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OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Amended
Agenda Item No. 7(B)

(Second Reading: 6-3-25)

TO: Honorable Chairman Anthony Rodriguez and Members, Board of County Commissioners

DATE: April 1, 2025

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Ordinance relating to environmental protection; amending section 24-42.7 of the Code; authorizing administrative approval of onsite sewage treatment and disposal systems that do not comply with certain minimum setback distances under certain circumstances; amending section 24-48.3 of the Code; authorizing the administrative approval of boat slips in areas with certain national oceanic and atmospheric administration mean low water datum through the issuance of Class I permits

Ordinance No. 25-52

The accompanying ordinance was prepared Regulatory and Economic Resources Department and placed on the agenda at the request of Prime Sponsor Commissioner Juan Carlos Bermudez.

for
Geri Bonzon-Keenan
County Attorney

GBK/smm

Memorandum

Date: June 3, 2025

To: Honorable Chairman Anthony Rodriguez
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor

Subject: Ordinance Relating to Environmental Protection, Allowing Administrative Approval of the Placement of Onsite Sewage Treatment and Disposal Systems and Authorizing the Approval of Boat Slips that Meet Certain Criteria

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Executive Summary

This ordinance is part of the Department of Regulatory and Economic Resources - Division of Environmental Resources Management's (RER-DERM) efforts to streamline regulations, reduce permitting timeframes, and provide efficiency in the environmental permitting process in Miami-Dade County. The proposed ordinance revises environmental regulations that currently cannot be approved administratively and require a public hearing to request variances before the Environmental Quality Control Board (EQCB).

Recommendation

It is recommended that the Board of County Commissioners (Board) approve the attached ordinance amending sections 24-42.7 and 24-48.3 of the Code of Miami-Dade County, Florida (Code) relating to administrative approvals for the placement of Onsite Sewage Treatment and Disposal Systems (OSTDS); and authorizing the approval of boat slips in an area with less than four feet N.O.A.A. mean low water datum through the issuance of a Class I permit.

Scope

The scope of this ordinance is countywide.

Delegation of Authority

Approval of this ordinance will allow administrative adjustments for the placement of new and replacement OSTDSs and the authority to approve boat slips in an area with less than four feet N.O.A.A. mean low water datum through the issuance of a Class I permit, in lieu of applicants soliciting such approvals through public hearings before the EQCB.

Fiscal Impact/Funding Source

No negative fiscal impact to the County is anticipated as a result of this ordinance. Property owners and applicants are expected to benefit from reduced development costs that are generally associated with administrative vs. public hearing processes as explained below.

Track Record/Monitor

RER-DERM will be responsible for monitoring the implementation of this Ordinance.

Social Equity

The proposed ordinance is anticipated to yield economic benefits to private property owners and the development community by reducing the cost of projects that otherwise would require a variance through a public hearing. A review of EQCB cases from 2021 to 2024 noted that approximately 18% of all cases were related to the placement of an OSTDS and 10% were related to boat slip depths.

Background

Section 24-42.7 of the Code provides that the installation or replacement of an onsite sewage treatment and disposal system (OSTDS) on a property where public water is not available, shall be a minimum of 50 feet from a property line. Currently, a property owner is required to seek a variance via a public hearing before the EQCB if proposing to place an OSTDS less than 50 feet from a property line. The placement of an OSTDS less than 50 feet from a property line could be administratively approved without lessening existing environmental protections if specific approval criteria are added to the Code. If the proposed OSTDS meet specific requirements, such as requiring the system to provide additional sewage effluent treatment and require a system that would reduce overall contaminant loading, placing the OSTDS less than 50 feet from a property line would not cause an environmental impact. To ensure the health, welfare, and safety of existing potable wells on surrounding properties, the proposed amendment does not lessen existing standards in the Code and does not allow the placement of an OSTDS within 100 feet of an onsite domestic well system. Lastly, the amendment requires that applicants obtain written confirmation from adjacent property owners, and applications would not be approved if an adjacent property submits a letter of objection. As such, the proposed ordinance would not impact the health, welfare, and safety of those using the onsite domestic well as a source for potable water.

Section 24-48.3 of the Code provides the minimum water depth for the creation, construction or placement of a boat slip in Miami-Dade County. Currently, a proposed boat slip with less than four feet of depth of N.O.A.A. mean low water datum cannot be administratively approved unless granted a variance via a public hearing before the EQCB. The proposed ordinance would allow for administrative approval of a proposed boat slip in tidal waters with less than four feet of depth of N.O.A.A. mean low water datum provided that the applicant obtain a DERM Class I permit, and provided that the proposed boat slip and the mooring of the vessel will not result in adverse environmental impacts to the bay bottom or any benthic resources.

