayor or commissioner shall be disqualified from lobbying the city commission in connection with a present or pending bid for goods, equipment or services or on a present or pending award for goods, equipment or services for a period of 12 months from a final finding of violation.

(3) (a) A fine of up to \$500.00 shall be imposed on every person who violates this section. Each act of soliciting, giving, accepting or depositing a contribution in violation of this section shall constitute a separate violation. All contributions deposited by a candidate in violation of this section shall be forfeited to the city's general revenue fund.

(b) Any candidate or member of the city commission that is issued a letter of instruction or other finding of a violation of this section or sections 12-14.2.1 or 12-14.2.2 of the Code of Miami-Dade County, Florida shall provide the city clerk with a copy of such letter of instruction or other finding of violation within ten (10) days of receipt thereof, and the city clerk shall post such letter of instruction or other finding of a violation on the city's website.

(c) If the letter of instruction or other finding of a violation involves any failure to comply with the requirements of sections 12-14.2.1 or 12-14.2.2 of the Code of Miami-Dade County, Florida, the candidate or member of the city commission shall notify the city clerk in writing, at the time of submission to the city clerk of the letter of instruction or other finding of a violation, whether the contribution or proceeds associated with such letter of instruction or other violation has been returned to the donor.

(d) The provisions of sections 2-488(3)(b) and (c) shall apply to any letter of instruction or other finding of a violation issued on or after the effective date of this ordinance.

(4) The term "contribution" shall have the meaning ascribed to such term in F.S. ch. 106, as amended and supplemented.

(5) The term "political committee" shall have the meaning ascribed to such term in Florida Statutes Ch. 106, as amended and supplemented.

(6) The term "electioneering communications organization" or ("ECO") shall have the meaning ascribed to such term in Florida Statutes Ch. 106, as amended and supplemented.

(7) The term "candidate" shall have the meaning ascribed to such term in Florida Statutes, § 97.021(5), as amended and supplemented.

(8) *Registration with City Clerk.* Prior to commencing solicitation activities (not otherwise prohibited by this Section), either directly or indirectly, on behalf of a political committee which supports or opposes candidates for city elected office, or electioneering communications organization which makes expenditures for electioneering communications relating to candidates for city elected office or accepts contributions for the purpose of making such electioneering communications, a candidate for the offices of mayor or commissioners, or a member of the city commission, shall file a one-time report with the city clerk indicating that the candidate or member of the city commission 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 or member of city commission (as is applicable) and the political committee or electioneering

communications organization. The report shall be filed on a form created by the city clerk for such purpose.

a. The report shall be filed on a form created by the city clerk for such purpose, and shall include:

i. the full name, address and telephone number of the political committee or electioneering communications organization on behalf of whom such funds are being solicited;

ii. the name of the registered agent for the political committee or electioneering communications organization, as well as the name of the chairperson or treasurer thereof;

iii. the jurisdiction where the political committee or electioneering communications organization filed its statement of organization (e.g., either City of Miami Beach, Miami-Dade County, or the State of Florida);

iv. a description of the relationship between the candidate or member of city commission (as is applicable) and the political committee or electioneering communications organization; and

v. a certification that the candidate or member of the city commission acknowledging that it is their responsibility to read, understand, and follow the campaign finance requirements described in this article VII, division 5.

Sec. 2-489. Prohibited campaign contributions by real estate developers.

A. General.

(1) (a) No real estate developer shall give a campaign contribution directly or indirectly to a candidate, or to the campaign committee of a candidate, for the offices of mayor or commissioner. Commencing on the February 15, 2003, all applications for development agreements and for changes in zoning map designation as well as future land use map changes shall incorporate this section so as to notify potential real estate developers of the proscription embodied herein.

(b) i. No candidate, or campaign committee of a candidate for the offices of mayor or commissioner, or member of the City Commission, shall directly or indirectly solicit, accept, or deposit into such candidate's campaign account any campaign contribution from a real estate developer. Candidates (or those acting on their behalf), as well as members of the City Commission, shall ensure compliance with this code section by confirming with the city planning department's records (including city of Miami Beach website) to verify the real estate developer status of any potential donor.

ii. For purposes of Subsection A(1)(b)i. hereinabove, the term "indirectly solicit" shall be defined as the situation in which a candidate, campaign committee of a candidate, or member of the City Commission actively coordinates or directs another person or entity to solicit a real estate

developer for a campaign contribution, as prohibited above. The term "indirectly" shall also be defined to include those instances in which a candidate for the offices of Mayor or Commissioners, or a member of the City Commission, solicits a real estate developer for campaign contributions for a political committee which supports or opposes candidates for City elected office, or solicits a real estate developer for contributions for an electioneering communications organization (ECO) which makes expenditures for electioneering communications relating to candidates for city elected office or accepts contributions for the purpose of making such electioneering communications.

(2) (a) A fine of up to \$500.00 shall be imposed on every person who violates this section. Each act of soliciting, giving, accepting or depositing a contribution in violation of this section shall constitute a separate violation. All contributions deposited by a candidate in violation of this section shall be forfeited to the city's general revenue fund.

(b) Any candidate or member of the city commission that is issued a letter of instruction or other finding of a violation of this section or sections 12-14.2.1 or 12-14.2.2 of the Code of Miami-Dade County, Florida shall provide the city clerk with a copy of such letter of instruction or other finding of violation within ten (10) days of receipt thereof, and the city clerk shall post such letter of instruction or other finding of a violation on the city's website.

(c) If the letter of instruction or other finding of a violation involves any failure to comply with the requirements of sections 12-14.2.1 or 12-14.2.2 of the Code of Miami-Dade County, Florida, the candidate or member of the city commission shall notify the city clerk in writing, at the time of submission to the city clerk of the letter of instruction or other finding of a violation, whether the contribution or proceeds associated with such letter of instruction or other violation has been returned to the donor.

(d) Notwithstanding the provisions of section 2-489(D) herein, the provisions of sections 2-489(A)(2)(b) and (c) shall apply to any letter of instruction or other finding of a violation issued on or after the effective date of this ordinance.

(3) (a) A person or entity other than a real estate developer who directly or indirectly makes a contribution to a candidate who is elected to the office of mayor or commissioner shall be disqualified for a period of 12 months following the swearing in of the subject elected official from becoming a real estate developer.

(b) 1. A real estate developer who directly or indirectly makes a contribution to a candidate who is elected to the office of mayor or commissioner shall be disqualified from becoming a real estate developer for a period of 12 months from a final finding of violation, or from action on a waiver request by the Miami Beach City Commission in the event a waiver of said violation is sought.

2. In the event such waiver request for a particular real estate project and/or land use application is granted, the affected real estate

developer shall nonetheless be disqualified from serving as a real estate developer with the city as to all other relevant real estate projects and/or applications for land use relief referred to in subsection A(4)(a)(1) below for the stated 12-month period. In the event such waiver request is denied for a particular real estate project and/or land use application, the 12-month disqualification period for the affected real estate developer shall apply to both the particular real estate project and/or land use application which was the subject of the waiver request, as well as all other relevant real estate projects and/or applications for land use relief referred to in subsection A(4)(a)(1) below during that 12-month period.

- (c) A real estate developer shall not make a contribution within 12 months after termination of its status as a real estate developer.
- (4) As used in this section:
- (a) 1. A "real estate developer" is a person and/or entity who has a pending application for a development agreement with the city or who is currently negotiating with the city for a development agreement, or, who has a present or pending application with the city for a change of zoning map designation or a change to the city's future land use map.
 - 2. "Real estate developer" shall include natural persons and/or entities who hold a controlling financial interest in a real estate developer entity. The term "controlling financial interest" shall mean the ownership, directly or indirectly, of ten percent or more of the outstanding capital stock in any corporation or a direct or indirect interest of ten percent or more in a firm. The term "firm" shall mean a corporation, partnership, business trust or any legal entity other than a natural person.
 - 3. For purposes of this section, "real estate developer" status shall terminate upon the final approval or disapproval by the city commission of the requested development agreement, and/or upon final approval or disapproval of the subject application for the land use relief, referred to in subsection (4)(a)1. above.
- (b) The term "development agreement" shall have the meaning ascribed to such term in F.S. ch. 163, as amended and supplemented. For purposes of this section, the term "development agreement" shall include any amendments, extensions, modifications or clarifications thereto.
 - (c) The term contribution shall have the meaning ascribed to such term in F.S. ch. 106, as amended and supplemented.
 - (d) The term "political committee" shall have the meaning ascribed to such term in Florida Statutes Ch. 106, as amended and supplemented.
 - (e) The term "electioneering communications organization" or ("ECO") shall have the meaning ascribed to such term in Florida Statutes Ch. 106, as amended and supplemented.

(fe) The term "candidate" shall have the meaning ascribed to such term in Florida Statutes, section 97.021(5), as amended and supplemented.

B. Registration with City Clerk.

Prior to commencing solicitation activities (not otherwise prohibited by this Section), either directly or indirectly, on behalf of a political committee which supports or opposes candidates for city elected office, or electioneering communications organization which makes expenditures for electioneering communications relating to candidates for city elected office or accepts contributions for the purpose of making such electioneering communications, a candidate for the offices of mayor or commissioners, or a member of the city commission, shall file a one-time report with the city clerk indicating that the candidate or member of the city commission 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 or member of city commission (as is applicable) and the political committee or electioneering communications organization. The report shall be filed on a form created by the city clerk for such purpose. The registration requirements of this section shall apply to solicitations activities made on or after June 1, 2023.

1. The report shall be filed on a form created by the city clerk for such purpose, and shall include:

a. the full name, address and telephone number of the political committee or electioneering communications organization on behalf of whom such funds are being solicited;

b. the name of the registered agent for the political committee or electioneering communications organization, as well as the name of the chairperson or treasurer thereof;

c. the jurisdiction where the political committee or electioneering communications organization filed its statement of organization (e.g., either City of Miami Beach, Miami-Dade County, or the State of Florida);

d. a description of the relationship between the candidate or member of city commission (as is applicable) and the political committee or electioneering communications organization; and

e. a certification that the candidate or member of the city commission acknowledging that it is their responsibility to read, understand, and follow the campaign finance requirements described in this article VII, division 5.

CB. Conditions for waiver of prohibition. The requirements of this section may be waived by a five-sevenths vote for a particular real estate project and/or land use application by city commission vote after public hearing upon finding that such waiver would be in the best interest of the city.

Any grant of waiver by the city commission must be supported with a full disclosure of the subject campaign contribution.

D. *Applicability.* This section shall be applicable only to prospective real estate projects and/or applications for land use relief, and the city commission may in no case ratify a development agreement and/or application for land use relief entered into in violation of this section.

Sec. 2-490. Prohibited campaign contributions by lobbyists on real estate development issues.

- (1) No lobbyist on a pending application for a development agreement with the city, or application for change of zoning map designation or change to the city's future land use map shall solicit for or give a campaign contribution directly or indirectly to a candidate, or to the campaign committee of a candidate, for the offices of mayor or commissioner.
 - (a) Commencing on the effective date of this ordinance, all applications for development agreements and for changes in zoning map designation or future land use map changes, shall incorporate this section so as to notify affected lobbyists of the proscription embodied herein.
 - (b) i. No candidate, or campaign committee of a candidate for the offices of mayor or commissioner, or member of the city commission, shall directly or indirectly solicit, accept or deposit into such candidate's campaign account any campaign contribution from a lobbyist subject to the provisions of this section. Candidates (or those acting on their behalf), as well as members of the city commission, shall ensure compliance with this code section by confirming with the city clerk's and planning department's records to verify the lobbyist status of any potential donor.
 - ii. For purposes of subsection (1)(b)i. hereinabove, the term "indirectly solicit" shall be defined as the situation in which a candidate, campaign committee of a candidate, or member of the city commission actively coordinates or directs another person or entity to solicit a lobbyist on a real estate development issue for a campaign contribution, as prohibited above. The term "indirectly" shall also be defined to include those instances in which a candidate for the offices of mayor or commissioner, or a member of the city commission, solicits a lobbyist on a real estate development issue for campaign contributions for a political committee which supports or opposes candidates for city elected office, or solicits a lobbyist on a real estate development issue for contributions for an electioneering communications organization (ECO) which makes expenditures for electioneering communications relating to candidates for city elected office or accepts contributions for the purpose of making such electioneering communications.
- (2) (a) A person other than a lobbyist on a real estate development issue as set forth in subsection (1) above, who directly or indirectly solicits for or makes a contribution to a candidate who is elected to the office of mayor or commissioner shall be disqualified for a period of 12 months following the swearing in of the subject elected official from lobbying the city commission in connection with a present development

agreement, in connection with a development agreement that is currently being negotiated, or in connection with a present or pending application with the city for a change of zoning map designation or a change to the city's future land use map.

(b) A lobbyist on a real estate development issue as set forth in subsection (1) above, who directly or indirectly makes a contribution to a candidate who is elected to the office of mayor or commissioner shall be disqualified from lobbying the city commission in connection with a present development agreement, in connection with a development agreement that is currently being negotiated, or in connection with a present or pending application with the city for a change of zoning map designation or a change to the city's future land use map for a period of 12 months from a final finding of violation.

(3) (a) A fine of up to \$500.00 shall be imposed on every person who violates this section. Each act of soliciting, giving, accepting or depositing a contribution in violation of this section shall constitute a separate violation. All contributions deposited by a candidate in violation of this section shall be forfeited to the city's general revenue fund.

(b) Any candidate or member of the city commission that is issued a letter of instruction or other finding of a violation of this section or sections 12-14.2.1 or 12-14.2.2 of the Code of Miami-Dade County, Florida shall provide the city clerk with a copy of such letter of instruction or other finding of violation within ten (10) days of receipt thereof, and the city clerk shall post such letter of instruction or other finding of a violation on the city's website.

(c) If the letter of instruction or other finding of a violation involves any failure to comply with the requirements of sections 12-14.2.1 or 12-14.2.2 of the Code of Miami-Dade County, Florida, the candidate or member of the city commission shall notify the city clerk in writing, at the time of submission to the city clerk of the letter of instruction or other finding of a violation, whether the contribution or proceeds associated with such letter of instruction or other violation has been returned to the donor.

