

MEMORANDUM

Agenda Item No. 7(B)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: March 1, 2022

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Ordinance relating to community associations and transparency; creating chapter 17D of the Code; requiring condominium, cooperative, and homeowners' associations to file a written registration with the County containing certain information; providing for the creation of a County-maintained publicly accessible online database of such information; amending section 8CC of the Code; providing for enforcement by civil penalty

This substitute item differs from the original item in that it:

- Clarifies that the ordinance applies only to condominium, cooperative, and homeowners' associations governing residential real property;
- Revises section 17D-3(A) to change the annual registration deadline from January 1 to February 1 of each year;
- Revises section 17D-3(A) to require registrations be filed with the Department of Regulatory and Economic Resources (RER) generally rather than the RER Office of Neighborhood Compliance specifically, in order to allow the Director of RER to make the determination as to which office within the department should receive and manage the registrations;
- Revises section 17D-3(A)(14) to require submittal of a Certificate of Insurance containing key insurance information rather than submittal of the individual insurance policies themselves;
- Revises section 17D-3(C) to change the registration fee from \$50 to an amount to be established by implementing order effective upon approval by the Miami-Dade Board of County Commissioners;
- Revises section 8CC-10 to include a \$200 penalty for failure to comply with any other provision of chapter 17D-3 not otherwise listed; and
- Makes additional technical changes.

This item was amended at the 2-10-22 County Infrastructure, Operations and Innovations Committee (CIOIC) meeting. In addition to the changes described in the substitute statement, the CIOIC amended this item to (1) provide that the regulations established by this ordinance shall be the exclusive regulations applicable to the registration of community associations in Miami-Dade County and that such regulations shall be uniform throughout the County both in the incorporated and unincorporated areas without regard to municipal boundaries, and (2) provide for exclusive County enforcement of such regulations.

Rules 5.06(h) and (i) of the Board's Rules of Procedure provide that where double underlining and double strikethrough would not clearly show the differences between the original item and the committee-amended item or the substitute, respectively, comments may instead be provided. Pursuant to this rule, the preceding comprehensive description of the differences between the original item and the substitute as amended at committee is provided in lieu of double underlining and double strike-through for this item.

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Senator René García and Co-Sponsor Commissioner Rebeca Sosa.



Geri Bonzon-Keenan
County Attorney


GBK/uw

Memorandum



Date: March 1, 2022

To: Honorable Chairman Jose “Pepe” Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor 

Subject: Fiscal Impact Statement for Ordinance Creating Chapter 17D – Relating to
Community Associations and Transparency - File No. 220304


The proposed ordinance creates Chapter 17D of the Code of Miami-Dade County (Code). The new chapter provides that by January 1 of each year, Community Associations, defined as condominium, cooperative and homeowners’ associations, that govern real property in Miami-Dade County, will be required to file a written registration with the Department of Regulatory and Economic Resources. The registration requires that Community Associations submit documentation regarding their administration (name, address, emergency contact, list of officers, website, corporate seal, governing documents, etc.), financial status (budget, audited financial statements), building maintenance (list of planned capital projects, structural engineering reports, etc.), and certificates of insurance. Additionally, the ordinance requires the development of an online database through which the public may access the information submitted by any registered Community Association. It also provides for enforcement, under Chapter 8CC, and creates penalties for failing to register.

The ordinance, as proposed, would create a nominal fee to be established via implementing order to be approved by the Miami-Dade Board of County Commissioners (BCC), for the registration of each Community Association, of which there is estimated to be more than 6,000 in Miami-Dade County. In analyzing the potential fiscal impact, the resources required to establish the online portal and operate the program were considered. It is estimated that the creation of the registration database will be absorbed through existing resources within RER’s memorandum of agreement with ITD for technology services. Ongoing annual operating costs are estimated at approximately \$550,000 and are inclusive of: 1) verifying documents submitted online meet the ordinance requirements; 2) following up, as required, with associations that have deficient registrations; 3) conducting field investigations to achieve compliance; and 4) providing administrative and legal support to the program, along with ongoing maintenance of the online searchable database and enforcement operations, among other functions. It should be noted that the program would not include a substantive review of the documents submitted by each association given the expansive nature of the information being provided (financial audits, engineering reports, etc.), rather the review will be limited to ensuring compliance with the minimum submittal requirements and completeness of registration. Additionally, Community Association documents to be publicly available on the portal may be required to comply with provisions of Title II of the American with Disabilities Act (ADA) which governs state and local governments, including their websites. The available mechanisms to achieve ADA compliance will be analyzed and alternatives which mitigate fiscal impacts to Miami-Dade County will be pursued.

