

PROPOSED

ORDINANCE NO. 2019-

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 Vice-Mayor Dale V.C. Holness)

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:

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscored type are additions.

1 Section 1. Section 1-19 of the Broward County Code of Ordinances is hereby
2 amended 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, ~~see. Section~~ 26-67 et seq., the
9 following Standards of Conduct shall apply to each Elected Official.

10 (1) *Acceptance of Gifts.*

11 ...

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

13 a. Charitable Contribution ~~Fundraising~~ Solicitation.

14 1. The solicitation of funds, goods, or services by an Elected
15 Official ~~for a nonprofit charitable organization, as defined~~
16 ~~under the Internal Revenue Code, to assist charitable~~
17 organizations, nonprofit entities, or individuals in need
18 ("charitable solicitation") is permissible under this Code so
19 long as such solicitation serves a valid public purpose and
20 there is no quid pro quo or other special consideration,
21 including any direct or indirect benefit between the parties to
22 the solicitation. Social media posts, newsletters, and
23 statements at a publicly noticed meeting that merely reference
24 or promote a charitable cause or event are not considered

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscoring type are additions.

1 charitable solicitations within the scope of this subsection,
2 provided that the Elected Official does not expressly request
3 that specific, identifiable individuals or entities donate to the
4 particular cause or event.

5 2. ~~To promote the full and complete transparency of any such~~
6 ~~solicitation, an Elected Official shall disclose, on a form~~
7 ~~created by the Office of the County Attorney, the name of the~~
8 ~~charitable organization, the event for which the funds were~~
9 ~~solicited, and the name of any individual or entity that~~
10 ~~requested that the Elected Official engage in the charitable~~
11 ~~fundraising solicitation. The form shall be filed for public~~
12 ~~inspection within fifteen (15) days after the solicitation of funds~~
13 ~~by the Elected Official.~~

14 3. 2. An Elected Official may not use staff or other resources of
15 directly assigned to the Official and his or her governmental
16 entity in the solicitation of charitable contributions entity's
17 e-mail and telephone systems and other resources that do not
18 require the affirmative expenditure of public funds
19 (collectively, "in-kind resources") when engaging in such
20 solicitation. Approval by the Elected Official's governmental
21 entity is required only where the charitable solicitation
22 involves the affirmative expenditure of public funds through
23 the use of resources other than in-kind resources.
24

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

3. To promote the full and complete transparency of any charitable solicitation, an 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 charitable solicitation, the cause or event for which the funds or donations were solicited, if any, and the name of any individual or entity that requested that the Elected Official engage in the charitable solicitation. The form must be filed for public inspection within fifteen (15) days after the Elected Official (or his or her staff, as applicable) engages in charitable solicitation. The disclosure requirements set forth in this subsection do not apply where the Elected Official's charitable solicitation has been previously approved by the Elected Official's governmental entity.

~~4.~~ ~~The requirements and prohibitions of this subpart shall not apply to actions of an Elected Official in connection with charities or fundraising events formally approved by the official's governmental entity.~~

~~5.~~ 4. Salary received by ~~a Municipal Official~~ an Elected Official from a nonprofit charitable organization employing the ~~Municipal Official~~ Elected Official ~~shall not be~~ is not considered a quid pro quo or other special consideration for purposes of paragraph 1 above. Additionally, the disclosure requirement contained in paragraph ~~2~~ 3 above ~~shall~~ does not apply to

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscored type are additions.

1 ~~Municipal Officials~~ Elected Officials who are employed by a
2 nonprofit charitable organization when soliciting charitable
3 contributions on behalf of that organization.

4 ...

5 Section 2. Severability.

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

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

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

18 Section 4. Effective Date.

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

ENACTED
FILED WITH THE DEPARTMENT OF STATE
EFFECTIVE

PROPOSED

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

By /s/ Rocio Blanco Garcia 05/01/19
Rocio Blanco Garcia (date)
Assistant County Attorney

RBG/mm
Code of Ethics for Elected Officials Ordinance
05/01/19
#99260-0010

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscored type are additions.