

1 **STATE OF GEORGIA**

2 **CITY OF COLLEGE PARK**

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4

ORDINANCE 2017-07

5

6 AN ORDINANCE AMENDING ARTICLE V, CODE OF ETHICS, OF CHAPTER 2,
7 ADMINISTRATION, OF THE CODE OF ORDINANCES OF COLLEGE PARK, TO
8 PROMULGATE RULES AND REGULATIONS REGARDING THE DISPOSITION OF
9 COMPLAINTS UNDER THE CODE OF ETHICS; TO PROVIDE FOR SEVERABILITY; TO
10 REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR
11 OTHER PURPOSES.

12 **WHEREAS**, the governing authority of the city of College Park (“city”) is the Mayor
13 and Council thereof; and

14 **WHEREAS**, the governing authority of the city is authorized by O.C.G.A. § 36-35-3 to
15 adopt ordinances relating to its property, affairs and local government; and

16 **WHEREAS**, the governing authority deems it essential to the proper operation of
17 democratic government that the public officials be, and give the appearance of being,
18 independent, impartial, and responsible to the people; that governmental decisions and policies
19 be made in the proper channels of the governmental structure; and that public office not be used
20 for personal gain; and

21 **WHEREAS**, such measures are necessary to provide the public with confidence in the
22 integrity of its government; and

23 **WHEREAS**, to this end, the City, in 2004, adopted a Code of Ethics, and such Code of
24 Ethics has been amended, from time to time; and

25 **WHEREAS**, the governing authority wishes to amend the Code of Ethics, such as the
26 imposition of penalties and inclusion of additional rules and regulations for the disposition of
27 ethics complaints; and

28 **WHEREAS**, the health, safety, and welfare of the citizens of College Park, Georgia, will
29 be positively impacted by the adoption of this Ordinance.

30 **BE IT AND IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF**
31 **THE CITY OF COLLEGE PARK, GEORGIA**, and by the authority thereof:

32 **Section 1:** The City's Code of Ordinances is hereby amended by deleting the existing
33 text of Chapter 2, Administration, Article V, Code of Ethics, and inserting the following text in
34 lieu thereof to read and be codified as follows:

35 **"Sec. 2-73. - Declaration of policy.**

36 (a) It is the policy of the city that the proper operation of democratic government requires that
37 public officials be independent, impartial and responsible to the people; that governmental
38 decisions and policy be made in proper channels of the governmental structure; that public
39 office not be used for personal gain; and that the public have confidence in the integrity of
40 its government. In recognition of these goals, a code of ethics for all city officials is adopted.

41 (b) This code has the following purposes:

- 42 (1) To encourage high ethical standards in official conduct by city officials;
- 43 (2) To establish guidelines for ethical standards of conduct for all such officials by setting
44 forth those acts or actions that are incompatible with the best interest of the city;
- 45 (3) To require disclosure by such officials of private financial or other interest in manners
46 affecting the city; and
- 47 (4) To serve as a basis for disciplining those who refuse to abide by its terms.

48 **Sec. 2-74. - Scope of persons covered.**

49 The provisions of this code of ethics shall be applicable to all members of the city council,
50 planning and zoning commission, board of zoning appeals, all advisory commissions, and
51 committee members.

52 **Sec. 2-75. - Definitions.**

53 As used in this article, the following terms shall have the following meanings, unless the context
54 clearly indicates that a different meaning is intended.