Considering that Community Associations in Miami-Dade County vary quite significantly in size and that certain Community Associations have very few dwelling units (as few as 2) and others have many (more than 1,000 and multiple structures), a tiered rate structure will be recommended by staff

for incorporation within Implementing Order 4-107. The tiered approach will ensure that the fee paid by a given Community Association has a nexus with the level of effort required to intake and confirm the registration’s compliance with the ordinance. An example of a viable tiered rate structure involves instituting a \$50 registration fee for associations with 25 units or less, a grouping that represents approximately 50% of all Community Associations, and a \$50 registration fee with an additional \$1.50 fee per unit above 25 units for larger associations. The fee structure to be developed and recommended for BCC approval will generate sufficient revenue to fund expenditures. Therefore, a fiscal impact is not anticipated as a result of the proposed ordinance.


With relation to implementation timeframe, the development of the registration portal, integration with financial systems, and associated programming is anticipated to require approximately 6 months and thereafter a period for training of RER staff with regards to portal functions and overall program administration. The registration portal will be launched and available to receive submittals by January 1, 2023, in advance of the ordinance-established registration deadline of February 1, 2023.



Jimmy Morales
Chief Operations Officer

Date: March 1, 2022

To: Honorable Chairman Jose “Pepe” Diaz
and Members, Board of County Commissioners

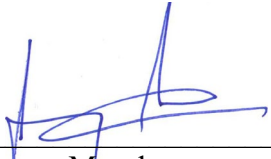
From: Daniella Levine Cava
Mayor 

Subject: Social Equity Statement for Ordinance Creating Chapter 17D – Relating to Community Associations and Transparency - File No. 220304

The proposed ordinance creates Chapter 17D of the Code of Miami-Dade County (Code). The new chapter provides that by January 1 of each year, Community Associations, defined as condominium, cooperative and homeowners’ associations, that govern real property in Miami-Dade County, will be required to file a written registration with the Department of Regulatory and Economic Resources. The registration requires that Community Associations submit documentation regarding their administration (name, address, emergency contact, list of officers, website, corporate seal, governing documents, etc.), financial status (budget, audited financial statements), building maintenance (list of planned capital projects, structural engineering reports, etc.), and certificates of insurance. Additionally, the ordinance requires the development of an online database through which the public may access the information submitted by any registered Community Association. It also provides for enforcement, under Chapter 8CC, and creates penalties for failing to register.

The implementation of the proposed ordinance is anticipated to provide transparency to Miami-Dade County residents interested in understanding the composition, financial status, and condition of buildings associated with any particular Community Association by making information more readily available. It is anticipated that through increased access to this information by existing or prospective residents, better decisions can be made regarding the management and maintenance of multi-unit residential structures, thus promoting public wellbeing and safety.

It should be noted, however, that given the expansive nature of the information to be provided (financial audits, engineering reports, etc.) via the registration process, the program will not include a substantive review by Miami-Dade County staff of the documents submitted by each association. Rather, the review will be limited to ensuring compliance with the minimum submittal requirements and completeness of registration. To address liabilities to Miami-Dade County emanating from the receipt of these documents, disclaimers will be developed with assistance from the County Attorney’s Office to make clear to residents accessing the information via the proposed online portal that the documentation has not been confirmed to be accurate or true and is being displayed for informational purposes only. Separately, the publication of such information may have an adverse impact on the value of dwelling units within Community Associations with significant maintenance and repair obligations, financial distress, or other challenges. Also, monetary penalties for failure to comply with the ordinance will ultimately be borne by the owners/residents of the Community Association.



