

ORDINANCE NO. 2023-32

1 AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD
2 COUNTY, FLORIDA, PERTAINING TO DISCLOSURES REGARDING SEPTIC TANK
3 SYSTEMS FOR RESIDENTIAL REAL ESTATE TRANSACTIONS; AMENDING
4 CHAPTER 20 OF THE BROWARD COUNTY CODE OF ORDINANCES ("CODE") TO
5 CREATE ARTICLE XIV, SECTIONS 20-275 THROUGH 20-278; PROVIDING FOR A
6 TITLE, APPLICABILITY, DEFINITIONS, AND DISCLOSURES; AND PROVIDING FOR
7 SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

8 (Sponsored by Senator Steve Geller)
9

10 WHEREAS, many residential properties within Broward County utilize septic tank
11 systems to treat and dispose of wastewater from toilets, showers, sinks, dishwashers,
12 and other onsite sources;

13 WHEREAS, improperly functioning septic tanks may pose risks to human health
14 and the environment;

15 WHEREAS, Florida law requires sellers in residential real estate transactions to
16 disclose to purchasers all known facts that materially affect the value of the property, are
17 not readily observable, and are not known to purchasers;

18 WHEREAS, purchasers in the process of acquiring residential real property may
19 wish to know whether said property has been or is serviced by a septic tank system;

20 WHEREAS, knowledge about the presence or use of a septic tank system is
21 relevant to the acquisition of residential real property because of the costs associated
22

23 with maintaining a properly functioning septic tank system and complying with local and
24 state regulations;

25 WHEREAS, if public sanitary sewer system access is available to residential real
26 property currently utilizing a septic tank system, the owner of the property is required to
27 connect the property to the sanitary sewer system at the owner's expense pursuant to
28 state law and County ordinance;

29 WHEREAS, requiring sellers of residential real property to disclose the fact that a
30 septic tank system is located on the property or is otherwise serviced by a septic tank
31 system will ensure prospective purchasers are aware of its existence as well as the
32 governmental regulations that apply to septic tank systems and properties served by
33 them, including the requirement that the owner pay to connect the property to an available
34 abutting public sanitary sewer system;

35 WHEREAS, such disclosure will ensure that purchasers of residential real property
36 have this important information regarding the property and could prompt purchasers to
37 conduct additional prepurchase inspections and inquire into any present or future
38 connection responsibilities; and

39 WHEREAS, the Board of County Commissioners wishes to require the seller of
40 residential property to disclose certain information relating to septic tank systems located
41 on the property before the conveyance of the property and to require an acknowledgment
42 of the disclosure by the purchaser,

43 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
44 BROWARD COUNTY, FLORIDA:

Section 1. Chapter 20 of the Broward County Code of Ordinances is hereby amended to create Article XIV, Sections 20-275 through 20-278, to read as follows:

[Underlining omitted]

ARTICLE XIV. SEPTIC TANK SYSTEMS DISCLOSURE FOR RESIDENTIAL REAL ESTATE TRANSACTIONS ORDINANCE

Sec. 20-275. Title.

Sections 20-275 through 20-278 of the Broward County Code of Ordinances shall be known as the "Septic Tank Systems Disclosure for Residential Real Estate Transactions Ordinance."

Sec. 20-276. Applicability.

(a) This article applies to the sale of affected residential real property within the incorporated and unincorporated portions of Broward County. However, this article does not apply to any transactions for commercial real estate, court-ordered sales, or tax deed sales of affected residential real property.

(b) If this article conflicts with an applicable municipal ordinance, Section 11.01 of the Broward County Charter governs the resolution of the conflict.

(c) Nothing in this article shall be construed to relieve a person from compliance with any other applicable County and municipal regulations.

Sec. 20-277. Definitions.

Affected residential real property means any "residential parcel," as that term is defined in Section 5-201, Broward County Code of Ordinances, as amended, on which a septic tank system is installed or where such residential parcel is otherwise serviced by a septic tank system.

68 *Available* has the same meaning as set forth in Section 381.0065, Florida Statutes,
69 as amended.

70 *Septic tank system* means a septic tank or an onsite sewage treatment and
71 disposal system as defined by Section 381.0065, Florida Statutes, as amended.

