

MEMORANDUM

Agenda Item No. 5(A)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: (Public Hearing: 5-2-23)
April 4, 2023

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Ordinance relating to
environmental protection;
authorizing limited exception
to Ordinance No. 22-83 for
approval of building permits
for single-family and duplex
residential developments with
onsite sewage treatment and
disposal system (OSTDS)
Type 1 systems subject to
certain requirements

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Raquel A. Regalado and Co-Sponsor Commissioner Juan Carlos Bermudez.



Geri Bonzon-Keenan
County Attorney

GBK/ks

MDC001



MEMORANDUM
(Revised)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: May 2, 2023

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 5(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. 5(A)
5-2-23

ORDINANCE NO. _____

ORDINANCE RELATING TO ENVIRONMENTAL PROTECTION; AUTHORIZING LIMITED EXCEPTION TO ORDINANCE NO. 22-83 FOR APPROVAL OF BUILDING PERMITS FOR SINGLE-FAMILY AND DUPLEX RESIDENTIAL DEVELOPMENTS WITH ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEM (OSTDS) TYPE 1 SYSTEMS SUBJECT TO CERTAIN REQUIREMENTS; PROVIDING SEVERABILITY, EXCLUSION FROM THE CODE, AND AN EFFECTIVE DATE

WHEREAS, on July 7, 2022, this Board adopted Ordinance No. 22-83, which instituted more rigorous standards for new and replacement onsite sewage treatment and disposal systems (OSTDSs), commonly referred to as “septic tanks” or “septic systems”; and

WHEREAS, Ordinance No. 22-83 provided, among other things, that the new requirements would apply to OSTDSs installed on or after January 1, 2023, to allow for a proper transition by property owners, engineers, contractors, and the OSTDS industry to the new standards; and

WHEREAS, Ordinance No. 22-83 provided, “[o]n and after January 1, 2023, no building permit . . . having the effect of approving a new OSTDS . . . shall be issued by the County or any municipality without first obtaining the prior written approval of the Director pursuant to section 24-42.7”; and

WHEREAS, section 24-42.7(5)(a)(iii) of the Code provides, “[t]he Director may issue the approval only upon demonstration that the applied-for OSTDS complies with the requirements of this section . . .,” and section 24-42.7(5)(c)(ii) provides that “[s]ingle-family and duplex residences . . . shall install a Type 2, 3, or 4 OSTDS” subject to certain criteria; and

WHEREAS, accordingly, single-family and duplex residences thus may not install a Type 1 OSTDS, which is a “standard or conventional” type of OSTDS that does not meet the new standards required by Ordinance No. 22-83; and

WHEREAS, in light of the County’s current critical housing shortage and the attendant need to avoid unnecessary delays in housing construction, this Board wishes to provide a limited exception to the prohibition on issuance of building permits, to allow building permits to be issued for applications for single-family or duplex residences within the Urban Development Boundary that were filed prior to December 31, 2022, and included Type 1 OSTDSs, subject to the condition that such residences will ultimately be required to install a Type 2 or better OSTDS before construction is completed; and

WHEREAS, this limited exception will allow construction on these needed homes to commence while applications for the new OSTDS systems are reviewed, so that the County achieves both production of necessary homes and compliance with the new OSTDS requirements,

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

Section 1. The foregoing recitals are incorporated in this ordinance and are approved.

Section 2. Notwithstanding any provision of Ordinance No. 22-83 to the contrary, a building permit may be issued for a building permit application that was pending as of December 31, 2022, for a new single-family or duplex home located inside of the Urban Development Boundary that proposed to install a Type 1 OSTDS or other OSTDS that is not Type 2 or better, as defined in section 24-42.7 of the Code of Miami-Dade County, Florida, provided that the building permit is issued subject to the conditions that a building permit revision that includes a

Type 2 or better OSTDS is issued prior to the tie beam inspection, that a Type 2 or better OSTDS shall be installed for that home, that a temporary certificate of occupancy or certificate of occupancy shall not be issued if a Type 2 or better OSTDS is not installed, and that the installed OSTDS otherwise complies with the plan approval, registration, and other applicable requirements of Ordinance No. 22-83.

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 shall be excluded from the Code of Miami-Dade County, Florida.

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:



Dennis A. Kerbel

Prime Sponsor: Commissioner Raquel A. Regalado
Co-Sponsor: Commissioner Juan Carlos Bermudez