



COUNTY ATTORNEY'S OFFICE
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Handwritten initials/signature

05-27-15 P04:30 RCVD

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TO: Katie A. Smith, Deputy Clerk of the Board of County Commissioners, County Comptroller's Office

THROUGH: Cheryl Gillespie, Supervisor, Agenda Development Office

FROM: Joel Prinsell, Deputy County Attorney
407-836-7333
Joel.Prinsell@ocfl.net *JP*

DATE: May 27, 2015

SUBJECT: Request for Public Hearings at 5:01 p.m. on June 16, 2015 and at 2:00 p.m. on June 30, 2015, before the Board of County Commissioners to Consider Adoption of the Pain Management Clinic Ordinance

Ordinance Title: **AN ORDINANCE AFFECTING THE USE OF LAND IN ORANGE COUNTY, FLORIDA RELATING TO PAIN MANAGEMENT CLINICS AND PHARMACIES; AMENDING SECTION 38-1 (ZONING DEFINITIONS); AMENDING SECTION 38-77 (ZONING USE TABLE); AMENDING SECTION 38-79 (CONDITIONS FOR PERMITTED USES AND SPECIAL EXCEPTIONS); AND PROVIDING AN EFFECTIVE DATE**

Commission Districts: All

BCC Public Hearings Required by: Section 125.66(4)(b), Florida Statutes

Advertising Requirements: (1) At least 7 days before the BCC public hearing at 5:01 p.m. on June 16th, publish an advertisement in a portion of *The Orlando Sentinel* other than the legal notices or classified advertisement portion describing the ordinance and giving the date, time, and place when the BCC public hearing will be held. The

Handwritten notes:
June 16, 2015 @ 5:01 pm
And June 30, 2015 @ 2 pm

advertisement must be no less than 2 columns wide by 10 inches long and the headline in the advertisement must be in a type no smaller than 18 point.

And

(2) At least 5 days before the BCC public hearing at 2:00 p.m. on June 30th, do the same.

Special Instructions to the Clerk's Office:

Please schedule the public hearing for June 16, 2015, to begin at 5:01 p.m., or as soon thereafter as the matter may be heard.

Please schedule the public hearing for June 30, 2015, to begin at 2:00 p.m., or as soon thereafter as the matter may be heard.

Our office will send you a copy of the actual ordinance on or before the date the advertisement appears in *The Orlando Sentinel* for the June 16th public hearing.

Please let me know if you have any questions or comments.

□

The Orlando Sentinel

633 North Orange Avenue
MP 132
Orlando, FL 32801

Orange Co. Comptroller Clerk of BCC
#CU00124579

To: Barbara Snell

This is to confirm that the advertisement for Orange Co. Comptroller Clerk of BCC published in *The Orlando Sentinel* on the following date.

Publication Date: Thursday, June 4, 2015

Ad Caption: **Ordinance Relating to Pain Management Clinics and Pharmacies**

Section: Zone – Orange County Extra

Size: 2 columns x 10.5"

Job: #3331860

Should you need further information, please feel free to contact me.

Sincerely,




Penney Friedrich
Multimedia Consultant
The Orlando Sentinel

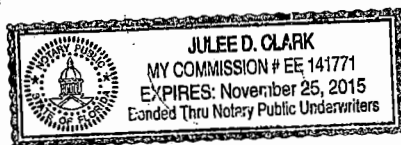
/plf

State of Florida
County of Orange

The foregoing instrument was acknowledged before me this 12th day of June, 2015, by Penney Friedrich, who is personally known to me.



Notary Public
State of Florida at Large



ORDINANCE NO. 2015-____

**AN ORDINANCE AFFECTING THE USE OF LAND
IN ORANGE COUNTY, FLORIDA, RELATING TO
PAIN MANAGEMENT CLINICS AND
PHARMACIES; AMENDING SECTION 38-1
(ZONING DEFINITIONS); AMENDING SECTION
38-77 (ZONING USE TABLE); AMENDING
SECTION 38-79 (CONDITIONS FOR PERMITTED
USES AND SPECIAL EXCEPTIONS); AND
PROVIDING AN EFFECTIVE DATE**

WHEREAS, the Orange County Sheriff's Office and the Metropolitan Bureau of Investigation for the Ninth Judicial Circuit have informed the Orange County Board of County Commissioners ("Board") that a pattern of illegal drug use and distribution of certain dangerous drugs has been linked in large part to certain pain management clinics operating in and around Orange County; and

