

MEMORANDUM

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Agenda Item No. 1(G)2

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

DATE: February 10, 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

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/smm



MEMORANDUM
(Revised)

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

DATE: January 19, 2022

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 4(A)

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. 4(A)
1-19-22

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 IN 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 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 minimum standard and shall apply to both the incorporated and unincorporated areas.

(a) The Director of the Miami-Dade County Department of Regulatory and Economic Resources or successor department (“Department”), and his or her designees, are hereby charged with the enforcement responsibilities of this chapter throughout the County.

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.

- (b) Any municipality may establish and enforce more stringent regulations as such municipality may deem necessary.
- (c) The penalties in chapter 8CC for violations of this chapter shall also be a minimum standard and shall apply to both the incorporated and unincorporated areas.

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 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 January 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 real property located within the County shall file a written registration with the Department's Office of Neighborhood Compliance. 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 October 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 40-year re-certification reports, if applicable.
- (14) A copy of the community association's current insurance policies.
- (B) After a community association files its initial registration, the community association shall file a renewal registration with the Department's Office of Neighborhood Compliance 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 nominal registration fee of \$50.
- (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.
- (C) Pursuant to section 8CC-3, each municipality shall have the authority to designate code inspectors to issue civil violation notices for violations 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
* * *		
>> <u>Ch. 17D-3</u>	<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> <<
* * *		

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:

Handwritten initials in blue ink. The top line reads "GBK" and the bottom line reads "MSM".

Prepared by:

Michael J. Mastrucci

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