The proposed ordinance will provide relief to property owners in the overall development process and will allow projects to obtain administrative approvals without lessening existing environmental regulatory standards and protections.

Roy Coley
Chief Utilities and Regulatory Services Officer

MEMORANDUM

(Revised)

TO: Honorable Chairman Anthony Rodriguez
and Members, Board of County Commissioners

DATE: June 3, 2025

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Amended
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 ____, majority plus one ____, 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) ____, 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 _____

Amended
Agenda Item No. 7(B)
6-3-25

ORDINANCE NO. **25-52**

ORDINANCE RELATING TO ENVIRONMENTAL PROTECTION; AMENDING SECTION 24-42.7 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; AUTHORIZING ADMINISTRATIVE APPROVAL OF ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS THAT DO NOT COMPLY WITH THE MINIMUM SETBACK DISTANCE; AMENDING SECTION 24-48.3 OF THE CODE; AUTHORIZING THE ADMINISTRATIVE APPROVAL OF THE CREATION, CONSTRUCTION, OR PLACEMENT OF BOAT SLIPS IN AN AREA WITH LESS THAN FOUR FEET N.O.A.A. MEAN LOW WATER DATUM THROUGH THE ISSUANCE OF CLASS I PERMITS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

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

Section 1. The memorandum referenced in the above recital is incorporated in this ordinance and is approved.

Section 2. Section 24-42.7 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:[1]

ARTICLE III. – WATER AND SOIL QUALITY

DIVISION 1. – WATER QUALITY, WASTEWATER AND SANITARY SEWER PRETREATMENT STANDARDS

* * *

[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. 24-42.7. Onsite Sewage Treatment and Disposal Systems (including, without limitation, septic tank systems).

* * *

(5) *Standards and procedures governing installation of an OSTDS.* On and after January 1, 2023, the installation of a new OSTDS or replacement of an entire existing OSTDS shall comply with the following:

* * *

(b) General requirements applicable to the installation of all new OSTDS and replacements of an entire existing OSTDS.

* * *

(iv) Where public water is not available, each OSTDS, including the reserved area, shall be located no less than 50 feet from all property lines. This minimum distance shall not apply to replacement of systems installed prior to January 1, 2023, when site conditions and physical constraints prohibit compliance with the minimum distance, provided that the existing distance from all property lines shall not be reduced.

* * *

(6) *Administrative adjustments authorized.*

(a) Notwithstanding any provision to the contrary, the Director is authorized to approve an OSTDS that:

(i) Discharges an effluent that, prior to reaching the drainfield or disposal system, is in compliance with the OSTDS Type required in paragraph (5)(c) above; or

(ii) Produces concentrations of applicable constituents (e.g. CBOD5, TSS, TN, and TP) after reaching the drainfield or disposal system, but prior to reaching the groundwater, that are equal to or lower than the concentrations that would result from the OSTDS Type required in paragraph (5)(c) above.

>> (b) Where public water is not available, the Director is authorized to approve an OSTDS that does not comply with the minimum setback distance set forth in paragraph (5)(b)(iv) above provided that:

(i) The Director has assessed the feasibility of the future construction of water and sewer infrastructure on the property where the proposed OSTDS would be located, and of the conveyance of an easement to the applicable utility with jurisdiction over the subject property for the purpose of future construction of such infrastructure; and

(ii) The proposed OSTDS complies with all other applicable provisions of section 24-42.7; and

(iii) The proposed OSTDS complies with all minimum setbacks required by chapter 62-6 of the Florida Administrative Code or other applicable state regulation; and

(iv) If the proposed OSTDS is adjacent to a developed lot:

1. The proposed OSTDS on the property shall be a minimum of 100 feet from any proposed on-site domestic well and a minimum of 100 feet from any existing domestic well on an adjacent property; and

2. Any proposed on-site domestic well shall be a minimum of 100 feet from all existing OSTDS; and

(v.) If the proposed OSTDS is adjacent to a non-developed lot:

1. The applicant shall provide to the Department notarized letter(s) of consent, in a form prescribed by the Director or the Director's designee, from all property owner(s) within 100 feet of the applicant's property including those located across the stress from the applicant's property.

If the applicant is unable to obtain either a notarized signed consent or objection of a neighboring property owner, the consent shall not be required if the applicant provides the Department proof of sending the form letter(s) of consent and written notice via first class mail, return receipt requested, to the property owner of record, as reflected in the Miami-Dade Property Appraiser's tax roll, as updated. Such notice shall be deemed sufficient if it accurately describes the administrative adjustment requested, and if it informs the neighboring property owner of the consequences of a failure to respond.

