

ORDINANCE NO. 2020-20

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PERTAINING TO THE CODE OF ETHICS FOR ELECTED OFFICIALS; AMENDING SECTION 1-19 OF THE BROWARD COUNTY CODE OF ORDINANCES ("CODE") TO CLARIFY THE SCOPE OF, AND OTHERWISE MODIFY, SECTION 1-19(C)(5) OF THE CODE; AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

(Sponsored by Commissioner Tim Ryan)

WHEREAS, the Florida Code of Ethics sets standards of conduct for public officers and employees, including County Commissioners;

WHEREAS, Section 112.326, Florida Statutes, empowers county commissions to impose more stringent ethical standards than are provided under the Florida Code of Ethics;

WHEREAS, the County's Code of Ethics for Elected Officials ("County Ethics Code") imposes numerous more stringent ethical standards, including restrictions on and disclosure requirements in connection with the solicitation of charitable contributions; and

WHEREAS, the Board of County Commissioners ("Board") finds that these restrictions and disclosure requirements relating to solicitation of charitable contributions are unclear, and that modifying them as provided below would strengthen the County Ethics Code including by clearly alerting those charged with compliance therewith to the Code's requirements and proscriptions,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA:

1 Section 1. Section 1-19 (c)(5)(a) of the Broward County Code of Ordinances is
2 hereby repealed and replaced in its entirety to read as follows:

3 **Sec. 1-19. Code of ethics for elected officials.**

4 ...

5 (c) *Standards of Conduct.* In addition to the provisions of Chapter 112, Part III,
6 Florida Statutes, Code of Ethics for Public Officers and Employees; Chapters 838 and
7 839, Florida Statutes; Title 18, Chapter 63 of the United States Code; and Chapter 26,
8 Article V of the Broward County Code of Ordinances, Section 26-67 et seq., the following
9 Standards of Conduct shall apply to each Elected Official.

10 (1) *Acceptance of Gifts.*

11 ...

12 (5) *Solicitation and Receipt of Contributions.*

13 [Underlining omitted]

14 a. Charitable Solicitation.

- 15 1. An Elected Official may, in his or her private capacity, solicit
16 funds, goods, or services on behalf of any charitable
17 organization, nonprofit entity, or individual ("Private Charitable
18 Solicitation"), provided that the Elected Official complies with
19 any applicable state or federal laws, does not represent or
20 imply to anyone that the charitable solicitation is on behalf of
21 or has been approved or endorsed by the Elected Official's
22 governmental entity, does not use any staff or resources of
23 his or her governmental entity, and further provided that the
24 Elected Official discloses the Private Charitable Solicitation in

1 the manner set forth in subsection 5.c below for Official
2 Charitable Solicitation. This Code does not impose any further
3 restrictions on Private Charitable Solicitation.

4 2. When acting in an official capacity, an Elected Official may
5 solicit funds, goods, or services for charitable causes,
6 individuals in need (as determined by the Elected Official), or
7 educational or humanitarian nonprofit entities that meet the
8 Internal Revenue Code's criteria for charitable organizations
9 ("Official Charitable Solicitation"), so long as there is no quid
10 pro quo or other special consideration, including any direct or
11 indirect exchange of benefits between the parties to the
12 Official Charitable Solicitation.

13 3. The following do not constitute either Official Charitable
14 Solicitation or Private Charitable Solicitation:

15 a. Postings on social media pages where the page does
16 not have as its primary purpose the promotion of
17 charitable causes or events, provided that such
18 postings do not tag specific individuals or entities in
19 order to call their attention to the postings, and
20 irrespective of whether the postings are boost postings
21 or promoted postings;

22 b. E-mail correspondence directed at groups of fifty (50)
23 or more individuals referencing charitable causes or
24 events;

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- 1 c. GoFundMe® or similar online fundraising campaigns;
2 d. Newsletters referencing a charitable cause or event
3 where the primary purpose of the newsletters is not to
4 promote charitable causes or events; or
5 e. Provided that no specific, identifiable individuals are
6 targeted, statements at publicly noticed meetings of the
7 Elected Official's governmental entity that merely
8 reference charitable causes or events, or that ask for
9 participation in, support of, or contributions to
10 charitable causes or events.
- 11 4. Except where otherwise required by law, and as otherwise
12 qualified below, an Elected Official may use staff directly
13 assigned to the Elected Official and may use his or her
14 governmental entity's e-mail and telephone systems and other
15 resources that do not require the affirmative expenditure of
16 public funds (collectively, "in-kind resources") when engaging
17 in Official Charitable Solicitation, provided the use of such
18 resources does not violate any other provision of applicable
19 law. Approval by the Elected Official's governmental entity is
20 required only where the Official Charitable Solicitation
21 involves the affirmative expenditure of public funds through
22 the use of resources other than in-kind resources or where the
23 Elected Official seeks to use staff other than directly assigned
24 staff; however, an Elected Official may choose to seek formal

