

1 STATE OF GEORGIA

2 CITY OF COLLEGE PARK

3 ORDINANCE NO. 2015-22

4 AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP; TO AMEND
5 APPENDIX A, ZONING, OF THE CODE OF ORDINANCES OF THE CITY
6 OF COLLEGE PARK, GEORGIA; TO AMEND PERMITTED USES IN THE
7 AG-1 ZONING DISTRICT; TO CREATE AN OVERLAY DISTRICT IN
8 WHICH CONSUMER FIREWORKS CAN BE SOLD; TO REZONE CERTAIN
9 PROPERTY TO SUCH OVERLAY DISTRICT; TO PROHIBIT THE
10 MANUFACTURE AND STORAGE OF EXPLOSIVES AND FIREWORKS
11 CITYWIDE; TO PROVIDE A DISTANCE SEPARATION REQUIREMENT
12 BETWEEN CONSUMER FIREWORKS RETAIL SALES FACILITIES AND
13 STANDS AND SCHOOLS; TO PROVIDE FOR CODIFICATION; TO
14 PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING
15 ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER
16 PURPOSES.
17

18 WHEREAS, the duly elected governing authority of the City of College Park, Georgia
19 (the "City") is the Mayor and Council thereof; and

20 WHEREAS, the Mayor and Council have, as a part of planning, zoning and growth
21 management, been in review of the City's zoning ordinances and have been studying the City's
22 best estimates and projections of the type of development which could be anticipated within the
23 City; and

24 WHEREAS, the Mayor and Council therefore consider it paramount that land use
25 regulation continue in the most orderly and predictable fashion with the least amount of
26 disturbance to landowners and to the citizens of the City. The Mayor and Council have always
27 had a strong interest in growth management so as to promote the traditional police power goals
28 of health, safety, morals, aesthetics and the general welfare of the community; and in particular
29 the lessening of congestion on City streets, security of the public from crime and other dangers,

30 promotion of health and general welfare of its citizens, protection of the aesthetic qualities of the
31 City including access to air and light, and facilitation of the adequate provision of transportation
32 and other public requirements; and

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

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

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

51 **WHEREAS**, House Bill 110, contains provisions regarding the sale of consumer
52 fireworks in Consumer Fireworks Retail Sales Facilities (“Facilities”) and Consumer Fireworks
53 Retail Sales Stands (“Stands”); and

54 **WHEREAS**, the City must determine, pursuant to its powers to zone businesses within
55 its city limits, the most appropriate locations in which such Facilities and Stands can exist; and

56 **WHEREAS**, the City has thoroughly researched the most appropriate locations, in the
57 interest of the health, safety, and welfare of the citizens of the City, in which Facilities and
58 Stands should be located; and

59 **WHEREAS**, the Mayor and Council find it desirable and in the interest of the health,
60 safety, and welfare of the citizens of the City to amend certain provisions of the City’s zoning
61 ordinances.

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

64 **Section 1.** **That the City’s Code of Ordinances, Appendix A, Zoning, is hereby**
65 **amended by striking through Section 2, Use Regulations, of the existing Article V-A, “AG-**
66 **1” Agricultural District Regulations, and inserting the following text to read as follows:**

67 “Article V-A. – “AG-1” Agricultural District Regulations

68 Sec. 2. Use Regulations.

69 A building or property may be used for only the following purposes:

- 70 1. Single family dwelling.
- 71 2. Agriculture, general and specialized farming, including: horticulture, plant nursery,
72 greenhouse, dairy farming, livestock raising and poultry raising provided, however, that
73 buildings used for housing animals must be at least one hundred (100) feet from all
74 property lines.
- 75 3. Roadside stand for the sale of agricultural products produced on the property.
- 76 4. Kennel, veterinary hospital or veterinary clinic, provided buildings housing animals are
77 fully enclosed and at least one hundred (100) feet from all property lines; and pens, runs,
78 runs,
79

80 etc. which are not located in a fully enclosed building are at least two hundred (200) feet
81 from all property lines.

