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HERNANDO COUNTY FLORIDA
TALLAHASSEE FLORIDA

ORDINANCE NO.: 2011 - 9

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2
3 AN ORDINANCE OF HERNANDO COUNTY RELATING TO PUBLIC
4 HEALTH, SAFETY AND WELFARE; AMENDING CHAPTER 21
5 (OFFENSES AND MISCELLANEOUS PROVISIONS) OF THE
6 HERNANDO COUNTY CODE OF ORDINANCES BY ADDING
7 ARTICLE XIV ENTITLED "PAIN MANAGEMENT CLINIC
8 ORDINANCE"; PROVIDING FOR A TITLE; PROVIDING FOR
9 LEGISLATIVE FINDINGS AND AUTHORITY; PROVIDING FOR
10 THE PURPOSE AND INTENT; PROVIDING FOR DEFINITIONS;
11 PROVIDING FOR CERTAIN EXEMPTIONS; REQUIRING A
12 CERTIFICATE OF USE FOR CERTAIN PAIN MANAGEMENT
13 CLINICS; PROVIDING FOR A ONE YEAR MORATORIUM ON NEW
14 PAIN MANAGEMENT CLINICS AND ON EXPANSION OF EXISTING
15 PAIN MANAGEMENT CLINICS; CREATING A CERTIFICATE OF
16 USE APPLICATION PROCESS AND REQUIREMENTS FOR
17 ISSUANCE OF A CERTIFICATE OF USE; PROVIDING FOR
18 GROUNDS TO DENY, NOT RENEW, OR REVOKE A CERTIFICATE
19 OF USE; PROVIDING FOR REVIEW OF CERTIFICATE OF USE
20 DENIAL, NON-RENEWAL OR REVOCATION; PROVIDING FOR
21 ADDITIONAL CERTIFICATE OF USE COMPLIANCE
22 REQUIREMENTS; PROVIDING FOR CERTIFICATE OF USE
23 RENEWALS AND FEES; PROVIDING FOR SERVICE OF NOTICE;
24 PROVIDING FOR VIOLATIONS AND INSPECTIONS; PROVIDING
25 FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR
26 ALLOCATION OF FINES, PENALTIES AND FORFEITURES;
27 PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF
28 INCONSISTENT PROVISIONS; PROVIDING FOR INCLUSION IN
29 THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.
30

31 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
32 HERNANDO COUNTY, FLORIDA:
33

34 WHEREAS, the Centers for Disease Control and Prevention reported on June 18,
35 2010, that emergency department visits involving nonmedical use of prescription drugs,
36 opioid analgesics and benzodiazepines, more than doubled during 2004-2008 in the United
37 States, which suggests that existing public health and law enforcement measures to prevent
38 the nonmedical use of such drugs are not effective and that additional measures are needed
39 urgently; and,
40

41 WHEREAS, the Hernando County Board of Commissioners has recently been made
42 aware by the Sheriff's Office and through the news media that patterns of illegal drug use
43 and distribution have been associated with some pain management clinics in Florida which

1 prescribe or dispense or prescribe controlled substances (e.g. narcotic drugs) and the
2 "pipeline" trafficking of drugs from Florida pain management clinics to users both in and out
3 of state; and,
4

5 **WHEREAS**, the threat of illegal narcotic activity and increased crime associated with
6 pain management clinics is significant and could undermine the health, safety and/or well
7 being of the citizens of Hernando County; and,
8

9 **WHEREAS**, the State currently regulates pain management clinics under chapters
10 459 and 460, Florida Statutes, and Rule Chapters 64B8-9 and 64B15-14, Florida
11 Administrative Code, however, these laws and regulations do not resolve all local issues
12 associated with pain management clinics; and,
13

14 **WHEREAS**, it is not the intent of any local regulation to interfere with legitimate
15 medical clinics, nor the legal use of controlled substances; and,
16

17 **WHEREAS**, many other counties, including Pinellas, Hillsborough, Martin, and
18 Pasco Counties, have enacted or are enacting regulations and/or moratoriums pertaining to
19 pain management clinics in order to address local concerns, and,
20

