

1 STATE OF GEORGIA

2 CITY OF COLLEGE PARK

3 **ORDINANCE NO. 2015-19**

4 AN ORDINANCE TO AMEND APPENDIX A, ZONING, OF THE CODE OF
5 ORDINANCES OF THE CITY OF COLLEGE PARK, GEORGIA; TO AMEND
6 THE PERMITTED USES IN THE AGRICULTURAL ZONING DISTRICT; TO
7 CREATE DEFINITIONS REGARDING CONSUMER FIREWORKS; TO
8 PROVIDE FOR CODIFICATION; TO PROVIDE FOR SEVERABILITY; TO
9 REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE
10 DATE; AND FOR OTHER PURPOSES.
11

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

14 **WHEREAS**, the Mayor and Council have, as a part of planning, zoning and growth
15 management, been in review of the City’s zoning ordinances and have been studying the City’s
16 best estimates and projections of the type of development which could be anticipated within the
17 City; and

18 **WHEREAS**, the Mayor and Council therefore consider it paramount that land use
19 regulation continue in the most orderly and predictable fashion with the least amount of
20 disturbance to landowners and to the citizens of the City. The Mayor and Council have always
21 had a strong interest in growth management so as to promote the traditional police power goals
22 of health, safety, morals, aesthetics and the general welfare of the community; and in particular
23 the lessening of congestion on City streets, security of the public from crime and other dangers,
24 promotion of health and general welfare of its citizens, protection of the aesthetic qualities of the

25 City including access to air and light, and facilitation of the adequate provision of transportation
26 and other public requirements; and

27 **WHEREAS**, it is the belief of the Mayor and Council that the concept of “public
28 welfare” is broad and inclusive; that the values it represents are spiritual as well as physical,
29 aesthetic as well as monetary; and that it is within the power of the City “to determine that a
30 community should be beautiful as well as healthy, spacious as well as clean, well balanced as
31 well as carefully patrolled.” Kelo v. City of New London, 545 U.S. 469 (2005); Berman v.
32 Parker, 348 U.S. 26 (1954). It is also the opinion of the City that “general welfare” includes the
33 valid public objectives of aesthetics, conservation of the value of existing lands and buildings
34 within the City, making the most appropriate use of resources, preserving neighborhood
35 characteristics, enhancing and protecting the economic well-being of the community, facilitating
36 adequate provision of public services, and the preservation of the resources of the City; and

37 **WHEREAS**, the Mayor and Council are, and have been interested in, developing a
38 cohesive and coherent policy regarding certain uses in the City, and have intended to promote
39 community development through stability, predictability and balanced growth which will further
40 the prosperity of the City as a whole; and

41 **WHEREAS**, on May 5, 2015, the Governor of the State of Georgia signed into law,
42 House Bill 110, which became effective on July 1, 2015, amending applicable Chapters of the
43 Georgia Code relating to the regulation of consumer fireworks and the role of local governments
44 in regulating and prohibiting the sale and use of consumer fireworks; and

45

46 **WHEREAS**, House Bill 110, contains provisions regarding the sale of consumer
47 fireworks in Consumer Fireworks Retail Sales Facilities (“Facilities”) and Consumer Fireworks
48 Retail Sales Stands (“Stands”); and
49 **WHEREAS**, the City must determine, pursuant to its powers to zone businesses within
50 its city limits, the most appropriate locations in which such Facilities and Stands can exist; and
51 **WHEREAS**, currently, the City’s zoning ordinance contains no provisions regarding the
52 location of such Facilities and Stands within city limits; and

53 **WHEREAS**, the Mayor and Council find it desirable and in the interest of the health,
54 safety, and welfare of the citizens of the City to amend certain provisions of the City’s Zoning
55 Ordinance to regulate the location of such Facilities and Stands.

