

BRUNSWICK CITY PLANNING & ZONING COMMITTEE

Agenda

SEPTEMBER 9, 2024

5:30 PM

or Immediately Following
Safety & Environment Committee

1. Discussion Items
 - (a) **ORD. NO. 70-2024** - An emergency ordinance extending a temporary moratorium on the acceptance and processing of applications for zoning, occupancy, conditional use and/or building permit approvals for specified uses in all zoning and Special Planning Districts of the City and the issuance of such approvals. - **1st Reading** (To be brought from Planning & Zoning Committee, *Administration/Grant Aungst*)
 - (b) **ORD. NO. 71-2024** - An emergency ordinance extending a temporary moratorium on the acceptance and processing of applications for zoning, occupancy and/or building permit approvals for establishments that intend to engage in retail sales and/or distribution of tobacco products, vapor products, alternative nicotine products and/or electronic smoking devices in all zoning districts of the City and the issuance of such approvals. - **1st Reading** (To be brought from Planning & Zoning Committee, *Administration/Grant Aungst*)
2. General Discussion
3. Adjournment

THE CITY OF BRUNSWICK

PROPOSED LEGISLATION



DATE: 9/9/2024

TO: Vice Mayor Nicholas Hanek and Members of City Council

FROM: Carl S. DeForest, City Manager
Grant Aungst

COPY: Mayor Ron Falconi

LEGISLATION: **ORD. NO. 70-2024** - An emergency ordinance extending a temporary moratorium on the acceptance and processing of applications for zoning, occupancy, conditional use and/or building permit approvals for specified uses in all zoning and Special Planning Districts of the City and the issuance of such approvals. - **1st Reading** (To be brought from Planning & Zoning Committee, *Administration/Grant Aungst*)

BACKGROUND: On April 8, 2024, City Council adopted Ordinance No. 36-2024 establishing a six (6) month temporary moratorium on the acceptance and processing of applications for zoning, occupancy, conditional use and/or building permit approvals for automobile filling stations, automotive repair, automobile washes, temporary retail sales, hotels/motels, massage establishments, payday lenders and/or small box discount stores in all Zoning and Special Planning Districts of the City, and on the issuance of such approvals, which will expire on October 8, 2024. The six (6) month temporary moratorium established by Ordinance No. 36-2024 shall be extended until such time as City Council adopts the Zoning Code Update by duly authorized legislation, during which time the City shall not accept or process any applications for the above uses in all Zoning and Special Planning Districts of the City, and shall not issue any such approvals during said period.

PURPOSE AND EXPLANATION: City Council believes that extending the temporary moratorium on the acceptance and processing of applications for zoning, occupancy, conditional use and/or building permit approvals for automobile filling stations, automotive repair, automobile washes, temporary retail sales, hotels/motels, massage establishments, payday lenders and/or small box discount stores in all Zoning and Special Planning Districts of the City, and on the issuance of such approvals, will not deny property owners economically viable use of their property and will permit the City Administration, Council and Planning Commission necessary time to undertake a comprehensive review of the Brunswick Planning & Zoning Code for possible amendments.

IMPLEMENTATION SCHEDULE: September 9, 2024.

FINANCIAL INFORMATION:

**FINANCIAL
SUMMARY:**

**RECOMMENDED
ACTION:**

One Reading	Yes
Two Readings	No
Three Readings	No
Emergency	Yes
Suspension of Rules	Yes

If emergency or suspension of the rules, why the request?

This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety and general welfare of the City and its residents and property owners and for the additional reason that it is required to permit the City Administration, Council and Planning Commission necessary time to complete the Zoning Code Update.

**ADDITIONAL
INFORMATION:**

CITY OF BRUNSWICK, OHIO
ORDINANCE NO. 70-2024

BY: Mr. Delsanter, Mr. Kuczma, Mr. Lambert

AN EMERGENCY ORDINANCE EXTENDING A TEMPORARY MORATORIUM ON THE ACCEPTANCE AND PROCESSING OF APPLICATIONS FOR ZONING, OCCUPANCY, CONDITIONAL USE AND/OR BUILDING PERMIT APPROVALS FOR SPECIFIED USES IN ALL ZONING AND SPECIAL PLANNING DISTRICTS OF THE CITY AND THE ISSUANCE OF SUCH APPROVALS.

WHEREAS: The City of Brunswick may legitimately regulate land use in the City.

WHEREAS: On April 8, 2024, City Council adopted Ordinance No. 36-2024 establishing a six (6) month temporary moratorium on the acceptance and processing of applications for zoning, occupancy, conditional use and/or building permit approvals for automobile filling stations, automotive repair, automobile washes, temporary retail sales, hotels/motels, massage establishments, payday lenders and/or small box discount stores in all Zoning and Special Planning Districts of the City, and on the issuance of such approvals.