21 **WHEREAS**, the Hernando County Sheriff has urged the Board of County
22 Commissioners to adopt an ordinance similar to those already enacted in other counties in
23 Florida regarding the regulation of pain management clinics; and,
24

25 **WHEREAS**, the Board finds and declares an immediate and urgent need to regulate
26 pain management clinics.
27

28 **SECTION I. Amending Chapter 21 (Offenses and Miscellaneous Provisions).** Chapter
29 21 (Offenses and Miscellaneous Provisions) is amended to read as follows, with underlined
30 matter added and struck-through matter deleted:
31

32 *[Sec. 21-1 thru Sec. 21-229 remain unchanged]*
33

34 **Sec. 21-230. Reserved.**
35

36 **Art. XIV. PAIN MANAGEMENT CLINIC ORDINANCE**
37

38 **Sec. 21-231. Title.**
39

40 This Ordinance shall be known and may be cited as the "Pain Management Clinic
41 Ordinance."

1 **Sec. 21-232. Legislative Findings and Authority.**

2
3 The recitals set forth above are incorporated herein. The Hernando County Board of
4 County Commissioners finds and declares there exists an urgent need to enact an ordinance
5 regulating certain pain management clinics within unincorporated Hernando County.
6

7 This ordinance is enacted pursuant to chapter 125, Florida Statutes, and the home rule
8 powers of county government and is determined by the board to be in the best interest of the
9 health, safety and general welfare of the people of Hernando County.
10

11 The board further finds that in order for county staff to examine and make
12 recommendations to the board as to the criteria to be considered for the establishment or
13 expansion of pain management clinics, it is necessary to place a moratorium on the
14 submission of applications for establishment of new pain management clinics and the
15 expansion of pain management clinics beginning immediately upon this article taking effect.
16

17 **Sec. 21-233. Purpose and Intent.**

18
19 The purpose and intent of this article is to promote the health, safety and general
20 welfare of the residents of Hernando County through the regulation of certain pain
21 management clinics (as defined below) operating in the county as of the effective date of this
22 article and to impose a temporary moratorium on new pain management clinics and the
23 expansion of existing pain management clinics in order for the county to analyze the impacts
24 from current pain management clinics, to analyze the effectiveness of existing and emerging
25 regulatory efforts in Florida, and to examine and develop additional criteria for the siting of
26 pain management clinic uses within unincorporated Hernando County.
27

28 **Sec. 21-234. Definitions.**

29
30 Applicant means the owner or a person(s) authorized by the owner to complete an
31 application for a certificate of use to operate a pain management clinic.
32

33 Article shall mean chapter 21, Article XIV, of the Hernando County Code of
34 Ordinances.
35

36 Board shall mean the Board of County Commissioners for Hernando County, Florida.
37

38 Certificate of Use shall mean a certificate issued pursuant to this article by the
39 department, on an annual basis, authorizing the operation of a specific pain management
40 clinic location in Hernando County and which contains the state's required registration
41 number on its face and which authorizes the occupancy of a structure or premises and is

1 required prior to occupancy, change of use and under other specific condition. Each
2 certificate of use shall, at a minimum, identify on its face, the clinic's name and physical
3 address, the responsible physician's name, the clinic owner's name and address and the
4 property owner's name and address. Each certificate of use shall have a unique number
5 identification on its face.

6
7 *Chronic Nonmalignant Pain* means pain unrelated to cancer, which persists beyond
8 the usual course of the disease or injury that is the cause of the pain, for more than ninety
9 (90) days after surgery.

10
11 *Controlled substance* means any substance or chemical listed in Schedule I, Schedule
12 II, Schedule III, Schedule N, or Schedule V of s. 893.03, Florida Statutes, as this section may
13 be amended or renumbered from time to time, or listed as a 'controlled substance' in any
14 other state, or listed as a 'controlled substance' in the United States Code (USC).

15
16 *County or Hernando County* shall mean all unincorporated areas of Hernando County,
17 Florida.

18
19 *Department* shall mean that department, division or section within Hernando County
20 government charged with overseeing and regulating zoning and use activities within the
21 unincorporated area of Hernando County, Florida.

22
23 *Designated physician* shall mean that physician with an active license to practice
24 medicine in Florida, and who has been designated to practice at the clinic location for which
25 the physician has assumed responsibility, and is not otherwise in violation of any provision
26 of this article.

