

MEMORANDUM

Agenda Item No. 7(C)

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

DATE: (Second Reading: 6-1-22)
March 15, 2022

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Ordinance relating to Conflict
of Interest and Code of Ethics
Ordinance; amending section
2-11.1 of the Code; revising
provisions pertaining to
solicitation and acceptance
of gifts on behalf of the County

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Rebeca Sosa.



Geri Bonzon-Keenan
County Attorney

GBK/smm

Memorandum




Date: June 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 Relating to Solicitation and Acceptance of Gifts

The implementation of this ordinance will not have a fiscal impact to Miami-Dade County.


Edward Marquez
Chief Financial Officer

Memorandum



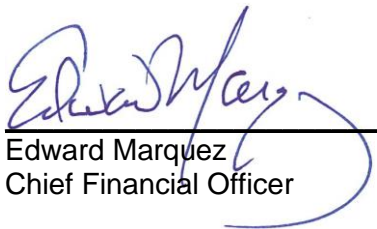
Date: June 1, 2022

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

From: Daniella Levine Cava 
Mayor

Subject: Social Equity Statement for Ordinance Relating to Solicitation and Acceptance of Gifts

A social benefit or burden through the implementation of this ordinance cannot be determined at this time.


Edward Marquez
Chief Financial Officer



MEMORANDUM
(Revised)

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

DATE: June 1, 2022

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 7(C)

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(C)
6-1-22

ORDINANCE NO. _____

ORDINANCE RELATING TO CONFLICT OF INTEREST AND CODE OF ETHICS ORDINANCE; AMENDING SECTION 2-11.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; REVISING PROVISIONS PERTAINING TO SOLICITATION AND ACCEPTANCE OF GIFTS ON BEHALF OF THE COUNTY; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, in 1996, Miami-Dade County residents voted to amend the Home Rule Charter to create an ethics commission; and

WHEREAS, subsequently, the Board enacted Ordinance No. 97-105, establishing the Commission on Ethics and Public Trust (the “Ethics Commission”), an independent agency with advice-giving and quasi-judicial powers that is charged with interpreting and enforcing the County’s ethics rules; and

WHEREAS, these ethics rules are set forth in the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance (the “Ethics Ordinance”), which is codified in section 2-11.1 of the County Code; and

WHEREAS, as stated in section 2-11.1(a), the Ethics Ordinance also applies to municipalities and provides a minimum standard of ethical conduct and behavior for all municipal officials and employees; and

WHEREAS, section 2-11.1(e) provides rules and regulations pertaining to gifts, including allowances for gifts solicited by County personnel for use solely by the County in conducting its official business; and

WHEREAS, these allowances currently do not restrict the types of County personnel who may solicit and accept such gifts on behalf of the County; and

WHEREAS, soliciting and accepting such gifts should be undertaken only by high-level County personnel, such as elected officials, the County Mayor's chiefs and deputies, and department directors, or by their staff when authorized by such high-level County personnel; and

WHEREAS, by analogy, the solicitation and acceptance of gifts in municipalities should be limited to municipal elected officials, including city commissioners and city mayors, as well as high-level municipal personnel, such as city managers and city department heads; and

WHEREAS, such elected officials and high-level personnel are best positioned to determine the local government's needs and to decide when gifts should be sought and accepted on behalf of the local government for its official use; and

WHEREAS, accordingly, this Board wishes to amend the provisions of the Ethics Ordinance pertaining to solicitation and acceptance of gifts on behalf of the County,

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

Section 1. The foregoing recitals are approved and are incorporated herein.

Section 2. Section 2-11.1 of the Code of Miami-Dade County is hereby amended to read as follows:¹

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.

Sec. 2-11.1. Conflict of Interest and Code of Ethics Ordinance.

* * *

(e) *Gifts.*

- (1) *Definition.* The term "gift" shall refer to the transfer of anything of economic value, whether in the form of money, service, loan, travel, entertainment, hospitality, item or promise, or in any other form, without adequate and lawful consideration. Food and beverages consumed at a single sitting or meal shall be considered a single gift, and the value of the food and beverage provided at that sitting or meal shall be considered the value of the gift.

- (2) *Exceptions.* The provisions of subsection (e)(1) shall not apply to:
 - a. Political contributions specifically authorized by State law;
 - b. Gifts from relatives or members of one's household;
 - c. Awards for professional or civic achievement;
 - d. Material such as books, reports, periodicals or pamphlets which are solely informational or of an advertising nature;
 - e. Gifts solicited by >>the County Mayor's deputies or chiefs or department directors<< [~~County employees or departmental personnel~~] on behalf of the County in the performance of their official duties for use solely by the County in conducting its official business;
 - f. Gifts solicited by Commissioners >>or the County Mayor<< on behalf of the County in the performance of their official duties for use solely by the County in conducting its official business;
 - g. Gifts solicited by Commissioners, or their staff members, on behalf of any nonprofit organization for use solely by that organization where neither the Commissioner, nor his or her staff receives any compensation as a result of the solicitation. As used in this subsection, a "nonprofit organization" shall mean any entity described in section 501(c)(3) of the Internal Revenue Code (the "Code") that is tax exempt under section 501(a) of the Code. As used in this subsection, "compensation" means any money, gift, favor, political contribution, thing of value or other financial benefit.

* * *

(4)>>Gifts solicited on behalf of the County. The solicitation and acceptance of gifts on behalf of the County for use solely by the County in conducting its official business is permissible. It is provided, however, that soliciting and accepting such gifts shall be undertaken or authorized only by Commissioners, the County Mayor, or the County Mayor's chiefs and deputies.

(5)<<Disclosure. Any person included in the term defined in subsection (b)(1) through (6) shall disclose as provided herein any gift, or series of gifts from any one person or entity, having a value in excess of one hundred dollars (\$100.00). Said disclosure shall be made by filing a copy of the disclosure form required by Chapter 112, Florida Statutes, for "local officers" with the Clerk of the Board of County Commissioner simultaneously with the filing of the form with the Secretary of State.

* * *

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:

James Eddie Kirtley



Prime Sponsor: Commissioner Rebeca Sosa