(d) The provisions of sections 2-490(3)(b) and (c) shall apply to any letter of instruction or other finding of a violation issued on or after the effective date of this ordinance.

(4) The term "contribution" shall have the meaning ascribed to such term in F.S. ch. 106, as amended and supplemented.

(5) The term "development agreement" shall have the meaning ascribed to such term in F.S. ch 163, as amended and supplemented.

(6) The term "lobbyist" as used herein shall exclude any person who only appears as a representative of a nonprofit corporation or entity, without special compensation or reimbursement for the appearance, whether direct or indirect, to express his/her support of or opposition to the subject item.

(7) The term "political committee" shall have the meaning ascribed to such term in F.S. ch. 106, as amended and supplemented.

(8) The term "electioneering communications organization" or ("ECO") shall have the meaning ascribed to such term in Florida Statutes Ch. 106, as amended and supplemented.

(9~~8~~) The term "candidate" shall have the meaning ascribed to such term in F.S. § 97.021(5), as amended and supplemented.

(10) Registration with City Clerk. Prior to commencing solicitation activities (not otherwise prohibited by this Section), either directly or indirectly, on behalf of a political committee which supports or opposes candidates for city elected office, or electioneering communications organization which makes expenditures for electioneering communications relating to candidates for city elected office or accepts contributions for the purpose of making such electioneering communications, a candidate for the offices of mayor or commissioners, or a member of the city commission, shall file a one-time report with the city clerk indicating that the candidate or member of the city commission 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 or member of city commission (as is applicable) and the political committee or electioneering communications organization. The report shall be filed on a form created by the city clerk for such purpose.

a. The report shall be filed on a form created by the city clerk for such purpose, and shall include:

i. the full name, address and telephone number of the political committee or electioneering communications organization on behalf of whom such funds are being solicited;

ii. the name of the registered agent for the political committee or electioneering communications organization, as well as the name of the chairperson or treasurer thereof;

iii. the jurisdiction where the political committee or electioneering communications organization filed its statement of organization (e.g., either City of Miami Beach, Miami-Dade County, or the State of Florida);

iv. a description of the relationship between the candidate or member of city commission (as is applicable) and the political committee or electioneering communications organization; and

v. a certification that the candidate or member of the city commission acknowledging that it is their responsibility to read, understand, and follow the campaign finance requirements described in this article VII, division 5.

SECTION 2. REPEALER.

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 3. SEVERABILITY.

If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 4. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word " ordinance" may be changed to " section," article," or other appropriate word.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect the 1st day of June, 2023.

PASSED and **ADOPTED** this 17 day of May, 2023.

ATTEST:

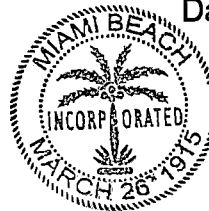


Dan Gelber, Mayor



MAY 22 2023


Rafael E. Granado, City Clerk



Underline denotes additions
~~Strikethrough~~ denotes deletions

(Sponsored by Mayor Dan Gelber and Commissioner Steven Meiner)

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

4-21-23
Date

PAZ

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission
FROM: Rafael A. Paz, City Attorney
DATE: May 17, 2023

10:35 a.m. Second Reading Public Hearing

SUBJECT: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING MIAMI BEACH CITY CODE CHAPTER 2 "ADMINISTRATION", ARTICLE VII "STANDARDS OF CONDUCT," AT DIVISION 5 "CAMPAIGN FINANCE REFORM", SECTIONS 2-487 THROUGH AND INCLUDING 2-490 THEREOF TO PROHIBIT CANDIDATES FOR CITY ELECTED OFFICE AND MEMBERS OF THE CITY COMMISSION FROM SOLICITING VENDORS, REAL ESTATE DEVELOPERS AND THEIR LOBBYISTS FOR CONTRIBUTIONS TO ELECTIONEERING COMMUNICATIONS ORGANIZATIONS THAT EXPEND FUNDS RELATED TO CANDIDATES FOR CITY ELECTED OFFICE, AND FURTHER ESTABLISHING DISCLOSURE REQUIREMENTS OF SUCH CITY CANDIDATES AND CITY COMMISSION MEMBERS FOR THEIR SOLICITATION OF CONTRIBUTIONS FOR POLITICAL COMMITTEES AND ELECTIONEERING COMMUNICATIONS ORGANIZATIONS; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

ANALYSIS

See attached Commission Memorandum.

SUPPORTING SURVEY DATA

N/A

FINANCIAL INFORMATION

N/A

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-14?

No

Does this item utilize G.O. Bond Funds?

No

Legislative Tracking

Office of the City Attorney

Sponsor

Mayor Dan Gelber and Commissioner Steven Meiner

ATTACHMENTS:

Description

- ▢ Commission Memorandum
- ▢ Ordinance

MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor Dan Gelber and Members of the City Commission
Alina T. Hudak, City Manager

FROM: Rafael A. Paz, City Attorney



SECOND READING

DATE: May 17, 2023

SUBJECT: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING MIAMI BEACH CITY CODE CHAPTER 2 "ADMINISTRATION", ARTICLE VII "STANDARDS OF CONDUCT", AT DIVISION 5 "CAMPAIGN FINANCE REFORM", SECTIONS 2-487 THROUGH AND INCLUDING 2-490 THEREOF TO PROHIBIT CANDIDATES FOR CITY ELECTED OFFICE AND MEMBERS OF THE CITY COMMISSION FROM SOLICITING VENDORS, REAL ESTATE DEVELOPERS AND THEIR LOBBYISTS FOR CONTRIBUTIONS TO ELECTIONEERING COMMUNICATIONS ORGANIZATIONS THAT EXPEND FUNDS RELATED TO CANDIDATES FOR CITY ELECTED OFFICE, AND FURTHER ESTABLISHING DISCLOSURE REQUIREMENTS OF SUCH CITY CANDIDATES AND CITY COMMISSION MEMBERS FOR THEIR SOLICITATION OF CONTRIBUTIONS FOR POLITICAL COMMITTEES AND ELECTIONEERING COMMUNICATIONS ORGANIZATIONS; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

At the April 28, 2023 City Commission Meeting, the proposed Ordinance, sponsored by Mayor Dan Gelber and Commissioner Steven Meiner, was approved on first reading. No changes have been made between first and second reading. A summary of the proposed Ordinance is set forth below.

The City's existing campaign finance laws are a key component of the City Commission's efforts to promote ethics and public confidence in elected officials and candidates for elected office.

Among other restrictions, the City's existing campaign finance laws prohibit a candidate for City elected office and/or a member of the City Commission, from soliciting certain City vendors, real estate developers (as defined in the City Code), and their respective lobbyists (collectively, "Prohibited Donors"), for a contribution for a candidate, campaign committee of a candidate, or a political committee that supports or opposes candidates for City elected office.

The City's campaign finance laws, however, do not currently cover solicitations made to Electioneering Communications Organizations (ECOs). ECOs are recognized under Florida law as a type of group (other than a political party, affiliated party committee, or political committee), whose election-related activities are limited to making expenditures for certain "electioneering communications" within a specified period prior to any election, i.e., communications which may refer to a candidate for office without expressly advocating for election or defeat of the candidate.

Accordingly, the proposed Ordinance seeks to close the “loophole” with respect to solicitations for ECOs, and prohibit candidates for City elected office and members of the City Commission from soliciting Prohibited Donors for contributions to ECOs that expend funds related to candidates for City elected office, in the same manner as such solicitations are currently prohibited for political committees.

The proposed Ordinance also requires candidates for City elected office and members of the City Commission to register with the City Clerk, prior to commencing solicitation activities for contributions to political committees or ECOs, e.g., for those solicitations that are not otherwise prohibited under the City Code. In addition, the proposed Ordinance requires disclosure to the City Clerk in the event any agency with jurisdiction, such as the Miami-Dade County Ethics Commission, issues a letter of instruction or other finding of a violation of any solicitation requirement of the City Code or Miami-Dade County Code.

If approved on first reading on April 28, 2023, we anticipate that second reading of the proposed ordinance will be noticed for the May 17, 2023 City Commission meeting.

RAP/ag

CITY OF MIAMI BEACH

CODE

ELECTION/FREE SPEECH SIGNS

ARTICLE III. - SPECIFIC DISTRICT SIGN REGULATIONS

Sec. 138-61. - Display of signs or advertisement on vehicles; prohibitions; exemptions; penalties.

- (a) Signs attached to or placed on a vehicle (including trailers) that is parked on public or private property shall be prohibited. This prohibition, however, does not apply in the following cases:
- (1) Identification of a firm or its principal products on a vehicle operating during the normal hours of business or parked at the owner's residence; provided, however, that no such vehicle shall be parked on public or private property with signs attached or placed on such vehicle for the purpose of advertising a business or firm or calling attention at the location of a business or firm.
 - (2) Vehicles carrying advertising signs dealing with the candidacy of individuals for elected office or advertising propositions to be submitted and voted upon by the people. This exemption, however, shall cease seven days after the date of the election in which the person was finally voted upon.
 - (3) Vehicles that require governmental identification, markings, or insignias of a local, state, or federal government agency.
 - (4) Signs that are authorized under chapter [section] 10-4(b) and BA-276 of the Code of Miami-Dade County.
 - (5) All other signs on vehicles advertising a business or firm shall be removed or covered when the vehicle is parked on public or private property.
 - (6) All allowable signs on vehicles, which are removable, are to be removed during nonbusiness hours.
- (b) It shall be unlawful for any person to operate an advertising vehicle in or upon the following streets and highways under the city's jurisdiction: all of Ocean Drive, and the residential area bounded by and including 6th Street on the south, North Lincoln Lane on the north, Lenox Avenue on the west, and Drexel Avenue and Pennsylvania Avenue on the east. An advertising vehicle is any wheeled conveyance designed or used for the primary purpose of displaying advertisements. Advertising vehicles shall not include or attach any trailers or haul any other vehicle or trailer.

This section shall not apply to:

- (1) Any vehicle which displays an advertisement or business notice of its owner, so long as such vehicle is engaged in the usual business or regular work of the owner, and not used merely, mainly, or primarily to display advertisements;
 - (2) Mass transit, public transportation;
 - (3) Taxicabs; or
 - (4) Any vehicle exempted under section 138-61(a), above.
- (c) Penalties. A violation of the provisions of subsection (a) shall be subject to the enforcement procedures and fines set forth in chapter 30, article III of this Code. A violation of the

provisions of subsection (b) shall be subject to the penalties set forth in section 1-14 of this Code.

(Ord. No. 2016-4045, § 1, 10-19-16)

ARTICLE IV – TEMPORARY SIGNS

Sec. 138-133. - Temporary signs regulations for business, real estate, construction, and election/free speech signs.

- (a) *Purpose and intent.* Temporary signs are being regulated equally, ensuring the same setback, height, and other regulations for temporary signs. The terms "temporary business, real estate, construction, and election/free speech signs" are by way of example and are not meant to be utilized to improperly distinguish content. This section should be constructed consistent with *Reed v. Gown of Gilbert, Arizona, 135 S.Ct. 2218 (2015)*.
- (b) *Setback, height regulations for temporary business, real estate, construction, and election/free speech signs.* Unless affixed to a fence or an existing building, detached signs shall be setback ten feet from any property line. Maximum height to the top of a detached sign affixed to posts or a fence shall be five feet above grade in a single family and multifamily residential districts and 12 feet above grade in all other districts. Maximum height to the top of a flat sign affixed to a building shall not extend above the first floor in single-family and multifamily districts and shall not extend above the second story of such building in all other districts.
- (c) *Timeframe, removal.* Temporary signs shall only be allowed for a period beginning with the temporary activity that is the subject of the sign and must be removed within seven days from the date the temporary activity ceases. Temporary business signs may be erected and maintained for a period not to exceed 30 days, except that the city manager may approve an extension of time for the business to erect and maintain such signs beyond the 30 days, after the manager finds that such extension is necessary to mitigate the impacts of public construction on visibility of, or access to, the business. Such extension beyond 30 days shall terminate concurrent with the termination of the public construction.
- (d) *Number.* There shall be a maximum of one temporary sign per street frontage, with the exception of election/free speech signs, which shall not exceed one temporary sign per residential or commercial unit.
- (e) *Copy.* Artistic murals or ornamental signs are permitted on construction fences surrounding a construction site, subject to the provisions contained herein and design review approval.
- (f) *Type.* Signs may be flat wall signs, part of a fence, or rigid detached signs, affixed to posts or a construction fence. Banners are prohibited. The sign area for window signs shall not exceed ten percent of total window area.
- (g) *Size, single-family.* The sign area for single-family signs shall not exceed four square feet.
- (h) *Size, multifamily.* The sign area for a multifamily zoning district shall not exceed 16 square feet.
- (i) *Size, all other districts.* The sign area for all other districts shall not exceed one square foot per three linear feet of street frontage, not to exceed 75 square feet.

- (j) *[Design review.]* With the exception of election/free speech signs and temporary window signs, all signs shall be reviewed under the design review process.

(Ord. No. 2016-4045, § 1, 10-19-16)

Sec. 138-134. - Election headquarter signs.

The sign area in commercial or industrial districts for campaign headquarters shall not have a sign area limitation. Each candidate may have four campaign headquarters, which shall be registered with the city clerk.

(Ord. No. 2016-4045, § 1, 10-19-16)

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MIAMI-DADE COUNTY

CODE

VOTE-BY-MAIL CAMPAIGNING REPORTING REQUIREMENT

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)

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MIAMI-DADE COUNTY

CODE

**REPORTING OF SOLICITATION OF CONTRIBUTIONS FOR POLITICAL COMMITTEES,
ELECTIONEERING COMMUNICATIONS ORGANIZATIONS, 501(C)(4) ORGANIZATIONS,
AND POLITICAL PARTIES.**

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.

