

**PROPOSED**

ORDINANCE NO. 2020-

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2 hereby repealed and replaced in its entirety to read as follows: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

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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 that do not have as  
16 their primary purpose the promotion of charitable  
17 causes or events, provided that such postings do not  
18 tag specific individuals or entities in order to call their  
19 attention to the postings;

20 b. Newsletters referencing a charitable cause or event  
21 where the primary purpose of the newsletters is not to  
22 promote charitable causes or events; or

23 c. Provided that no specific, identifiable individuals are  
24 targeted, statements at publicly noticed meetings of the

1 Elected Official's governmental entity that merely  
2 reference charitable causes or events, or that ask for  
3 participation in, support of, or contributions to  
4 charitable causes or events.

5 4. Except where otherwise required by law, and as otherwise  
6 qualified below, an Elected Official may use staff directly  
7 assigned to the Elected Official and may use his or her  
8 governmental entity's e-mail and telephone systems and other  
9 resources that do not require the affirmative expenditure of  
10 public funds (collectively, "in-kind resources") when engaging  
11 in Official Charitable Solicitation, provided the use of such  
12 resources does not violate any other provision of applicable  
13 law. Approval by the Elected Official's governmental entity is  
14 required only where the Official Charitable Solicitation  
15 involves the affirmative expenditure of public funds through  
16 the use of resources other than in-kind resources or where the  
17 Elected Official seeks to use staff other than directly assigned  
18 staff; however, an Elected Official may choose to seek formal  
19 approval of the charitable solicitation from his or her  
20 governmental entity even where only directly assigned staff  
21 and in-kind resources are used in connection with the  
22 charitable solicitation.

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

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- a. Neither the Elected Official nor his or her directly assigned staff may represent or imply to anyone that the charitable solicitation is on behalf of or has been approved or endorsed by the Elected Official's governmental entity;
- b. An Elected Official may not use any staff or resources of the governmental entity when engaging in Official Charitable Solicitation if the Elected Official is specifically soliciting from identifiable, private individuals or for-profit entities, unless the Elected Official has first obtained a written statement from the governmental entity's legal counsel that the charitable solicitation comports to applicable law, which statement must include a determination that the charitable solicitation serves a public purpose; and
- c. To promote full and complete transparency, the Elected Official must disclose, on a form created by the Office of the County Attorney, the name of the intended direct recipient(s) of the proceeds of the Private or Official Charitable Solicitation, the cause or event for which the funds or donations were solicited, if any, the staff and resources used in connection with the Official Charitable Solicitation, as applicable, and the name of any individual or entity that requested that the Elected

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1 Official engage in the Private or Official Charitable  
2 Solicitation. The form must be filed for public inspection  
3 within fifteen (15) days after the Elected Official (or his  
4 or her staff, as applicable) engages in Private or Official  
5 Charitable Solicitation.

- 6 6. Salary received by an Elected Official from a nonprofit  
7 charitable organization employing the Elected Official is not  
8 considered a quid pro quo or other special consideration for  
9 purposes of paragraph 2 above. Additionally, the disclosure  
10 requirement contained in paragraph 5 above does not apply  
11 to Elected Officials who are employed by a nonprofit  
12 charitable organization when soliciting charitable  
13 contributions on behalf of that organization.

14 Section 2. Severability.

15 If any portion of this Ordinance is determined by any court to be invalid, the invalid  
16 portion will be stricken, and such striking will not affect the validity of the remainder of this  
17 Ordinance. If any court determines that this Ordinance, in whole or in part, cannot be  
18 legally applied to any individual, group, entity, property, or circumstance, such  
19 determination will not affect the applicability of this Ordinance to any other individual,  
20 group, entity, property, or circumstance.

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

22 It is the intention of the Board of County Commissioners that the provisions of this  
23 Ordinance become part of the Broward County Code of Ordinances as of the effective  
24 date. The sections of this Ordinance may be renumbered or relettered and the word

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1 "ordinance" may be changed to "section," "article," or such other appropriate word or  
2 phrase to the extent necessary in order to accomplish such intention.

3 Section 4. Effective Date.

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

5

6 ENACTED

**PROPOSED**

7 FILED WITH THE DEPARTMENT OF STATE

8 EFFECTIVE

9

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

12 By /s/ Rocio Blanco Garcia 04/22/2020  
13 Rocio Blanco Garcia (date)  
14 Assistant County Attorney

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23 RBG/jl  
Code of Ethics for Elected Officials Ordinance  
24 04/22/2020  
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