

TOWN OF GREENVILLE
ORDINANCE NO. 2013-TO-006

**ORDINANCE CONCERNING THE REGULATING OF NEW PAIN
MANAGEMENT CLINICS WITHIN THE TOWN OF GREENVILLE,
INDIANA**

WHEREAS, the Town Council for the Town of Greenville, Indiana, in the interest of public health, safety and welfare, has deemed it necessary that the Town develop an Ordinance which regulates the location of New Pain Management Clinics within the Corporate limits of the Town of Greenville; and

WHEREAS, a pattern of purchase, illegal distribution and personal abuse of substances controlled by federal and/or state law has been linked in large part to certain pain management clinics or medical facilities operating in Indiana; and

WHEREAS, the illegal activity involving substances controlled by federal and/or state law associated with such clinics has created an urgent situation requiring immediate action to reduce the threat to the health, safety and welfare of the residents of Greenville, Indiana; and

WHEREAS, the Indiana Legislature has similarly identified concerns regarding the increased abuse of substances controlled by federal and/or state law and higher frequency of injury and death occurring as a result of the increased availability of controlled substances via medical practitioners operating in pain management clinics or facilities and is presently studying the adoption of legislation to further regulate operators of such clinics or facilities, or physicians and other medical practitioners providing prescriptions for and/or dispensing controlled substances through such clinics, facilities or offices in order to conduct such business; and

WHEREAS, the State of Kentucky has recently enacted legislation that further regulates pain management clinics or facilities; and

WHEREAS, Floyd County has recently enacted an Ordinance that imposes a temporary moratorium on Pain Management Clinics or Facilities; and

WHEREAS, the existence of the new laws in the State of Kentucky and the moratorium in Floyd County, Indiana may increase the number of pain management clinics seeking to operate in Greenville, Indiana; and

WHEREAS, the Commissioners finds that the existing zoning laws and regulations do not adequately address the location and operation of pain management clinics within the County of Floyd; and

WHEREAS, the Greenville Town Council believes regulation of new pain management clinics is necessary in order to limit or curb negative impacts created by these clinics, such as illegal prescription drug trafficking and sales of illegal drugs around the clinics, and loitering in areas surrounding the clinics; and

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WHEREAS, the Greenville Town Council finds that, due to the significant, potential negative impacts associated with certain pain management clinics, it is necessary to impose certain regulation on locations of pain management clinics to prevent or mitigate the incidence of such potential negative impacts; and

WHEREAS, the Greenville Town Council believes added problems would be vehicular and foot traffic and reduction of property values; and

WHEREAS, the Greenville Town Council find that the adoption of this Ordinance is necessary in order to protect the public health, safety and welfare of Greenville residence;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF GREENVILLE, INDIANA, AS FOLLOWS:

SECTION 1: Adoption of Findings. The foregoing findings are true and correct and are hereby made a part hereof and incorporated herein by reference.

SECTION 2: Definitions. For the purposes of this Ordinance, the following terms, whether appearing in the singular or plural form, shall have the following meanings:

a. Chronic Non-malignant Pain is pain unrelated to cancer which persists beyond the usual course of the disease or the injury that is the cause of the pain or for a period of more than 90 days after surgery.

b. Pain Management Clinic means any privately owned clinic, facility, or office which advertises in any medium concerning the availability of any type of pain-management services or employs a physician or osteopathic physician or nurse who is primarily engaged in the treatment of pain by prescribing or dispensing substances controlled by federal and/or state law, but the term shall not include:

A clinic where the majority of the physicians who provide services in the clinic primarily provide surgical services; and

A clinic that is owned by a publicly held corporation whose shares are traded on a national exchange or on the over-the-counter market and whose total assets at the end of the corporation's most recent fiscal quarter exceeded \$50 million; and

A clinic that is affiliated with an accredited medical school at which training is provided for medical students, residents, or fellows; and

A clinic that does not prescribe or dispense substances controlled by federal and/or state law for the treatment of pain; or

A clinic that is owned by a corporate entity exempt from federal taxation under 26 U.S.C. s. 501(c)(3).

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For the purposes of this definition, a physician, including an osteopathic physician, is considered to be primarily engaged in the treatment of pain by prescribing or dispensing substances controlled by federal and/or state law when the majority of the patients seen by such physician are prescribed or dispensed a substance controlled by federal or state law for the treatment or purported treatment of chronic non-malignant pain.

SECTION 3: Permitted locations and regulations,

- a. All new pain management clinics shall be of all new constructions and comply with all State of Indiana Codes, Floyd County Codes and Town of Greenville Ordinances.
- b. All new pain management clinics shall obtain all required permits required by Indiana State Law, Indiana State Board of Health and The Town of Greenville, Indiana. Permits shall be posted for public viewing at the entrance to the clinic.
- c. All pain management clinics shall provide for periodic inspections by the Indiana State Board of Health.
- d. All new pain management clinics shall be located within area designated as General Commercial District as indicated by Comprehensive Planning Map for the Town of Greenville 2011 amended by Ordinance 2010-T-083 dated 12-13-2010.
- e. All new pain management clinics shall not locate within 500 feet of any residence, church or school.

SECTION 4: Penalties. The Town of Greenville may bring any other action available at law or equity to penalize or enjoin violations of this Ordinance.

SECTION 5: Severability. If any word, sentence, clause, phrase or provision of this Ordinance, for any reason, is held to be unconstitutional, void, or invalid, the validity of the remainder of this Ordinance shall not be affected thereby.

SECTION 6: Effective Date. This Ordinance shall become effective immediately upon its passage.

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ADOPTED BY THE TOWN COUNCIL OF GREENVILLE, INDIANA, ON THE 11th DAY
OF FEBRUARY, 2013.

PRESIDENT OF THE TOWN
COUNCIL OF GREENVILLE,
INDIANA


TALBOTTE RICHARDSON,


JACK TRAVILLIAN,
CLERK/TREASURER

PREPARED BY: RANDAL JOHNES