



EXECUTIVE SUMMARY

To: Bob Vitas, City Manager

Through: Donald Leland Craig, AICP, Planning Director

From: Ginny Haller, Planner II

Date: June 18, 2013

RE: Consideration of an ordinance of the City of Key West repealing the Zoning in Progress adopted by Ordinance No. 12-35; amending Chapter 122 of the Code of Ordinances entitled "Zoning" by amending Section 122-418 "Conditional Uses" in the General Commercial (CG) zoning district to provide for Pain Management Clinics as a conditional use; by creating Division 14 entitled "Pain Management Clinics"; by adding Sections 122-1547, 122-158, 122-159, 122-1550, 122-1551, 122-1552, 122-1553 and Sections 122-1554-122-1560 as reserved; allowing and registering Pain Management Clinics as defined; providing for severability; providing for repeal of inconsistent provisions; providing for an effective date.

ACTION STATEMENT:

Request: Approval of an Ordinance to adopt criteria permitting and regulating the location of Pain Management Clinics.

Location: Citywide

BACKGROUND:

In a letter dated March 5, 2012, the Planning Director recommended the Planning Department initiate a Zoning in Progress (ZIP) to address the issue of pain management clinics to protect the health, safety and welfare of the citizens of Key West. Currently, the city does not have a mechanism to regulate the use, location, operation, maintenance and number of pain management clinics. Many cities and counties throughout Florida have regulated Pain Management Clinics to protect their communities against the epidemic of pain medication distribution and fraud.

Planning Board Resolution No. 2012-46 and Ordinance No. 12-35 invoked the ZIP to allow planning staff to develop proposed criteria permitting and regulating the location of Pain Management Clinics within the City of Key West. Planning Board Resolution No. 2013-20 recommends an ordinance repealing the ZIP and amending Chapter 122 of the Code of Ordinances to regulate the location of Pain Management Clinics.

City Actions:

Planning Board:	April 18, 2013
City Commission:	June 18, 2013 (First reading)
	July 2, 2013 (Second reading)

PLANNING STAFF ANALYSIS:

Summary:

The ZIP gave Planning staff time to explore potential zoning designations for the location and regulation of the clinics. Staff came to the conclusion that such uses should be limited to the Commercial General (CG) zoning district; and be limited and controlled by the following land use management framework:

1. Definition of Pain Management Clinic – generally an establishment that is a privately owned Pain Management Clinic, facility or office, including but not limited to a “wellness center,” “urgent care facility,” or “detox center,” which engages in pain management and holds itself out as providing any type of pain management services.
2. Limit Pain Management Clinics as Conditional Use limited to the CG zoning district, allowing for wide dispersal of such uses.
3. Regulate distance of the clinics from schools at 500 feet.
4. Regulate distance of the clinics from other Pain Management Clinics at 500 feet.
5. Regulate distance of the clinics from pharmacies at 500 feet.

The attached resolution recommends the repeal of the ZIP ordinance prohibiting Pain Management Clinics implemented by Ordinance No. 2012-35; and the establishment of a Pain Management Clinic section of the Code of Ordinances. The proposed Pain Management Clinic section of the Code is:

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|----------------|--|
| Sec. 122-1547. | Pain Management Clinics – Purpose |
| Sec. 122-1548. | Definitions |
| Sec. 122-1549. | General Regulations |
| Sec. 122-1550. | Requirements for New Pain Management Clinics |
| Sec. 122-1551. | Separation Requirements |
| Sec. 122-1552. | Licensing |
| Sec. 122-1553. | Penalty |

Other Florida cities and counties have in the last few years regulated the number and location of pain management clinics, such as: Deerfield Beach, Palm Beach County, Margate, Wellington Village, Coral Springs, Cooper City and Broward County.

The recommended ordinance recognizes the direct negative possible impacts of unregulated Pain Management Clinics, and provides a balanced approach allowing legitimate pain clinics already partially regulated by the State and Federal authorities to be established in the City to serve local residents, who would otherwise have to travel to Miami for treatment.

Analysis:

The Planning Board is required to consider the criteria in Section 90-521 in evaluating the proposed changes to the Code for Pain Management Clinics:

1. *Consistency with the Comprehensive Plan.* The proposed changes are consistent with the Comp Plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program.
2. *Conformance with requirements of Code.* The proposal is in conformance with all applicable requirements of the Code.
3. *Changed conditions.* Other Florida counties and municipalities have enacted ordinances that regulate the operation of pain management clinics to prevent the dispensing of excessive amounts of controlled substances.
4. *Land use compatibility.* This proposal would regulate the location and separation requirements of pain management clinics from other pain management clinics, schools, churches, and pharmacies.
5. *Adequate public facilities.* This proposal would not result in extra demands on public facilities and services.
6. *Natural environment.* This proposal would not adversely affect the natural environment.
7. *Economic effects.* This proposal would not adversely affect the property values in the areas. There is no anticipated financial impact to the City related to this request.
8. *Orderly development.* This project would no negative effects on an orderly land use pattern.
9. *Public interest; enabling act.* It is in the best interest of the residents of Key West to enact an ordinance regulating Pain Management Clinics and their impacts on the community. This project would not be conflict with the public interest, and will be in harmony with the purpose and interest of the land development regulations.

10. *Other matters.* The State of Florida has implemented a Prescription Drug Monitoring Program throughout the state and in Key West to be an effective tool to reduce successful doctor shopping, multiple prescriptions, and multiple fillings of pharmacy prescriptions and dispensing of potentially dangerous opiate drugs requiring local physicians to check the database before prescribing opiate drugs.

Options / Advantages / Disadvantages:

Option 1. To approve the proposed ordinance.

1. **Consistency with the City's Strategic Plan, Vision and Mission:** The Strategic Plan does not address issues pertinent to this request.
2. **Financial Impact:** There is not direct financial impact to the City if the ordinance is approved.

Option 2. Deny the proposed ordinance.

1. **Consistency with the City's Strategic Plan, Vision and Mission:** The Strategic Plan does not address issues pertinent to this request.
2. **Financial Impact: There is no direct financial impact to the City,** however, it is in the best interest of the residents of Key West to enact an ordinance regulating Pain Management Clinics and their impacts on the community.

RECOMMENDATION: Option 1

Planning Department recommends **approval** to the City Commission for the proposed changes to the ordinance.