

R5 H SEXUALLY TRANSMITTED INFECTION (STI) TESTING REGULATIONS

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE MIAMI BEACH RESILIENCY CODE, BY AMENDING CHAPTER 1, ENTITLED "GENERAL PROVISIONS," ARTICLE II, ENTITLED "DEFINITIONS," AT SECTION 1.2.2., ENTITLED "USE DEFINITIONS," AT SUBSECTION 1.2.2.9, ENTITLED "SPECIALIZED USES," BY ESTABLISHING A DEFINITION FOR SEXUALLY TRANSMITTED INFECTION (STI) TESTING SERVICES; AND BY AMENDING CHAPTER 7, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE V, ENTITLED "SUPPLEMENTARY DISTRICT REGULATIONS," SECTION 7.5.5, ENTITLED "SPECIALIZED USE REGULATIONS," AT SUBSECTION 7.5.5.1 ENTITLED "ASSISTED LIVING AND MEDICAL USES," BY EXEMPTING SEXUALLY TRANSMITTED INFECTION (STI) TESTING SERVICES FROM THE REGULATIONS OF THIS DIVISION; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Interim City Manager Rickelle Williams

DATE: June 26, 2024 First Reading

TITLE: SEXUALLY TRANSMITTED INFECTION (STI) TESTING REGULATIONS
AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE MIAMI BEACH RESILIENCY CODE, BY AMENDING CHAPTER 1, ENTITLED "GENERAL PROVISIONS," ARTICLE II, ENTITLED "DEFINITIONS," AT SECTION 1.2.2., ENTITLED "USE DEFINITIONS," AT SUBSECTION 1.2.2.9, ENTITLED "SPECIALIZED USES," BY ESTABLISHING A DEFINITION FOR SEXUALLY TRANSMITTED INFECTION (STI) TESTING SERVICES; AND BY AMENDING CHAPTER 7, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE V, ENTITLED "SUPPLEMENTARY DISTRICT REGULATIONS," SECTION 7.5.5, ENTITLED "SPECIALIZED USE REGULATIONS," AT SUBSECTION 7.5.5.1 ENTITLED "ASSISTED LIVING AND MEDICAL USES," BY EXEMPTING SEXUALLY TRANSMITTED INFECTION (STI) TESTING SERVICES FROM THE REGULATIONS OF THIS DIVISION; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

RECOMMENDATION

The Administration recommends that the City Commission approve the subject ordinance at First Reading and schedule a Second Reading public hearing for July 24, 2024.

BACKGROUND/HISTORY

On January 31, 2024, at the request of Commissioner Alex Fernandez, the Mayor and City Commission referred a discussion item (C4 E) pertaining to STI testing site exceptions to the Land Use and Sustainability Committee (LUSC) and the Planning Board. On February 26, 2024, the LUSC recommended that the Planning Board transmit the ordinance to the City Commission with a favorable recommendation.

ANALYSIS

According to recent data, Miami-Dade County now ranks No. 4 in the country for total human immunodeficiency virus (HIV) cases by county. By rate of transmission, Miami-Dade County ranks No. 17 nationally, with 1,190 people diagnosed with HIV per 100,000 people. Additionally, the HIV "hot spots" in Miami-Dade County include zip code 33139, which covers all of South Beach. This public health crisis disproportionately impacts the LGBTQ community and people of color.

Medical uses are regulated pursuant to Section 7.5.5.1 of the Land Development Regulations (LDRs), entitled Assisted Living and Medical Uses. This section divides medical uses into classes and the classes of medical uses that are allowed in specific zoning districts. Currently STI testing is considered a Class I medical use, as part of a retail clinic or medical office, and a Class II medical use, as part of a laboratory or health care clinic. Class I medical uses are allowed in all zoning categories except RS, TH, RM-1, R-PS1, RMPS-1, and R-PS2 districts. Also, as a Class

1 medical use, STI testing can only be permitted as part of a medical clinic or office.

