

ORDINANCE NO. C-10-07

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA, ESTABLISHING A MORATORIUM ON THE ISSUANCE OF BUSINESS TAX RECEIPTS FOR THE OPERATION OF "PAIN CLINICS" AND "PAIN MANAGEMENT CLINICS" FOR ONE HUNDRED AND EIGHTY (180) DAYS; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VII, Section 2 of the Florida Constitution and Chapter 166 of the Florida Statutes, the City of Fort Lauderdale is authorized and required to protect the public health, safety and welfare of its citizens and has the power and authority to enact regulations for valid governmental purposes that are not inconsistent with general or special law; and

WHEREAS, the public health, safety and welfare is a legitimate public purpose of the City of Fort Lauderdale; and

WHEREAS, the City of Fort Lauderdale and other cities in Broward County have seen an increase of "pain clinics" and "pain management clinics"; and

WHEREAS, Florida Statutes, Section 893.055, prescription drug monitoring program does not go into effect until December 1, 2010 and therefore there is a current absence of regulation of the dispensing of controlled substances and prescriptions for controlled substances for physicians; and

WHEREAS, on November 19, 2009, the Broward County Grand Jury issued an interim report entitled "The Proliferation of Pain Clinics in South Florida" after an investigation and review of the "Pill Mill" proliferation in South Florida and the effect on Broward County as a major source of Oxycodone, a controlled substance; and

WHEREAS, the Grand Jury found that the number of pain clinics increased from 4 to 176 in two years in South Florida and that 9 million dose units of Oxycodone was dispensed every 6 months; and

WHEREAS, the Grand Jury recommended that the state prescription drug monitoring program be swiftly implemented and adequately funded, as of the time of the Grand Jury report the program had not been funded by the State; and

WHEREAS, the Grand Jury found that in the State of Florida in 2006 there were 2,780 lethal dose reports of prescription drugs, in 2007 there were 3,317 lethal dose reports of prescription drugs, in 2008 there were 3,750 lethal dose reports of prescription drugs and in 2008 an additional 6,286 reports of non-lethal prescription drugs detected in deceased persons that may have been found in combination with other substances to be lethal; and

WHEREAS, the Grand Jury found that burglaries and robberies in the areas where pain clinics are located have increased; drug trafficking in prescription drugs and street level sales of prescription drugs have increased; and identity theft and organized criminal activities have increased; and

WHEREAS, the City of Fort Lauderdale believes that by establishing a moratorium for 180 days on the issuance of business tax receipts for "pain clinics" and "pain management clinics", the City will have the opportunity to research and study various regulatory options; and

WHEREAS, the City Commission finds it is in the best interest of the citizens of the City of Fort Lauderdale to minimize and control the adverse effects of pain clinics and thereby protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life and preserve property values by adopting appropriate regulations regulating thereto; and

WHEREAS, the City Commission deems it in the best interest of the City of Fort Lauderdale to enact an ordinance regulating pain clinics;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. The foregoing "Whereas" clauses are hereby ratified and confirmed as being true and correct and hereby made apart of this Ordinance.

SECTION 2. For the purposes of this ordinance, "pain clinic" and "pain management clinic" are defined as follows:

- a. any clinic, medical office or medical practitioner's office that is not affiliated with a hospital, hospice or other facility for treatment of terminally ill in Broward County, Florida; and

b. the primary business purpose of such clinic, medical office or medical practitioner's office is to prescribe or dispense pain medication, identified in Schedules II, III, and IV in Sections 893.03, 893.035 or 893.0355, Florida Statutes, to individuals, or

c. the clinic, medical office or medical practitioner's office advertises as being in business to prescribe pain medication, as defined above in b., and which may or may not provide dispensing of pain medication on site.

SECTION 3. A moratorium on the submission, processing and issuance of business tax receipts for the operation of pain clinics and pain management clinics, as defined herein, is hereby established for a period of one hundred and eighty (180) days from the effective date of this ordinance to research the nature and scope of possible measures of mitigation and regulation of pain clinics and pain management clinics.

SECTION 4. This moratorium shall not affect any business currently operating within the City of Fort Lauderdale pursuant to a validly issued business tax receipt as long as the business and property are in compliance with all applicable, local, county, state and federal laws.

SECTION 5. Applications for business tax receipts for operation of pain clinics and pain management clinics, as defined herein, received after the date of advertisement of the first reading of this ordinance shall be held in abeyance until the conclusion of the moratorium period.

SECTION 6. The Director of the Building Department, or her designee, is authorized to renew, on a case by case basis, the business tax receipt of any business affected by this moratorium with a valid business tax receipt in the event such receipt expires before the expiration of this moratorium, upon a finding that the business has taken adequate precautions to mitigate the potential for abuse of prescription drugs.

SECTION 7. Notwithstanding the time limit on the moratorium herein established, in the event the City Commission finds that additional time is needed for staff to conclude its review of the problems associated with pain clinics and pain management clinics, as defined herein, within the City and the drafting of regulations of those businesses then the term of this ordinance may be extended for an additional one hundred and eighty (180) days.

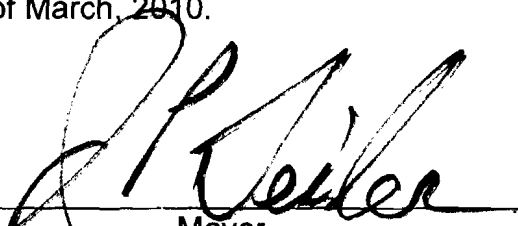
SECTION 8. That if any clause, section or other part of this ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 9. That all ordinances or parts of ordinances in conflict herewith, be and the same are hereby repealed.

SECTION 10. That this Ordinance shall be in full force and effect upon its final passage and adoption.

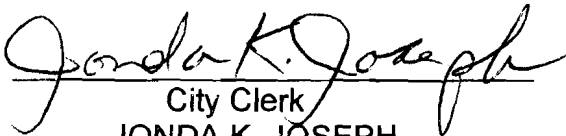
PASSED FIRST READING this the 16th day of February, 2010.

PASSED SECOND READING this the 2nd day of March, 2010.



Mayor
JOHN P. "JACK" SEILER

ATTEST:



City Clerk
JONDA K. JOSEPH