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- 56 (a) Censure means the act of condemning as wrong. A censure shall be effectuated by entry
57 in the minutes of a city council meeting.
- 58 (b) City official and/or official, unless otherwise expressly defined, means the mayor,
59 members of the city council, candidates for the offices of the mayor and city council after
60 legal notice of candidacy and qualification as such candidate, municipal court judges
61 (including substitute judges), city manager, assistant city managers, city clerk, deputy
62 city clerks, whether such person is salaried, hired or elected, and all other persons holding
63 positions designated by the city charter, as it may be amended from time to time. City
64 officials, unless otherwise expressly defined, includes individuals appointed by the mayor
65 and council to all city commissions, authorities, committees, boards and task forces, and
66 all other city committee and/or body members, unless specifically exempted from this
67 article by law and/or the city council.
- 68 (c) Complainant means a person or entity who submits to the city clerk an ethics complaint
69 alleging violations of this article.
- 70 (d) Decision means any article, resolution, contract, franchise, formal action or other matter
71 voted on by the city council or other city board or commission, as well as the discussions
72 or deliberations, of the council, board or commission which can or may lead to a vote or
73 formal action by such body.
- 74 (e) Discretionary authority means the power to exercise any judgment in a decision or action.
- 75 (f) Entity means a sole proprietorship, partnership, limited partnership, firm, corporation,
76 professional corporation, holding company, joint stock company, receivership, trust or
77 any other entity recognized by law through which business may be conducted.
- 78 (g) Immediate family means the legal and/or biological parent, sibling, child, spouse, or any
79 corresponding in-law, of any city official.
- 80 (h) Interest:
- 81 (1) Incidental interest means an interest in a person, entity or property which is not a
82 substantial interest.
- 83 (2) Remote interest means an interest of a person or entity, including a city official, who
84 would be affected in the same way as the general public. The interest of a council
85 member in the property tax rate, general city fees, city utility charges, or a
86 comprehensive zoning article or similar decisions is incidental to the extent that the
87 council member would be affected in common with the general public.
- 88 (3) Substantial interest means a known interest, either directly or through a member of
89 the Immediate Family, in another person or entity:
- 90 a. The interest is ownership of five (5) percent or more of the voting stock, shares or
91 equity of an entity or ownership of five thousand dollars (\$5,000.00) or more of
92 the equity or market value of the entity; or
- 93 b. Funds received by the person from the other person or entity either during the
94 previous twelve (12) months equaled or exceeded five thousand dollars
95 (\$5,000.00) in salary, bonuses, commissions or professional fees, or ten (10)
96 percent of the recipient's gross income during that period, whichever is less; or
- 97 c. The person serves as a corporate officer or member of the board of directors or
98 other governing board of the for-profit entity other than a corporate entity owned
99 or created by the city council; or
- 100 d. The person is a creditor, debtor or guarantor of the other person or entity in an
101 amount of five thousand dollars (\$5,000.00) or more. Substantial interest in real

- 102 property means an interest in real property which is an equitable or legal
 103 ownership with a market value of five thousand dollars (\$5,000.00) or more.
- 104 (i) Ethics Complaint means a written document alleging a violation of this article by a city
 105 official. All ethics complaints filed with the city shall contain the following:
- 106 (1) A brief statement specifically identifying the name and title of the city official
 107 against whom the complaint is filed. An ethics complaint may not allege
 108 violations and/or seek action against more than one city official;
- 109 (2) A numbered list separately identifying each improper act which the city official is
 110 alleged to have committed, including 1) the date of any such alleged offense(s), 2)
 111 the specific section(s) of this article that each act is alleged to be in violation of
 112 and 3) the factual basis for each alleged violation;
- 113 (3) A sworn and notarized statement by the complainant attesting that all information
 114 in the ethics complaint is true to the complainant's information and knowledge;
- 115 (4) Email address, phone number and mailing address where the complainant may be
 116 contacted; and
- 117 (5) The complainant's residential address within the city limits.
- 118 (j) Reprimand means an official reproof, reprehension, or rebuke of a wrong. A Reprimand
 119 shall be effectuated by resolution of the mayor and council.
- 120 (k) Respondent means a city official charged with a violation of this article.