WHEREAS, certain opiate analgesic dangerous drugs, that may be safe when used moderately or properly, have been shown to be particularly dangerous when over-prescribed by doctors in specialized businesses that are primarily focused on treating large numbers of persons who complain of any pain with very high doses of opiate drugs, and have been shown to be particularly dangerous when over-consumed by citizens and visitors who may obtain a large number of such opiate drugs by engaging in doctor shopping to obtain multiple prescriptions, close in time, from multiple doctors, by failing to disclose prior recent prescriptions to subsequent doctors, and then obtaining the prescriptions from multiple dispensing pharmacies, often by using multiple and false identities at both medical clinics and pharmacies; and

WHEREAS, the dangerous overprescribing and excessive consumption of high amounts of those dangerous opiate prescription drugs has resulted in increased addiction of persons, increased crime associated with such activity, and a high number of deaths in Orange County related to prescription drug abuse, and has created an urgent situation requiring immediate action to reduce the threat to the health, safety and welfare of county citizens; and

WHEREAS, the State of Florida has implemented a Prescription Drug Monitoring Program which could be an effective tool in Orange County to reduce successful doctor shopping, or multiple prescriptions, or multiple pharmacy filling of prescriptions and dispensing of potentially dangerous opiate drugs, if local physicians are careful to check the database before prescribing potentially dangerous opiate drugs; and if reports are made to the database immediately when potentially dangerous opiate drugs

48 are prescribed by local physicians or dispensed by local pharmacies so that other
50 physicians and pharmacies can know that information; and

52 **WHEREAS**, on December 7, 2010, the Board adopted Ordinance No. 2010-17 to
54 establish a moratorium on the issuance of any new Business Tax Receipts for pain
56 management clinics, to direct County staff to analyze the effects of pain management
58 clinics on our community and prepare recommendations to better promote, protect and
improve the health, safety and welfare of the citizens of the County by local regulation of
operation of existing clinics through the period of the moratorium; and

60 **WHEREAS**, on July 19, 2011 Orange County Mayor Teresa Jacobs' Prescription
62 Drug Task Force (Task Force) began a series of meetings to address the serious issue of
prescription drug abuse in our community through law enforcement, healthcare and
pharmacies, prevention, education, and public policy; and

64 **WHEREAS**, on March 6, 2012, the Task Force and County staff presented to the
66 Board a report detailing negative adverse secondary effects associated with pain
68 management clinics that necessitate a recommendation for certain changes to the Orange
County Code that will result in additional substantive and zoning regulations for pain
management clinics and pharmacies in Orange County; and

70 **WHEREAS**, on April 19, 2012, the Orange County Planning and Zoning
72 Commission held a public hearing on this ordinance and approved the proposed changes
74 to the Orange County Code that will result in additional zoning regulations for pain
management clinics in Orange County.

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS
76 OF ORANGE COUNTY, FLORIDA:**

Section 1. Amendments to Section 38-1. Section 38-1, Orange County Code,
78 the definition section, is hereby amended by revising the definitions of the terms "Clinic"
and "Home Occupation," and by creating definitions for the terms "Dangerous Drugs"
80 and "Pain Management Clinic," to read as follows, with strikethroughs indicating
deletions and underlines showing additions:

82 **Sec. 38-1. Definitions**

84 *Clinic* shall mean an establishment where patients
86 who are not lodged overnight are admitted for examination
and treatment by one (1) person or a group of persons,
practicing any form of healing or health building services

88 to individuals, whether such persons be medical doctors,
90 chiropractors, osteopaths, chiropodists, naturopaths,
92 optometrists, dentists, or any such profession the practice of
94 which is lawful in the state, excluding pain management
96 clinics.

98 *Home occupation* shall mean any use conducted
entirely within a dwelling or accessory building and carried
on by an occupant thereof, which use is clearly incidental
and secondary to the use of the dwelling for dwelling
purposes and does not change the character thereof,
provided that all of the following conditions are met:

100 Only such commodities as are made on the premises
102 may be sold on the premises. However, all such sales of
104 home occupation work or products shall be conducted
106 within a building and there shall be no outdoor display of
108 merchandise or products, nor shall there be any display
110 visible from the outside of the building. No person shall be
112 engaged in any such home occupation other than two (2)
114 members of the immediate family residing on the premises.
116 No mechanical equipment shall be used or stored on the
118 premises in connection with the home occupation, except
120 such that is normally used for purely domestic or household
122 purposes. Not over twenty-five (25) percent of the floor
124 area of any one (1) story shall be used for home occupation
126 purposes. Fabrication of articles such as commonly
128 classified under the terms "arts and handicrafts" may be
deemed a home occupation, subject to the other terms and
conditions of this definition. Home occupations shall not be
construed to include uses such as barber shops, beauty
parlors, plant nurseries, tearooms, food processing,
restaurants, sale of antiques, commercial kennels, real
estate offices, ~~or insurance offices,~~ or pain management
clinics.