27
28 *Operating or to operate a pain management clinic* means to conduct the affairs of or
29 manage the operations of a 'pain management clinic' (as defined below) including, but not
30 limited to, any one or more of the following activities:

- 31
32 1. scheduling or accepting appointment(s) solely for initial pain management
33 services or to obtain prescription drugs for pain management including
34 controlled substances listed in Schedule I, Schedule II, Schedule III, Schedule
35 N, or Schedule V of s. 893.03, Florida Statutes, or any other state, or the
36 United States; or
37
38 2. prescribing, dispensing or administering any controlled substances listed in
39 paragraph 1, above; or
40

- 1 3. accepting cash payments for pain management services or controlled
2 substances listed in paragraph 1, above; or
3
- 4 4. advertising in any medium including road or other signage as a pain
5 management or pain control clinic or business or words of similar import; or
6
- 7 5. evaluating patients for pain management drug treatment without the equipment
8 necessary or without having copies in the medical record of diagnostic testing
9 such as x-rays, scans, or other tests to substantiate with a reasonable degree of
10 certainty the need for prescription pain medication; or
11
- 12 6. leasing or owning property for use as or in connection with a Pain
13 Management Clinics or business; or
14
- 15 7. employing or contracting with any person for compensation to work in
16 connection with the provision of medical services at a Pain Management Clinic
17

18 *Pain management clinic* shall have the same meaning as set forth in s. 458.3265(1)(a),
19 Florida Statutes, as such section may be amended or renumbered from time to time.
20

21 *Sheriff* shall mean the Hernando County Sheriff, a constitutional officer.
22

23 *Sheriff's Office* shall mean the Hernando County Sheriff's Office.
24

25 **Sec. 21-235. Certificate of Use Required; Temporary Moratorium on New Pain**
26 **Management Clinics and Expansion of Existing Pain Management Clinics.**
27

- 28 (a) No pain management clinic, as defined in this article, may operate in
29 unincorporated Hernando County, nor may any person operate a pain
30 management clinic in unincorporated Hernando County, without first obtaining
31 a pain management clinic certificate of use issued by the department pursuant
32 to this article; except any pain management clinic, operating in Hernando
33 County as of the effective date of this article, who has filed a complete
34 application and paid all requisite fees within ninety (90) days from the
35 effective date of this article may continue operating until the department
36 renders a decision to either grant or deny the certificate of use and notifies the
37 applicant of its decision. The clinic must obtain its certificate of use, if
38 approved, from the department within ten (10) business days of notification by
39 the department. Certificate of uses shall be granted only for clinics that have
40 satisfied all requirements of this article including the payment of the applicable
41 application and certificate of use fees.

1 (b) Each pain management clinic shall stand alone and shall require its own
2 certificate of use.

3
4 (c) In order to allow the department time to process the applications of all pain
5 management clinics operating in unincorporated Hernando County as of the
6 effective date of this article and to allow staff time to examine and develop
7 criteria regarding the future siting of pain management clinics, no new pain
8 management clinics may open or operate in Hernando County or make
9 application for a pain management clinic and no existing pain management
10 clinic may expand for the shorter of (i) 12 months from the effective date of
11 this article or (ii) the enactment of a new ordinance by the board. For
12 purposes of this provision, "new" shall mean not previously operating as a pain
13 management clinic within unincorporated Hernando County (at the same
14 location where the certificate of use is sought) as of the effective date of this
15 article.

16
17 (d) Beginning on the effective date of this article, the board hereby imposes a
18 moratorium on the issuance of certificates of use, zoning approvals, (including
19 building permits) and development approvals of any kind for the
20 establishment, location or expansion of pain management clinics on any
21 property located in unincorporated Hernando County for the shorter of (i) 12
22 months from the effective date of this article or (ii) the enactment of a new
23 ordinance by the board. However, this moratorium shall not apply to the
24 issuance of a certificate of use for a pain management clinic in existence as of
25 the effective date of this article and which has timely submitted a complete and
26 unexpired application in accordance with subsection (a) above.

