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1<sup>st</sup> R 11/19/19  
2<sup>nd</sup> R  
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Cau Prior 11/6/19 Discussion

CITY OF BROOK PARK, OHIO

RESOLUTION NO. 35-2019

INTRODUCED BY: COUNCIL AS A WHOLE AND MAYOR GAMMELLA

A RESOLUTION TO EXTEND THE  
MORATORIUM ON THE GRANTING OF  
BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY FOR ANY  
BUILDING, STRUCTURE, USE OR CHANGE OF USE THAT WOULD ENABLE THE  
CULTIVATION, PROCESSING, OR RETAIL SALE OF MEDICAL MARIJUANA FOR  
A PERIOD NOT TO EXCEED TWELVE MONTHS FROM THE EFFECTIVE DATE OF  
THIS RESOLUTION, IN ORDER TO ALLOW THE CITY ADMINISTRATION,  
COUNCIL AND THE BROOK PARK PLANNING COMMISSION TO REVIEW  
APPLICABLE OHIO STATUTES, CRIMINAL CODES AND THE BROOK PARK  
ZONING CODE RELATIVE TO SUCH USE AND DECLARING AN EMERGENCY

**WHEREAS**, on November 20, 2018, this Council passed Resolution No. 40-2018, extending a moratorium granted by prior Resolution to further review all Planning and Zoning Commission requirements and allow for a more thorough review of all codes statewide within the City; and

**WHEREAS**, the Ohio General Assembly adopted on June 8, 2016 and the Governor has signed into law 131 Sub. H.B. 523, which became effective September 8, 2016; and

**WHEREAS**, 131 Sub. H.B. 523, among other things, permits patients in Ohio to use medical marijuana on the recommendation of physicians; creates state regulatory oversight of the cultivation, processing, retail sale, use and physician recommendation of medical marijuana; authorizes the legislative authority of a city to adopt regulations to prohibit or limit the number of retail medical marijuana dispensaries; and prohibits a cultivator, processor, retail dispensary or laboratory from being located or relocating within 500 feet of a school, church, public library, public playground or public park; and

**WHEREAS**, as such, the City's Administration, Council and the Planning and Zoning Commission require additional time to undertake a review of all applicable codes statewide and within the city in order to formulate a local response to 131 Sub. H.B. 523; and

**WHEREAS**, pursuant to the Constitution of the State of Ohio Revised Code, municipalities have the power to enact planning and zoning laws that are for health, safety, welfare, comfort and peace of the citizens of the municipality including redistricting areas used for businesses and trades;

**NOW THEREFORE BE IT RESOLVED**, by the Council of the City of Brook Park, State of Ohio that:

**SECTION 1:** That the Council of the City of Brook Park, hereby extends the moratorium on the granting of building permits or certificates of occupancy for any building, structure, use or change of use that would enable the cultivation, processing, or retail sale of medical marijuana for a period not to exceed 12 months from the effective date of this Resolution, in order to allow the City Administration, Council and the Brook Park Planning and Zoning Commissions to review applicable Ohio statutes, criminal codes and the Brook Park Zoning Code relative to such use.

**SECTION 2:** The purpose of this Resolution, "medical marijuana" shall have the same meaning as that term is defined in Section 3796.01(A)(2) of the Ohio Revised Code, effective March 16, 2017.

**SECTION 3:** No building permits, certificates of occupancy or any other permits shall be granted to a business owner who intends to open, use any land or devote any floor area of the business for the purposes of the cultivation, processing, or retail sale of medical marijuana for the period of this moratorium. No valid existing business in the City may expand in any way that would establish cultivation, processing, or retail sale of medical marijuana for the duration of the moratorium.

**SECTION 4:** The moratorium shall be in effect for a period of 12 months from the effective date of this Resolution or until changes are enacted to amend the Codified Ordinances of the City of Brook Park to address these issues or until, Council approves legislation explicitly revoking this moratorium, whichever occurs first.

**SECTION 5:** It is found and determined that all formal actions of this Council concerning and relating to this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

**SECTION 6:** This Resolution is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare of said City, and for the further reason that the City of Brook Park would like to impose a 12 month moratorium on building and/or occupancy permits regarding

medical marijuana; provided that this Resolution receives the affirmative vote of at least five (5) members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, from and after the earliest period allowed by law

PASSED: November 19, 2019

M. P. Keelie  
PRESIDENT OF COUNCIL

ATTEST: Michelle Blazak  
CLERK OF COUNCIL

APPROVED: [Signature]  
MAYOR  
11/20/19  
DATE

I HEREBY APPROVE THE WITHIN INSTRUMENT AS TO LEGAL FORM AND CORRECTNESS

[Signature]  
DIRECTOR OF LAW

CERTIFICATE

Michelle Blazak, Clerk of Council, of the City of Brook Park, Ohio, do hereby certify that the foregoing is a true and accurate copy of Ordinance/Resolution No. 39-2019

passed on the 19th day of November 2019 by said council.

Michelle Blazak  
Clerk of Council

I, Michelle Blazak, Clerk of Council for the City of Brook Park, State of Ohio, do hereby certify that there is no new paper of general circulation in the municipality and that publication of the foregoing ordinances/resolutions was made by posting true copies at six of the most public places in said municipality as determined by Ordinance No. 4838-1975; location: City Hall 6161 Engle Road, Police Station 17401 Holland Road, #1 Fire Station 5590 Smith Road, #2 Fire Station 22530 Ruple Parkway, #3 Fire Station 17401 Holland Road, Brook Park Library 6165 Engle Road, for a period of fifteen days.

commencing November 20, 2019  
Michelle Blazak  
MICHELLE BLAZAK  
Clerk of Council

	Yea	Nay
Stemm	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mencini	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Orcutt	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Scott	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Burgio	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Poindexter	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Salvatore	<input checked="" type="checkbox"/>	<input type="checkbox"/>