122 *Pain management clinic* has the meaning ascribed
124 in Section 458.3265 or 459.0137, Florida Statutes, as
126 applicable, and is a clinic that is required to register with
128 the Florida Department of Health pursuant to Section
458.3265 or 459.0137, Florida Statutes.

130 *Pharmacy* means the same as that term is defined in
132 Section 465.003, Florida Statutes, as it may be amended
from time to time.

In all other respects, section 38-1 shall remain unchanged.

134 **Section 2. Amendment to Section 38-77.** Section 38-77, Orange County
 Code, the “Use Table,” is hereby amended to add “Pain Management Clinic” to the “Use
 136 Table,” with underlines showing additions:

Sec. 38-77. Use Table

Uses Per Zoning Code	SIC Group	Land Use	A-1	A-2	A-R	RCE-5	RCE-2	RCE	R-1AAAA	R-1AAA	R-1AA	R-1A	R-1	R-2	R-3	Cluster
<u>pain management clinic</u>																

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RT	RT-1	RT-2	P-O	C-1	C-2	C-3	I-1A	I-1, I-5	I-2, I-3	I-4	U-V (see 29)	R-L-D	UR-3	NC	NAC	NR	Conditions
										<u>155</u> <u>P</u>							*

140 In all other respects, section 38-77 shall remain unchanged.

Section 3. Amendments to Section 38-79. Section 38-79, Orange County
 142 Code, “Conditions for Permitted Uses and Special Exceptions,” is hereby amended to add
 the following conditions for “Pain Management Clinic,” with underlines showing
 144 additions:

Sec. 38-79. Conditions for permitted uses and special exceptions.

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(155) Pain management clinics may be permitted subject to the following conditions:

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a. Building and use permit applications. Any application for a pain management clinic established after June 30, 2015, shall complete the appropriate building permit or use permit application(s) and submit these application(s) to the County Division of Building Safety for review and approval prior to issuance of any permits.

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b. Separation distances. A pain management clinic established after June 30, 2015, shall not co-locate on the same property as a preexisting pharmacy. Furthermore,

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162 such a pain management clinic shall not operate within one
164 thousand (1,000) feet of any pre-existing pharmacy, school,
166 as that term is defined in Sections 1002.01 or 1003.01,
168 Florida Statutes, as it may be amended, day care center, day
170 care home, or religious institution. Distance requirements
172 shall be documented by the applicant and submitted to the
174 Zoning Division with the application. All distance
requirements shall be measured by drawing a straight line
from the nearest property line of the pre-existing protected
use to the nearest property line of the proposed pain
management clinic. The applicant may request a variance
from the requirements of this paragraph as provided in
section 30-43, Orange County Code.

176 c. *Parking.* Any parking demand created by a
178 pain management clinic established after June 30, 2015,
180 shall not exceed the parking spaces located or allocated on
182 site, as required by the County's parking regulations. An
184 applicant shall be required to demonstrate to the
186 appropriate County staff that on-site traffic and parking
188 attributable to the pain management clinic will be sufficient
190 to accommodate traffic and parking demands generated by
192 the pain management clinic, based upon a current traffic
194 and parking study prepared by a certified professional.
196 Traffic and parking analyses shall be predicated in part
upon traffic and parking impacts from other existing pain
management clinics in Florida but shall in no case be less
than one (1) space per 200 sq. ft. of gross square feet. The
source of any such information shall be provided to the
County Zoning Division for purposes of verification.
County staff shall be required to verify the information
contained in traffic and parking study(ies) with the
appropriate official(s) of the local government(s) where the
comparable information is derived. The owner of the pain
management clinic shall be responsible for ensuring that
there is no queuing of vehicles in the public right-of-way.

198 In all other respects, section 38-79 shall remain unchanged.

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202 [THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK.]
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