Subsection 7.5.5.1.c of the LDRs designates uses that are exempt from regulation as a medical use. For STI testing to take place outside the confines of a medical facility, this section is proposed to be amended to exempt STI testing as follows:

c. Exempt uses.

The following medical sub-uses, which, unless otherwise noted, service individuals in their place of residence, shall be exempt from the regulations of this division:

1. Health care services pool.
2. Home health agency.
3. Home medical equipment provider.
4. Homemaker and companion services.
5. Home hospice service.
6. Massage therapist.
7. Portable x-ray provider.
8. Pharmacies.
9. Medical cannabis treatment centers.
10. Sexually transmitted infection (STI) testing services, within a place of residence, as well as within multi-family, commercial and mixed-use districts.

Additionally, a definition for “Sexually transmitted infection (STI) testing service” is proposed to be provided within Section 1.2.2.9 of the LDRs, which establishes definitions for specialized uses, as follows:

Sexually transmitted infection (STI) testing service means a service provided by medical professionals to provide individuals with diagnoses of sexually transmitted infections.

PLANNING BOARD REVIEW

On April 25, 2024, the Planning Board held a public hearing and transmitted the proposed ordinance to the City Commission with a favorable recommendation (7-0).

APPLICATION FEE WAIVER

The subject amendment is proposed on a comprehensive, citywide basis, and not on behalf of a private applicant or third party. Pursuant to section 2.4.1.c of the Land Development Regulations of the City Code, amendments to the City Code require the payment of the applicable fees in section 2.2.3.5, 2.2.3.6, and appendix A to the City Code. These fees may be waived by a five-sevenths (5/7ths) vote of the City Commission, based upon one or more of the following circumstances:

1. The City Commission determines that the proposed amendment is necessary due to a change in federal or state law, or to implement best practices in urban planning, or based on circumstances unique to the proposed amendment.
2. Upon the written recommendation of the City Manager acknowledging a documented financial hardship of a property owner(s) or developer(s).
3. If requested, in writing, by a non-profit organization, neighborhood association, or homeowner's association for property owned by any such organization or association, so long as the request demonstrates that a public purpose is achieved by enacting the applicable amendment.

The Administration recommends that the City Commission waive the applicable fees based on circumstances unique to the proposed amendment.

BUSINESS IMPACT ESTIMATE

In accordance with Section 166.041(4), Florida Statutes, the City of Miami Beach is required to

assess whether a Business Impact Estimate is required for the subject ordinance. A Business Impact Estimate is not required for the subject ordinance as it implements an amendment to the Land Development Regulations.

FISCAL IMPACT STATEMENT

N/A

Does this Ordinance require a Business Impact Estimate? No
(FOR ORDINANCES ONLY)

The Business Impact Estimate (BIE) was published on . See BIE at:
<https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notices/>

FINANCIAL INFORMATION

CONCLUSION

The Administration recommends the following:

1. The City Commission approve the subject ordinance at First Reading and schedule a Second Reading public hearing for July 24, 2024.
2. In accordance with section 2.4.1.c.1 of the Land Development Regulations of the City Code, the City Commission waive the applicable fees based on circumstances unique to the proposed amendment.

Applicable Area

Citywide

Is this a “Residents Right to Know” item, pursuant to City Code Section 2-17?

Yes

Is this item related to a G.O. Bond Project?

No

Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying? No

If so, specify the name of lobbyist(s) and principal(s):

Department

Planning

Sponsor(s)

Commissioner Alex Fernandez

Co-sponsor(s)

