

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: April 25, 2024

FROM: Thomas R. Mooney, AICP
Planning Director

DS


for TRM

SUBJECT: **PB24-0664: Sexually Transmitted Infection (STI) Testing Regulations.**

RECOMMENDATION

Transmit the proposed ordinance amendment to the City Commission with a favorable recommendation.

HISTORY

On January 31, 2024, at the request of Commissioner Alex Fernandez, the 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.

REVIEW CRITERIA

Pursuant to Section 2.4.2 of the Resiliency Code, in reviewing a request for an amendment to these land development regulations (LDRs), the board shall consider the following when applicable:

1. **Whether the proposed change is consistent and compatible with the comprehensive plan and any applicable neighborhood or redevelopment plans.**

Consistent – The proposed ordinance is consistent with the goals, objectives, and policies of the Comprehensive Plan.

2. **Whether the proposed change would create an isolated district unrelated to adjacent or nearby districts.**

Consistent – The proposed amendment does not create an isolated district unrelated to adjacent or nearby districts.

3. **Whether the change suggested is out of scale with the needs of the neighborhood or the city.**

Consistent - The proposed ordinance will not modify the scale of development.

4. Whether the proposed change would tax the existing load on public facilities and infrastructure.

Consistent – The proposed ordinance will not affect the load on public facilities and infrastructure.

5. Whether existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.

Not applicable – The proposed amendment does not modify district boundaries.

6. Whether changed or changing conditions make the passage of the proposed change necessary.

Consistent – The need to expand STI testing services due to the rising rates of STI transmission, make the passage of the proposed change necessary.

7. Whether the proposed change will adversely influence living conditions in the neighborhood.

Consistent – The proposed ordinance amendment will not adversely affect living conditions in the city.

8. Whether the proposed change will create or excessively increase traffic congestion beyond the levels of service as set forth in the comprehensive plan or otherwise affect public safety.

Consistent – The proposed ordinance will not create or increase traffic congestion from what is currently permitted.

9. Whether the proposed change will seriously reduce light and air to adjacent areas.

Consistent – The proposed change will not affect light and ar.

10. Whether the proposed change will adversely affect property values in the adjacent area.

Consistent – The proposed change will not adversely affect property values in adjacent areas.

11. Whether the proposed change will be a deterrent to the improvement or development of adjacent property in accordance with existing regulations.

Consistent – The proposed change will not be a deterrent to the improvement or development of adjacent properties.

12. Whether there are substantial reasons why the property cannot be used in accordance with existing zoning.

Not applicable.

- 13. Whether it is impossible to find other adequate sites in the city for the proposed use in a district already permitting such use.**

Not applicable.

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

Section 7.1.2.4 of the LDRs establishes the following review criteria when considering ordinances, adopting resolutions, or making recommendations:

- (1) Whether the proposal affects an area that is vulnerable to the impacts of sea level rise, pursuant to adopted projections.**

Consistent – The proposal does affect areas that are vulnerable to the impacts of sea level rise in the long term, but has not impact on sea level rise.

- (2) Whether the proposal will increase the resiliency of the City with respect to sea level rise.**

Not Applicable

- (3) Whether the proposal is compatible with the City's sea level rise mitigation and resiliency efforts.**

Not Applicable

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 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.

RECOMMENDATION

In view of the foregoing analysis, staff recommends that the Planning Board transmit the proposed ordinance amendment to the City Commission with a favorable recommendation.

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.

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 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

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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.*
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

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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 AND FOR EXECUTION

City Attorney

Date

First Reading: _____, 2024

Second Reading: _____, 2024

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