WHEREAS: This Council believes that extending the temporary moratorium on the acceptance and processing of applications for zoning, occupancy, conditional use and/or building permit approvals for automobile filling stations, automotive repair, automobile washes, temporary retail sales, hotels/motels, massage establishments, payday lenders and/or small box discount stores in all Zoning and Special Planning Districts of the City, and on the issuance of such approvals, will not deny property owners economically viable use of their property and will permit the City Administration, Council and Planning Commission necessary time to undertake a comprehensive review of the Brunswick Planning & Zoning Code for possible amendment thereof.

WHEREAS: On May 13, 2024, City Council adopted Resolution No. 50-2024 authorizing the City Manager to enter into a Strategic Consulting Services Agreement with Roetzel Consulting Solutions for the review and update of the Planning & Zoning Code to include, without limitation: (a) streamline application, review and approval processes; (b) make the Code easy to navigate; (c) align with updated zoning practices; (d) enhance residential neighborhoods; (e) encourage quality development consistent with best zoning practices; (f) improve community services; and (g) build upon the vision established in the 2020 Comprehensive Plan (collectively the "Zoning Code Update").

WHEREAS: The Zoning Code Update is presently scheduled to be completed by April 30, 2025.

WHEREAS: THE COUNCIL OF THE CITY OF BRUNSWICK HEREBY
ORDAINS:

SECTION 1: The six (6) month temporary moratorium established by Ordinance No. 36-2024 shall be extended until such time as City Council adopts the Zoning Code Update by duly authorized legislation, during which time the City shall not accept or process any applications for zoning, occupancy, conditional use and/or building permit approvals for automobile filling stations, automotive repair, automobile washes, temporary retail sales, hotels/motels, massage establishments, payday lenders and/or small box discount stores in all Zoning and Special Planning Districts of the City, and further shall not issue any such approvals during said period.

SECTION 2: Whenever the provisions of this Ordinance conflict with any other Ordinance or any provision of the Codified Ordinances of the City, the provisions of this Ordinance shall control.

SECTION 3: It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 4: This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety and general welfare of the City and its residents and property owners and for the additional reason that it is required to permit the City Administration, Council and Planning Commission necessary time to complete the Zoning Code Update. Therefore, the same shall be in full force and effect from and after its passage by the required number of votes or from the earliest time allowed by law.

PASSED: 1st Reading _____

RULES SUSPENDED: AYES _____ NAYS _____

ADOPTED: _____ AYES _____ NAYS _____

ATTEST: _____
Clerk of Council
Laura E. Timura, CMC

PROPOSED LEGISLATION



DATE: 9/9/2024

TO: Vice Mayor Nicholas Hanek and Members of City Council

FROM: Carl S. DeForest, City Manager
Grant Aungst

COPY: Mayor Ron Falconi

LEGISLATION: **ORD. NO. 71-2024** - An emergency ordinance extending a temporary moratorium on the acceptance and processing of applications for zoning, occupancy and/or building permit approvals for establishments that intend to engage in retail sales and/or distribution of tobacco products, vapor products, alternative nicotine products and/or electronic smoking devices in all zoning districts of the City and the issuance of such approvals. - **1st Reading** (To be brought from Planning & Zoning Committee, *Administration/Grant Aungst*)

BACKGROUND: On March 11, 2024, City Council adopted Ordinance No. 9-2024 extending the six (6) month temporary moratorium established by Ordinance No. 79-2023 for an additional six (6) months up to and including September 25, 2024, which will now be extended until the later of the following will occur: (a) City Council adopts the Zoning Code Update by duly authorized legislation; or (b) the Litigation is completed through the issuance of a non-appealable Court Order.

PURPOSE AND EXPLANATION: City Council believes that extending the temporary moratorium on the acceptance and processing of applications for zoning, occupancy and/or building permit approvals for establishments that intend to engage in retail sales and/or distribution of tobacco products, vapor products, alternative nicotine products and/or electronic smoking devices in all Zoning Districts of the City, and on the issuance of such approvals, will not deny property owners economically viable use of their property and will permit the City to undertake the Zoning Code Update and allow for further legal guidance as to the Home Rule rights of municipalities in the Litigation.

IMPLEMENTATION SCHEDULE: September 9, 2024.

FINANCIAL INFORMATION:

FINANCIAL SUMMARY:

**RECOMMENDED
ACTION:**

One Reading	Yes
Two Readings	No
Three Readings	No
Emergency	Yes
Suspension of Rules	Yes

If emergency or suspension of the rules, why the request?

This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety and general welfare of the City and its residents and property owners and for the additional reason that it is required to permit the City to undertake the Zoning Code Update and allow for further legal guidance as to the Home Rule rights of municipalities in the Litigation.