The applicant shall also present the Department with proof that one of the following two events has occurred:

(i) After 90 days from receipt of notice, as indicated on the return receipt, the neighboring property owner has failed to respond; or

(ii) The United States Postal Service has returned the notice as undeliverable.

2. The administrative adjustment shall not be approved if the Department has received any letter of objection regarding the placement of the OSTDS from any property owner(s) within 100 feet of the applicant's property within 90 days from receipt of notice, as indicated on the return receipt.

(c)<<[[~~(b)~~]] Applications for approval of administrative adjustments shall be submitted to the Department on a form acceptable to the Director and shall include, at a minimum, modeling, plans, and calculations in an engineering report signed and sealed by a professional engineer licensed in the State of Florida demonstrating that the proposed OSTDS complies with all applicable requirements.

(7) Conflicts with other regulations. In the event of a conflict with Section 32-7 or any other provision of this code, this section shall govern. It is provided, however, that nothing in this section shall be construed to supersede any additional or more restrictive requirements in federal or state law.

* * *

Section 3. Section 24-48.3 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows.

ARTICLE IV. – NATURAL AND BIOLOGICAL ENVIRONMENTAL RESOURCES PERMITTING AND PROTECTION; REGULATION OF DRAINAGE SYSTEMS AND STORMWATER MANAGEMENT

DIVISION 1. – WORK IN CANAL RIGHTS-OF-WAY, TIDAL WATERS, SUBMERGED BAY-BOTTOM LANDS, AND WETLANDS; DEWATER; CONSTRUCTION OF DRAINAGE SYSTEMS

* * *

Sec. 24-48.3. Factors for evaluation of permit applications; incomplete permit applications.

* * *

(3) In addition to the applicable evaluation factors found in Section 24-48.3(1)(a) through (i) above, boat slips created by the construction or placement of fixed or floating docks, piers, piles and other structures requiring a permit under this article and located in tidal waters within the geographical boundaries of Miami-Dade County, Florida shall have a minimum water depth of four feet N.O.A.A. mean low water datum. It shall be unlawful to moor or store vessels at fixed and floating docks, piers, piles and any structure requiring a permit under this article in tidal waters within the geographical boundaries of Miami-Dade County in areas with less than four feet of depth N.O.A.A. mean low water datum except for those existing structures which were constructed or placed in accordance with all of the requirements of the Code of Miami-Dade County, Florida prior to October 11, 1985. The foregoing requirements in this subsection (3) shall not apply to:

(a) Fixed or floating docks or piers in tidal waters which are utilized exclusively for fishing, viewing Biscayne Bay, or swimming and which do not have one or more slips or mooring or fender piles present or proposed at or adjacent to the dock or pier, or

* * *

(g) Repair or reconstruction of existing legal docks provided there is a minimum water depth of three feet N.O.A.A. mean low water datum.

>><u>Notwithstanding any provision to the contrary, the Director is authorized to approve the creation, construction, or placement of a boat slip through the issuance of a class I permit, in an area with less than four feet N.O.A.A. mean low water datum where all of the following requirements are complied with:</u>

<u>(a) The installation, repair, and replacement shall not result in adverse environmental impacts as determined by the Director.</u>

(b) Mooring shall be restricted such that a minimum of one foot of clearance will be maintained at all times between the bay bottom, or any benthic resources, and the deepest part of the vessel(s).

(c) A covenant running with the land in favor of Miami-Dade County is executed by the riparian property owner(s). Said covenant shall be in a form approved by the Director. All covenants submitted pursuant to this provision shall be executed by the riparian property owner(s) and/or the submerged lands owner(s) as may be applicable, accepted by the Director or Director's designee, and recorded in the Official Records of Miami-Dade County at the expense of the owner(s) of the property. Said covenant shall not be released or modified without the written consent of the Director. Said covenant shall restrict mooring within a designated portion of the property and may include conditions to restrict mooring in a manner consistent with subsection 24-48.3(3).<<

Additionally, no permit shall be issued for a proposed slip or for any other proposed work requiring a permit under this Article which is to be used for the mooring or securing of a vessel, unless adequate water depth exists, including when the vessel is fully loaded.

Section 2. 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 3. 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 4. 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: June 3, 2025

Approved by County Attorney as to form and legal sufficiency:

Prepared by:

Cristina M. Rabionet
Abbie Schwaderer-Raurell