

1 **STATE OF GEORGIA**

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3 **CITY OF COLLEGE PARK**

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RESOLUTION NO.

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9 A RESOLUTION EXTENDING FOR NINETY (120) DAYS A MORATORIUM ON
10 THE ACCEPTANCE OF CERTAIN NEW ALCOHOL LICENSE APPLICATIONS OR
11 APPROVALS; TO REPEAL CONFLICTING RESOLUTIONS; TO PROVIDE AN
12 EFFECTIVE DATE; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.

13 **WHEREAS**, the governing body of the City of College Park, Georgia (“City”) is
14 the Mayor and Council thereof; and

15 **WHEREAS**, the City has been vested with substantial powers, rights, and
16 functions to generally regulate the use of real property and the licensing of alcoholic
17 beverages for the purposes of maintaining health, morals, safety, security, peace, and the
18 general welfare of the City of College Park; and

19 **WHEREAS**, Georgia law recognizes that local governments may impose
20 moratoria on licenses, permits, and other development approvals where exigent
21 circumstances warrant the same, pursuant to case law found at *City of Roswell et al v.*
22 *Outdoor Systems, Inc.*, 274 Ga. 130, 549 S.E.2d 90 (2001); *Lawson v. Macon*, 214 Ga.
23 278, 104 S.E.2d 425 (1958); *Taylor v. Shetzen*, 212 Ga. 101, 90 S.E.2d 572 (1955); and

24 **WHEREAS**, the Courts take judicial notice of a local government's inherent
25 ability to impose moratoria on an emergency basis; and

26 **WHEREAS**, the Georgia Supreme Court, in the case of *DeKalb County v.*
27 *Townsend*, 243 Ga. 80 (1979), held that, "To justify a moratorium, it must appear first,

28 that the interests of the public generally, as distinguished from those of a particular class,
29 require such interference; and second, that the means are reasonably necessary for the
30 accomplishment of the purpose, and not unduly oppressive upon individuals"; and

31 **WHEREAS**, the Mayor and Council imposed a moratorium for 90 days upon
32 applications for certain alcohol licenses within the City, which is set to expire on August
33 6, 2018; and

34 **WHEREAS**, the Mayor and Council find that additional time is necessary to
35 investigate the best regulatory mechanism to prevent violations of its alcohol ordinances
36 by businesses in the City and, therefore, an extension of the previously enacted
37 moratorium is needed; and

38 **WHEREAS**, the health, safety, welfare, aesthetics and morals of the citizens of
39 the City of College Park, Georgia shall be improved and protected by adoption and
40 implementation of this moratorium extension.

41 **BE IT AND IT IS HEREBY RESOLVED BY THE MAYOR AND**
42 **COUNCIL OF THE CITY OF COLLEGE PARK, GEORGIA**, and by the authority
43 thereof:

44 **SECTION I.**
45 **FINDINGS OF FACT**
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47 The City has been in the process of adopting a revision to its zoning ordinance.
48 As part of the revision, the Zoning Ordinance provides clear definitions for and
49 prohibitions of particular uses in the City, including prohibition of nightclubs and
50 prohibition of alcohol service with certain entertainment establishments. As a
51 consequence of the upcoming adoption of these zoning regulations, licensing provisions
52 of the City's Alcohol Code may need revision to effectuate the intent of the revised

53 zoning regulations. There has been a delay in implementation of this new zoning code
54 due to additional changes and the requirements of the zoning procedures act and,
55 therefore, it is necessary and in the public interest to extend the delay, for an additional
56 reasonable period of time, applications for alcohol licenses that would be affected by said
57 regulations, during such period of investigation and review to ensure that all such new,
58 and non-vested licenses are consistent with the City's legislative intent.