**ADDITIONAL
INFORMATION:**

CITY OF BRUNSWICK, OHIO
ORDINANCE NO. 71-2024

BY: Mr. Delsanter, Mr. Kuczma, Mr. Lambert

AN EMERGENCY ORDINANCE EXTENDING A TEMPORARY MORATORIUM ON THE ACCEPTANCE AND PROCESSING OF APPLICATIONS FOR ZONING, OCCUPANCY AND/OR BUILDING PERMIT APPROVALS FOR ESTABLISHMENTS THAT INTEND TO ENGAGE IN RETAIL SALES AND/OR DISTRIBUTION OF TOBACCO PRODUCTS, VAPOR PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS AND/OR ELECTRONIC SMOKING DEVICES IN ALL ZONING DISTRICTS OF THE CITY AND THE ISSUANCE OF SUCH APPROVALS.

WHEREAS: The City of Brunswick may legitimately regulate the location and approval of establishments that intend to engage in retail sales and/or distribution of tobacco products, vapor products, alternative nicotine products and/or electronic smoking devices in the City, as defined in Codified Ordinance Section 636.19.

WHEREAS: On September 25, 2023, City Council adopted Ordinance No. 79-2023 establishing a six (6) month temporary moratorium on the acceptance and processing of applications for zoning, occupancy and/or building permit approvals for establishments that intend to engage in retail sales and/or distribution of tobacco products, vapor products, alternative nicotine products and/or electronic smoking devices in all Zoning Districts of the City.

WHEREAS: On March 11, 2024, City Council adopted Ordinance No. 9-2024 extending the six (6) month temporary moratorium established by Ordinance No. 79-2023 for an additional six (6) months up to and including September 25, 2024.

WHEREAS: On May 13, 2024, City Council adopted Resolution No. 50-2024 authorizing the City Manager to enter into a Strategic Consulting Services Agreement with Roetzel Consulting Solutions for the review and update of the Planning & Zoning Code to include, without limitation: (a) streamline application, review and approval processes; (b) make the Code easy to navigate; (c) align with updated zoning practices; (d) enhance residential neighborhoods; (e) encourage quality development consistent with best zoning practices; (f) improve community services; and (g) build upon the vision established in the 2020 Comprehensive Plan (collectively the “Zoning Code Update”).

WHEREAS: The Zoning Code Update is presently scheduled to be completed by April 30, 2025.

WHEREAS: On or about May 23, 2024, the Franklin County Court of Common Pleas issued an Order in Case No. 24CV2865 (the “Litigation”) declaring Ohio Revised Code

Section 9.681 (prohibiting municipalities from enacting, adopting, renewing, maintaining, enforcing or continuing in existence any charter provision, ordinance, resolution, rule or other measure that conflicts with or preempts any policy of the State regarding regulation of tobacco products or alternative nicotine products) an unconstitutional infringement on the rights of municipalities to exercise their right to Home Rule pursuant to Article VIII, Section 3 of the Ohio Constitution.

WHEREAS: The State of Ohio appealed the decision of the Franklin County Court of Common Pleas in the Litigation to the Tenth District Court of Appeals, which remains pending.

WHEREAS: This Council believes that extending the temporary moratorium on the acceptance and processing of applications for zoning, occupancy and/or building permit approvals for establishments that intent to engage in retail sales and/or distribution of tobacco products, vapor products, alternative nicotine products and/or electronic smoking devices in all Zoning Districts of the City, and on the issuance of such approvals, will not deny property owners economically viable use of their property and will permit the City to undertake the Zoning Code Update and allow for further legal guidance as to the Home Rule rights of municipalities in the Litigation.

WHEREAS: THE COUNCIL OF THE CITY OF BRUNSWICK HEREBY ORDAINS:

SECTION 1: The six (6) month temporary moratorium established by Ordinance No. 79-2023 and as extended by Ordinance No. 9-2024 through September 25, 2024, is hereby further extended until the later of the following to occur: (a) City Council adopts the Zoning Code Update by duly authorized legislation; or (b) the Litigation is completed through the issuance of a non-appealable Court Order. During such time, the City shall not accept or process any applications for zoning, occupancy and/or building permit approvals for establishments that intend to engage in retail sales and/or distribution of tobacco products, vapor products, alternative nicotine products and/or electronic smoking devices in all Zoning Districts of the City, and further shall not issue any such approvals during said period.

SECTION 2: Whenever the provisions of this Ordinance conflict with any other Ordinance or any provision of the Codified Ordinances of the City, the provisions of this Ordinance shall control.

SECTION 3: It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 4: This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety and general welfare of the City and its residents and property owners and for the additional reason that it is required to permit the City to undertake the Zoning Code Update and allow for further legal guidance as to the Home Rule rights of municipalities in the Litigation. Therefore, the same shall be in full force and effect from and after its passage by the required number of votes or from the earliest time allowed by law.

PASSED: 1st Reading _____

RULES SUSPENDED: AYES _____ NAYS _____

ADOPTED: _____ AYES _____ NAYS _____

ATTEST: _____
Clerk of Council
Laura E. Timura, CMC