Jimmy Morales
Chief Operations Officer



MEMORANDUM

(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: March 1, 2022

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 7(B)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____ to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(B)
3-1-22

ORDINANCE NO. _____

ORDINANCE RELATING TO COMMUNITY ASSOCIATIONS AND TRANSPARENCY; CREATING CHAPTER 17D OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; REQUIRING CONDOMINIUM, COOPERATIVE, AND HOMEOWNERS' ASSOCIATIONS TO FILE A WRITTEN REGISTRATION WITH THE COUNTY CONTAINING CERTAIN INFORMATION; PROVIDING FOR THE CREATION OF A COUNTY-MAINTAINED PUBLICLY ACCESSIBLE ONLINE DATABASE OF SUCH INFORMATION; AMENDING SECTION 8CC OF THE CODE; PROVIDING FOR ENFORCEMENT BY CIVIL PENALTY; PROVIDING SEVERABILITY, INCLUSION OF THE CODE, AND AN EFFECTIVE DATE

WHEREAS, the number of individuals living in residences governed by condominium, cooperative, and homeowners' associations (collectively referred to herein as "community associations"), has risen steadily since 1970 and is expected to continue to increase in 2021 and beyond, particularly in highly desirable real estate markets such as South Florida; and

WHEREAS, indeed, Miami-Dade County is home to thousands of such community associations that provide housing to hundreds of thousands of County residents; and

WHEREAS, condominium, cooperative, and homeowners' associations are governed by Chapters 718, 719, and 720 of the Florida Statutes, respectively; and

WHEREAS, this Board believes it is in the best interests of the residents of the County to require community associations governing residential real property to file annual registrations with the County containing certain information and documentation—including, but not limited to, the properties governed by the association and any structural reports issued with respect thereto, the property manager, officers and directors of the association, the

association's governing documents, financial statements, insurance policies and adopted budgets, and a list of the association's planned capital projects—and for the County to create a publicly accessible online database of such information and documentation; and

WHEREAS, this Board believes that such a database will facilitate transparency as well as resident awareness of and accessibility to important information and documents regarding community associations and the residences they govern,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Chapter 17D of the Code of Miami-Dade County, Florida is hereby created to read as follows:¹

>>Chapter 17D – Registration of Community Associations

Sec. 17D-1. - Short Title and Applicability.

(A) This chapter shall be known and may be cited as the "Miami-Dade County Ordinance for Registration of Community Associations".

(B) Applicability.

(1) This chapter shall create a uniform standard and shall apply to both the incorporated and unincorporated areas without regard to municipal boundaries. The provisions of this chapter shall be the exclusive regulations applicable to the registration of community associations in Miami-Dade County.

(a) The Director of the Miami-Dade County Department of Regulatory and Economic Resources or successor department ("Department"), and his or her designees, are

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

hereby charged with the enforcement responsibilities of this chapter throughout the County.

- (b) The penalties in chapter 8CC for violations of this chapter shall also be a uniform standard and shall apply to both the incorporated and unincorporated areas without regard to municipal boundaries.

Sec. 17D-2. - Legislative Intent, Findings, and Purpose.

The Board of County Commissioners hereby finds that it is in the best interests of the residents of the County to ensure transparency by requiring all condominium, cooperative, and homeowners' associations as defined in Chapters 718, 719, and 720 of the Florida Statutes, respectively (herein referred to as "community associations"), governing residential real property within the County to file annual registrations with the County containing certain information and documentation. It is the intent of this chapter to provide a central online publicly accessible registry of such information and documentation. Through this registry, residents of housing governed by such community associations can easily and quickly access important information and key documents pertaining to such community associations.

Sec. 17D-3. - Community associations required to register.