121 **Sec. 2-76. - Standards of conduct.**

- 122 (a) No council member or member of any board or commission shall use such position to secure
 123 special privileges or exemptions for such person or others, or to secure confidential
 124 information for any purpose other than official responsibilities.
- 125 (b) No council member or member of a board or commission, in any matter before the council,
 126 board or commission in which he has a substantial interest, shall fail to disclose for the
 127 common good for the record such interest prior to any discussion or vote.
- 128 (c) No council member or member of a board or commission shall act as an agent or attorney
 129 for another in any matter before the city council or any board or commission.
- 130 (d) No council member or member of a board or commission shall directly or indirectly receive
 131 or agree to receive, any compensation, gift, reward or gratuity in any matter or proceeding
 132 connected with, or related to, the duties of his office except as may be provided by law.
- 133 (e) No council member or member of a board or commission shall enter into any contract with
 134 the city except as specifically authorized by state statutes. Any council member or member
 135 of a board or commission who has a proprietary interest in an agency doing business with
 136 the city shall make known that interest in writing to the city council and the city clerk.
- 137 (f) All public funds shall be used for the general welfare of the people and not for personal
 138 economic gain.
- 139 (g) Public property shall be disposed of in accordance with Georgia law.
- 140 (h) No city official shall solicit or accept other employment to be performed or compensation to
 141 be received while still a city official or employee, if the employment or compensation could
 142 reasonably be expected to impair in judgment or performance of that official's or employee's
 143 city duties.

- 144 (i) If a city official accepts or is soliciting a promise of future employment from any person or
 145 entity who has a substantial interest in a person, entity or property which would be affected
 146 by any decision upon which the official might reasonably be expected to act, investigate,
 147 advise, or make a recommendation, the official shall disclose the fact to the council, board
 148 or commission on which he serves or to his supervisor and shall take no further action or
 149 matters regarding the potential future employer.
- 150 (j) No city official shall use city facilities, personnel, equipment or supplies for private
 151 purposes, except to the extent such are lawfully available to the public.
- 152 (k) No city official shall grant or make available to any person any consideration, treatment,
 153 advantage or favor beyond that which it is the general practice to grant or make available to
 154 the public at large.
- 155 (l) No city official shall directly or indirectly solicit from a person or entity a gift, loan, favor,
 156 promise, or thing of value for him/herself or another person or entity if the city official is, at
 157 the time of such solicitation, involved in any official act or action which would result in a
 158 benefit to the person or entity from whom the gift, loan, favor, promise or thing of value is
 159 solicited. However, the above prohibition shall not apply in the case of:
- 160 (1) Occasional unsolicited non-monetary gift(s) and/or trinket(s) with a value of less than
 161 \$100.00, such as a calendar, memento, pen, and/or admission to or consumption of food
 162 and/or beverages at a function, social setting or event;
- 163 (2) Award publicly presented in recognition of public service;
- 164 (3) Transaction authorized by and performed in accordance with O.C.G.A. § 16-10-6 as now
 165 or hereafter amended;
- 166 (4) A commercially reasonable loan or other financial transaction made in the ordinary
 167 course of business by an institution or individual authorized by the laws of Georgia to
 168 engage in the making of such loan or financial transaction;
- 169 (5) Campaign contributions made and reported in accordance with Georgia laws;
- 170 (6) Items listed under O.C.G.A. § 16-10-2 that are specifically itemized as "a thing of value
 171 shall not include" as now or hereafter amended; or
- 172 (7) Food, beverage or expenses afforded city officials, members of their families, or others
 173 that are associated with normal and customary business or social functions or activities.

174 **Sec. 2-77 - Prohibition of conflict of interest.**

175 A city official may not participate in a vote or decision on a matter affecting a person, entity or
 176 property in which the official has a Substantial Interest; in addition, a city official who serves as
 177 a corporate officer or member of a board of directors of a nonprofit entity may not participate in
 178 a vote or decision regarding funding by or through the city of the entity. Where the interest of a
 179 city official in the subject matter or a vote or decision is Remote or Incidental, the city official
 180 may participate in the vote or decision and need not disclose the interest.