27
28 **Sec. 21-236. Certificate of Use Application Process and Requirements**

29
30 (a) Application required. Any person seeking to operate a pain management clinic
31 (as defined in this article) within unincorporated Hernando County shall
32 complete an application as provided by the department. If any person seeks to
33 operate more than one pain management clinic, a separate application for each
34 clinic shall be required. As part of the application, the applicant shall provide
35 all of the following information:

36
37 (1) Business name of the clinic, address of the clinic, square footage of the
38 building housing the clinic, date first opened (or anticipated date of
39 opening for new clinics), and a description of all existing uses which
40 abut or adjoin the subject site.

- 1 (2) Detailed description of the services and products to be provided,
2 equipment to be used, and a professionally drawn floor plan to scale
3 with all rooms identified.
- 4
- 5 (3) Detailed description of all existing and proposed improvements to the
6 subject site.
- 7
- 8 (4) A site plan which also shows the total number of parking spaces on the
9 property.
- 10
- 11 (5) The registration number from the State Department of Health as
12 required by chapter 458 or 459, Florida Statutes (if the clinic must be
13 registered under state law).
- 14
- 15 (6) Proof, satisfactory to the department, that the applicant has legal
16 ownership or control of the property that is or is being proposed as a
17 pain management clinic (examples include a copy of the deed if the
18 property is owned by the applicant, a copy of the lease or license
19 agreement if the property is not owned by the applicant).
- 20
- 21 (7) Proof that the clinic for which the certificate of use is sought was
22 operating within Hernando County (at the same location) as of the
23 effective date of this article. Acceptable forms of proof shall be utility
24 bills, rent receipts, tax returns, or such similar documents as the
25 department may request.
- 26
- 27 (8) Designation of the physician who shall be responsible for complying
28 with all requirements related to registration and operation of the clinic
29 and the physician's DEA number. The designated physician must have
30 a full, active, and unencumbered license to practice medicine in Florida,
31 and shall practice at the clinic location for which the physician has
32 assumed responsibility. Within ten (10) days after termination or
33 absence of a designated physician, the clinic must notify the department
34 of the identity of another designated physician for the clinic or forfeit
35 the clinic's certificate of use.
- 36
- 37 (9) A list of all persons, including the designated physician, associated with
38 the management and/or operation of the clinic, whether paid or unpaid,
39 part-time or full time, including all contract labor and independent
40 contractors. This list shall include, but is not limited, to all owners,

1 operators, physicians, employees and volunteers. For each and every
2 person listed, the following additional information shall be provided:

- 3
- 4 a. The person's full name;
- 5
- 6 b. The person's title or position with the clinic (e.g. owner,
7 operator, manager, employee, volunteer etc.);
- 8
- 9 c. The person's current home address, telephone number and date
10 of birth;
- 11
- 12 d. A copy of the person's current Florida driver's license or a
13 government issued photo I.D.;
- 14
- 15 e. State whether the person has any financial or business interest
16 in a pharmacy, as defined under chapter 465, Florida Statutes,
17 and
- 18
- 19 f. A criminal history form or other similar document completed by
20 the Sheriff or such persons designated by the Sheriff and which
21 indicates whether said person has any criminal conviction(s)
22 including all misdemeanor and felonies and, if so, a listing of
23 said conviction(s). If there are no known criminal convictions,
24 the form shall state same. The Sheriff may charge a fee for each
25 criminal background check performed and the applicant shall be
26 responsible for paying said fees. No criminal history form or
27 similar document may be accepted if dated earlier than sixty
28 (60) days from the date filed with the department.

29

30 (10) If during the department's review of the certificate of use applicant,
31 there is a deletion, substitution or addition of any person listed pursuant
32 to subsection (9) above, the department shall be immediately advised
33 of such change(s) and shall be furnished all of the information required
34 above including a new criminal history form for each new person that
35 has been substituted or added.

36

37 (11) State whether the pain management clinic prescribes, or intends to
38 prescribe, any controlled substance at the pain management clinic site.

39

40 (12) State whether the pain management clinic dispenses, or intends to
41 dispense, controlled substances at the pain management clinic site.

1 (13) State whether the pain management clinic distributes, or intends to
2 distribute, controlled substances at the pain management clinic site.