RESOLUTION NO. 2020-31274

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, PROHIBITING CANDIDATES FOR CITY ELECTED OFFICE (INCLUDING INCUMBENTS SEEKING REELECTION) FROM HOSTING OR CAMPAIGNING AT ANY CHARITABLE OR NOT FOR PROFIT FOOD DISTRIBUTION EVENT IN THE CITY OF MIAMI BEACH, HELD DURING THE PERIOD OF TIME BETWEEN THE LAST DAY OF THE ELECTION QUALIFYING PERIOD UNTIL THE EARLIER DATE OF WHEN THE CANDIDATE IS ELECTED, DEFEATED, OR BECOMES UNOPPOSED; AND FURTHER PROHIBITING CHARITABLE OR NOT FOR PROFIT FOOD DISTRIBUTION EVENTS FROM TAKING PLACE WITHIN 200 FEET OF ANY POLLING PLACE LOCATED WITHIN THE CITY DURING THE VOTING PERIOD FOR ANY ELECTIONS, INCLUDING EARLY VOTING PERIOD, BEGINNING WHEN THE POLLS OPEN FOR VOTING AND ENDING WHEN THE POLLS CLOSE OR THE LAST VOTER HAS VOTED, WHICHEVER IS LATER.

WHEREAS, in our community, thousands of neighbors struggle with food insecurity every day; and

WHEREAS, local charitable and/or non-profit organizations (including, without limitation, Farm Share, Inc.) work daily to make sure that food-insecure Floridians receive the food and support they need; and

WHEREAS, to accomplish this task, such organizations often partner with food pantries, churches, schools, and other nonprofits throughout Florida to distribute food every single day; and

WHEREAS, Florida politicians often collaborate with local charitable and/or non-profit organizations to host and/or help distribute food to residents;

WHEREAS, due to some instances of Florida elected officials attempting to take advantage of such food distribution events for political gain, organizations such as Farm Share, Inc. enacted policies prohibiting individuals seeking to be elected or re-elected to a public office from hosting or campaigning at Farm Share Food Distribution events during the voting period (See Farm Share's policy, attached as Exhibit "A"); and

WHEREAS, the Mayor and City Commission have determined that it is in the best interest of the City to adopt a similar policy to ensure that charitable and/or non-profit food distribution events are free from political interference; and

WHEREAS, as such, the Mayor and City Commission prohibit candidates for City elected office (including incumbent seeking reelection) from hosting food distribution events during the period of time between the last day of the election qualifying period until the earlier date of when the candidate is elected, defeated or becomes unopposed (unless the event is in response to an immediate, "Act of God" emergency, i.e. hurricane, tornado, flood, or any other natural disasters); and

WHEREAS, in addition, no campaigning activities shall take place at any event, including the wearing of T-shirts related to the campaign, handing out campaign literature or cards, or otherwise disseminating campaign related information to any attendee or participant of these

events; and


WHEREAS, nothing contained within this Resolution shall prohibit a current City elected official from attending, volunteering, or participating at any food distribution event during the aforesated time period; and


WHEREAS, furthermore, to ensure that elections are free from outside interference, the Mayor and City Commission further prohibit food distribution events from taking place within 200 feet of a polling place during the voting period for any elections, including early voting period, beginning when the polls open for voting and ending when the polls close or the last voter has voted, whichever is later.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby prohibit candidates for City elected office (including incumbents seeking reelection) from hosting or campaigning at any charitable or not for profit food distribution event in the City of Miami Beach, held during the period of time between the last day of the election qualifying period until the earlier date of when the candidate is elected, defeated, or becomes unopposed; and further prohibit charitable or not for profit food distribution events from taking place within 200 feet of any polling place located within the City during the voting period for any elections, including early voting period, beginning when the polls open for voting and ending when the polls close or the last voter has voted, whichever is later.

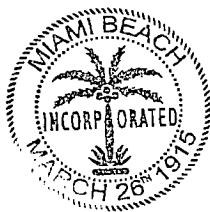
PASSED and ADOPTED this 13 day of March, 2020.

ATTEST:


5/21/2020
Rafael E. Granado, City Clerk


Dan Gelber, Mayor

(sponsored by Mayor Dan Gelber, Commissioner Michael Gongora, and Commissioner David Richardson)



APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION


City Attorney
FA

5/6/2020
Date

MIAMI-DADE COUNTY

CODE

CONFLICT OF INTEREST AND CODE OF ETHICS ORDINANCE

Sec. 2-11.1. - Conflict of Interest and Code of Ethics Ordinance.

- (a) *Designation.* This section shall be designated and known as the "Miami-Dade County Conflict of Interest and Code of Ethics Ordinance." This section shall be applicable to all County personnel as defined herein, and shall also constitute a minimum standard of ethical conduct and behavior for all municipal officials and officers, autonomous personnel, quasi-judicial personnel, advisory personnel, departmental personnel and employees of municipalities in the County insofar as their individual relationships with their own municipal governments are concerned. References in the section to County personnel shall therefor be applicable to municipal personnel who serve in comparable capacities to the County personnel referred to. (Ord. No. 72-82, § 1, 11-21-72; Ord. No. 73-27, § 1, 3-20-73)
- (b) *Definitions.* For the purposes of this section the following definitions shall be effective:
- (1) The term "Commissioners" shall refer to the Mayor and the members of the Board of County Commissioners as duly constituted from time to time.
 - (2) The term "autonomous personnel" shall refer to the members of semi-autonomous authorities, boards, and agencies as are entrusted with the day to day policy setting, operation and management of certain defined County functions or areas of responsibility, even though the ultimate responsibility for such functions or areas rests with the Board of County Commissioners.
 - (3) The term "quasi-judicial personnel" shall refer to the members of the Community Zoning Appeals Board and such other boards and agencies of the County as perform quasi-judicial functions.
 - (4) The term "advisory personnel" shall refer to the members of those County advisory boards and agencies whose sole or primary responsibility is to recommend legislation or give advice to the Board of County Commissioners.
 - (5) The term "departmental personnel" shall refer to the Manager, his or her department heads, the County Attorney and all Assistant County Attorneys.
 - (6) The term "employees" shall refer to all other personnel employed by the County.
 - (7) The term "compensation" shall refer to any money, gift, favor, thing or value or financial benefit conferred in return for services rendered or to be rendered.
 - (8) The term "controlling financial interest" shall refer to ownership, directly or indirectly, to ten (10) percent or more of the outstanding capital stock in any corporation or a direct or indirect interest of ten (10) percent or more in a firm, partnership, or other business entity.
 - (9) The term "immediate family" shall refer to the spouse, domestic partner, parents, stepparents, siblings, half-siblings, step-siblings, children, and stepchildren of the person involved.
 - (10) The term "transact any business" shall refer to the purchase or sale by the County of specific goods or services for a consideration.
 - (11) The term "Ethics Commission" shall refer to the Miami-Dade County Commission on Ethics and Public Trust.

- (12) The term "domestic partner" shall mean a person who is a party to a valid domestic partnership relationship as described in Section 11A-72(b)(1),(2), (3), (4) and (6) of the Code.
- (13) The term "contract staff" shall mean any employee and/or principal of an independent contractor, subcontractor (of any tier), consultant or sub-consultant (of any tier), designated in a contract with the County as a person who shall be required to comply with the provisions of Subsections 2-11.1(g), (h), (j), (l), (m), (n) and (o) of the Conflict of Interest and Code of Ethics Ordinance. Prior to determining whether to designate a person as contract staff in a RFP, RFQ, bid or contract, the Mayor or his or her designee shall seek a recommendation from the Executive Director of the Ethics Commission.

(Ord. No. 72-82, § 1, 11-21-72; Ord. No. 73-23, § 1, 3-20-73; Ord. No. 86-24, § 3, 4-1-86; Ord. No. 10-48, § 1, 7-8-10; Ord. No. 22-55, § 2, 6-1-22)

(c) *Prohibition on transacting business within the County.*

- (1) No person included in the terms defined in subsection (b)(1) through (6) and in subsection (b)(9) shall enter into any contract or transact any business, except as provided in subsections (c)(2) through (c)(6) in which he or she or a member of his or her immediate family has a financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County, and any such contract, agreement or business engagement entered in violation of this subsection shall render the transaction voidable. Willful violation of this subsection shall constitute malfeasance in office and shall effect forfeiture of office or position.
- (2) County employees' limited exclusion from prohibition on contracting with the county. Notwithstanding any provision to the contrary herein, subsections (c) and (d) shall not be construed to prevent any employee as defined by subsection (b)(6) [excluding departmental personnel as defined by subsection (b)(5)] or his or her immediate family as defined by subsection (b)(9) from entering into any contract, individually or through a firm, corporation, partnership or business entity in which the employee or any member of his or her immediate family has a controlling financial interest, with Miami-Dade County or any person or agency acting for Miami-Dade County, as long as (1) entering into the contract would not interfere with the full and faithful discharge by the employee of his or her duties to the County, (2) the employee has not participated in determining the subject contract requirements or awarding the contract, and (3) the employee's job responsibilities and job description will not require him or her to be involved with the contract in any way, including, but not limited to, its enforcement, oversight, administration, amendment, extension, termination or forbearance. However, this limited exclusion shall not be construed to authorize an employee or his or her immediate family member to enter into a contract with Miami-Dade County or any person or agency acting for Miami-Dade County, if the employee works in the county department which will enforce, oversee or administer the subject contract.
- (3) Limited exclusion from prohibition on autonomous personnel, advisory personnel and quasi-judicial personnel contracting with county. Notwithstanding any provision to the contrary herein, subsections (c) and (d) shall not be construed to prohibit any person defined in subsection (b)(2), (b)(3) and (b)(4) from entering into any contract, individually or through a firm, corporation, partnership or business entity in which the board member or any member of his or her immediate family has a controlling financial interest, with Miami-Dade County or any person or agency acting for Miami-Dade County. However, any person defined in subsection (b)(2), (b)(3) and (b)(4) is prohibited from contracting with any agency or department of Miami-Dade County subject to the regulation,

oversight, management, policy-setting or quasi-judicial authority of the board of which the person is a member.

- (4) Any person defined in subsections (b)(2) through (b)(4) and subsection (b)(6) shall seek a conflict of interest opinion from the Miami-Dade County Commission on Ethics and Public Trust ("the Ethics Commission") prior to submittal of a bid, response, or application of any type to contract with the County by the person or his or her immediate family. A request for a conflict of interest opinion shall be made in writing and shall set forth and include all pertinent facts and relevant documents. If the Ethics Commission finds that the requirements of this section pertaining to exclusions for persons defined in subsections (b)(2) through (b)(4) and subsection (b)(6) are not met and that the proposed transaction would create a conflict of interest, the person defined in subsections (b)(2), (b)(3), (b)(4) or (b)(6) may request a waiver from the Board of County Commissioners within ten (10) days of the Ethics Commission opinion by filing a notice of appeal to the Ethics Commission. The Ethics Commission shall forward the notice of appeal and its opinion and any pertinent documents to the Clerk of the Board of County Commissioners (the "Clerk") forthwith. The Clerk shall place the request on the commission agenda for consideration by the Board. The Board of County Commissioners may grant a waiver upon an affirmative vote of two-thirds ($\frac{2}{3}$) of the entire Board of County Commissioners, after public hearing, if it finds that the requirements of this ordinance pertaining to the exclusion for a County employee from the Code have been met and that the proposed transaction will be in the best interest of the County. The Board of County Commissioners may, as provided in subsection (c)(6), grant a waiver to any person defined in subsection (b)(2) through (b)(4) regarding a proposed transaction. Such findings shall be included in the minutes of the board. This subsection shall be applicable only to proposed transactions, and the Board may in no case ratify a transaction entered into in violation of this subsection.

If the affected person or his or her immediate family member chooses to respond to a solicitation to contract with the County, such person shall file with the Clerk a statement in a form satisfactory to the Clerk disclosing the person's interest or the interest of his or her immediate family in the proposed contract and the nature of the intended contract at the same time as or before submitting a bid, response, or application of any type to contract with the County. Along with the disclosure form, the affected person shall file with the Clerk a copy of his or her request for an Ethics Commission opinion and any opinion or waiver from the Board. Also, a copy of the request for a conflict of interest opinion from the Ethics Commission and any opinion or waiver must be submitted with the response to the solicitation to contract with the County.

Notwithstanding any provision herein to the contrary, the County and any person or agency acting for Miami-Dade County shall not award a contract to any person defined in subsections (b)(2) through (b)(4) and subsection (b)(6) or his or her immediate family individually or through a firm, corporation, partnership or business entity in which the person or any member of his or her immediate family has a controlling financial interest, unless the Ethics Commission has rendered an opinion that entering the contract would not be a conflict of interest or the Board waives the conflict in accordance with the provisions of this ordinance.

The County Manager is directed to include language in all solicitations for county contracts advising persons defined in subsections (b)(2) through (b)(4) and subsection (b)(6) of the applicable conflict of interest code provisions, the provisions of this ordinance, including the requirement to obtain an Ethics Commission opinion and make

disclosure, and the right to seek a legal opinion from the State of Florida Ethics Commission regarding the applicability of state law conflict of interest provisions.