181 **Sec. 2-78 - Exemptions.**

182 This code shall not be construed to require the filing of any information relating to any
 183 person's connection with, or interest in, any professional society or any charitable, religious,
 184 social, fraternal, educational, recreational, public service, civil or political organization not
 185 conducted as a business enterprise or governmental agency, and which is not engaged in the
 186 ownership or conduct of a business enterprise or governmental agency.

187 **Sec. 2-79 - Severability.**

188 The provisions of this article are severable. If any provision of this article or the application
 189 thereof to any person or circumstance is held invalid, such invalidity shall not affect other
 190 provisions or applications of this article which can be given effect without the invalid provisions
 191 or application.

192 **Sec. 2-80 – Penalty.**

- 193 (a) Any respondent found to have violated the provisions of this article shall be subject to:
- 194 (1) Public Reprimand and/or Censure by the mayor and council;
 - 195 (2) A fine greater than one hundred dollars (\$100.00) but less than five hundred
 196 dollars (\$500.00); and
 - 197 (3) Request for resignation by the mayor and council.

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 199 **Sec. 2-81 – Filing of complaints.**

- 200 (a) Only residents of the city may file an ethics complaint with the city. A complaint filed by
 201 a non-resident shall not be acted upon.
- 202 (b) All ethics complaints shall be filed with the city clerk. The city clerk, or his/her
 203 designee, shall email a copy of such complaint to the city council, city manager and
 204 respondent within five (5) calendar days of such filing.
- 205 (c) To discourage the filing of complaints under this section solely for political purposes,
 206 complaints under this article against a municipal election candidate filed sixty (60)
 207 calendar days prior to the opening date of qualifying for municipal office through the date
 208 of certification of the election results will not be acted upon until the election results for
 209 that office have been certified. Deadlines under this article shall be tolled during such
 210 period. Action shall thereafter only be taken upon the ethics complaint if the candidate
 211 against whom the complaint is filed is elected to that term of office.

212 **Sec. 2-82 – Service of documents by respondent and complainant.**

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- 214 (a) Within three (3) calendar days of the filing of an ethics complaint with the city clerk, the
 215 complainant shall serve by mail the individual members of the city council, city manager
 216 and respondent with a copy of the ethics complaint at their official city addresses.
- 217 (b) The respondent may file a response to the ethics complaint with the city clerk, but is not
 218 required to do so.
- 219 (c) The complainant and respondent shall serve each other, the city manager and the
 220 individual members of the city council, with copies of all documents filed by them with
 221 the city clerk relating to the ethics complaint, by certified mail, return receipt requested or

222 statutory overnight delivery, within three (3) calendar days of the date that any such
223 document is filed.

- 224 (d) The complainant and respondent shall file with the city clerk proof of mailing of all
225 mailings required under this article within three (3) business days of such document
226 being mailed. Such proof of service shall contain a copied and/or printed form provided
227 by the postal facility which evidences the recipient, tracking number and date of such
228 mailing. The city clerk shall verify that the correct address was indicated on the
229 envelope.

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231 **Sec. 2-83 – Action upon complaints.**

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233 The mayor and council shall hear and render decisions on all ethics complaints filed with the
234 city. A quorum for purposes of taking action upon an ethics complaint is the mayor and two
235 council members. If the mayor is a respondent to the ethics complaint, three council members
236 shall constitute a quorum. If less than three (3) council members are available to constitute a
237 quorum, due to the provisions in section 2-85 and/or 2-87 of this article, a mediator, certified by
238 the Georgia Commission on Dispute Resolution, at the mayor and council's discretion, shall be
239 substituted for the mayor and/or any council members for purposes of acquiring a three (3)
240 person quorum. Ethics complaints shall be reviewed as follows:

241 (a) Preliminary review of ethics complaints:

- 242 (1) The city clerk shall schedule for a meeting to occur within sixty (60) calendar
243 days of an ethics complaint's filing for the mayor and council to vote upon
244 whether the complaint will be dismissed or proceed to an evidentiary hearing, and
245 shall mail notice of such meeting to the complainant and respondent at least 30
246 days prior to such meeting.
- 247 (2) The mayor and council may dismiss any ethics complaints that they determine is
248 unjustified, frivolous, patently unfounded, or substantially noncompliant with this
249 article, or fails to state facts sufficient to invoke the disciplinary jurisdiction of the
250 city council. The city clerk shall mail to the complainant and respondent the
251 outcome of the preliminary review within five (5) calendar days of such meeting.
- 252 (3) If the mayor and council determine that the ethics complaint should proceed to an
253 evidentiary hearing, the city clerk shall schedule for such hearing to occur within
254 thirty (30) calendar days of the mayor and council's vote at the preliminary
255 review.

256 (b) Evidentiary hearing on ethics complaints:

- 257 (1) Should an ethics complaint proceed to an evidentiary hearing, the complainant
258 and respondent shall have the right to be represented by counsel, to hear, present
259 and examine the evidence and witnesses and, to oppose or try to mitigate the
260 allegations. The mayor and council may establish time limits, and other protocol,
261 for the presentation of evidence and argument.
- 262 (2) The mayor and council shall render a final decision on the ethics complaint at an
263 open meeting within thirty (30) calendar days of the conclusion of the hearing.
- 264 (3) The city clerk shall mail to the complainant and respondent the mayor and
265 council's final decision on the ethics complaint within five (5) calendar days of
266 such decision.

267 (c) The mayor and council may vote to continue and/or postpone a scheduled meeting and/or
268 hearing on an ethics complaint to a later selected date, as necessary. The grounds and
269 date for the reset shall be stated in such meeting's minutes. The city clerk shall email to
270 the complainant and respondent notice of the reset meeting date within five (5) calendar
271 days of such vote.
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Sec. 2-84 – Charge of noncompliance.

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275 (a) After the filing of an ethics complaint, but at least five (5) days prior to the preliminary
276 hearing, or evidentiary hearing if one is set, the respondent and/or complainant may file a
277 charge of noncompliance with the city clerk, alleging that the complainant, respondent
278 and/or any city employee/official has failed to meet a required deadline under this article.
279 This paragraph is strictly limited to grievances with respect to procedural deadlines set
280 forth under this article, and may not be used to seek review of alleged ethics violations.
281 Additionally, a separate charge must be filed against each city employee and/or official
282 who is alleged to have violated a procedural deadline set forth under this article. The
283 charge must identify the filer of the charge, the person against whom the charge is made,
284 and the alleged missed deadline.

285 (b) The city clerk, or his/her designee, shall email a copy of such charge to the mayor and
286 council, city manager, respondent, complainant and the employee and/or official against
287 whom the charge is made, within five (5) calendar days of such filing. The city clerk shall
288 not be required to email a copy of the charge to the respondent and/or complainant who
289 filed the charge. The city manager shall cause for corrective action to be taken for any
290 missed deadline under this article by a city employee.

291 (c) The filer of the charge may also raise the charge of noncompliance as a threshold issue at
292 the next scheduled public meeting on the ethics complaint. The mayor and council shall
293 thereafter vote to determine whether the alleged deadline was missed. The mayor and
294 council's finding of a material failure by the complainant to comply with this article at
295 any time may result in the ethics complaint's dismissal. The council's finding of a
296 missed deadline by a city employee and/or official, without a finding of contributing
297 negligence by the filer of the charge, shall give the filer of the charge the option to have
298 the proceeding continued to the next available council meeting in lieu of being heard
299 further that day.
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Sec. 2-85 - Bar against subsequent complaints.

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303 (a) The dismissal of an ethics complaint by the mayor and council on procedural grounds
304 shall bar the complainant from filing any subsequent complaint against the same
305 respondent for a period of three (3) months from the date of such dismissal.