72 **Sec. 20-278. Disclosure and Acknowledgment Requirements.**

73 (a) Prior to a purchaser of affected residential real property being bound by the
74 terms of a purchase contract, the seller must disclose to the purchaser, in writing, the
75 existence of any septic tank system on or servicing the property and the requirement that
76 the owner of the affected residential real property, at the owner's sole cost and expense,
77 connect to a public sanitary sewer system if it is made available to the affected residential
78 real property. If the disclosure required by this section is included in the real estate sales
79 contract or in a separate written seller's disclosure statement that discloses other matters
80 relating to the condition of the affected residential real property provided by the seller to
81 the purchaser of affected residential real property and is countersigned by the purchaser,
82 such disclosure must be of the same typeface and size, or larger, as the largest typeface
83 of other provisions of the document and must be conspicuous in its placement.

84 (b) If the disclosure required by Section (a) is not contained within the real
85 estate sales contract or a separate written seller's disclosure statement countersigned by
86 the purchaser, the written disclosure must be made in substantially the form provided
87 below. Such disclosure must be provided by the seller to the purchaser of affected
88 residential real property on a separate sheet of paper and written in at least
89 a 12-point, all-caps font, or the same typeface and size as the largest of any other text in
90 the document being provided by the seller to the purchaser, whichever is larger.

91 SEPTIC TANK SYSTEM DISCLOSURE

92 THE RESIDENTIAL REAL PROPERTY INVOLVED IN THIS
93 TRANSACTION HAS A SEPTIC TANK SYSTEM INSTALLED ON IT OR IS
94 SERVICED BY A SEPTIC TANK SYSTEM. **STATE, COUNTY, AND**
95 **LOCAL LAWS GOVERN THE CONSTRUCTION, INSTALLATION,**
96 **OPERATION, AND MAINTENANCE OF SEPTIC TANK SYSTEMS.**
97 **PURSUANT TO FLORIDA LAW AND COUNTY CODE, A PROPERTY**
98 **OWNER IS REQUIRED TO CONNECT TO THE SANITARY SEWER MAIN**
99 **IF SANITARY SEWER SERVICE IS AVAILABLE TO THE PROPERTY.**

100 THE PURCHASER OF THIS PROPERTY MAY WISH TO OBTAIN AN
101 INSPECTION OF THE SEPTIC TANK SYSTEM BY A QUALIFIED
102 PROFESSIONAL AND CONTACT THE MUNICIPALITY WHERE THE
103 PROPERTY IS LOCATED OR BROWARD COUNTY TO INQUIRE INTO
104 SANITARY SEWER CONNECTION AVAILABILITY AND THE COSTS OF
105 CONNECTION.

106 PURCHASER ACKNOWLEDGMENT

107 I HEREBY CERTIFY THAT I RECEIVED THE SEPTIC TANK
108 SYSTEM DISCLOSURE STATEMENT FOR THE
109 CONVEYANCE OF THIS RESIDENTIAL REAL PROPERTY.

110 Section 2. Severability.

111 If any portion of this Ordinance is determined by any court to be invalid, the invalid
112 portion will be stricken, and such striking will not affect the validity of the remainder of this
113 Ordinance. If any court determines that this Ordinance, in whole or in part, cannot be

legally applied to any individual, group, entity, property, or circumstance, such determination will not affect the applicability of this Ordinance to any other individual, group, entity, property, or circumstance.

Section 3. Inclusion in the Broward County Code of Ordinances.

It is the intention of the Board of County Commissioners that the provisions of this Ordinance become part of the Broward County Code of Ordinances as of the effective date. The sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase to the extent necessary to accomplish such intention.

123 Section 4. Effective Date.

124 This Ordinance is effective as of the date provided by law.

ENACTED September 19, 2023

FILED WITH THE DEPARTMENT OF STATE September 20, 2023

EFFECTIVE September 20, 2023

Approved as to form and legal sufficiency:
Andrew J. Meyers, County Attorney

By: /s/ Jennifer D. Brown 08/18/2023
 Jennifer D. Brown (date)
 Assistant County Attorney

By: /s/ Michael C. Owens 08/18/2023
 Michael C. Owens (date)
 Senior Assistant County Attorney

125 JDB/gmb
126 Residential Septic Disclosure Ordinance
127 08/18/2022
128 #60053-0055

Coding: Words ~~stricken~~ are deletions from existing text. Words underlined are additions to existing text.