- (5) Nothing herein shall prohibit or make illegal (1) the payment of taxes, special assessments or fees for services provided by County government; (2) the purchase of bonds, anticipation notes or other securities that may be issued by the County through underwriters or directly from time to time; (3) the participation of the persons included in the terms defined in subsection (b)(1) through (6), except for employees of the general services administration and their "immediate family" as defined in (b)(9), in the public auction process utilized by the County for the disposal of surplus motor vehicles; (4) the purchase of surplus personal property, pursuant to administrative order, by persons defined in subsection (b)(1) through (6) and (9); (5) an application for direct assistance from the Miami-Dade County Department of Housing and Urban Development or an application to participate in a program administered by the Department of Special Housing has been submitted by an applicant who is a County person as defined in subsection (b) and who would but for this section be eligible for such assistance from said department; provided, however, that the exception provided in this paragraph shall not extend to an employee of the Miami-Dade County Department of Housing and Urban Development or the Department of Special Housing who participates in the administration of said programs; or (6) and application to participate in a single-family mortgage loan program sponsored by the Housing Finance Authority of Miami-Dade County, has been submitted by a County person as defined in subsection (b), and would but for this section be eligible for participation in said program; provided, however, that the exception provided in this paragraph shall not extend to an employee of the Miami-Dade County Finance Department who participates in the administration of said single-family mortgage loan program.
- (6) Extension of waiver to county commissioners, autonomous personnel, quasi-judicial personnel, and advisory personnel. The requirements of this subsection may be waived for a particular transaction only by affirmative vote of two-thirds of the entire Board of County Commissioners, after public hearing. Such waiver may be affected only after findings by two-thirds of the entire Board that:
 - (1) An open-to-all sealed competitive bid has been submitted by a County person as defined in subsection (b)(2), (3) and (4), or
 - (2) The bid has been submitted by a person or firm offering services within the scope of practice of architecture, professional engineering, or registered land surveying as defined by the laws of the State of Florida and pursuant to the provisions of the Consultants' Competitive Negotiation Act, and when the bid has been submitted by a County person defined in subsection (b)(2), (3) and (4), or
 - (3) The property or services to be involved in the proposed transaction are unique and the County cannot avail itself of such property or services without entering a transaction which would violate this subsection but for waiver of its requirements, or
 - (4) That the property or services to be involved in the proposed transaction are being offered to the County at a cost of no more than 80 percent of fair market value based on a certified appraisal paid for by the provider, and
 - (5) That the proposed transaction will be to the best interest of the County.

Such findings shall be spread on the minutes of the Board. This subsection shall be applicable only to prospective transactions, and the Board may in no case ratify a transaction entered in violation of this subsection.

Provisions cumulative. This subsection shall be taken to be cumulative and shall not be construed to amend or repeal any other law pertaining to the same subject matter. (Ord. No. 72-82, § 1, 11-21-72; Ord. No. 73-24, § 1, 3-20-73; Ord. No. 73-45, § 1, 5-1-73; Ord. No. 75-91, § 1, 11-4-75; Ord. No. 75-119, § 1, 12-16-75; Ord. No. 79-85, § 1, 10-16-79; Ord. No. 80-33, § 1, 5-6-80; Ord. No. 85-84, § 1, 10-1-85; Ord. No. 85-98, § 1, 11-5-85; Ord. No. 87-58, § 1, 9-1-87; Ord. No. 88-102, § 1, 10-18-88; Ord. No. 91-113, § 1, 10-1-91; Ord. No. 00-1, § 1, 1-13-00; Ord. No. 00-151, § 1, 11-28-00)

(d) *Further prohibition on transacting business with the County.* No person included in the terms defined in subsections (b)(1) through (6) and in subsection (b)(9) shall enter into any contract or transact any business through a firm, corporation, partnership or business entity in which he or any member of his immediate family has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County, and any such contract, agreement or business engagement entered in violation of this subsection shall render the transaction voidable. The remaining provisions of subsection (c) will also be applicable to this subsection as though incorporated herein by recitation.

Additionally, no person included in the term defined in subsection (b)(1) shall vote on or participate in any way in any matter presented to the Board of County Commissioners if said person 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 Board of County Commissioners: (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 person defined in subsection (b)(1) in a manner distinct from the manner in which it would affect the public generally. Any person included in the term defined in subsection (b)(1) who has any of the above relationships or who would or might, directly or indirectly, profit or be enhanced by the action of the Board of County Commissioners shall: (1) announce publicly at the meeting the nature of the conflict before the matter is heard; (2) absent himself or herself from the Commission chambers during that portion of the meeting when the matter is considered; and (3) file a written disclosure of the nature of the conflict with the Clerk of the Board within 15 days after the vote. The filing of the State of Florida form prescribed for written disclosure of a voting conflict shall constitute compliance with this subsection. (Ord. No. 72-82, § 1, 11-21-72; Ord. No. 73-45, § 2, 5-1-73; Ord. No. 86-11, § 1, 2-18-86; Ord. No. 86-24, § 1, 4-1-86; Ord. No. 16-47, 5-17-16)

(e) *Gifts.*

(1) *Definition.* The term "gift" shall refer to the transfer of anything of economic value, whether in the form of money, service, loan, travel, entertainment, hospitality, item or promise, or in any other form, without adequate and lawful consideration. Food and beverages consumed at a single sitting or meal shall be considered a single gift, and the value of the food and beverage provided at that sitting or meal shall be considered the value of the gift.

(2) *Exceptions.* The provisions of subsection (e)(1) shall not apply to:

- a. Political contributions specifically authorized by State law;
- b. Gifts from relatives or members of one's household;
- c. Awards for professional or civic achievement;
- d. Material such as books, reports, periodicals or pamphlets which are solely informational or of an advertising nature;

- e. Gifts solicited by the County Mayor's deputies or chiefs or department directors on behalf of the County in the performance of their official duties for use solely by the County in conducting its official business;
 - f. Gifts solicited by Commissioners or the County Mayor on behalf of the County in the performance of their official duties for use solely by the County in conducting its official business;
 - g. Gifts solicited by Commissioners, or their staff members, on behalf of any nonprofit organization for use solely by that organization where neither the Commissioner, nor his or her staff receives any compensation as a result of the solicitation. As used in this subsection, a "nonprofit organization" shall mean any entity described in section 501(c)(3) of the Internal Revenue Code (the "Code") that is tax exempt under section 501(a) of the Code. As used in this subsection, "compensation" means any money, gift, favor, political contribution, thing of value or other financial benefit.
- (3) *Prohibitions.* A person described in subsection (b)(1) through (6) shall neither solicit nor demand any gift. It is also unlawful for any person or entity to offer, give or agree to give to any person included in the term defined in subsection (b)(1) through (6) or for any person included in the term defined in subsection (b)(1) through (6) to accept or agree to accept from another person or entity, any gift for or because of:
- a. *General prohibition on solicitation and giving of gifts.* A person described in subsection (b)(1) through (6) shall neither solicit nor demand any gift. It is also unlawful for any person or entity to offer, give or agree to give to any person included in the term defined in subsection (b)(1) through (6) or for any person included in the term defined in subsection (b)(1) through (6) to accept or agree to accept from another person or entity, any gift for or because of:
 - i. An official public action taken, or to be taken, or which could be taken;
 - ii. A legal duty performed or to be performed, or which could be performed; or
 - iii. A legal duty violated or to be violated, or which could be violated by any person included in the term defined in subsection (b)(1).
 - b. *Prohibition on gifts and offers on employment to members of competitive selection committees.* In addition to any other prohibition contained in this section, any person, or their immediate family members, appointed to serve on a competitive selection committee for a procurement shall not accept, solicit, or demand any gift of any value from any proposer to such procurement. Proposers to a procurement shall not offer, give, or agree to give any gift of any value or offer future employment to any member of the competitive selection committee for such procurement or to their immediate family members. Any person who has accepted a gift of any value from a proposer to a procurement in the two years preceding the issuance of the solicitation for such procurement shall not be appointed to the competitive selection committee for such procurement; and, if appointed, shall, in addition to any other penalty provided for in this section, be immediately removed from such competitive selection committee. For purposes of this subsection, the term "proposer" shall mean any person, firm or corporation that submits a response or proposal to a solicitation, including any owners, principals, corporate officers, managers, employees, agents, and lobbyists of such person, firm, or corporation and their immediate family members.
- (4) *Gifts solicited on behalf of the County.* The solicitation and acceptance of gifts on behalf of the County for use solely by the County in conducting its official business is permissible. It is provided, however, that soliciting and accepting such gifts shall be

undertaken or authorized only by Commissioners, the County Mayor, the County Mayor's chiefs and deputies, or department directors.

- (5) *Disclosure.* Any person included in the term defined in subsection (b)(1) through (6) shall disclose as provided herein any gift, or series of gifts from any one person or entity, having a value in excess of one hundred dollars (\$100.00). Said disclosure shall be made by filing a copy of the disclosure form required by Chapter 112, Florida Statutes, for "local officers" with the Clerk of the Board of County Commissioner simultaneously with the filing of the form with the Secretary of State.

(Ord. No. 78-82, § 1, 11-21-72; Ord. No. 86-25, § 1, 4-1-86; Ord. No. 87-70, § 1, 10-20-87; Ord. No. 91-62, § 1, 6-4-91; Ord. No. 99-124, § 1, 2-11.1; Ord. No. 99-145, § 1, 10-19-99; Ord. No. 10-48, § 1, 7-8-10; Ord. No. 21-62, § 1, 7-8-21; Ord. No. 22-56, § 1, 6-1-22)

- (f) *Compulsory disclosure by employees of firms doing business with the County.* Should any person included in the terms defined in subsections (b)(1) through (6) be employed, either himself or herself or through a member of his or her immediate family, by a corporation, firm, partnership or business entity in which he or she does not have a controlling financial interest, and should the said corporation, firm, partnership or business entity have substantial business commitments to or from the County or any County agency, or be subject to direct regulation by the County or a County agency, then said person shall file a sworn statement disclosing such employment and interest with the Clerk of the Circuit Court in and for Miami-Dade County.

(Ord. No. 72-82, § 1, 11-21-72; Ord. No. 10-48, § 1, 7-8-10)

- (g) *Exploitation of official position prohibited.* No person included in the terms defined in subsection (b)(1) through (6) and (b)(13) shall use or attempt to use his or her official position to secure special privileges or exemptions for himself or herself or others except as may be specifically permitted by other ordinances and resolutions previously ordained or adopted or hereafter to be ordained or adopted by the Board of County Commissioners.

(Ord. No. 72-82, § 1, 11-21-72; Ord. No. 10-48, § 1, 7-8-10)

- (h) *Prohibition on use of confidential information.* No person included in the terms defined in subsection (b)(1) through (6) and (b)(13) shall accept employment or engage in any business or professional activity which he or she might reasonably expect would require or induce him or her to disclose confidential information acquired by him or her by reason of his or her official position, nor shall he or she in fact ever disclose confidential information garnered or gained through his or her official position with the County, nor shall he or she ever use such information, directly or indirectly, for his or her personal gain or benefit.

(Ord. No. 72-82, § 1, 11-21-72; Ord. No. 10-48, § 1, 7-8-10)

- (i) *Financial disclosure.*

- (1) All persons and firms included within subsections (a) and (b)(2), (3) and (4) of this section shall file, no later than 12:00 noon of July 1st of each year including the July 1st following the last year that person is in office or held such employment, one (1) of the following:
- a. A copy of that person's or firm's current federal income tax return; or

- b. A current certified financial statement on a form of the type approved for use by State or national banks in Florida listing all assets and liabilities having a value in excess of one thousand dollars (\$1,000.00) and a short description of each; or
- c. An itemized source of income statement, under oath and on a form approved by the County for said purpose.

Compliance with the financial disclosure provisions of Chapter 112 (Part III), Florida Statutes, as amended, or with the provisions of Article II, Section 8 of the Florida Constitution, as amended by the voters on November 2, 1976, and any general laws promulgated thereunder, shall constitute compliance with this section.

- (2) County and municipal personnel. The following County personnel shall comply with the filing requirements of subsection (i)(1) above: The Mayor and members of the Board of County Commissioners; County Attorney and Assistant County Attorneys; County Manager; Assistant County Manager(s); Special Assistant(s) to the County Manager; heads or directors of County departments and their assistant or deputy department heads; employees of the Miami-Dade Police with the rank of captain, major and chief; Building and Zoning Inspectors. References herein to specified County personnel and Boards shall be applicable to municipal personnel and Boards that serve in comparable capacities to the County personnel and Boards referred to.
- (3) Candidates for County and municipal office. All candidates for County and municipal elective office shall comply with the filing requirements of subsection (i)(1) above at the same time that candidate files qualifying papers.
- (4) Consultants. All persons or firms providing professional services as defined by Section 2-10.4(1)(a) and (b) of the Code of Miami-Dade County, to Miami-Dade County or any municipalities, their agencies, or instrumentalities, shall comply with the filing requirements of subsection (i)(1) above within ninety (90) days of the effective date hereof. All persons or firms subsequent to the effective date of this section, which engage in competitive negotiation with Miami-Dade County or any of its municipalities, their agencies or instrumentalities under and pursuant to Section 2-10.4 of the Code of Miami-Dade County shall comply with the reporting requirements of subsection (i)(1) of this section within thirty (30) days of execution of a contract arising out of said competitive negotiations and prior to any payments from said County, municipalities or other agencies or instrumentalities. Failure to comply with the terms hereof by such persons or firms shall render existing contracts voidable and shall automatically void any contracts negotiated and executed subsequent to the effective date of this section where the required information is not furnished within thirty (30) days of the execution of said contract as noted herein.
- (5) Reports; filing. All documents required to be filed hereunder by County persons or consultants shall be filed with the supervisor of elections. Documents required to be filed hereunder by municipal persons or consultants shall be filed with the municipal Clerk of that entity.
- (6) Public disclosure. All documents filed pursuant to this subsection shall constitute public records within the meaning of Chapter 119, Florida Statutes.
- (7) Construction. The construction of this subsection shall be considered as supplemental to and not in substitution of any requirements of Chapter 112, Florida Statutes, or any rules and regulations promulgated thereunder.

(Ord. No. 77-13, § 1, 3-1-77; Ord. No. 83-18, § 1, 4-19-83; Ord. No. 84-39, § 1, 5-15-84)

- (j) *Conflicting employment prohibited.* No person included in the terms defined in subsections (b)(1) through (6) and (b)(13) shall accept other employment which would impair his or her independence of judgment in the performance of his or her public duties.