- (A) By February 1 of each year, all condominium associations, cooperative associations, and homeowners' associations, as such terms are respectively defined in Chapters 718, 719 and 720 of the Florida Statutes, governing residential real property located within the County shall file a written registration with the Department. The registration shall contain the following information and attachments:
- (1) The name of the community association, which shall include the name registered with the Florida Division of Corporations in addition to any fictitious names that the community association utilizes.
- (2) The business address and the legal description of each residence owned, operated, or governed by the community association.

- (3) The name and contact information for the property manager or other designated agent for the community association.
- (4) The name and contact information for an emergency contact for the community association (cannot be the same individual identified in subsection (A)(3) above).
- (5) A list of all officers and directors of the community association with contact information.
- (6) A link to the community association's website, if any.
- (7) An impression of the corporate seal of the community association, if any.
- (8) A legible copy of the community association's governing documents and any amendments thereto, including the declaration, articles of incorporation, bylaws, rules, regulations, and resolutions.
- (9) A list of the community association's planned capital projects, if any, from the date of registration through February 1 of the following year.
- (10) A copy of the community association's most recent set of compiled, reviewed, or audited financial statements, as applicable. Any monthly association fees, and any applicable current or approved special assessments, must be specifically outlined.
- (11) A copy of the community association's most recent adopted annual budget.
- (12) The location where all building permits for work in common areas shall be posted during construction.
- (13) All reports issued within the last 10 years on the structural status of each of the properties within the County owned, operated, or governed by the community association, including any required re-certification reports, if applicable.

- (14) A Certificate of Insurance listing all of the community association's current insurance policies, issuing companies, policy numbers, coverage limits, and effective dates.
- (B) After a community association files its initial registration, the community association shall file a renewal registration with the Department every 12 months thereafter reflecting any changes to the information and attachments required in subsection (A) above.
- (C) The initial registration and any renewal registrations shall be made upon forms designated by the Director of the Department and shall be accompanied by payment of a registration fee in such an amount as shall be established by implementing order, effective upon approval by the Miami-Dade Board of County Commissioners.
- (D) A community association may designate a property manager or other agent to fulfill the community association's obligations under this chapter.

Sec. 17D-4. – Publicly accessible database of registration information.

- (A) The County shall create and maintain a searchable database containing the registration information and attachments of each community association registered with the County pursuant to section 17D-3.
- (B) The database shall be made publicly accessible on the County's website.
- (C) The County shall post the registration requirements of section 17D-3 on the County's website along with a notice to the public that the database is available.

Sec. 17D-5 - Enforcement.

- (A) Violations of the requirements of section 17D-3 may be punished by fines in accordance with chapter 8CC and may

be addressed by any penalties or remedies provided in section 1-5 and chapter 8CC, as applicable.

- (B) Failure to comply with the provisions of section 17D-3 shall constitute a violation. All matters enumerated and prohibited herein shall be independent of each other, and the violation of any one of the provisions of this chapter shall be a separate violation of this chapter.

Sec. 17D-6. - Conflicts with other ordinances or regulations.

If this chapter conflicts with other ordinances or regulations, the more stringent limitation or requirement shall govern or prevail to the extent of the conflict.<<

Section 2. Section 8CC-10 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 8CC-10. Schedule of civil penalties.

The following table shows the sections of this Code, as they may be amended from time to time, which may be enforced pursuant to the provisions of this chapter; and the dollar amount of civil penalty for the violation of these sections as they may be amended.

* * *

Code Section	Description of Violation	Civil Penalty
* * *		
>>Ch. 17D-3	<u>Failure to timely or properly file the initial or renewal registration:</u>	
	<u>First violation</u>	<u>\$200.00</u>
	<u>Second violation</u>	<u>\$500.00</u>
	<u>Third or subsequent violation</u>	<u>\$1,000.00</u>

	<u>Failure to comply with any other provision of Ch. 17D-3:</u>	<u>\$200.00</u> <<
	* * *	

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 5. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Michael J. Mastrucci

Prime Sponsor: Senator René García
Co-Sponsor: Commissioner Rebeca Sosa

GBK
MSM