3
4 (14) Such information designated by the county zoning supervisor /
5 administrative official as necessary in order for county staff to make a
6 reasonable determination whether to grant or deny the requested
7 certificate of use.

8
9 (15) A sworn and notarized statement from both the designated physician
10 and the clinic owner attesting to the veracity and accuracy of the
11 information provided in the application. The notarized statement shall
12 further attest to all of the following:

13
14 a. That the practice of the designated physician is, or will be, at the
15 location stated in the pain medical clinic certificate of use
16 application; and,

17
18 b. That no employees of the facility have been convicted of a drug-
19 related crime within the five-year period to the date of
20 application and that the pain management clinic will not
21 knowingly employ any such convicted felons thereafter.

22
23 (16) In the event that any above required information change during the
24 department's review, but prior to any decision to grant or deny being
25 made, it shall be the responsibility of the applicant to advise the
26 department of such change(s) within ten (10) calendar days of the
27 change.

28
29 **(b) *Completeness of Application.*** It is the applicant's sole responsibility to provide
30 accurate contact information when submitting the application to the
31 department. If the application for a pain management clinic certificate of use
32 is not properly completed, in the sole discretion of the department, the
33 department shall notify the designated contact person listed in the application.
34 A completed application must be received by the department within twenty(20)
35 calendar days of receipt of the deficiency notice from the department in order
36 to avoid assessment of another application fee. Failure to timely respond
37 within the twenty (20) days shall result in a denial of the application as
38 incomplete. A new application must then be submitted that is accompanied by
39 the full nonrefundable application fee, in order to request a certificate of use.
40

- 1 (c) Inspections. Any person authorized to enforce this article, including but not
2 limited to law enforcement officers employed by our under the Sheriff, may
3 perform spot or random inspection(s) of the facility as necessary to determine
4 whether or not the application submitted is accurate in all respects, to verify
5 a physician licensed under chapter 458 or 459, Florida Statutes, is on the
6 premises during all times medications are dispensed or prescribed, and/or
7 whether the terms of this article are being adhered to.
- 8
- 9 (d) Initial Application Fee. Each application for a pain management clinic
10 certificate of use shall be accompanied by a nonrefundable application fee in
11 the amount of One Thousand Five Hundred Dollars (\$1,500.00). The
12 application fee for a pain management clinic certificate of use is in addition to
13 the One Thousand Five Hundred Dollar (\$1,500.00) annual certificate of use
14 fee/certificate of use renewal fee. Any changes to the application fee or
15 certificate of use fee authorized by this article may be accomplished by
16 resolution of the board without the need to revise this article.
- 17
- 18 (e) Annual Certificate of Use Fee. An applicant, upon approval of its application
19 for a pain management clinic certificate of use in accordance with this article,
20 shall pay a One Thousand and Five Hundred Dollar (\$1,500.00) annual
21 certificate of use fee to the department. The receipt of the annual certificate
22 of use fee is a prerequisite to the department issuing the certificate of use. The
23 certificate of use fee is in addition to, and not in lieu of, the certificate of use
24 application fee of One Thousand and Five Hundred Dollars (\$1,500.00)
25 required pursuant to subsection (d) above.
- 26
- 27 (f) Change of Information Following the Issuance of Certificate of use; Fees.
28 Should any information or conditions change from that stated in the initial
29 certificate of use information, the applicant shall provide that information to
30 the department within ten (10) calendar days of such change:
- 31
- 32 (1) Change of the owner or operator of the pain management clinic shall
33 require a new initial application and payment of a new application fee.
- 34
- 35 (2) Change of the primary physician shall require providing all of the
36 information required in subsection (a) above in connection with the
37 new physician and paying the department a Five Hundred Dollar
38 (\$500.00) certificate of use modification and processing fee. A current
39 criminal history form shall be provided on the substituting physician
40 (which the Sheriff's Office may charge a separate fee for).
- 41

1 (3) Substitution or addition of any person required to be listed in the above
2 subsection (other than the operator or primary physician) shall require
3 providing all information set forth in the above subsections to the
4 department and paying the department a One Hundred Dollar (\$100.00)
5 processing fee for each person. A current criminal history form shall
6 be provided on all new persons (which the Sheriff's Office may charge
7 a separate fee for).