(Ord. No. 72-82, § 1, 11-21-72; Ord. No. 77-13, § 2, 3-1-77; Ord. No. 10-48, § 1, 7-8-10)

- (k) *Prohibition on outside employment.*

- (1) No person included in the terms defined in subsections (b)(5) [departmental personnel] and (6) [employees] shall receive any compensation for his or her services as an officer or employee of the County, from any source other than the County, except as may be permitted by Section 2-11 of this Code of Ordinances.
- (2) All full-time County and municipal employees engaged in any outside employment for any person, firm, corporation or entity other than Miami-Dade County, or the respective municipality, or any of their agencies or instrumentalities, shall file, under oath, an annual report indicating the source of the outside employment, the nature of the work being done pursuant to same and any amount or types of money or other consideration received by the employee from said outside employment. Said County employee's reports shall be filed with the supervisor of elections no later than 12:00 noon on July 1st of each year, including the July 1st following the last year that person held such employment. Municipal employee reports shall be filed with the Clerk of their respective municipalities. Said reports shall be available at a reasonable time and place for inspection by the public. The County Manager or any city manager may require monthly reports from individual employees or groups of employees for good cause.

(Ord. No. 72-82, § 1, 11-21-72; Ord. No. 77-13, § 3, 3-1-77; Ord. No. 77-79, § 1, 1-11-77; Ord. No. 77-87, § 1, 12-6-77; Ord. No. 83-18, § 2, 4-19-83; Ord. No. 84-39, § 2, 5-15-84; Ord. No. 10-48, § 1, 7-8-10)

- (l) *Prohibited investments.* No person included in the terms defined in subsections (b)(1) through (6) and (b)(13) shall have personal investments in any enterprise, either himself, herself, or through a member of his or her immediately family, which will create a substantial conflict between his or her private interests and the public interest.

(Ord. No. 72-82, § 1, 11-21-72; Ord. No. 77-13, § 4, 3-1-77; Ord. No. 10-48, § 1, 7-8-10)

- (m) *Certain appearances and payment prohibited.*

- (1) No person included in the terms defined in subsections (b)(1), (5), (6) and (13) [commissioners, the Mayor, departmental personnel, employees and contract staff] shall appear before any County Board or agency and make a presentation on behalf of a third person with respect to any license, contract, certificate, ruling, decision, opinion, rate schedule, franchise, or other benefit sought by the third person. Nor shall such person receive compensation, directly or indirectly or in any form, for services rendered to a third person, who has applied for or is seeking some benefit from the County or a County agency, in connection with the particular benefit sought by the third person. Nor shall such person appear in any court or before any administrative tribunal as counsel or legal advisor to a party who seeks legal relief from the County or a County agency through the suit in question.
- (2) No person included in the terms defined in subsections (b)(2), (3) and (4) [autonomous personnel, quasi-judicial personnel, and advisory personnel] shall appear before the

County board or agency on which he or she serves, either directly or through an associate, and make a presentation on behalf of a third person with respect to any license, contract, certificate, ruling, decision, opinion, rate schedule, franchise, or other benefit sought by the third person. Nor shall such person receive compensation, directly or indirectly or in any form, for services rendered to a third party, who has applied for or is seeking some benefit from the County board or agency on which such person serves, in connection with the particular benefit by the third party. Nor shall such person appear in any court or before any administrative tribunal as counsel or legal advisor to a third party who seeks legal relief from the County board or agency on which such person serves through the suit in question. However, this section shall not prohibit an architect serving without compensation on the Miami-Dade County Board of Energy Regulation or on any architectural Board, whose sole function is to pass on the aesthetics of plans submitted, from submitting plans on behalf of a client so long as such member makes known his or her representation of the applicant and disqualifies himself or herself from speaking or voting or otherwise participating on such application.

(Ord. No. 72-82, § 1, 11-21-72; Ord. No. 73-25, § 1, 3-20-73; Ord. No. 73-51, § 1, 5-15-73; Ord. No. 77-13, § 4, 3-1-77; Ord. No. 79-39, § 1, 6-19-79; Ord. No. 10-48, § 1, 7-8-10)

- (n) *Actions prohibited when financial interests involved.* No person included in the terms defined in subsections (b)(1) through (6) and (b)(13) shall participate in any official action directly or indirectly affecting a business in which he or any member of his immediate family has a financial interest. A financial interest is defined as a special financial interest, direct or indirect, as that term is used in Section 4.03 of the County's Charter; or as a financial interest as defined in Section 769 of the Restatement of the Law of Torts as an investment or something in the nature of an investment. This section shall not prohibit any official, officer, employee or person from taking official action (1) to promote tourism or downtown development or redevelopment within the County or any portion thereof, or (2) to authorize the expenditure of public funds for promoting tourism or downtown development or redevelopment, so long as no such authorized public funds are to be paid to such person or a member of his or her immediate family or any business in which he or she or any member of his or her immediate family has a financial interest.

(Ord. No. 72-82, § 1, 11-21-72; Ord. No. 73-50, § 1, 5-15-73; Ord. No. 75-76, § 1, 9-17-75; Ord. No. 77-13, § 4, 3-1-77; Ord. No. 10-48, § 1, 7-8-10)

- (o) *Acquiring financial interests.* No person included in the terms defined in subsections (b)(1) through (6) and (b)(13) shall acquire a financial interest in a project, business entity or property at a time when he or she believes or has reason to believe that the said financial interest will be directly affected by his or her official actions or by official actions by the County or County agency of which he or she is an official, officer, employee or contract staff.

(Ord. No. 72-82, § 1, 11-21-72; Ord. No. 77-13, § 4, 3-1-77; Ord. No. 10-48, § 1, 7-8-10)

- (p) *Recommending professional services.* No person included in the terms defined in subsections (b)(1) through (6) may recommend the services of any lawyer or law firm, architect or architectural firm, public relations firm, or any other person or firm, professional or otherwise, to assist in any transaction involving the County or any of its agencies, provided that such recommendation may properly be made when required to be made by the duties of office and in advance at a public meeting attended by other County officials, officers or employees.

(Ord. No. 72-82, § 1, 11-21-72; Ord. No. 77-13, § 4, 3-1-77)

(q) *Continuing application after county service.*

- (1) No person who has served as an elected county official, i.e., mayor, county commissioner, or a member of the staff of an elected county official, or as county manager, senior assistant to the county manager, department director, departmental personnel or employee shall, for a period of two (2) years after his or her county service or employment has ceased, lobby any county officer, departmental personnel or employee in connection with any judicial or other proceeding, application, RFP, RFQ, bid, request for ruling, or other determination, contract, claim, controversy, charge, accusation, arrest or other particular subject matter in which Miami-Dade County or one (1) of its agencies or instrumentalities is a party or has any interest whatever, whether direct or indirect. Additionally, no person who has served as a community council member shall, for a period of two (2) years after his or her county service or employment has ceased, lobby, with regard to any zoning or land use issue, any county officer, departmental personnel or employee in connection with any judicial or other proceeding, application, request for ruling, or other determination, contract, claim, controversy, charge, accusation, arrest or other particular subject matter in which Miami-Dade County or one (1) of its agencies or instrumentalities is a party or has any interest whatever, whether direct or indirect. Nothing contained in this Subsection (q)(1) shall prohibit any individual included within the provisions of this subsection from submitting a routine administrative request or application to a county department or agency during the two-year period after his or her county service has ceased.
- (2) The provisions of this Subsection (q) shall not apply to officials, departmental personnel or employees who become employed by governmental entities, 501(c)(3) non-profit entities or educational institutions or entities, and who lobby on behalf of such entities in their official capacities.
- (3) The provisions of this section shall apply to all individuals as described in Subsection (q)(1) who leave the county after the effective date of the ordinance from which this section derives.
- (4) Any former county officer, departmental personnel or employee who has left the county within two (2) years prior to the effective date of this ordinance and has entered into a lobbying contract prior to the effective date of this ordinance shall, for a period of two (2) years after his or her county service or employment has ceased, comply with Subsection (q) as it existed prior to the effective date of the ordinance from which this section derives and as modified by this Subsection (q)(4) when lobbying pursuant to said contract. No former county officer, departmental personnel or employee who has left the county within two (2) years prior to the effective date of the ordinance from which this section derives shall for a period of two (2) years after his or her county service or employment has ceased enter into a lobbying contract to lobby any county officer, departmental personnel or employee in connection with any judicial or other proceeding, application, RFP, RFQ, bid, request for ruling, or other determination, contract, claim, controversy, charge, accusation, arrest or other particular subject matter in which Miami-Dade County or one (1) of its agencies or instrumentalities is a party or has a direct and substantial interest; and in which he or she participated directly or indirectly as an officer, departmental personnel or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, during his or her county service or employment. As used herein, a person participated "directly" where he or she was substantially involved in the particular subject matter through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, during

his or her county service or employment. As used herein, a person participated "indirectly" where he or she knowingly participated in any way in the particular subject matter through decision, approval, disapproval, recommendation, the rendering of legal advice, investigation or otherwise, during his or her county service or employment. Former county officers, departmental personnel and employees who have left the county within two (2) years prior to the effective date of the ordinance from which this section derives shall execute an affidavit on a form prepared by the Office of the Inspector General prior to lobbying any county officer, departmental personnel or employee stating that the requirements of this section do not preclude said person from lobbying any officer, departmental personnel or employee of the county. The Inspector General shall verify the accuracy of each affidavit executed by former county officers, departmental personnel or employees.

- (5) Any individual who is found to be in violation of this Subsection (q) shall be subject to the penalties provided in either Subsection (u)(1) or Subsection (u)(2).

(Ord. No. 72-82, § 1, 11-21-72; Ord. No. 77-13, § 4, 3-1-77; Ord. No. 99-2, § 1, 1-21-99)

- (r) *Ethics Commission to render opinions on request.* Whenever any person included in the terms defined in subsection (b)(1) through (6), (b)(9) and (b)(13) is in doubt as to the proper interpretation or application of this Conflict of Interest and Code of Ethics Ordinance as to himself or herself, or whenever any person who renders services to the County is in doubt as to the applicability of the said ordinance as to himself or herself, he or she may submit to the Ethics Commission a full written statement of the facts and questions he or she has. The Ethics Commission shall then render an opinion to such person and shall publish these opinions without use of the name of the person advised unless such person requests the use of his or her name. Any person included in the term defined in subsection (b)(1) (i.e., Mayor or Commissioner) who is employed or retained by an entity that receives County funds or is under contract with the County shall, within sixty (60) days after (a) being retained or employed by the entity, or (b) becoming aware of the entity's receipt of County funds or of the entity's contract with the County, whichever is later, seek an opinion from the Ethics Commission or the Executive Director of the Ethics Commission regarding the applicability of the Conflict of Interest and Code of Ethics Ordinance. Any person included in the term defined in subsection (b)(1) who is employed or retained by an entity that receives County funds or is under contract with the County and has received an opinion from the Ethics Commission or the Executive Director of the Ethics Commission prior to the effective date of this ordinance regarding the applicability of the Conflict of Interest and Code of Ethics Ordinance to himself or herself shall not be required to seek another opinion from the Ethics Commission.

(Ord. No. 73-26, § 1, 3-20-73; Ord. No. 77-13, § 4, 3-1-77; Ord. No. 97-105, § 2, 7-8-97; Ord. No. 10-48, § 1, 7-8-10; Ord. No. 12-22, § 1, 4-3-12)

(s) *Principal and Lobbyist Registration.*

(1) *Definitions.*

- (a) *County personnel* means those County officials, officers and employees included in Section 2-11.1(i)(2) of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance, with the exception of the County Attorney and Assistant County Attorneys; advisory personnel as defined in Section 2-11.1(b)(4); and any employee of a County department or division with the authority to participate in procurement matters, when the communication involves such procurement.
- (b) *Expenditure* means the same as defined in Section 112.3215, Florida Statutes.
- (c) *Government entity* means any political subdivision, including any county, municipality, special district, school district, utility authority, or other authority, or any instrumentality, agency, unit, or department thereof.
- (d) *Lobbying activity* means any attempt to influence or encourage the passage or defeat of, or modification to, governmental actions, including, but not limited to, ordinances, resolutions, rules, regulations, executive orders, and procurement actions or decisions of the County Commission, the Mayor, any County board or committee, or any County personnel. The term "lobbying activity" encompasses all forms of communication, whether oral, written, or electronic, during the entire decision-making process on actions, decisions, or recommendations which foreseeably will be heard or reviewed by County personnel. This definition shall be subject to the exceptions stated in subparagraph (s)(2) below.
- (e) *Lobbyist* means all persons, firms, entities, or corporations that are employed, designated, or retained by a principal, with or without compensation, or that contract with a third-party for economic consideration to perform lobbying activities on behalf of a principal. "Lobbyist" includes the principal that lobbies, as well as any employee that has been designated by the principal to perform lobbying activities on behalf of the principal.
- (f) *Principal* means the person, firm, corporation, or other entity that performs lobbying activity on behalf of itself or that has designated, employed, or retained a lobbyist to lobby on its behalf. The term "principal" also includes the person, firm, corporation, or other entity receiving the benefit of the lobbying effort and on whose behalf the lobbyist is lobbying, even if the lobbyist is retained, engaged, or employed by a third-party for such purposes.
- (g) *Procurement matter* means the County's processes for the purchase of goods and services, including, but not limited to, processes related to the acquisition of: technology; public works; design services; construction, professional architectural, engineering, landscape architecture, land surveying, and mapping services; the purchase, lease, or sale of real property; and the acquisition, granting, or other interest in real property.
- (h) *Encourage* means to influence, promote, support, oppose, or seek to modify, alter, amend, or delay any recommendation, action, or decision of the County Commission, the Mayor, any County board or committee, or any County personnel.

