

MEMORANDUM

Agenda Item No. 11(A)(15)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: December 1, 2021

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution directing the County Mayor to vigorously enforce all applicable County Code requirements against unauthorized and unlicensed medical recovery centers operating from residential properties and vacation rentals in Miami-Dade County, and to prepare a report; urging the State of Florida to take appropriate action to enforce applicable state licensing requirements and regulations

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Senator Javier D. Souto.



Geri Bonzon-Keenan
County Attorney

GBK/jp



MEMORANDUM
(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

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County Attorney

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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. 11(A)(15)
12-1-21

RESOLUTION NO. _____

RESOLUTION DIRECTING THE COUNTY MAYOR OR DESIGNEE TO VIGOROUSLY ENFORCE ALL APPLICABLE COUNTY CODE REQUIREMENTS AGAINST UNAUTHORIZED AND UNLICENSED MEDICAL RECOVERY CENTERS OPERATING FROM RESIDENTIAL PROPERTIES AND VACATION RENTALS IN MIAMI-DADE COUNTY, AND TO PREPARE A REPORT; URGING THE STATE OF FLORIDA TO TAKE APPROPRIATE ACTION TO ENFORCE APPLICABLE STATE LICENSING REQUIREMENTS AND REGULATIONS

WHEREAS, Miami-Dade County strives to preserve and protect the neighborhood character and quiet enjoyment of its single-family and low-density residential areas from detrimental outside influences; and

WHEREAS, the County does this in part through zoning and other regulations that restrict certain uses that are inconsistent with the neighborhood character of such residential areas to other locations that are better suited for urban, commercial, and industrial activity; and

WHEREAS, in recent years, short-term vacation rentals available through home-sharing platforms, such as Airbnb and HomeAway, have become increasingly popular in local communities throughout Florida; and

WHEREAS, short-term vacation rentals are appealing in part because they may provide tourists with more economical options for lodging, and may allow local residents to supplement their incomes by periodically renting out their homes or some portion thereof; and

WHEREAS, nevertheless, short-term vacation rentals also sometimes present challenges to local communities; and

WHEREAS, in particular, short-term vacation rentals may present concerns related to safety, security, noise, traffic, and overall quality of life in neighborhoods that have traditionally been residential in character; and

WHEREAS, in 2017, the County adopted commonsense local regulations pertaining to vacation rentals, including a requirement that vacation rental operators obtain an annually-renewable certificate of use from the County for each vacation rental property and adhere to certain standards set forth in the Code; and

WHEREAS, as recently reported in the local news, there has been an increase in the unauthorized and unlicensed use of homes offered and advertised on vacation rental platforms as places to recover after elective plastic surgery; and

WHEREAS, as described in the local news report, these residential properties and vacation rentals are oftentimes associated with the facilities where the plastic surgery procedures are performed and include medical staff and equipment onsite to render post-surgical care to those who are recovering from such procedures; and

WHEREAS, as highlighted in the local news report, using residential properties and vacation rentals as medical recovery centers can have dire health and safety consequences for those recovering from medical procedures, as such individuals are unable to timely and safely receive proper care in such a setting and may be discouraged from even seeking such care by property owners who do not want local authorities to discover that they are illegally operating an unlicensed medical recovery center; and

WHEREAS, in addition, operating residential properties and vacation rentals in such a manner is detrimental to the quality of life and quiet enjoyment of those who reside in the surrounding area; and

WHEREAS, the County does not permit residential properties or vacation rentals to operate as unlicensed medical recovery centers; and

WHEREAS, the County requires all businesses, including vacation rentals and home-based businesses, to obtain a certificate of use and adhere to other requirements set forth in the Code relating to the operation of such businesses; and

WHEREAS, while obtaining a certificate of use allows the property owner to operate a vacation rental, it does not obviate the need for any other authorizations required by law to conduct other activities at the same location; and

WHEREAS, the County does not permit medical facilities to operate in residential areas in the manner described in the local news report; and

WHEREAS, medical recovery centers may also require state licensure; and

WHEREAS, operating medical recovery centers in an unauthorized and unlicensed manner could also have criminal implications, including but not limited to the unlicensed operation of a medical facility, the unlicensed practice of medicine, fraud, and even racketeering; and

WHEREAS, insofar as medical recovery centers require state licensure, there may also be certain additional enforcement actions that can and should be taken by state officials; and

WHEREAS, this Board wishes to direct the administration to take any and all appropriate enforcement action against unauthorized and unlicensed medical recovery centers operating out of residential properties and vacation rentals, and to urge the state to take all appropriate enforcement action relating to applicable state law requirements as well,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board:

Section 1. Directs the County Mayor or designee to vigorously enforce all applicable County Code requirements against unauthorized and unlicensed medical recovery centers operating from residential properties and vacation rentals in Miami-Dade County. Such enforcement action should include, at a minimum, enforcement of certificate of use requirements and vacation rental regulations, where applicable, as well as criminal investigation by Miami-Dade Police Department of any violations of state penal statutes associated with the operation of such unlicensed medical recovery centers. The County Mayor or designee shall provide a report detailing the enforcement action taken and the results of such action within 90 days of the effective date of this resolution, and the report shall be placed on an agenda of the Board pursuant to Ordinance No. 14-65.

Section 2. Urges the State of Florida to take appropriate action to enforce applicable state licensing requirements and regulations relating to medical recovery centers operating out of residential and vacation rental properties.

Section 3. Directs the Clerk of the Board to transmit certified copies of this resolution to the Governor, the Attorney General, and the Secretary of the Agency for Health Care Administration.

The Prime Sponsor of the foregoing resolution is Senator Javier D. Souto. It was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

Jose "Pepe" Diaz, Chairman	
Oliver G. Gilbert, III, Vice-Chairman	
Sen. René García	Keon Hardemon
Sally A. Heyman	Danielle Cohen Higgins
Eileen Higgins	Joe A. Martinez
Kionne L. McGhee	Jean Monestime
Raquel A. Regalado	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared this resolution duly passed and adopted this 1st day of December, 2021. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



James Eddie Kirtley