8
9 (g) Public Record. Any information contained in any application under this article
10 is subject to the public records law, chapter 119, Florida Statutes, unless
11 specifically exempted by state law.

12
13 **Sec. 21-237. Grounds for Certificate of use Denial, Non-Renewal or Revocation.**

14
15 The county shall deny, not renew, or revoke a pain management clinic certificate of
16 use upon the occurrence of one or more of the following:

17
18 (a) An application contains false or missing information or is materially
19 misleading on its face;

20
21 (b) The clinic is not registered with the state in accordance with chapter 458 or
22 459, Florida Statutes, if state registration is otherwise required;

23
24 (c) The clinic has had its registration suspended or revoked by the state;

25
26 (d) Failure to allow for inspection of the clinic by any law enforcement officer
27 employed by or under the Sheriff's Office, any county code enforcement
28 officer, or any other person authorized to enforce article violations in
29 Hernando County at any time the clinic is open or occupied;

30
31 (e) Failure to abide by any provision of this article;

32
33 (f) Allowing any person to work or volunteer at the clinic, whether paid or unpaid,
34 who has been convicted of or plead guilty or nolo contendere to (even if sealed
35 or expunged) any criminal offense, misdemeanor or felony, involving or
36 relating to the prescribing, dispensing, distributing, supplying or selling of any
37 controlled substance; or

38
39 (g) The facility is owned or operated by any person or has any contractual or
40 employment relationship with a physician or other permitted health care
41 practitioner as defined by under chapter 456, Florida Statutes;

1 (1) whose Drug Enforcement Administration (DEA) number has ever been
2 suspended or revoked;

3
4 (2) whose application for a license to prescribe, dispense, distribute, or
5 administer a controlled substance has been denied, suspended or
6 revoked by any jurisdiction;

7
8 (3) who has been convicted of or plead guilty or nolo contendere to, (even
9 if sealed or expunged) any criminal offense, misdemeanor or felony,
10 involving or relating to the prescribing, dispensing, distributing,
11 supplying or selling of any controlled substance law; or,

12
13 (4) whose license has been suspended or revoked or has had other licensure
14 action taken as a result of physician's abuse of drugs or alcohol, or from
15 the improper prescribing, dispensing or distributing of any controlled
16 substance.

17
18 (h) If the payment for the application fee or the certificate of use fee is invalid or
19 uncollectible for any reason.

20
21 (i) If, after any pain management certificate of use is issued, a change in any of
22 the information relative to the initial application occurs and such change, upon
23 review and determination of the department, is determined to be grounds for
24 the denial or revocation of the certificate of use.

25
26 (j) Failure to notify the department of any change of information following the
27 issuance of any certificate of use as required by Sec. 21-236.

28
29 **Sec. 21-238. Additional Certificate of use Compliance Requirements.**

30
31 (a) A valid Hernando County pain management clinic certificate of use issued
32 pursuant to this article must be prominently displayed in a common public area
33 of the pain management clinic.

34
35 (b) A pain management clinic certificate of use is non-transferable and cannot be
36 assigned. Whenever ownership or management of a pain management clinic
37 changes, a new application must be filed for a new certificate of use and a new
38 nonrefundable application fee shall be paid (and, if approved, a new certificate
39 of use fee shall be paid).

- 1 (c) Any law enforcement officer employed by or under the Sheriff, any county
2 code enforcement officer, or any other persons authorized to enforce county
3 ordinances shall be allowed access for inspections of the clinic premises at any
4 time the clinic is open or occupied.
- 5
- 6 (d) The designated physician shall practice full time at the clinic location for
7 which the physician has assumed responsibility.
- 8
- 9 (e) The designated physician shall secure all prescription pads so that only
10 authorized persons may access them. Following the effective date of this
11 article, every written prescription must include the clinic's name, address and
12 Hernando County's certificate of use number.
- 13
- 14 (f) The pain management clinic shall not limit the form of payment for services,
15 prescriptions or drugs to cash only.
- 16
- 17 (g) The pain management clinic shall be precluded from having any outdoor
18 seating areas, queues, or customer waiting areas. All activities of the pain
19 management clinic, including all patient contact, examination, prescribing,
20 dispensing, sale, display, and storage without limitation, shall be conducted
21 entirely within a completely enclosed building. Mobile or temporary facilities
22 (including mobile vans, motor homes, buses, trailers or movable structures,
23 without limitation) are prohibited.
- 24
- 25 (h) No pain management clinic may locate in any area not properly zoned and
26 designated for use a health clinic or such other zoning designation allowed
27 under the County Zoning Ordinance.
- 28
- 29 (i) The pain management clinic shall meet and satisfy all applicable land
30 development regulations and applicable county codes and regulations.
- 31
- 32 (j) The hours of operation of the pain management clinic shall be limited to 7:00
33 a.m. to 9:00 p.m., Monday through Saturday.
- 34

