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MEMORANDUM

To: Mayor and City Council
From: Paul Leonhardt, Planning & Zoning Manager
Date: July 24, 2023
Subject: Temporary Moratorium Drug Rehabilitation Centers and Other Facilities for Treatment of Drug Dependency

ITEM DESCRIPTION

This item extends the previously adopted moratorium on drug rehabilitation centers and other facilities for treatment of drug dependency with an expiration date of February 27, 2024 – one year after adoption of the initial moratorium. The moratorium applies to any permits or licenses for drug rehabilitation centers or other facilities for treatment of drug dependency.

DISCUSSION

The City’s zoning ordinance provides special requirements for special land use permits and zoning map amendments concerning drug rehabilitation centers or other facilities for treatment of drug dependency, including size requirements for newspaper ads and timing requirements for public hearings. References are in Sec. 27-331, Sec. 27-334, Sec. 17-356, and Sec. 27-358. However, neither use is incorporated in the use table nor defined, leading to unclear expectations and potential liabilities for the City.

The staff will use 90 days of the moratorium period to conduct further review of the needs and impacts of drug rehabilitation centers and other facilities for treatment of drug dependency uses. The staff will then propose changes to the City’s zoning ordinance that will have to be reviewed by the Planning Commission and the City Council.

STAFF RECOMMENDATION

Staff recommends **APPROVAL**.

ATTACHMENTS

Resolution – Temporary Moratorium Drug Rehabilitation Centers and Other Facilities for Treatment of Drug Dependency

Lynn Deutsch Mayor
Eric Linton ICMA-CM City Manager
Sharon Lowery CMC City Clerk
Catherine Lautenbacher City Council Post 1
Rob Price City Council Post 2
Tom Lambert City Council Post 3
Stacey Harris City Council Post 4
Joe Secorder City Council Post 5
John Heneghan City Council Post 6

**A RESOLUTION FOR A TEMPORARY MORATORIUM ON THE ACCEPTANCE OF
NEW APPLICATIONS FOR BUSINESS LICENSES OR SPECIAL USE
APPROVAL, PERMITTED USE APPROVAL, OR BUILDING, LAND
DISTURBANCE SITE PLAN AND DESIGN REVIEW, OR OTHER PERMITS AND
LICENSES FOR DRUG REHABILITATION CENTERS AND OTHER FACILITIES
THAT TREAT DRUG AND ALCOHOL DEPENDENCY**

WHEREAS, the Mayor and City Council of the City of Dunwoody (“City Council”) are charged with the protection of the public health, safety, and welfare of citizens of the City of Dunwoody (“City”); and

WHEREAS, the State of Georgia has adopted a legal framework for the licensing of facilities for the treatment of drug and alcohol dependence and abuse and drug and alcohol rehabilitation centers; and

WHEREAS most facilities and centers that purport to primarily treat mental health issues also, by need or design, treat drug and alcohol dependence and abuse; and

WHEREAS, all these facilities and centers can create or exacerbate negative externalities in the communities and areas in which they are established; and

WHEREAS, the City is authorized to regulate businesses with potential negative externalities through a variety of measures, including but not limited to: minimum distance requirements, buffers and fencing, requiring heightened scrutiny through the Special Land Use Permit process, and exclusion of uses in specific zoning districts; and

WHEREAS, the City’s zoning ordinance is currently not adequately addressing zoning standards for these centers and other facilities that engage in any amount or degree of treatment of drug and alcohol dependency and abuse; and

WHEREAS, should the City identify potential impacts and externalities, and/or best practice regulations, the City intends to adopt ordinances that protect the public health, safety, and welfare of its residents; and

WHEREAS, other local governments in Georgia and in other parts of the United States have experience with the regulation of such centers and facilities, the legal requirements and limitations for such regulation; and best practices for accomplishing such regulation in a manner that protects the public health, safety, and welfare of all its residents while balancing the need for such centers and facilities; and