Commissioner Laura Dominguez

ORDINANCE NO. _____

SEXUALLY TRANSMITTED INFECTION (STI) TESTING REGULATIONS

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE MIAMI BEACH RESILIENCY CODE, BY AMENDING CHAPTER 1, ENTITLED "GENERAL PROVISIONS," ARTICLE II, ENTITLED "DEFINITIONS," AT SECTION 1.2.2, ENTITLED "USE DEFINITIONS," AT SUBSECTION 1.2.2.9, ENTITLED "SPECIALIZED USES," BY ESTABLISHING A DEFINITION FOR SEXUALLY TRANSMITTED INFECTION (STI) TESTING SERVICE; AND BY AMENDING CHAPTER 7, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE V, ENTITLED "SUPPLEMENTARY DISTRICT REGULATIONS," SECTION 7.5.5, ENTITLED "SPECIALIZED USE REGULATIONS," AT SUBSECTION 7.5.5.1 ENTITLED "ASSISTED LIVING AND MEDICAL USES," BY EXEMPTING SEXUALLY TRANSMITTED INFECTION (STI) TESTING SERVICES FROM THE REGULATIONS OF THIS DIVISION; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, according to recent data, Miami-Dade County now ranks No. 4 in the country for total human immunodeficiency virus (HIV) cases by county; and

WHEREAS, by rate of transmission, Miami-Dade County ranks No. 17 nationally, with 1,190 people diagnosed with HIV per 100,000 people; and

WHEREAS, the HIV "hot spots" in Miami-Dade County include zip code 33139, which covers all of South Beach; and

WHEREAS, this public health crisis disproportionately impacts the LGBTQ community and people of color; and

WHEREAS, In response to the rising rates of transmission, it is in the best interest of the city to provide better access to testing services citywide; and

WHEREAS, allowing sexually transmitted infection (STI) testing to be exempt from the restrictions outlined in the City's medical use regulations, especially in commercial, mixed-use, and multifamily districts, will facilitate the expansion of testing services; and

WHEREAS, the amendments set forth below are necessary to accomplish all of the above objectives.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA.

SECTION 1. Chapter 1, entitled "General Provisions," Article II, entitled "Definitions," Section 1.2.2, entitled "Use Definitions," at Subsection 1.2.2.9, entitled "Specialized Uses," is hereby amended as follows:

**CHAPTER 1
GENERAL PROVISIONS**

* * *

ARTICLE II: DEFINITIONS

* * *

1.2.2 USE DEFINITIONS

* * *

1.2.2.9 Specialized Uses

* * *

Sexually transmitted infection (STI) testing service means a service provided by medical professionals to provide individuals with testing and diagnoses of sexually transmitted infections.

Skilled nursing unit means skilled nursing units are based in hospitals, either housed inside the hospital or in a separate building. They typically provide only short-term care and rehabilitation services. The skilled nursing unit does not have a separate license because it is part of the hospital license. See the hospital definition for further information.

* * *

SECTION 2. Chapter 7, entitled “Zoning Districts and Regulations,” Article V, entitled “Supplementary District Regulations,” at Section 7.5.5, entitled “Assisted Living and Medical Uses,” at Subsection 7.5.5.1, entitled “Assisted Living and Medical uses,” is hereby amended as follows:

**CHAPTER 7
ZONING DISTRICTS AND REGULATIONS**

* * *

ARTICLE V: SUPPLEMENTARY DISTRICT REGULATIONS

* * *

7.5.5 SPECIALIZED USE REGULATIONS

* * *

7.5.5.1 Assisted Living and Medical Uses

* * *

c. Exempt uses.

The following medical sub-uses, which, unless otherwise noted, service individuals in their place of residence, shall be exempt from the regulations of this division:

1. Health care services pool.
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6. Massage therapist.
7. Portable x-ray provider.

- 8. Pharmacies.
- 9. Medical cannabis treatment centers.
- 10. Sexually transmitted infection (STI) testing services, within a place of residence, as well as within multi-family, commercial and mixed-use districts.

SECTION 3. REPEALER.

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith be and the same are hereby repealed.

SECTION 4. CODIFICATION.

It is the intention of the City Commission, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach as amended; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 5. SEVERABILITY.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED AND ADOPTED this ____ day of _____, 2024.

Steven Meiner, Mayor

ATTEST:

Rafael E. Granado, City Clerk

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION



City Attorney NK 5/13/2024
Date

First Reading: May 15, 2024
Second Reading: July 24, 2024

Verified by: _____
Thomas R. Mooney, AICP
Planning Director