(2) *Exceptions.* The following persons are specifically excluded from the definition of "lobbyist" and shall not be subject to the requirements of this subsection:

- (a) Any representative of individuals, corporations, or other entities solely during a public hearing on a quasi-judicial matter;

- (b) Any person who appears only as a representative of a neighborhood association without compensation or reimbursement for the appearance, whether direct, indirect, or contingent;
 - (c) Any person who only appears as a representative of a not-for-profit community-based organization without special compensation or reimbursement for the appearance to request a grant;
 - (d) Any person employed or retained by a principal whose normal scope of employment or retention does not include lobbying activities and who is not engaged in lobbying activities on behalf of said principal;
 - (e) Any expert who is retained for the sole purpose of providing only scientific, technical, or other specialized information or testimony in public meetings;
 - (f) Any public officer, employee, or appointee, appearing in his or her official capacity, to represent a governmental entity;
 - (g) Any person who only appears in his or her official capacity for the purpose of self-representation without compensation or reimbursement, whether direct, indirect, or contingent, to express support or opposition to any item;
 - (h) Any person engaged in following activities involving a procurement matter:
 1. Appearance at a pre-bid conference;
 2. Submission of a bid or proposal;
 3. Submission of a written question or response to a bid or proposal;
 4. Presentation by technical experts, or persons employed or retained by a principal whose normal scope of employment does not include lobbying activities, for purposes of explaining or demonstrating characteristics or performance of a procurement matter, provided the presentation does not include any advocacy or recommendations on the procurement matter and is otherwise consistent with the pending procurement matter or guidelines and procedures;
 5. Post-award contract management;
 6. Participation in market research process;
 7. Accessed contracts; and
 8. Emergency purchases
- (3) *Registration.* All lobbyists and principals who lobby shall register with the Clerk of the Board of County Commissioners within five (5) business days of being retained as a lobbyist or before engaging in any lobbying activities, whichever shall come first. Every person required to register shall:
- (a) Register on forms prepared by the Clerk;
 - (b) State under oath his or her name, business address, the name and business address of each person or entity which has, directly or indirectly, designated, retained, or employed said registrant to lobby and the specific issue on which the lobbyist has been designated, retained, or employed to lobby. If the lobbyist represents a corporation, the corporation shall also be identified.

- (c) Registration of all lobbyists shall be required prior to January 15 of each year and each person who withdraws as a lobbyist for a particular client shall file an appropriate notice of withdrawal.
 - (d) The fee for annual registration shall be four hundred and ninety dollars (\$490.00). Every registrant shall be required to state the extent of any business or professional relationship with any current person described in subsection (b). The registration fees required by this subsection shall be deposited by the Clerk into a separate account and shall be expended for the purpose of recording, transcribing, administration and other costs incurred in maintaining these records for availability to the public. Notwithstanding the foregoing, fifteen (15) percent of future funds generated by lobbyist registration fees after the effective date of the [ordinance from which this section derives] shall be deposited into a separate account and shall be expended by the Ethics Commission for the purposes of educational outreach, the rendering of advisory opinions and enforcement of the provisions of Section 2-11.1(s) relating to lobbyists. There shall be no fee required for filing a notice of withdrawal and the Board of County Commissioners may, in its discretion, waive the registration fee upon a finding of financial hardship.
 - (e) Prior to conducting any lobbying, all principals must file a form with the Clerk of the Board of County Commissioners, signed by the principal or the principal's representative, stating that the lobbyist is authorized to represent the principal, describing the specific issue, agenda item, or procurement matter that is the subject of the lobbying, and identifying all persons holding, directly or indirectly, a five (5) percent or more ownership interest in the corporation, partnership, or trust.
 - (f) The principal and the lobbyist must also submit a joint affidavit stating that the principal has not offered, and the lobbyist has not agreed to accept, any contingency or success fees as defined in subparagraph (s)(8).
 - (g) Failure of a principal to file the required forms may be considered in the evaluation of a bid or proposal as evidence that a proposer or bidder is not a responsible contractor.
 - (h) Lobbyists shall file amendments to their registration forms within fifteen (15) days of any change of information required to be set forth on their registration forms.
 - (i) Each lobbyist shall file a form with the Clerk of the Board within thirty (30) days after ceasing all lobbying activities with a principal.
- (4) *Ethics training.*
- (a) Each lobbyist shall, within sixty (60) days after registering as a lobbyist, submit to the Clerk of the Board a certificate of completion of an ethics course offered by the Miami-Dade County Commission on Ethics and Public Trust ("Ethics Course"). Lobbyists who have completed the initial Ethics Course mandated by the preceding sentence and have continuously registered as a lobbyist thereafter shall be required to complete a refresher Ethics Course every two years. Each lobbyist who has completed a refresher Ethics Course shall submit to the Clerk of the Board a certificate of completion within sixty (60) days after registering as a lobbyist.
 - (b) The Ethics Course shall include, but not be limited to, a review of the following topics: the Conflict of Interest and Code of Ethics Ordinance; the Sunshine Law; and the Public Records Law.
 - (c) The fee for the Ethics Course shall be one hundred dollars (\$100.00). The registration fees required by this subsection shall be deposited into a separate

account and shall be expended by the Ethics Commission for Ethics Courses and related costs.

- (d) The requirements of this subsection relating to the Ethics Course shall not be applicable to any municipal lobbyist in Miami-Dade County unless said municipality has adopted an ordinance providing for ethics training of lobbyists and has entered into an interlocal agreement with the County authorizing the Ethics Commission to provide the Ethics Course provided for in this subsection. The Executive Director of the Ethics Commission may waive the Ethics Course requirement for a particular lobbyist when he or she determines that the lobbyist has taken an initial or refresher Ethics Course offered by a municipality which satisfies the requirements of this subsection.
- (5) *Exceptions to registration fee requirement.* The following persons or entities shall register as lobbyists and complete the required ethics training, pursuant to the subparagraphs above, but shall not be required to pay registration fees:
- (a) A principal of any corporation, partnership or other entity who appears as a lobbyist on behalf of that entity, without special compensation or reimbursement for the appearance, whether direct, indirect or contingent, to express support of or opposition to any item.
 - (b) Any person who only appears as a representative of a not-for-profit corporation or entity (such as a 501(c)(3) organization, a trade association, or trade union), without special compensation or reimbursement for the appearance, whether direct, indirect or contingent, to express support of or opposition to any item.
 - (c) Any principal who only appears as a representative of a certified Micro Enterprise, as defined in Section 2-8.1.1.1.1 of the Code, as a representative of a certified Level I Community Small Business Enterprise, as defined in Section 10-33.02 or as a representative of a certified Tier 1 Community Business Enterprise, as defined in Section 2-10.4.01, without special compensation or reimbursement for the appearance, whether direct, indirect or contingent, to express support of or opposition to any item.
- (6) *Affidavit requirement.* The following provisions shall apply to certain individuals who, in procurement matters, participate in oral presentations or recorded negotiation meetings and sessions:
- (a) The principal shall list on an affidavit form, provided by the County, all technical experts or employees of the principal whose normal scope of employment does not include lobbying activities and whose sole participation in a County procurement matter involves an appearance and participation in an oral presentation before a County certification, evaluation, selection, technical review or similar committee, or recorded negotiation meetings or sessions.
 - (b) No person shall appear before any procurement committee or at any procurement negotiation meeting or session on behalf of a principal unless he or she has been listed as part of the principal's presentation or negotiation team pursuant to this subparagraph (s)(6), or has registered as a lobbyist pursuant to subparagraph (s)(3).
 - (c) For the purpose of this subsection (s) only, the listed members of the oral presentation or negotiation team shall not be required to separately register as lobbyists or pay any registration fees.

- (d) The affidavit required by this subsection shall be filed by County procurement staff with the Clerk of the Board at the time the proposal is submitted or prior to the recorded negotiation meeting or session.
 - (e) Notwithstanding the foregoing, any person who engages in lobbying activities in addition to appearing before a procurement committee to make an oral presentation, or at a recorded procurement negotiation meeting or session, shall comply with all lobbyist registration requirements.
- (7) *Expenditure reports.*
- (a) On July 1 of each year, the lobbyist shall submit to the Clerk of the Board of County Commissioners a signed statement under oath, as provided herein, listing all lobbying expenditures in excess of twenty-five dollars (\$25.00) for the preceding calendar year. The statement shall list in detail each expenditure by category, including food and beverage, entertainment, research, communication, media advertising, publications, travel, lodging and special events. Even if there are no reportable expenditures during a reporting period, a statement shall be filed so indicating.
 - (b) The Clerk of the Board of County Commissioners shall notify any lobbyist who fails to timely file an expenditure report. In addition to any other penalties which may be imposed as provided in subsection (s)(9), a fine of fifty dollars (\$50.00) per day shall be assessed for reports filed after the due date. Where a fine of fifty dollars (\$50.00) per day is assessed, the Ethics Commission shall not impose a fine as provided in subsection (z). Any lobbyist who fails to file the required expenditure report by September 1 shall be automatically suspended from lobbying until all fines are paid unless the fine has been appealed to the Ethics Commission.
 - (c) The Clerk of the Board of County Commissioners shall notify the Commission on Ethics and Public Trust of the failure of a lobbyist or principal to file a report and/or pay the assessed fines after notification.
 - (d) A lobbyist or principal may appeal a fine and may request a hearing before the Commission on Ethics and Public Trust. A request for a hearing on the fine must be filed with the Commission on Ethics and Public Trust within fifteen (15) calendar days of receipt of the notification of the failure to file the required disclosure form. The Commission on Ethics and Public Trust shall have the authority to waive the fine, in whole or part, based on good cause shown. The Commission on Ethics and Public Trust shall have the authority to adopt rules of procedure regarding appeals from the Clerk of the Board of County Commissioners.
- (8) *Contingency fees.*
- (a) No person may, in whole or in part, pay, give or agree to pay or give a contingency fee to another person. No person may, in whole or in part, receive or agree to receive a contingency fee.
 - (b) As used herein, "contingency fee" means a fee, bonus, commission, or nonmonetary benefit as compensation which is dependent on or in any way contingent on the lobbying activities.
- (9) *Lobbyist registration logs.*
- (a) The Clerk shall publish logs on a quarterly and an annual basis reflecting the principal and lobbyist registrations which have been filed in accordance with this subsection (s).

- (b) All logs shall be prepared in a manner substantially similar to the logs prepared for the Florida Legislature pursuant to Section 11.045, Florida Statutes.

(10) *Violations.*

- (a) The Ethics Commission shall investigate any person engaged in lobbying who may be in violation of this subsection (s).
- (b) In the event that a violation is found to have been committed the Ethics Commission may, in addition to the penalties set forth in subsection (z), prohibit such person from lobbying before the County Commission or any committee, board or personnel of the County as provided herein.
- (c) Every lobbyist who is found in violation of this section shall be prohibited from registering as a lobbyist or lobbying in accordance with the following schedule:
 - 1st violation for a period of 90 days from the date of determination of violation;
 - 2nd violation for a period of one (1) year from the date of determination of violation;
 - 3rd violation for a period of five (5) years from the date of determination of violation.
- (d) A bidder or proposer shall be subject to the debarment provisions of Section 10-38 of the Code of Miami-Dade County as if the bidder or proposer were a contractor where the bidder or proposer has violated this section, either directly or indirectly or any combination thereof, on three (3) or more occasions. As used herein, a "direct violation" shall mean a violation committed by the bidder or proposer and an "indirect violation" shall mean a violation committed by a lobbyist representing said bidder or proposer. A contract entered into in violation of this section shall also render the contract voidable. The County Mayor or designee shall include the provisions of this subsection in all County bid documents, RFP, RFQ, CBO and CDBG applications; provided, however, the failure to do so shall not render any contract entered into as a result of such failure illegal per se.

(11) *Diligence requirement; lobbying by unregistered persons; effect on County action.*

- (a) All members of the County Commission, and all County personnel, shall be diligent to ascertain whether persons required to register as lobbyists pursuant to this subsection (s) have complied with the requirement. This diligence requirement may be satisfied if members of the County Commission, or County personnel, maintain a written log that documents all oral lobbying communications or meetings with a lobbyist, held for the purpose of lobbying outside a duly noticed public meeting or hearing, and the log, at a minimum, reflects the name of the lobbyist, the date of the lobbying activity, whether the lobbyist indicates he or she is registered, and the subject matter discussed. Each such log shall be maintained and made available consistent with public record requirements.
- (b) Commissioners or County personnel shall not knowingly permit a person who is not registered pursuant to this subsection to lobby the Commissioner or his or her staff, or the relevant committee, board, or County personnel.
- (c) Notwithstanding the foregoing, and except as otherwise provided herein, the validity of any action or determination of the Board of County Commissioners or County personnel, board, or committee shall not be affected by the failure of any person to register as a lobbyist or otherwise comply with the provisions of subsection (s).

(Ord. No. 86-24, § 1, 4-1-86; Ord. No. 91-22, § 1, 2-19-91; Ord. No. 92-27, § 1, 4-21-92; Ord. No. 95-21, § 1, 2-7-95; Ord. No. 98-73, § 1, 6-2-98; Ord. No. 98-76, § 1, 6-2-98; Ord. No. 00-19, § 1, 2-8-00; Ord. No. 01-93, § 1, 5-22-01; Ord. No. 01-162, § 1, 10-23-01; Ord. No. 10-03, § 1, 1-21-10; Ord. No. 10-04, § 1, 1-21-10; Ord. No. 10-34, § 1, 6-3-10; Ord. No. 10-56, § 1, 9-21-10; Ord. No. 12-10, § 1, 3-6-12; Ord. No. 12-63, § 1, 9-6-12; Ord. No. 21-73, § 1, 7-20-21)

(t) *Cone of Silence.*

1. Contracts for the provision of goods and service other than audit and independent private sector inspector general (IPSIG) contracts.

(a) "Cone of Silence" is hereby defined to mean a prohibition on:

- (i) Any communication regarding a particular RFP, RFQ or bid between a potential vendor, service provider, bidder, lobbyist, or consultant and the County's professional staff including, but not limited to, the County Manager and his or her staff;
- (ii) Any communication regarding a particular RFP, RFQ or bid between the Mayor, County Commissioners or their respective staffs and any member of the County's professional staff including, but not limited to, the County Manager and his or her staff;
- (iii) Any communication regarding a particular RFP, RFQ or bid between a potential vendor, service provider, bidder, lobbyist, or consultant and any member of the selection committee therefor;
- (iv) Any communication regarding a particular RFP, RFQ or bid between the Mayor, County Commissioners or their respective staffs and any member of the selection committee therefor;
- (v) Any communication regarding a particular RFP, RFQ or bid between a potential vendor, service provider, bidder, lobbyist, or consultant and the Mayor, County Commissioners and their respective staffs; and
- (vi) Any communication regarding a particular RFP, RFQ, or bid between any member of the County's professional staff and any member of the selection committee therefore.