35 **Sec. 21-239. Review of Certificate of use Denial, Non-Renewal or Revocation.**

36

- 37 (a) The county shall provide written notice of a denial of any new or renewal
38 certificate of use specifying in writing the grounds for the denial. The
39 applicant whose application has been denied (except for an incomplete
40 application) may request a formal review of the denial before the county's
41 designated special master or hearing officer if the denial was erroneous. The

1 applicant must send a written request for review indicating the specific alleged
2 error or errors made by the county along with any and all facts that support the
3 applicant's position the certificate of use was erroneously denied. The request
4 must be received by the department within ten (10) business days of the date
5 of the denial notice. The review shall be performed by the county's designated
6 special master or hearing officer. The special master or hearing officer shall
7 review the applicant's request and all supporting documents to determine if
8 sufficient cause exists to grant a hearing on the request. In the event
9 applicant's request and supporting documents do not state a prima facie case
10 error has occurred, the special master or hearing officer may summarily
11 dismiss the request and notify applicant in writing of the dismissal. Whenever,
12 in the opinion of the special master or hearing officer, an applicant's request
13 and supporting documentation establishes a prima facie case of error, a hearing
14 will be set and conducted for the special master or hearing officer to rule upon
15 the matter. The decision of the special master or hearing officer shall be final
16 unless appealed to Circuit Court, in and for Hernando County, within thirty
17 (30) days of said decision. Any decision of the special master or hearing not
18 timely appealed shall be deemed final.

19
20 (b) Any clinic whose certificate of use is denied, non-renewed (except for an
21 incomplete certificate of use application), or revoked, shall not be eligible to
22 reapply for five (5) years unless the denial, non-renewal or revocation is
23 overturned on appeal. In addition, the owner(s) and the physician(s) listed on
24 the application, regardless of the clinic's name, may not be an applicant for a
25 certificate of use renewal at another clinic for a period of five (5) years, unless
26 the individual was previously the applicant for that clinic, or unless the denial
27 or non-renewal is based solely on an incomplete application.

28
29 (c) If there are any costs associated with the noticing and conducting of the
30 hearing, the applicant shall be required to pay all such costs.

31
32 **Sec. 21-240. Certificate of use Renewals; Fees.**

33
34 Certificate of use required for pain management clinics shall be valid for only one (1)
35 year. Provided the pain management clinic requesting renewal is in full compliance with this
36 article and no material information contained in its initial application has changed, a renewal
37 certificate of use shall be issued by the department, after the applicant pays an annual
38 certificate of use renewal fee of One Thousand Five Hundred Dollars (\$1,500.00) to the
39 department. Renewals shall only be issued to clinics that were previously issued a certificate
40 of use by the department and who timely filed a renewal application. A pain management

1 clinic that fails to timely request renewal shall be required to file a new application and pay
2 a new non-refundable application fee.

3
4 **Sec. 21-241. Service of Notice.**

5
6 Any notice required by this article shall be in writing and sent by certified mail or
7 hand delivery to the mailing address set forth on the application for the pain management
8 clinic certificate of use. The mailing address set for the in the application shall be considered
9 the correct mailing address.

10
11 **Sec. 21-242. Violations and Inspections.**

12
13 It shall be unlawful for any person to violate any provision of this article or to operate
14 a pain management clinic without a valid county issued pain management clinic certificate
15 of use. It shall be a violation for the property owner where the clinic is situated to allow any
16 pain management clinic to open or operate without a valid pain management clinic certificate
17 of use issued pursuant to this article.