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1 approval of the charitable solicitation from his or her
2 governmental entity even where only directly assigned staff
3 and in-kind resources are used in connection with the
4 charitable solicitation.

5 5. Except where the charitable solicitation is formally approved
6 by the Elected Official's governmental entity:

7 a. Neither the Elected Official nor his or her directly
8 assigned staff may represent or imply to anyone that
9 the charitable solicitation is on behalf of or has been
10 approved or endorsed by the Elected Official's
11 governmental entity;

12 b. An Elected Official may not use any staff or resources
13 of the governmental entity when engaging in Official
14 Charitable Solicitation if the Elected Official is
15 specifically soliciting from identifiable, private
16 individuals or for-profit entities, unless the Elected
17 Official has first obtained a written statement from the
18 governmental entity's legal counsel that the charitable
19 solicitation comports to applicable law, which
20 statement must include a determination that the
21 charitable solicitation serves a public purpose; and

22 c. To promote full and complete transparency, the
23 Elected Official must disclose, on a form created by the
24 Office of the County Attorney, the name of the intended

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1 direct recipient(s) of the proceeds of the Private or
2 Official Charitable Solicitation, the cause or event for
3 which the funds or donations were solicited, if any, the
4 staff and resources used in connection with the Official
5 Charitable Solicitation, as applicable, and the name of
6 any individual or entity that requested that the Elected
7 Official engage in the Private or Official Charitable
8 Solicitation. The form must be filed for public inspection
9 within fifteen (15) days after the Elected Official (or his
10 or her staff, as applicable) engages in Private or Official
11 Charitable Solicitation. Where the Elected Official
12 serves on a fundraising committee of or on the board
13 of directors of a 501(c) organization, and periodically or
14 regularly solicits funds, goods, or services on behalf of
15 such organization, the Elected Official need not file a
16 disclosure each time he or she solicits on behalf of
17 such organization. Instead, the Elected Official's initial
18 disclosure will remain in effect for two (2) years from
19 the date of filing such disclosure and the information
20 contained thereon is not required to be updated during
21 such two (2) year period.

- 22 6. Salary received by an Elected Official from a nonprofit
23 charitable organization employing the Elected Official is not
24 considered a quid pro quo or other special consideration for

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1 purposes of paragraph 2 above. Additionally, the disclosure
2 requirement contained in paragraph 5 above does not apply
3 to Elected Officials who are employed by a nonprofit
4 charitable organization when soliciting charitable
5 contributions on behalf of that organization.
6

7 Section 2. Severability.

8 If any portion of this Ordinance is determined by any court to be invalid, the invalid
9 portion will be stricken, and such striking will not affect the validity of the remainder of this
10 Ordinance. If any court determines that this Ordinance, in whole or in part, cannot be
11 legally applied to any individual, group, entity, property, or circumstance, such
12 determination will not affect the applicability of this Ordinance to any other individual,
13 group, entity, property, or circumstance.
14

15 Section 3. Inclusion in the Broward County Code of Ordinances.

16 It is the intention of the Board of County Commissioners that the provisions of this
17 Ordinance become part of the Broward County Code of Ordinances as of the effective
18 date. The sections of this Ordinance may be renumbered or relettered and the word
19 "ordinance" may be changed to "section," "article," or such other appropriate word or
20 phrase to the extent necessary in order to accomplish such intention.
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Section 4. Effective Date.

This Ordinance is effective as of the date provided by law.

ENACTED ON MAY 5, 2020.

FILED WITH THE DEPARTMENT OF STATE MAY 6, 2020

EFFECTIVE MAY 6, 2020

Approved as to form and legal sufficiency:
Andrew J. Meyers, County Attorney

By /s/ Rocio Blanco Garcia 05/05/2020
Rocio Blanco Garcia (date)
Assistant County Attorney

RBG/jl
Code of Ethics for Elected Officials Ordinance
05/05/2020
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