306 (b) Should the mayor and council deny an ethics complaint on jurisdictional grounds, and/or
307 determine that the evidence does not establish that the respondent has committed an
308 ethics violation, the complainant shall be barred from filing any subsequent ethics
309 complaint against the respondent arising from the same facts and circumstances as the
310 adjudicated ethics complaint.
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Sec. 2-86 – Participation by accused members.

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(a) If the mayor or any city council member is charged with a violation of this article, he or she shall not:

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(1) Participate in, preside over, remain in his or her place on the dais, or have any other direct or indirect involvement with the consideration or deliberation by the mayor and council of the ethics complaint; or

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(2) Substantively discuss the pending ethics complaint, including any of the facts, circumstances, or allegations supporting it with the mayor, any other council member, or any official or employee of the city, except at the meetings and/or hearings on the complaint. This provision shall not prevent the mayor or any city council member from communicating with city staff and officials with respect to facilitating and receiving required filings and notices under this article.

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Sec. 2-87 – Participation by complaining official.

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If the mayor or any city council member files, initiates, and/or encourages the filing of an ethics complaint against a respondent, he or she shall not actively preside over the consideration of the complaint before the city council.

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Sec. 2-88 - Statute of limitations.

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(a) No ethics complaint shall be permitted under this article unless such complaint is filed within six (6) months of the commission of the act complained of, provided, however, the limitation shall be tolled during the period that the alleged offense is unknown to the complainant. Under no circumstances, however, shall any period be tolled, where the complainant knew and/or should have known about the alleged violation, and/or where the facts surrounding the offense were published by a news outlet, discussed at a public meeting and/or known to the general public.

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(b) No proceeding under this article shall be instituted and/or prosecuted after the expiration of the respondent's term of office during which the offense is alleged, if not re-elected immediately following such term, and/or after the resignation, death, vacancy, disqualification and/or withdrawal of the respondent from office.

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Sec. 2-89 - Right to appeal.

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(a) The appeal to any adverse decision of the mayor and council action shall be commenced by filing a petition for a writ of certiorari in the Superior Court of Fulton County as provided by law.”

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Section 2. The preamble of this Ordinance shall be considered to be and is hereby

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incorporated by reference as if fully set out herein.

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Section 3. This Ordinance shall be codified in a manner consistent with the laws of the

State of Georgia and the City.

355 **Section 4.** (a) It is hereby declared to be the intention of the Mayor and Council that all
356 sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their
357 enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

358 (b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest
359 extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this
360 Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this
361 Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the
362 greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this
363 Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase
364 of this Ordinance.

365 (c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance
366 shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise
367 unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the
368 express intent of the Mayor and Council that such invalidity, unconstitutionality or
369 unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional
370 or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or
371 sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases,
372 clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional,
373 enforceable, and of full force and effect.

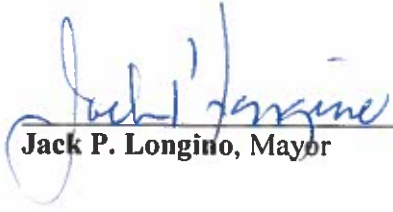
374 **Section 5.** All ordinances and parts of ordinances in conflict herewith are hereby
375 expressly repealed.

376 **Section 6.** The effective date of this Ordinance shall be the date of adoption unless
377 otherwise stated herein.

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ORDAINED this 3rd day of April, 2017.

CITY OF COLLEGE PARK, GEORGIA



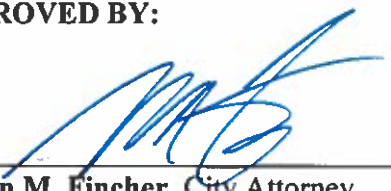
Jack P. Longino, Mayor

ATTEST:



Melissa Brooks, city clerk

APPROVED BY:



Steven M. Fincher, City Attorney