

## **RESOLUTION NO. 18-20**

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A RESOLUTION DIRECTING STAFF TO SUSPEND AND DELAY THE ACCEPTANCE AND PROCESSING OF DEVELOPMENT APPLICATIONS, APPLICATIONS FOR BUILDING PERMITS AND BUSINESS LICENSES OR ACTIVITIES RELATED TO MEDICAL MARIJUANA AS DESCRIBED IN PROPOSITION "2", AN AMENDMENT TO THE MISSOURI CONSTITUTION APPROVED BY THE VOTERS OF THE STATE OF MISSOURI ON NOVEMBER 6, 2018.

WHEREAS, on March 15, 2018 the Council of the City of Lee's Summit, Missouri (hereinafter "Council") approved Resolution No. 18-03 declaring the opposition of the City to all forms of marijuana legalization and accepting two draft ordinances to prohibit the sale of marijuana in the City or in the alternative to amend the Unified Development Ordinance of the City of Lee's Summit to regulate the location of marijuana related businesses; and,

WHEREAS, on November 6, 2018 the voters of the State of Missouri approved Amendment 2 to the Constitution of the State of Missouri which purportedly legalizes medical marijuana within the State; and,

WHEREAS, the Council is elected to promote the community's health, safety, welfare and morals, which duty includes proper planning and ordinances designed to provide for a coordinated development of the City and the reduction of conflicting use to promote the general welfare; and,

WHEREAS, the Council of the City of Lee's Summit, Missouri previously found that there is clear evidence of the deleterious direct and secondary impacts to the community from the use of marijuana whether medical or otherwise; and,

WHEREAS, the Council finds that these deleterious effects require that the City of Lee's Summit, Missouri provide proper zoning and other regulations related to the above described Amendment 2; and,

WHEREAS, the City is planning to review the Comprehensive Plan for the City as a whole during 2019 to determine what changes to land use designations, zoning districts and zoning regulations should occur throughout the City, if any; and

WHEREAS, the Council desires to enact an Administrative Delay related to the activities defined in Amendment 2 in order to enact proper zoning and other regulations and to explore additional legal options that may exist.

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

**SECTION 1. Authorization of Administrative Delay.**

**A. Delay of Deliberation and Approval of Applications.**

1. The Council finds that acceptance of all forms of development applications pursuant to the Unified Development Ordinance, all building permit applications and all business license applications for medical marijuana cultivation facilities, medical marijuana testing facilities, medical marijuana infused products, manufacturing facilities or medical marijuana

## **RESOLUTION NO. 18-20**

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dispensary facilities (the “medical marijuana related use”) would adversely affect the pending land use, Comprehensive Plan and regulatory deliberations and approval of such application or such applications may adversely affect the character of the City and adjoining tracts while appropriate land uses, development plans and other regulations are prepared and considered by the City. This resolution is designed to preserve the status quo while consideration is given to the effects of Amendment 2 to the Missouri Constitution and the proper regulation of medical marijuana related uses, and to prevent the establishment of new nonconforming situations that would undermine the effect of regulations or amendments to the Unified Development Ordinance and other provisions of the City Code of Ordinances before they are adopted.

2. The Council hereby directs that no (1) development applications pursuant to the Unified Development Ordinance related to medical marijuana related uses, (2) building permit applications which would authorize construction of new buildings or facilities, reuse of existing buildings or facilities or expansion of buildings or facilities for medical marijuana related uses or (3) business license applications for any medical marijuana related uses shall be initiated or processed while the City undergoes deliberations about the Comprehensive Plan and land-use and zoning changes throughout the City, and deliberations about the interpretation of Amendment 2 to the Missouri Constitution and the land-use, zoning and other regulations that may result from such constitutional amendment, until after the adoption of the land use regulations, Comprehensive Plan revisions and other regulations which may result therefrom.

3. The restrictions imposed by this administrative delay shall terminate when so directed by the Council by motion, resolution or ordinance. In no event shall this direction extend beyond August 3, 2019, unless the City Council, by motion or resolution approved by a majority vote of the Councilmembers present at the duly noticed meeting, extends the date of this administrative delay.

- B. Determination for Delayed Permits and Licenses. Any application for a permit or license for a medical marijuana related use in any area of the City received during the effective period of this resolution shall be held in suspension and delayed by the appropriate Departments.

### SECTION 2. Appeal.

- A. Filing with City Clerk. If an applicant believes that the City's determination not to accept or to process an application for any medical marijuana related use permit or license is unreasonable, the applicant may file a written appeal of the determination with the City Clerk within ten (10) business days after receiving written notice of the determination.
- B. City Council Hearing. If an appeal is timely and properly filed, the City Clerk shall schedule a hearing before the City Council at its next regularly scheduled meeting, or as soon thereafter as practicable in the normal course of managing Council agendas, at which the applicant shall bear the burden of establishing by a preponderance of the evidence that processing the Affected Permit will not undermine the spirit and intent of the pending study including pending plans, laws, regulations, policies, goals or objectives. If the City Council

**RESOLUTION NO. 18-20**

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determines that such action will not undermine the spirit and intent, it shall direct that the application be processed.

- C. Standards for Determining Spirit and Intent. The City Council shall consider the following in determining whether applications, with respect to which an appeal has properly been filed, if approved, will undermine the spirit and intent of the pending City actions:
- (1) the City's interest in protecting the public's health, safety, and general welfare;
  - (2) the adverse effect upon the future vision of the redevelopment area being considered;
  - (3) the City's interest in avoiding the creation of conflicts with the future redevelopment plan;
  - (4) the extent to which the proposed use, if applicable, will negatively affect the continuity of the redevelopment plan;
  - (5) the economic impact and hardship of the delay upon the owner;
  - (6) the impact on adjacent parcels and within the immediate area; and
  - (7) compatibility with land use patterns within the area of proposed development.

SECTION 3. No Amendment of Code. This Resolution is not intended as, and should not be interpreted as, an amendment to the City's Comprehensive Plan, the Code of Ordinances or the Unified Development Ordinance, but is merely direction to staff with respect to the acceptance of and processing of applications for permits or licenses related to any medical marijuana related use within the geographic area of the City of Lee's Summit, Missouri.

PASSED and ADOPTED by the City Council for the City of Lee's Summit, Missouri this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

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*Mayor William A. Baird*

ATTEST:

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*City Clerk Trisha Fowler Arcuri*

APPROVED AS TO FORM:

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*City Attorney Brian W. Head*