

RESOLUTION NO. R-18-09

A RESOLUTION DIRECTING CITY STAFF TO DELAY THE ACCEPTANCE AND PROCESSING OF APPLICATIONS FOR NEW BUSINESS AND OCCUPATION LICENSES; PERMITS, INCLUDING BUILDING PERMITS; AND DEVELOPMENT APPROVALS WITHIN THE CITY OF GLADSTONE, MISSOURI, FOR BUSINESSES SELLING OR DISTRIBUTING ALTERNATIVE NICOTINE OR VAPOR PRODUCTS TO CONSTRUCT FACILITIES OR CONDUCT BUSINESS WITHIN THE CITY FOR THE TIMEFRAME SPECIFIED HEREIN.

WHEREAS, the City strives to develop and maintain reasonable mechanisms to ensure attractive, high quality development that is compatible with adjacent land uses and to protect property values. As the rate of development, and the demands such development generates, continues to increase, the City continues to find that changes in its development regulations are constantly required to address the City's new development environment and the different perspectives and challenges and opportunities that this environment has brought; and

WHEREAS, recently the number of companies seeking to conduct businesses involving the sale and distribution of alternative nicotine, vapor products, and paraphernalia associated with alternative nicotine, and vapor products within the City has increased; and

WHEREAS, the City Council is also concerned about accommodating these businesses within the City's commercial community and believes that there may be a need to revise the existing ordinances of the City with respect to these businesses; and

WHEREAS, the City Council desires to study, based on research performed and presented to the City Council by City staff, the impact of these businesses within the City; to consider what, if any, amendments are needed to the City Code to mitigate any adverse impacts that may be identified; and to consider and adopt any proposed legislation; and, while conducting this investigation, the Council desires to avoid the establishment of new alternative nicotine or vapor product businesses that may be located or operated in a manner that may not conform to any new ordinances that the City Council may adopt after the study process is completed that might otherwise undermine the effect of potential ordinance revisions before they are adopted; and

WHEREAS, generally, when it becomes apparent that there is a need to revise existing ordinances to promote the health, safety and general welfare, a "race of diligence" ensues between landowners seeking to establish vested rights under existing law and the Council seeking to enact a revised ordinance before new rights are established, thereby creating additional safety and general welfare problems; and,

WHEREAS, this "race of diligence" is counterproductive to both individual landowners and the City as a whole, because landowners rush to submit or gain approval of projects that, given more time, could be better planned and more successful projects, resulting in a higher return on investment, and the City rushes to adopt an ordinance revision that may not have received thorough analysis or been subject to full public debate with respect to the issues, goals,

and policies of the proposed development controls, and therefore, may not be as responsive to community input and debate as would otherwise be possible; and,

WHEREAS, the Council, therefore, must prevent the establishment of new non-conforming land uses that will undermine the effect of the ordinance revisions before they are adopted; and

WHEREAS, to ensure that the City Council successfully, fairly and rationally fulfills its legislative duty regarding the regulation of alternative nicotine, or vapor product businesses, it is necessary to temporarily preserve the status quo by imposing a moratorium to administratively delay the acceptance and processing of applications for new business and occupation licenses; permits, including building permits; and development approvals related to businesses involving the sale and distribution of alternative nicotine, vapor products, and paraphernalia associated with alternative nicotine, and vapor products to the construction of facilities for or the operation of other similar businesses pending action by the City Council; and

WHEREAS, the Council also recognizes that this is an extraordinary remedy that should be used judiciously and only after serious evaluation and analysis by staff and the Council, and based upon staff's carefully considered recommendation; and,

WHEREAS, the City Council determines that a reasonable timeframe during which a moratorium of this type should be in effect is a period of six (6) months after the adoption of this Resolution; and

WHEREAS, the City Council has determined that it is appropriate and necessary to temporarily delay acceptance and processing of applications for new business and occupation licenses; permits, including building permits; and development approvals related to the construction of facilities for or the operation of new businesses involving the sale and distribution of alternative nicotine, vapor products, and paraphernalia associated with alternative nicotine, and vapor products by adoption of a moratorium thereon, for the period of six (6) months after the adoption of this Resolution, to provide the City Council with a reasonable opportunity to study possible legislative actions associated with the regulation of these businesses.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, AS FOLLOWS:

SECTION 1. That the Council hereby directs City staff to research issues related to the impacts of businesses involving the sale and distribution of alternative nicotine, vapor products, and paraphernalia associated with alternative nicotine, and vapor products and the methods of regulation of such businesses; and upon further direction from the Council regarding the method of regulation of such businesses, to prepare proposed Land and Development Ordinance text amendments that City staff determines may be needed to address or mitigate any adverse impacts that are identified through their research into the effects of new businesses involving the sale and distribution of alternative nicotine, vapor products, and paraphernalia associated with alternative nicotine, and vapor products locating within the City; and

SECTION 2. That the Council hereby directs, beginning immediately, that applications for new business and occupation licenses; permits, including building permits; and development

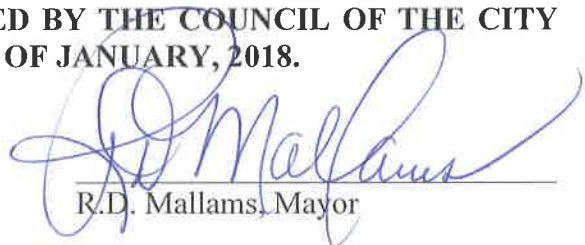
approvals related to the construction of facilities for new businesses that involve the sale and distribution of alternative nicotine, vapor products, and paraphernalia associated with alternative nicotine, and vapor products not currently licensed, shall not be processed for a period of six (6) months to allow the Council the opportunity to study the impact of these businesses within the City; to consider amendments to the Land and Development Ordinance, recommended by City staff, if any, that are needed to mitigate any adverse impacts that may be identified; and to consider and adopt any revisions to the Land and Development Ordinance that may be deemed necessary as a result of the Council's investigation. This moratorium shall not extend beyond July 22, 2018, unless the Council extends the date by majority vote at a duly noticed meeting.

SECTION 3. That, if an applicant believes that the City's determination not to accept or to process an application for new business and occupation licenses; permits, including building permits; and development approvals pursuant to the provisions of this Resolution is unreasonable, the applicant may file a written appeal of the determination with the City Clerk within five (5) days of the determination. If an appeal is timely and properly filed, the City Clerk shall schedule a hearing before the Council at its next regularly scheduled meeting at which the applicant shall bear the burden of establishing by clear and convincing evidence that the acceptance or processing of the subject application will not undermine the spirit and intent of any pending revisions to the Land and Development Ordinance. If the Council determines that such action will not undermine the spirit and intent, it shall direct that the application be accepted for processing or processed as the case may be.

SECTION 4. That upon receipt of a written request for an appeal, the City shall establish guidelines for the Council to utilize in determining whether the application, if approved, will undermine the spirit and intent of the pending revisions to the Land and Development Ordinance pursuant to this Resolution.

SECTION 5. That this Resolution is not intended as, and should not be interpreted as, an amendment to Land and Development Ordinance, but is merely direction to staff with respect to the acceptance of and processing of applications for development approvals for new businesses involving the sale and distribution of alternative nicotine, vapor products, and paraphernalia associated with alternative nicotine, and vapor products until the Council has had the opportunity to study the impact of these businesses within the City; to consider and adopt, if appropriate, any proposed amendments to the Land and Development Ordinance that may be needed.

INTRODUCED, READ, PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, THIS 22ND DAY OF JANUARY, 2018.


R.D. Mallams, Mayor

ATTEST:


Ruth Bocchino, City Clerk