59 **SECTION II.**
60 **IMPOSITION OF MORATORIUM**
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- 62 (a) The moratorium previously enacted by the Mayor and City Council on the
63 acceptance by the City of College Park of any new applications, as that term is
64 defined by Section 3-1 of the City Code, for alcohol licenses for on-premises
65 consumption for any restaurant, as that term is defined in Section 3-1 of the City
66 Code, for any location listed in Section 3-28(c) of the City Code, and set to expire
67 on August 6, 2018, is hereby extended for an additional ninety (120) days, to
68 expire by operation of law on December 6, 2018;
- 69 (b) This moratorium extension shall be effective immediately upon signature of the
70 Mayor;
- 71 (c) This moratorium shall have no effect upon applications or permits previously
72 issued or approved by the City. Further, this moratorium shall not affect the
73 issuance of licenses or applications that have received preliminary or final
74 approval by the City on or before the effective date of this Resolution; and
- 75 (d) As of the effective date of this Resolution, no alcohol license applications
76 specified in subsection (a) above within the City will be accepted by any agent,
77 employee, or officer of the City, and any application so accepted for filing will be

78 deemed in error, null and void, and of no effect whatsoever and shall constitute no
79 assurance whatsoever of any right to engage in any act, and any action in reliance
80 on any such license shall be unreasonable.

81 **SECTION III.**
82 **EXEMPTION**

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- 84 (a) A written application, including verified supporting data, documents and facts,
85 may be made requesting a review by the Mayor and Council at a scheduled
86 meeting of any facts or circumstances which the applicant feels substantiates a
87 claim for the grant of an exemption from this moratorium by virtue of an existing
88 vested right to proceed under the existing laws and regulations;
- 89 (b) The Mayor and City Council may exempt an applicant, after a written request,
90 from this Moratorium if the Mayor and Council find that the location that is the
91 subject of the proposed application for an on-premises consumption license for a
92 restaurant has not, in the five (5) years prior to the submission of the request, been
93 cited for violation of any provisions of Chapter 3, Alcoholic Beverages, of the
94 City Code, and not currently charged with violating any ordinance of the City.
- 95 (c) Any exemption granted by the Mayor and Council from this moratorium in no
96 way confers any rights upon the applicant or the exempted plans, applications or
97 requests; and
- 98 (c) Any exemption granted by the Mayor and Council shall not constitute final
99 approval of such plans or requests by the City. Any granted exemption shall
100 merely grant the City staff the ability to accept and process the subject application
101 in accordance with all City laws existing on or before the date of the request for
102 exemption.

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SECTION IV

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(a) It is hereby declared to be the intention of the Mayor and Council that all

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sections, paragraphs, sentences, clauses and phrases of this Resolution are or were, upon

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their enactment, believed by the Mayor and Council to be fully valid, enforceable and

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constitutional.

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(b) It is hereby declared to be the intention of the Mayor and Council that, to the

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greatest extent allowed by law, each and every section, paragraph, sentence, clause or

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phrase of this Resolution is severable from every other section, paragraph, sentence,

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clause or phrase of this Resolution. It is hereby further declared to be the intention of the

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Mayor and Council that, to the greatest extent allowed by law, no section, paragraph,

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sentence, clause or phrase of this Resolution is mutually dependent upon any other

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section, paragraph, sentence, clause or phrase of this Resolution.

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(c) In the event that any phrase, clause, sentence, paragraph or section of this

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Resolution shall, for any reason whatsoever, be declared invalid, unconstitutional or

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otherwise unenforceable by the valid judgment or decree of any court of competent

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jurisdiction, it is the express intent of the Mayor and Council that such invalidity,

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unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not

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render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases,

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clauses, sentences, paragraphs or sections of the Resolution and that, to the greatest

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extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections

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of the Resolution shall remain valid, constitutional, enforceable, and of full force and

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effect.

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SECTION V

126 All resolutions and parts of resolutions in conflict herewith are hereby expressly
127 repealed.

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129 **RESOLVED** this _____ day of _____, 2018.

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CITY OF COLLEGE PARK, GEORGIA

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JACK P. LONGINO, Mayor

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137 **ATTEST:**

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141 **MELISSA BROOKS**, City Clerk

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145 **APPROVED AS TO FORM:**

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149 **STEVEN FINCHER**, City Attorney

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