

Meeting Date: 5/10/2011



Agenda Item # 5-C

# CITY COUNCIL AGENDA ITEM

**Contact Name:** Wendy Hickey *W Hickey*      **Department Director:** Alison Stettner *Al Stettner*  
**Department/Contact #** DSD/775-5417      **City Manager:** Jamie Croteau *J Croteau*

- Type of Item:**
- |                                     |                          |                          |                     |
|-------------------------------------|--------------------------|--------------------------|---------------------|
| <input type="checkbox"/>            | Public Hearing           | <input type="checkbox"/> | Resolution          |
| <input checked="" type="checkbox"/> | Ordinance First Reading  | <input type="checkbox"/> | Discussion & Action |
| <input type="checkbox"/>            | Ordinance Second Reading | <input type="checkbox"/> | Council Approval    |

**Subject:** Extending Moratorium on Pain Clinics

**BACKGROUND:**

The City Council adopted a one hundred eighty (180) day temporary moratorium pertaining to pain clinics as they are more fully described in Ordinance 435. Staff has been working with the City's legal counsel to monitor state regulation of these businesses as well as other local governments' regulation of these pain clinics.

Additional time is required to adequately address the issues that are described in Ordinance No. 435 and to carry out the intended specific plan of corrective legislative action.

**RECOMMENDATIONS:** Staff has attached for your consideration an ordinance extending the temporary moratorium.

**ATTACHMENTS:**

Ordinance No. 458

**FINANCIAL IMPACT:**

None

**Reviewed by City Attorney** \_\_\_\_\_

**Reviewed by Finance Dept.** \_\_\_\_\_

**Reviewed by:** \_\_\_\_\_

|   |   |  |                              |
|---|---|--|------------------------------|
| <b>1<sup>st</sup> Discussion Date:</b><br>5/10/2011 | <b>2<sup>nd</sup> Discussion Date:</b><br>date. | <b>Third Discussion Date:</b><br>date. | <b>Other Dates:</b><br>date. |
|---|---|--|------------------------------|

## ORDINANCE NO. 458

**AN ORDINANCE OF THE CITY OF ORANGE CITY, FLORIDA, IMPOSING AND EXTENDING A TEMPORARY MORATORIUM THROUGH DECEMBER 31, 2011, ON THE ISSUANCE OF ANY BUSINESS TAX LICENSE, PERMIT, CONDITIONAL USE APPROVAL, SITE PLAN APPROVAL, AND ANY OTHER OFFICIAL ACTION OF THE CITY OF ORANGE CITY HAVING THE EFFECT OF PERMITTING OR ALLOWING CONSTRUCTION AND/OR OPERATION OF CERTAIN BUSINESSES WITHIN THE CITY OF ORANGE CITY, RELATED TO PAIN MANAGEMENT CLINICS, EXCLUDING APPROVALS AND PERMITS FOR THE CONTINUANCE OF AN EXISTING BUSINESS; THE TEMPORARY MORATORIUM SHALL APPLY TO ALL REAL PROPERTY LOCATED WITHIN THE CORPORATE LIMITS OF THE CITY OF ORANGE CITY; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.**

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**WHEREAS**, pursuant to Ordinance No. 435, the City of Orange City adopted a temporary moratorium for one hundred eighty (180) days, on the issuance of any business receipts which issuance would have the effect of permitting or allowing the construction and/or operation of certain businesses as described in that Ordinance; and

**WHEREAS**, the City of Orange City, Florida hereby adopts by this reference and incorporates herein all other findings made by the City Council in Ordinance No. 435; and

**WHEREAS**, Section 5 of Ordinance No. 435 contemplates a one (1) time extension of the temporary moratorium upon a finding by this City Council that the problems giving rise to the need for the temporary moratorium as set forth in that Ordinance No. 435 continue to exist, and that reasonable progress is being made in carrying out a specific and prompt plan of corrective legislative action; and

**WHEREAS**, additional time is reasonably required to adequately address the issues described in Ordinance No. 435 facing the City of Orange City; and

**WHEREAS**, the City Council of the City of Orange City by this Ordinance, after holding a public hearing, specifically does make those findings, i.e. that the problems giving rise to the need for the temporary moratorium established by Ordinance No. 435, continue to exist, that reasonable progress is being made in carrying out a specific and prompt plan of corrective action, and that additional time is reasonably needed to adequately address the issues facing the City as set forth in Ordinance No. 435.

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

**SECTION ONE. Purpose and Legislative Findings.** The above recitals are hereby adopted as the legislative purpose of this Ordinance and as the City Council's legislative findings.

**SECTION TWO. Extension of Temporary Moratorium.** The temporary moratorium enacted and imposed by Ordinance No. 435, by this City Council, on or about December 14, 2010, is hereby extended, through December 31, 2011, on the issuance of any business tax license or receipt, permit, conditional use approval, site plan approval, and any other official action of the City of Orange City having the effect of permitting or allowing construction and/or operations of certain businesses within the City of Orange City related to the operation of pain clinics and pain management clinics as defined herein. All definitions, terms, conditions and requirements contained in and imposed by the temporary moratorium (Ordinance No. 435) are hereby extended through December 31, 2011.

**SECTION THREE: CONFLICTS.** All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

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

**SECTION FIVE: EFFECTIVE DATE.** This Ordinance shall take effect immediately upon its adoption by the City Council of the City of Orange City, Florida.

**ROLL CALL VOTE AS FOLLOWS:**

**First Reading this \_\_\_\_\_ day of \_\_\_\_\_, 2011.**

|                          |       |                                |       |
|--------------------------|-------|--------------------------------|-------|
| Gary A. Blair            | _____ | Jeff H. Allebach               | _____ |
| Tom Laputka              | _____ | Tom Abraham                    | _____ |
| Anthony Pupello          | _____ | O. William Crippen, Vice Mayor | _____ |
| Harley Strickland, Mayor | _____ |                                |       |

**Second Reading this \_\_\_\_\_ day of \_\_\_\_\_, 2011.**

**ROLL CALL VOTE AS FOLLOWS:**

|                          |       |                                |       |
|--------------------------|-------|--------------------------------|-------|
| Gary A. Blair            | _____ | Jeff H. Allebach               | _____ |
| Tom Laputka              | _____ | Tom Abraham                    | _____ |
| Anthony Pupello          | _____ | O. William Crippen, Vice Mayor | _____ |
| Harley Strickland, Mayor | _____ |                                |       |

**PASSED and ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2011.**

**ATTEST:**

**AUTHENTICATED:**

\_\_\_\_\_  
Deborah J. Renner, CMC, City Clerk

\_\_\_\_\_  
Harley Strickland, Mayor

Approved as to form and legal sufficiency:

\_\_\_\_\_  
W.E. Reischmann, City Attorney

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