18
19 Any law enforcement officer employed by the Sheriff's Office, any code enforcement
20 officer, or any other persons authorized to enforce county ordinances may enter the clinic
21 premises and conduct an inspection to determine compliance with this article at any time the
22 clinic is open or occupied.

23
24 **Sec. 21-243. Enforcement and Penalties.**

- 25
26 (a) Revoking of the County Pain Management Clinic Certificate of use.
27
28 (b) Pursuant to s. 125.69, Florida Statutes, any person or persons, firm or
29 corporation, or any agent thereof who violates any provision of this section
30 shall be subject to prosecution in the name of the state in the same manner as
31 misdemeanors are prosecuted; and, upon conviction such person shall be
32 punished by a fine not to exceed five hundred dollars (\$500.00) or by
33 imprisonment in the county jail not to exceed sixty (60) days or by both such
34 fine and imprisonment. Each incident or separate occurrence of an act that
35 violates this article shall be deemed a separate offense.
36
37 (c) Any person or persons, firm or corporation, or any agent thereof who violates
38 any provision of this section may be prosecuted in the manner provided for in
39 chanter 2, Article III, of the Hernando County Code of Ordinances.
40

1 (d) The remedies and penalties herein are not intended to be cumulative and the
2 Sheriff's Office and/or the county may institute any appropriate action or
3 proceedings to prevent, restrain, enjoin, correct or abate a violation of this
4 article as allowed by law.

5
6 (e) Any combination of the foregoing.
7

8 **Sec. 21-244. Allocation of Fines, Penalties and Forfeitures.**
9

10 For all enforcement actions initiated by the Sheriff and prosecuted by or in the name
11 of the Sheriff or the State of Florida, all fines, penalties and forfeitures assessed by the court
12 or recovered shall be retained by the Sheriff except as otherwise required to be shared with,
13 or turned over to, the State of Florida. For all enforcement actions initiated and prosecuted
14 by or in the name of the county, all fines, penalties and forfeitures assessed by the court or
15 recovered shall be retained by the county except as otherwise required to be shared with, or
16 turned over to, the State of Florida.
17

18 **SECTION II. Severability.** It is declared to be the intent of the Board of County
19 Commissioners that if any section, subsection, clause, sentence, phrase, or provision of this
20 ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not
21 affect the validity of the remaining portions of this ordinance.
22

23 **SECTION III. Repeal of Conflicting Ordinances.** The provisions of any other Hernando
24 County ordinance that are inconsistent or in conflict with the provisions of this Ordinance
25 are repealed to the extent of such inconsistency or conflict.
26

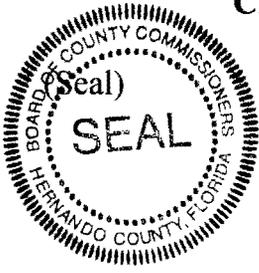
27 **SECTION IV. Inclusion in the Code.** It is the intention of the Board of County
28 Commissioners of Hernando County, Florida, and it is hereby provided, that the provisions
29 of this Ordinance shall become and be made a part of the Code of Ordinances of Hernando
30 County, Florida. To this end, any section or subsection of this Ordinance may be renumbered
31 or relettered to accomplish such intention, and the word "ordinance" may be changed to
32 "section," "article," or other appropriate designation.
33

34 **SECTION V. Effective date.** This ordinance shall take effect immediately upon filing with
35 the Department of State. As used herein, the effective date of this article shall be deemed to
36 be the same as the effective date of this ordinance (regardless of the date this ordinance is
37 codified).
38

39 **BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF**
40 **HERNANDO COUNTY in Regular Session this 14 day of June, 2011.**
41

**BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA**

1
2
3
4
5 Attest: *Karen Nicolai* By: *James E. Adkins*
6 **KAREN NICOLAI** **JAMES E. ADKINS**
7 **CLERK** **CHAIRMAN**



15 Approved as to Form and
16 Legal Sufficiency

17
18 By: *[Signature]* 6/14/11
19 **Geoffrey T. Kirk**
20 **Assistant County Attorney**