The County Manager and the Chairperson of the selection committee may communicate about a particular selection recommendation, but only after the committee has submitted an award recommendation to the manager and provided that should any change occur in the committee recommendation, the content of the communication and of the corresponding change as well as the reasons for such change shall be described in writing and filed by the Manager with the Clerk of the Board and be included in any recommendation submitted by the Manager to the Board of County Commissioners. Notwithstanding the foregoing, the Cone of Silence shall not apply to:

- (i) Competitive processes for the award of CDBG, HOME, SHIP and Surtax Funds administered by the Miami-Dade County Office of Community and Economic Development and the community-based organization (CBO) competitive grant processes administered by the Park and Recreation, Library, Water and Sewer, and Solid Waste Departments, Cultural Affairs and Tourist Development Councils and the Department of Environmental Resources Management;
- (ii) Communications with the County Attorney and his or her staff;

- (iii) Communications between a potential vendor, service provider, bidder, consultant or lobbyist and employees of the Management and Technical Assistance Unit of the Department of Business Development regarding small business and/or minority business programs, the Community Business Enterprise and Equitable Distribution Programs;
 - (iv) Communications between a potential vendor, service provider, bidder, consultant or lobbyist and employees responsible for administering disadvantaged business enterprise programs in County departments receiving federal funds, provided the communications are limited strictly to matters of programmatic process or procedure;
 - (v) Duly noticed site visits to determine the competency of bidders regarding a particular bid during the time period between the opening of bids and the time the County Manager makes his or her written recommendation;
 - (vi) Any emergency procurement of goods or services pursuant to Administrative Order 3-2;
 - (vii) Communications regarding a particular RFP, RFQ or bid between any person and the Vendor Information Center staff, the procurement agent or contracting officer responsible for administering the procurement process for such RFP, RFQ or bid, provided the communication is limited strictly to matters of process or procedure already contained in the corresponding solicitation document;
 - (viii) Communications between a potential vendor, service provider or bidder and employees of the Department of Procurement Management or other department identified in the solicitation document as the issuing department; and
 - (ix) Consultations by employees of the Department of Procurement Management with professional procurement colleagues in determining an appropriate approach or option involving a solicitation in progress.
- (b) Procedure.
- (i) A Cone of Silence shall be imposed upon each RFP, RFQ and bid after the advertisement of said RFP, RFQ or bid. At the time of imposition of the Cone of Silence, the County Manager or his or her designee shall provide for public notice of the Cone of Silence. The County Manager shall issue a written notice thereof to the affected departments, file a copy of such notice with the Clerk of the Board, with a copy thereof to each Commissioner, and shall include in any public solicitation for goods and services a statement disclosing the requirements of this ordinance.
 - (ii) The Cone of Silence shall terminate at the time the Manager makes his or her written recommendation to the County Commission; provided, however, that if the Commission refers the Manager's recommendation back to the Manager or staff for further review, the Cone of Silence shall be reimposed until such time as the Manager makes a subsequent written recommendation. The foregoing notwithstanding, for contracts and purchases which the County Manager has the delegated authority to award under Section 2-8.1(b) of this Code, the Cone of Silence shall terminate: (i) at the time the award recommendation letter is issued and filed with the Clerk of the Board for such contracts and purchases involving the expenditure of over one hundred thousand dollars (\$100,000); (ii) at the time the written award recommendation is posted in accordance with Section III of A.O. 3-21 for such contracts or purchases involving the

expenditure of over \$25,000 up to \$100,000; or (iii) at the time the award recommendation is issued in accordance with Section IV of A.O. 3-21 for contracts and purchases involving the expenditure of \$25,000 or less.

(iii) While the Cone of Silence is in effect, County Staff shall create a written record of any oral communications with potential vendor, service provider, bidder, lobbyist, or consultant related to or regarding a solicitation, bid, proposal, or other competitive process. The record shall indicate the date of such communication, the persons to whom staff communicated, and a general summation of the communication. This subsection applies to all communications made while the Cone of Silence is in effect for a particular solicitation.

(c) Exceptions.

(i) The provisions of this ordinance shall not apply to oral communications at pre-bid conferences, oral presentations before selection committees duly noticed as a public meeting, recorded contract negotiations and contract negotiation strategy sessions in compliance with the exemption in Florida Statutes Section 286.0113, any portion of a meeting discussing an unsolicited proposal in compliance with the exemptions in section 255.065, Florida Statutes, public presentations made to the Board of County Commissioners during any duly noticed public meeting or communication in writing at any time with any County employee, official or member of the Board of County Commissioners unless specifically prohibited by the applicable RFP, RFQ or bid documents. The bidder or proposer shall file a copy of any written communication with the Clerk of the Board. The Clerk of the Board shall make copies available to any person upon request.

(ii) The provisions of this ordinance shall also not apply to oral communications at briefings held by county commissioners and the County Mayor or his designee, after the selection committee or other evaluating group makes its recommendation to the County Manager, provided that the briefings are not intended to influence the outcome of the selection committee or other evaluating group's recommendation to the County Manager; provided, however, that this exception shall not apply to outside groups such as lobbyists or representatives of the responding or bidding companies or entities.

2. Audit and IPSIG contracts.

(a) "Cone of Silence" is hereby defined to mean a prohibition on: (a) any communication regarding a particular RFP, RFQ or bid between a potential vendor, service provider, bidder, lobbyist, or consultant and the Mayor, County Commissioners or their respective staffs and any member of the County's professional staff including, but not limited to, the County Manager and his or her staff; (b) any oral communication regarding a particular RFP, RFQ or bid between the Mayor, County Commissioners or their respective staffs and any member of the County's professional staff including, but not limited to, the County Manager and his or her staff. Notwithstanding the foregoing, the Cone of Silence shall not apply to (a) communications with the County Attorney and his or her staff; (b) communications between a potential vendor, service provider or bidder and employees of the Department of Procurement Management or other department identified in the solicitation document as the issuing department; and (c) consultations by employees of the Department of Procurement Management with professional procurement

colleagues in determining an appropriate approach or option involving a solicitation in progress.

- (b) Except as provided in Subsections 2(c) and 2(d) hereof, a Cone of Silence shall be imposed upon each RFP, RFQ and bid for audit and IPSIG services after the advertisement of said RFP, RFQ or bid. At the time of the imposition of the Cone of Silence, the County Manager or his or her designee shall provide for the public notice of the Cone of Silence. The Cone of Silence shall terminate when the County Manager executes a particular audit or IPSIG contract.
 - (c) Nothing contained herein shall prohibit any bidder or proposer: (i) from making public presentations at duly noticed pre-bid conferences or before duly noticed selection committee meetings; (ii) from engaging in recorded contract negotiations in compliance with the exemption in Florida Statutes Section 286.0113; or (iii) from communicating in writing with any County employee or official for purposes of seeking clarification or additional information from, subject to the provisions of the applicable RFP, RFQ or bid documents. Any recordings made pursuant to this section shall be made available, as a public record, upon the conclusion of the selection committee or negotiation meetings notwithstanding the elapsed time from bid or proposal opening. The bidder or proposer shall file a copy of any written communication with the Clerk of the Board. The Clerk of the Board shall make copies available to the general public upon request.
 - (d) Nothing contained herein shall prohibit any lobbyist, bidder, proposer or other person or entity from publicly addressing the Board of County Commissioners during any duly noticed public meeting regarding action on any audit or IPSIG contract. The County Manager shall include in any public solicitation for auditing or IPSIG services a statement disclosing the requirements of this ordinance.
3. Penalties. In addition to the penalties provided in subsections (s) and (v) hereof, violation of this subsection (t) by a particular bidder or proposer shall render any RFP award, RFQ award or bid award to said bidder or proposer voidable. Any person who violates a provision of this ordinance shall be prohibited from serving on a Miami-Dade County competitive selection committee. In addition to any other penalty provided by law, violation of any provision of this ordinance by a Miami-Dade County employee shall subject said employee to disciplinary action up to and including dismissal. Additionally, any person who has personal knowledge of a violation of this ordinance shall report such violation to the State Attorney and/or may file a complaint with the Ethics Commission.
4. The requirements of Section 2-11.1(t) shall not apply to any municipality in Miami-Dade County that has adopted an ordinance providing that the cone of silence shall not apply to that municipality. Any municipality that opts out of the requirements of Section 2-11.1(t) shall provide the Ethics Commission with a copy of the ordinance.
5. Within thirty days of a recommendation from a selection committee, the County Mayor or his designee shall either appoint a negotiation committee or take other affirmative action with respect to the solicitation, including but not limited to rejection of proposals or recommendation for award. In the event that negotiations have not commenced within thirty days, or if such other affirmative action has not been taken within thirty days, the County Mayor or his designee shall report such event, and the reasons therefore, to the Board of County Commissioners. Additionally, the County Mayor or his designee shall present the Clerk of the Board with a recommendation for award, or a recommendation to reject proposals, within ninety days from the date a selection committee makes a recommendation. In the event that the County Mayor or his designee has not provided such recommendation to the Clerk of the Board within ninety days, the County Mayor or

his designee shall provide a report on the status of the solicitation to the Board of County Commissioners, including the reasons for any delay.

(Ord. No. 98-106, § 1, 7-21-98; Ord. No. 99-1, § 1, 1-21-99; Ord. No. 00-149, § 1, 11-28-00; Ord. No. 01-149, § 1, 9-25-01; Ord. No. 01-150, § 1, 9-25-01; Ord. No. 02-3, § 1, 1-29-02; Ord. No. 04-77, § 1, 4-27-04; Ord. No. 08-111, § 1, 10-7-08; Ord. No. 17-94, § 3, 12-5-17)

- (u) *Prohibition on certain business transactions.* No person who is serving as an elected county official or a member of the staff of an elected county official, or as county manager, senior assistant to the county manager or department director shall enter into a business transaction with any person or entity that has a contract with Miami-Dade County or any shareholder, partner, officer, director or employee of said contractor, unless said business transaction is an arm's length transaction made in the ordinary course of business. The provisions of this subsection (u) shall not apply to a business transaction between an elected county official, a member of the staff of an elected county official, the county manager, a senior assistant to the county manager or a department director and a not-for-profit entity. As used herein, a "shareholder" shall mean any person owning ten (10) percent or more of the outstanding capital stock of any corporation. As used herein, "elected county official" shall mean the mayor, county commissioners and community council members. As used herein, "business transaction" shall mean any contract wherein persons either sell, buy, deal, exchange, rent, lend or barter real, personal or intangible property, money or any other thing of value, or render services for value.
- (v) *Voting Conflicts.* Members of Advisory and Quasi-Judicial Boards. No person included in the terms defined in subsections (b)(3) (quasi-judicial personnel) and (b)(4) (advisory personnel) shall vote on any matter presented to an advisory board or quasi-judicial board on which the person sits if the board member will be directly affected by the action of the board on which the member serves, and the board member has any of the following relationships with any of the persons or entities appearing before the board: (i) officer, director, partner, of counsel, consultant, employee, fiduciary or beneficiary; or (ii) stockholder, bondholder, debtor or creditor.
- (w) *Prohibition on acceptance of travel expenses from county vendors.* Notwithstanding any other provision of this section, no person included in subsections (b)(1)(Mayor and Commissioners), (b)(5)(departmental personnel) or (b)(6) (employees) shall accept, directly or indirectly, any travel expenses including, but not limited to, transportation, lodging, meals, registration fees and incidentals from any county contractor, vendor, service provider, bidder or proposer. The Board of County Commissioners may waive the requirements of this subsection by a majority vote of the Commission. The provisions of this subsection (w) shall not apply to travel expenses paid by other governmental entities or by organizations of which the County is a member if the travel is related to that membership.
- (x) *Prohibition on county employees and departmental personnel performing contract-related duties.* No person included in subsections (b)(5)(departmental personnel) and (b)(6) (employees), who was previously employed by or held a controlling financial interest in a for-profit firm, partnership or other business entity (hereinafter "business entity") shall, for a period of two years following termination of his or her prior relationship with the business entity, perform any county contract-related duties regarding the business entity, or successor in interest, where the business entity is a county bidder, proposer, service provider, contractor or vendor. As used in this subsection (x), "contract-related duties" include, but are not limited to: service as a member of a county certification, evaluation, selection, technical review or similar committee; approval or recommendation of award of contract; contract enforcement, oversight or administration; amendment, extension or termination of contract; or forbearance

regarding any contract. Notwithstanding the foregoing, the provisions of this subsection (x) shall not apply to the County Manager or the Director of Procurement Management.

- (y) *Powers and jurisdiction of Ethics Commission.* The Ethics Commission shall be empowered to review, interpret, render advisory opinions and letters of instruction and enforce the Conflict of Interest and Code of Ethics Ordinance. Jurisdiction of the Ethics Commission shall automatically extend to Commissioners, the Mayor, autonomous personnel, quasi-judicial personnel, departmental personnel, employees, contract staff, advisory personnel, immediate family, lobbyists as defined in subsections (b) and (s) who are required to comply with the Conflict of Interest and Code of Ethics Ordinance; proposers as defined in subsection (e) that are required to comply with the Conflict of Interest and Code of Ethics Ordinance; and any other person required to comply with the Conflict of Interest and Code of Ethics Ordinance including, but not limited to, contractors, consultants and vendors. In the event that the Ethics Commission does not assume jurisdiction as provided in the preceding sentence, the Ethics Commission may refer the complaint to the State Attorney for appropriate action. Notwithstanding the foregoing, the Ethics Commission shall not have jurisdiction to consider an alleged violation of subsection (c) if the requirements of subsection (c) have been waived for a particular transaction as provided therein.