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

58 **Section 1.** **That the City Code, Appendix A, Zoning, is hereby amended by**
59 **striking through Section 2, Use Regulations, of the existing Article V-A, “AG-1”**
60 **Agricultural District Regulations, and inserting the following text to read as follows:**

- 61 “Article V-A. – “AG-1” Agricultural District Regulations
62 Sec. 2. Use Regulations.
63 A building or property may be used for only the following purposes:
64 1. Single family dwelling.
65 2. Agriculture, general and specialized farming, including: horticulture, plant nursery,
66 greenhouse, dairy farming, livestock raising and poultry raising provided, however, that
67 buildings used for housing animals must be at least 100 feet from all property lines.
68 3. Roadside stand for the sale of agricultural products produced on the property.
69 4. Kennel, veterinary hospital or veterinary clinic, provided buildings housing animals are
70 fully enclosed and at least 100 feet from all property lines; and pens, runs, etc. which are
71 not located in a fully enclosed building are at least 200 feet from all property lines.
72 5. Consumer Fireworks Retail Sales Facilities.
73 6. Consumer Fireworks Retail Sales Stands.

74 7. Accessory uses. A building or land may be used for uses customarily incidental to any
75 permitted use and a dwelling may be used for a home occupation.”
76

77 **Section 2.** That the City Code, Appendix A, Zoning, is hereby amended by inserting

78 the following text as Subsections 16a1a and 16a1b of Article III, Definitions, Section 1,

79 **Enumeration, to read as follows:**

80 “(16a1a) Consumer Fireworks Retail Sales Facility. A permanent or temporary building or
81 structure, Consumer Fireworks Retail Sales Stand, tent, canopy, or membrane structure that is
82 used primarily for the retail display and sale of Consumer Fireworks to the public. The
83 definition of Consumer Fireworks Retail Sales Facility shall have the same meaning as set forth
84 in O.C.G.A. § 25-10-1 and NFPA 1124 should that definition differ from the definition in this
85 subsection.

86
87 (16a1b) Consumer Fireworks Retail Sales Stand. A permanent or temporary building or
88 structure that has a floor area of not greater than 800 ft² (74m²), other than tents, canopies, or
89 membrane structures, that is used primarily for the retail display and sale of consumer fireworks
90 to the public. The definition of Consumer Fireworks Retail Sales Stand shall have the same
91 meaning as set forth in O.C.G.A. § 25-10-1 and NFPA 1124 should that definition differ from
92 the definition in this subsection.”
93

94 **Section 3.** That the City Code, Appendix A, Zoning, is hereby amended by striking
95 through the existing text of Subsection 21a of Article III, Definitions, Section 1,

96 **Enumeration and inserting the following text, in lieu thereof, to read as follows:**

97 “(21a) Explosives. Any chemical compound or other substance or mechanical system intended
98 for the purpose of producing an explosion or containing oxidizing and combustible units or other
99 ingredients in such proportions or quantities that ignition by fire, by friction, by concussion, by
100 percussion, or by detonator may produce an explosion capable of causing injury to persons or
101 damage to property.
102

103 (21b) Facade: The face of a building fronting along a street. (Ord. No. 99-17, 11-1-99)”
104

105 **Section 4.** That the City Code, Appendix A, Zoning, is hereby amended by
106 inserting the following text as Subsections 23c and 23d of Article III, Definitions, Section 1,

107 **Enumeration, to read as follows:**

108 “(23c) Fireworks. Any combustible or explosive composition or any substance or combination
109 of substances or article prepared for the purpose of producing a visible or audible effect by
110 combustion, explosion, deflagration, or detonation, including blank cartridges, firecrackers,
111 torpedos, skyrockets, bombs, sparklers, and other combustibles and explosives of like
112 construction, as well as articles containing any explosive or flammable compound and tablets
113 and other devices containing an explosive substance. The definition of Fireworks shall have the
114 same meaning as set forth in O.C.G.A. § 25-10-1 and NFPA 1124 should that definition differ
115 from the definition in this subsection.”

