



Legislation Text

File #: 16-239, **Version:** 1

A resolution establishing criteria for determining “lawful operation” of marijuana consumption club facilities prior to September 22, 2015, and authorizing notice of expiration of amortized non-conforming land use.

Presenter:

Peter Wysocki, Planning and Community Development

Summary:

The purpose of the proposed resolution is to provide guidance to City staff and notice to the public regarding determination if a marijuana consumption club facility was lawfully operating prior to the City Council-adopted moratorium on the establishment of new marijuana consumption club facilities after September 22, 2015.

Previous Council Action:

This is a companion item related to the ordinances pertaining to the prohibition of new marijuana consumption club facilities, an eight (8) year “phase out” period for lawfully existing marijuana consumption club facilities, and licensing requirements for lawfully operating marijuana consumption club facilities which were passed by the City Council on first reading at its March 8, 2016 meeting.

Background:

On September 22, 2015, the City Council passed a moratorium ordinance prohibiting the establishment of any new marijuana consumption club facilities and directed City staff to draft ordinances concerning the regulation of clubs moving forward. On March 8, 2016, the City Council on first reading passed a number of ordinances concerning the regulation of marijuana consumption club facilities and a “phase out” period of eight (8) years for their operations.

City Code section 7.2.107 specifies that “it shall be unlawful to use any building, structure, or land . . . except in conformity with the requirements established in the zone district in which said structure, building, or land is located and in accord with the provisions of this Zoning Code.” As a result of a similar use determination made the Manager of Planning and Community Development on May 28, 2014, marijuana consumption club facilities were, subject to the requirements of the City’s Zoning Code, permitted or conditionally permitted in certain zoning districts.

Under the ordinances passed by City Council on first reading, prior to 5:00 p.m. on April 29, 2016 any existing marijuana consumption club facility wishing to continue operations during the eight (8) year phasing out period must apply for a license from the City Clerk. As a condition of licensure, applicants must substantiate compliance with the provisions of the Zoning Code prior to September 22, 2015. The attached resolution provides guidance to both the City’s Planning and Community Development Department and also members of the public on the requirements for substantiation of

compliance with the City's Zoning Code and subsequent "lawful operation" of marijuana consumption clubs prior to the enactment of the moratorium.

This resolution is not retroactive in nature as compliance with the Zoning Code is a prerequisite to lawful operation of any land use within the City limits. Appeals of any decisions pursuant to the resolution will follow the same process as any other appeal within the Zoning Code. No new land use related laws are established through enactment of this resolution. In addition to zoning compliance as contemplated under this resolution, there are a variety of other requirements that applicants must meet under the licensing provisions contained in a companion piece of legislation that was passed by the City Council on first reading.

Additionally, this resolution sets forth a procedure for the Manager, at a marijuana consumption club facility lessee's request, to inform landlords of the illegal status of operating a marijuana consumption club facility at the end of the eight (8) year phasing out period. The purpose of this section of the resolution is to provide certification from the City to the landlord and lessee that the lawful operation of this land use type will expire on March 22, 2024.

Financial Implications:

N/A

Board/Commission Recommendation:

Because this resolution established no amendments or additions to the Zoning Code, no City Planning Commission recommendation or review is required. However, as a courtesy and in conjunction with its review of the companion land use-related ordinances, the City Planning Commission was consulted on this topic and provided little input. This item is related to the ordinances pertaining to the prohibition of new marijuana consumption clubs and licensing requirements passed by the City Council on first reading at the March 8, 2016 Council meeting.

Stakeholder Process:

This item is related to the ordinances pertaining to the prohibition of new marijuana consumption clubs and licensing requirements passed by the City Council on first reading at the March 8, 2016 Council meeting.

Alternatives:

1. Adopt the resolution as presented;
2. Modify the resolution;
3. Deny the resolution.

Proposed Motion:

Adopt the resolution establishing criteria for determining "lawful operation" of marijuana consumption club facilities prior to September 22, 2015, and authorizing notice of expiration of amortized non-conforming land use

N/A