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WHEREAS, the Mayor and Council have determined that staff should conduct a reasonably in-depth review of the actions and experiences of other local governments in the regulation of such facilities and centers, especially with regard to comprehensive planning, zoning and other land use polices and regulation; and

WHEREAS, after such investigation and review, staff should consult with legal counsel about legal and effective ways to protect the public health, safety, and welfare of all its residents while balancing the need for such centers and facilities; and

WHEREAS, it is believed that such investigation, review and consultation may require at least six months; and

WHEREAS, after review, the Mayor and Council have determined that it is in the best interest of the City to issue a Temporary Moratorium as set forth below.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF DUNWOODY, GEORGIA:

Section 1. The Amendment to the Temporary Moratorium imposed herein incorporates the findings and statements set forth in the preceding “whereas” clauses and such clauses are made as part of this moratorium, and the aforesaid recitals are not mere recitals, but are material portions of this Resolution.

Section 2. This Amendment becomes effective immediately upon adoption of this resolution.

Section 3. Notwithstanding any provisions of the Code of Ordinances of the City of Dunwoody to the contrary, a temporary moratorium shall be and remain in force and effect on the filing, consideration, or approval of any new Applications for Business Licenses, Special Land Use Approval, Permitted Use Approval, or Building, Land Disturbance, Site Plan and Design Review or other Permits and Licenses for drug rehabilitation centers and other facilities that treat drug and alcohol dependency and abuse. For the purposes of this moratorium, the terms drug and alcohol rehabilitation centers and other facilities for treatment of drug dependency and abuse shall include “halfway house, drug rehabilitation center, or other facility for treatment of drug dependency” as defined in O.C.G.A. § 36-66-4, and shall also include any organization, facility or center that will provide wellness or any treatment services to persons dealing with diseases related to or that co-exist with alcohol or drug dependency or abuse.

Section 4. During the moratorium neither the City nor any of its departments or staff shall accept, process or review new applications for Applications for Business License, or for Special Land Use Approval, Permitted Use Approval, or Building, Land

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Disturbance, Site Plan and Design Review, or other Permits and Licenses for cannabis businesses.

- Section 5.** During the moratorium, staff shall identify and investigate other local governments in Georgia and in other parts of the United States that have experience with the regulation of such centers and facilities, the legal requirements and limitations for such regulation; and best practices for accomplishing such regulation in a manner that protects the public health, safety, and welfare of all its residents while balancing the need for such centers and facilities, and shall complete this investigation within **90 days**.
- Section 6.** After that investigation and study, staff and legal counsel shall recommend amendments to the City's codes and policies to achieve effective and lawful regulations of such centers and facilities that protects the public health, safety, and welfare of all its residents while balancing the need for such centers and facilities, and present those to the Planning Commission for review and recommendation and to Mayor and Council for adoption prior to the expiration of this moratorium, or any extension thereof.
- Section 7.** This moratorium shall expire at **11:59 p.m. on February 27, 2024**, and be of no further force and effect, unless shortened or extended by an official action of the Mayor and City Council of the City of Dunwoody.
- Section 8.** The moratorium period adopted in the Temporary Moratorium is deemed to be the appropriate minimum time for the development of such regulations without unduly diminishing the rights of individuals or other persons.
- Section 9.** This Resolution shall not apply to or otherwise effect completed applications duly filed prior to the effective date of this Resolution or the current moratorium, however, this moratorium shall apply to all applications which have not been completed.
- Section 10.** The provisions of this Resolution are severable, and should any section, subsection, sentence, clause, phrase or other portion of this Resolution, or its application to any person, entity or circumstance, be held by a court of competent jurisdiction to be unconstitutional or invalid, the remainder of the Resolution, or application of the provision to other persons, entities or circumstances, shall not be affected.

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Approved:

Lynn P. Deutsch, Mayor

Attest:

Sharon Lowery, City Clerk

(Seal)

Approved As To Form:

City Attorney