116
117 (23d) Fireworks, Consumer. Any small fireworks devices containing restricted amounts of
118 pyrotechnic composition, designed primarily to produce visible or audible effects by combustion,
119 that comply with the construction, chemical composition, and labeling regulations of the United
120 States Consumer Product Safety Commission as provided for in Parts 1500 and 1507 of Title 16
121 of the Code of Federal Regulations, the United States Department of Transportation as provided
122 for in Part 172 of Title 49 of the Code of Federal Regulations, and the American Pyrotechnics
123 Association as provided for in the 2001 American Pyrotechnics Association Standard 87-1, and
124 additionally shall mean Roman candles. The definition of Consumer Fireworks shall have the
125 same meaning as set forth in O.C.G.A. § 25-10-1 and NFPA 1124 should that definition differ
126 from the definition in this subsection.”
127

128 **Section 5. That the City Code, Appendix A, Zoning, is hereby amended by inserting**
129 **the following text as Subsection 45f of Article III, Definitions, Section 1, Enumeration, to**

130 **read as follows:**

131 “(45f) NFPA 1124. National Fire Protection Association Standard 1124, Code for the
132 Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles,
133 2006 Edition.”
134

135 **Section 6.** The preamble of this Ordinance shall be considered to be and is hereby
136 incorporated by reference as if fully set out herein.

137 **Section 7.**

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

141 (b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest
142 extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this
143 Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this
144 Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the
145 greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this
146 Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase
147 of this Ordinance.

148 (c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance
149 shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise
150 unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the
151 express intent of the Mayor and Council that such invalidity, unconstitutionality or
152 unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional
153 or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or
154 sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases,
155 clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional,
156 enforceable, and of full force and effect.

157 **Section 8.** All ordinances and parts of ordinances in conflict herewith are hereby
158 expressly repealed.

159 **Section 9.** Penalties in effect for violations of the Zoning Ordinance of the City of
160 College Park at the time of the effective date of this Ordinance shall be and are hereby made
161 applicable to this Ordinance and shall remain in full force and effect.

162 **Section 10.** The effective date of this Ordinance shall be the date of adoption unless
163 otherwise specified herein.

164 **ORDAINED** this ___ day of _____, 2015.

165 **CITY OF COLLEGE PARK, GEORGIA**

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167

JACK P. LONGINO, Mayor

168

169 **ATTEST:**

170



MELISSA BROOKS, City Clerk

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174 **APPROVED AS TO FORM:**

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STEVE FINCHER, City Attorney

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20 disturbance to landowners and to the citizens of the City. The Mayor and Council have always
21 had a strong interest in growth management so as to promote the traditional police power goals
22 of health, safety, morals, aesthetics and the general welfare of the community; and in particular
23 the lessening of congestion on City streets, security of the public from crime and other dangers,
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113 and other devices containing an explosive substance. The definition of Fireworks shall have the
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119 that comply with the construction, chemical composition, and labeling regulations of the United
120 States Consumer Product Safety Commission as provided for in Parts 1500 and 1507 of Title 16
121 of the Code of Federal Regulations, the United States Department of Transportation as provided
122 for in Part 172 of Title 49 of the Code of Federal Regulations, and the American Pyrotechnics
123 Association as provided for in the 2001 American Pyrotechnics Association Standard 87-1, and
124 additionally shall mean Roman candles. The definition of Consumer Fireworks shall have the
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133 2006 Edition.”
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135 **Section 6.** **The preamble of this Ordinance shall be considered to be and is hereby**
136 **incorporated by reference as if fully set out herein.**

137 **Section 7.**

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

141 (b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest
142 extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this
143 Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this
144 Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the
145 greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this
146 Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase
147 of this Ordinance.

148 (c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance
149 shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise
150 unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the
151 express intent of the Mayor and Council that such invalidity, unconstitutionality or
152 unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional
153 or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or
154 sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases,
155 clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional,
156 enforceable, and of full force and effect.

157 **Section 8.** All ordinances and parts of ordinances in conflict herewith are hereby
158 expressly repealed.

159 **Section 9.** Penalties in effect for violations of the Zoning Ordinance of the City of
160 College Park at the time of the effective date of this Ordinance shall be and are hereby made
161 applicable to this Ordinance and shall remain in full force and effect.

162 **Section 10.** The effective date of this Ordinance shall be the date of adoption unless

163 otherwise specified herein.


164 **ORDAINED** this 21st day of September, 2015.

165 **CITY OF COLLEGE PARK, GEORGIA**

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JACK P. LONGINO, Mayor

169 **ATTEST:**

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MELISSA BROOKS, City Clerk

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174 **APPROVED AS TO FORM:**

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STEVE FINCHER, City Attorney