

**ORDINANCE #2010 – 11**

**AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, DECLARING ZONING IN PROGRESS AND A MORATORIUM AS TO THE FILING AND/OR RECEIVING OF ANY PETITION FOR THE ESTABLISHMENT OF PAIN MANAGEMENT CLINICS AS DEFINED HEREIN; PROVIDING THAT ZONING IN PROGRESS AND THE MORATORIUM SHALL BE IN EFFECT FOR A PERIOD WHICH SHALL TERMINATE ON THE EFFECTIVE DATE OF THE CITY'S ADOPTION OF LAND DEVELOPMENT REGULATIONS TO REGULATE PAIN MANAGEMENT CLINICS; PROVIDING FOR LEGISLATIVE FINDINGS, INTENT AND PURPOSE; PROVIDING FOR A DEFINITION OF PAIN MANAGEMENT CLINIC; PROVIDING FOR THE BOUNDARIES SUBJECT TO THE MORATORIUM; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, in the Spring of 2009, the State Attorney's Office for the 17<sup>th</sup> Judicial Circuit in Broward County, Florida, issued an interim report entitled the "The Proliferation of Pain Clinics in South Florida which established the following facts: (i) from August 2008 to November 2009, one new pain clinic is opened in Broward and Palm Beach counties every three days; (ii) doctors in Palm Beach County dispensed the second highest volume of Oxycodone units in the United States; (iii) in 2008, prescription drugs were attributed to an average of 13.5 deaths per day in Florida; and (iv) pain clinics are migrating north from Broward County to major metropolitan areas; and

WHEREAS, the City Council has recently been made aware by news reports that a pattern of illegal drug use and distribution has been associated with some pain management clinics in south Florida, which dispense narcotic drugs on-site; and

WHEREAS, the Miami Herald, the Sun Sentinel, and the Palm Beach Post have published numerous newspaper articles in recent months describing the "pipeline" trafficking drugs from some south Florida pain management clinics to users from other states such as Kentucky, West Virginia and Ohio; and

WHEREAS, the threat of illegal narcotic activity and increased crime associated with pain management clinics is significant and could undermine the economic health of the City's development and redevelopment efforts; and

WHEREAS, the City Council hereby directs its staff to analyze the effects of pain management clinics in the City, to analyze whether additional standards should be incorporated into the City's land development regulations and to evaluate the process

for the issuance of development permits, business tax receipts, or other approvals regulating the location of pain management clinics within the City which would further and promote the public health, safety, morals and general welfare; and

WHEREAS, to provide the City staff with sufficient time to undertake its analysis, it is necessary to establish a City moratorium which prohibits the granting of development permits, business tax receipts, or other approvals; and

WHEREAS, it is not the intent of this moratorium to interfere with legitimate medical clinics nor the legal use of controlled substances; and

WHEREAS, the City Council finds and declares a need to temporarily suspend the further issuance of development permits, business tax receipts, or other approvals for new pain management clinics seeking to develop or open for business within the City until such time as the City can review its land development regulations to specifically address the proliferation of pain management clinics;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA AS FOLLOWS:

SECTION 1: Legislative Findings, Intent and Purpose. The Whereas clauses are incorporated herein, are true and correct, and represent the legislative findings of the City Council. It is the purpose and intent of this Ordinance to promote the health and general welfare of the residents and businesses of the City through the analysis of any impacts from pain management clinics and through consideration of criteria for the location of pain management clinic uses within the City.

SECTION 2: Definition. For purposes of this Ordinance, "Pain management clinic is defined as a privately owned pain-management clinic, facility or office, which advertises in any medium for any type of pain-management services, or employs a physician who is primarily engaged in the treatment of pain by prescribing or dispensing controlled substance medications, and is required to register with the Florida Department of Health pursuant to Sec. 458.309 or Sec. 459.005, Fla. Stat. (2009). A physician is primarily engaged in the treatment of pain by prescribing or dispensing controlled substance medications when the majority of the patients seen are prescribed or dispensed controlled substance medications for the treatment of chronic nonmalignant pain. Chronic nonmalignant pain is pain unrelated to cancer which persists beyond the usual course of the disease or the injury that is the cause of the pain for more than 90 days after surgery.

SECTION 3: Boundaries. This Ordinance shall apply to all properties located within the boundaries of the City of Doral.

SECTION 4: Zoning in Progress and Moratorium Declared. The City Council hereby imposes zoning in progress and a moratorium upon the application of any development permit applications, business tax receipts, or other approvals which might facilitate the opening or development of new pain management clinics, in whole or in part

within the City.

SECTION 5. Repeal of laws in conflict. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 6. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 7. Effective Date. This Ordinance shall take effect immediately upon adoption.

[Section left blank intentionally]

The foregoing Ordinance was offered by Councilman Cabrera who moved its adoption. The motion was seconded by Councilman DiPietro and upon being put to a vote, the vote was as follows:

Mayor Juan Carlos Bermudez	Yes
Vice Mayor Robert Van Name	Yes
Councilman Pete Cabrera	Yes
Councilman Michael DiPietro	Yes
Councilwoman Sandra Ruiz	Yes

PASSED AND ADOPTED upon first reading this 14<sup>th</sup> day of April, 2010.

PASSED AND ADOPTED upon second reading this 12<sup>th</sup> day of May, 2010.

  
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JUAN CARLOS BERMUDEZ, MAYOR

ATTEST:

  
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BARBARA HERRERA, CITY CLERK

APPROVED AS TO LEGAL FORM  
AND SUFFICIENCY:

  
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JIMMY MORALES, ESQ., CITY ATTORNEY