(Ord. No. 10-48, § 1, 7-8-10; Ord. No. 21-62, § 1, 7-8-21)

- (z) *Prohibition on participation in settlement negotiations.* Neither the Mayor, a County Commissioner nor any member of their staff shall participate in settlement negotiations of claims or lawsuits, including but not limited to contract scope or compensation adjustments involving the County without prior approval of the Board of County Commissioners.
- (aa) *County Attorney's Office participation in contract adjustments.* County staff shall request the participation of the County Attorney's Office to provide legal advice regarding scope or compensation adjustments which increase by more than one million dollars (\$1,000,000.00), the value of a construction contract or a contract involving the purchase of goods or services.
- (bb) *Affidavit and Ethics Course.* Each person who is elected to serve as a member of the Board of County Commissioners or as Mayor of Miami-Dade County shall execute an affidavit, on a form prepared by the Ethics Commission, stating that he or she has read the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance and agrees to comply with the provisions of said ordinance. Each elected official covered by the requirements of this subsection shall file the required affidavit with the Ethics Commission prior to being sworn into office. Each elected official, as defined in subsection (b)(1), shall, within ninety (90) days after being sworn into office, submit to the Clerk of the Board a certificate of completion of an ethics course offered by the Miami-Dade County Commission on Ethics and Public Trust ("Ethics Course"). Each employee of the County, as defined in subsections (b)(5) and (b)(6), shall within one hundred and eighty (180) days of the effective date of this ordinance or within sixty (60) days after being hired by the County, submit to the Clerk of the Board a certificate of completion of an Ethics Course offered by the Miami-Dade County Commission on Ethics and Public Trust. Employees shall be required to complete a refresher Ethics Course every two years thereafter. Each employee who has completed a refresher Ethics Course shall submit to the Clerk of the Board a certificate of completion. The Ethics Course shall include, but not be limited to, a review of the following topics: the Conflict of Interest and Code of Ethics Ordinance; the Sunshine Law; the Public Records Law and the Citizens' Bill of Rights. The requirements of this subsection (bb) relating to the Ethics Course for employees shall not be applicable to any municipality in Miami-Dade County unless said municipality has adopted an ordinance providing for the Ethics Course, and has entered into an interlocal

agreement with the County authorizing the Ethics Commission to provide the Ethics Course provided for in this subsection.

(Ord. No. 12-11, § 1, 3-6-12; Ord. No. 13-50, § 1, 6-4-13)

(cc) *Penalty.*

- (1) *Proceeding before Ethics Commission.* A finding by the Ethics Commission that a person has violated this section shall subject said person to an admonition or public reprimand and/or a fine of five hundred dollars (\$500.00) for the first such violation and one thousand dollars (\$1,000.00) for each subsequent violation. Where the Ethics Commission finds that a person has intentionally violated this section and determines that a fine is appropriate, said person shall be subject to a fine of one thousand dollars (\$1,000.00) for the first such violation and two thousand dollars (\$2,000.00) for each subsequent violation. Actual costs incurred by the Ethics Commission, in an amount not to exceed five hundred dollars (\$500.00) per violation, may be assessed where the Ethics Commission has found an intentional violation of this section. The Ethics Commission may also order the person to pay restitution when the person or a third party has received a pecuniary benefit as a result of the person's governed by an administrative order adopted by the County Commission and rules of procedure promulgated by the Ethics Commission.
- (2) *Prosecution by State Attorney in State court.* Every person who is convicted of a violation of this section in State court shall be punished by a fine not to exceed five hundred dollars (\$500.00) or imprisonment in the County Jail for not more than thirty (30) days, or by both such fine and imprisonment.

(Ord. No. 72-82, § 1, 11-21-72; Ord. No. 73-26, § 1, 3-20-73; Ord. No. 77-13, § 4, 3-1-77; Ord. No. 86-24, § 2, 4-1-86; Ord. No. 91-22, § 1, 2-19-91; Ord. No. 92-27, § 1, 4-21-92; Ord. No. 95-21, § 1, 2-7-95; Ord. No. 97-105, § 2, 7-8-97; Ord. No. 98-73, § 1, 6-2-98; Ord. No. 98-76, § 1, 6-2-98; Ord. No. 98-106, § 1, 7-21-98; Ord. No. 98-125, § 1, 9-3-98; Ord. No. 99-150, § 1, 11-2-99; Ord. No. 00-46, § 1, 4-11-00; 00-149, § 1, 11-28-00; Ord. No. 01-199, § 1, 12-4-01; Ord. No. 03-73, § 1, 4-8-03; Ord. No. 03-107, § 1, 5-6-03; Ord. No. 03-140, § 1, 6-3-03; Ord. No. 04-55, § 1, 3-16-04; Ord. No. 04-119, § 1, 6-8-04; Ord. No. 04-204, § 1, 12-2-04; Ord. No. 05-71, § 1, 4-5-05; Ord. No. 06-148, § 1, 10-10-06; Ord. No. 10-11, § 1, 2-2-10; Ord. No. 10-48, § 1, 7-8-10; Ord. No. 13-53, § 1, 6-4-13; Ord. No. 14-96, § 1, 10-7-14)

Editor's note— Ord. No. 72-82, § 1, amended this Code by repealing former § 2-11.1 relative to County officers and employees transacting business with the County and enacted in lieu thereof a new § 2-11.1 as herein set out. Former § 2-11.1 was derived from Ord. No. 59-44, §§ 2—5, adopted Dec. 1, 1959.

Annotations—AO 7-1; CAO's 76-8, 76-32, 76-36, 76-39, 76-43, 76-46, 76-50, 76-55, 77-1, 77-9, 77-14, 77-16, 77-19, 77-26, 77-33, 77-37, 77-40, 77-41, 77-44, 77-52, 77-53, 77-56, 77-63, 77-68, 78-2, 78-10, 78-11, 78-12, 78-17, 78-25, 78-33, 78-44, 78-47, 78-53, 78-54, 79-6, 79-7, 79-12, 79-16, 79-19, 79-32, 79-37, 80-3, 80-4, 80-11, 80-21, 80-24, 80-25, 80-28, 80-29, 81-4, 81-13, 81-18, 81-22, 81-31, 81-38, 82-1, 82-10, 82-13, 82-19, 82-24, 82-25, 82-28, 82-29, 83-2, 83-6, 83-11, 83-22, 85-8.

State Law reference— Code of ethics for public officers and employees, F.S. § 112.311 et seq.

Sec. 2-11.1.1. - Ethical campaign practices ordinance.

- (A) *Applicability of Ethical Campaign Practices Ordinance.* The Ethical Campaign Practices Ordinance shall extend to: (i) candidates, and their respective campaign staffs, for the Miami-Dade County Commission or Mayor; (ii) candidates, and their respective campaign staffs, for the Miami-Dade Fire and Rescue Service District Board; (iii) candidates, and their respective campaign staffs, for Miami-Dade County Community Councils; (iv) candidates, and their respective campaign staffs, for any municipal elective office within Miami-Dade County; (v) Candidates, and their respective campaign staffs, for the Property Appraiser of Miami-Dade County; and (vi) any candidate, and his or her campaign staff, for elective office with a constituency in whole or in part in Miami-Dade County who agrees to abide by the mandatory and/or voluntary fair campaign practices provided in subsections (C) and (D). As used herein, "candidate" means any person to whom any one (1) or more of the following applies:
- (1) Any person who receives contributions or makes expenditures, or gives his or her consent for any other person to receive contributions or make expenditures, with a view to bringing about his or her election to, or retention in, public office.
 - (2) Any person who appoints a treasurer and designates a primary depository.
 - (3) Any person who files qualification papers and subscribes to a candidate's oath as required by law.
- (B) *Miami-Dade County Commission on Ethics and Public Trust.* The Miami-Dade County Commission on Ethics and Public Trust ("Ethics Commission") shall have jurisdiction over the Ethical Campaign Practices Ordinance. The Ethics Commission shall be empowered to review, interpret, render advisory opinions and letters of instruction and enforce the mandatory and voluntary fair campaign practices provided in subsections (C) and (D).
- (C) *Mandatory Fair Campaign Practices.*
- (1) *Prohibitions.* A candidate, and his or her campaign staff, for the Miami-Dade County Commission, Mayor of Miami-Dade County, Property Appraiser of Miami-Dade County, Miami-Dade Fire and Rescue Service District Board, Miami-Dade County Community Councils or for any municipal elective office within Miami-Dade County shall not:
 - (a) With actual malice make or cause to be made any untrue oral statement about another candidate or a member of his or her family or staff which exposes said person to hatred, contempt, or ridicule or causes said person to be shunned or avoided, or injured in his or her business or occupation;
 - (b) With actual malice publish or cause to be published by writing, printing, picture, effigy, sign or otherwise than by mere speech any untrue statement about another candidate or a member of his or her family or staff which exposes said person to hatred, contempt, or ridicule or causes said person to be shunned or avoided, or injured in his or her business or occupation;
 - (c) Willfully injure, deface or damage or cause to be injured, defaced or damaged by any means any campaign poster, sign, leaflet, handbill, literature or other campaign material of another candidate;
 - (d) Knowingly obtain, or cause to be obtained the campaign property of another candidate with the intent to, temporarily or permanently, deprive the candidate of a right to the property or a benefit therefrom; or
 - (e) Knowingly file with the Ethics Commission a groundless or frivolous complaint against another candidate.

- (2) *Agreement to abide by Mandatory Fair Campaign Practices.* A candidate for any elective office with a constituency in whole or in part in Miami-Dade County who is not required to comply with the mandatory fair campaign practices as provided in subsection (C)(1) may at any time declare that he or she agrees to abide by the mandatory fair campaign practices, and that he or she recognizes as compulsory the jurisdiction of the Ethics Commission (a) to decide whether said candidate has violated the mandatory fair campaign practices and, if so, (b) to impose the appropriate penalty, if any. The declaration shall be on a form approved by the Ethics Commission and shall be irrevocable. Copies of the declaration form shall be on file with the Ethics Commission, the Miami-Dade County Supervisor of Elections and the Clerk of the Board of each municipality within Miami-Dade County.
- (3) *Penalties.* In addition to any other penalty provided by law, a finding by the Ethics Commission that a candidate or a member of his or her staff has violated one (1) or more of the mandatory fair campaign practices shall subject said candidate, a member of his or her staff, or both, to an admonition or public reprimand and/or a fine of five hundred dollars (\$500.00) for the first such violation and one thousand dollars (\$1,000.00) for each subsequent violation. The Ethics Commission may also order a person who violates a mandatory fair campaign practice to pay restitution when the person or a third party receives 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.

(D) *Voluntary Fair Campaign Practices.*

- (1) *Statement of Fair Campaign Practices.* The following voluntary Statement of Fair Campaign Practices shall guide candidates for public office in Miami-Dade County:

STATEMENT OF FAIR CAMPAIGN PRACTICES

As a candidate for public office in Miami-Dade County, I believe that political issues can be freely debated without appealing to racial, ethnic, religious, sexual or other prejudices. I recognize that such negative appeals serve only to divide this community and create long-term moral, social and economic problems.

Therefore:

1. I shall not make my race, religion, national origin, gender, physical disability or sexual orientation an issue in my campaign.
2. I shall not make my opponents' race, religion, national origin, gender, physical disability or sexual orientation an issue in my campaign.
3. I will condemn any appeal to prejudice based on race, creed, national origin, religion, gender, physical disability or sexual orientation.
4. I shall not without just cause attack or question my opponent's patriotism.
5. I shall not publish, display or circulate any anonymous campaign literature or political advertisement.
6. I shall not tolerate my supporters engaging in these activities which I condemn nor shall I accept their continued support if they engage in such activities. I will not permit any member of my campaign organization to engage in these activities and will immediately and publicly repudiate the support of any other individual or group which resorts to the methods and tactics I condemn.

7. I shall run a positive campaign emphasizing my qualifications for office and positions on issues of public concern.
 8. I will limit my attacks on an opponent to legitimate challenges to that person's record, qualifications, and positions.
 9. I will neither use nor permit the use of malicious untruths or innuendoes about an opponent's personal life, nor will I make or condone unfounded accusations discrediting that person's credibility.
 10. I will take personal responsibility for approving or disavowing the substance of attacks on my opponent that may come from third parties supporting my candidacy.
 11. I will not use or permit the use of campaign material that falsifies, distorts, or misrepresents facts.
- (2) *Agreement to abide by Statement of Fair Campaign Practices.* A candidate for public office in Miami-Dade County as described in subsection (A) may at any time declare that he or she agrees to abide by the Statement of Fair Campaign Practices, and that he or she recognizes as compulsory the jurisdiction of the Ethics Commission (a) to decide whether said candidate has violated the Statement of Fair Campaign Practices and, if so, (b) to impose the appropriate penalty. The declaration shall be on a form approved by the Ethics Commission and shall be irrevocable. Copies of the declaration form shall be on file with the Ethics Commission, the Miami-Dade County Supervisor of Elections and the Clerk of the Board of each municipality within Miami-Dade County. Declarations shall be filed with the Ethics Commission.
- (3) *Penalty.* In addition to any other penalty provided by law, a finding by the Ethics Commission that a candidate has violated one (1) or more of the voluntary fair campaign practices shall subject said candidate to an admonition or public reprimand.
- (E) *Procedure.* The procedures provided in Chapter 2, Article LXXVIII of the Code of Miami-Dade County shall govern all complaints or requests for advisory opinions brought pursuant to the Ethical Campaign Practices Ordinance. Notwithstanding the foregoing, the Ethics Commission may conduct an expedited proceeding, with the assistance of hearing examiners, when a complaint is filed pursuant to the Ethical Campaign Practices Ordinance within fifty (50) days of a primary, general or special election. Expedited proceedings shall be governed by an administrative order adopted by the County Commission and rules of procedure promulgated by the Ethics Commission. No action may be taken on a complaint filed more than one (1) year after the violation is alleged to have occurred unless a person, by fraud or other device, prevents discovery of the violation.

(Ord. No. 98-94, § 1, 7-7-98; Ord. No. 04-204, § 1, 12-2-04; Ord. No. 06-157, § 1, 10-24-06; Ord. No. 08-62, § 1, 5-20-08)