- 82 5. Reserved.
- 83 6. Reserved.
- 84 7. Accessory uses. A building or land may be used for uses customarily incidental to any
85 permitted use and a dwelling may be used for a home occupation. However, in no event
86 shall such a building or land utilized as an accessory use be utilized as a Dwelling Unit.”
87

88 **Section 2. That the City’s Code of Ordinances, Appendix A, Zoning, is hereby**
89 **amended by inserting the following text as Sections 14 and 15 of Article IV, District and**

90 **General Regulations Therein, to read as follows:**

91 “Sec. 14. - Manufacture and storage of Consumer Fireworks, Explosives, and Fireworks.

92
93 In every zoning district of the City, the manufacture of Consumer Fireworks, Explosives and
94 Fireworks is prohibited. The storage of Explosives and Fireworks is prohibited. The storage of
95 Consumer Fireworks, except as provided in Section 15 herein, is prohibited.
96

97 **Sec. 15. -- Consumer Fireworks Retail Sales Facilities and Stands.**

98
99 (a) Any Consumer Fireworks Retail Sales Facility and Consumer Fireworks Retail Sales
100 Stand shall be physically separated from the following:

101 (1) Property line of any Child Day Care Facility, preschool, school, including
102 kindergarten through twelfth grade, college or university by a distance of three hundred
103 (300) feet.

104 (2) Property line of any gas station or natural gas provider by a distance of one
105 hundred (100) yards.

106 (b) Any Child Day Care Facility, preschool, school, including kindergarten through twelfth
107 grade, college or university shall be physically separated from the following:

108 (1) Property line of any Consumer Fireworks Retail Sales Facility or Consumer
109 Fireworks Retail Sales Stand by a distance of three hundred (300) feet.

110 (c) Any gas station or natural gas provider shall be physically separated from the following:

111 (1) Property line of any Consumer Fireworks Retail Sales Facility or Consumer
112 Fireworks Retail Sales Stand by a distance of one hundred (100) yards.

113 (d) Consumer Fireworks shall only be sold in the Fireworks Overlay District (“FWO”).

114 (e) Storage incidental to the operation of Consumer Fireworks Retail Sales Facilities and
115 Consumer Fireworks Retail Sales Stands is limited to five hundred (500) lbs.”
116
117

118 **Section 3. That the City’s Code of Ordinances, Appendix A, Zoning, is hereby**
119 **amended by inserting the following text as Article XVI-B, Fireworks Overlay District**

(FWO), to read as follows:

120 “Article XVI-B. – “FWO” Fireworks Overlay District Regulations

121
122 Sec. 1. - Scope.

123
124 (a) The regulations set forth in this Article, or set forth elsewhere in this Ordinance when
125 referring to this Article, are the regulations of the Fireworks Overlay District (“FWO District”).
126 (b) Where any part of this Article conflicts with other College Park Ordinances, the more
127 restrictive standard shall apply.
128

129 Sec. 2. - Purpose.

130
131 (a) The purpose of the FWO District is intended to provide a location within city limits in
132 which the sale of Consumer Fireworks may occur.
133 (b) This District is intended as an overlay district allowing the establishment of Consumer
134 Fireworks Retail Sales Facilities and Consumer Fireworks Retail Sales Stands within the
135 configuration of the allowable FWO District boundaries in the M-2 District. Uses otherwise
136 authorized as permitted uses in the underlying district continue as permitted uses.
137

138 Sec. 3. - Use Regulations.

139
140 A building or property may be used for only the following purposes:

- 141 1. Consumer Fireworks Retail Sales Facilities.
142 2. Consumer Fireworks Retail Sales Stands.
143

144 Sec. 4. - Buffers.

145
146 (a) The potential for negative impact to educational facilities, due to safety concerns, on
147 adjoining uses by FWO District uses is substantial. Therefore, buffers are required for the
148 protection of adjoining land uses.
149 (b) A buffer of three hundred (300) feet shall be required between the property lines of any
150 Consumer Fireworks Retail Sales Facility or Consumer Fireworks Retail Sales Stand and any
151 Child Day Care Facility, preschool, school, including kindergarten through twelfth grade, college
152 or university.
153 (c) A buffer of one hundred (100) yards shall be required between the property lines of any
154 Consumer Fireworks Retail Sales Facility or Consumer Fireworks Retail Sales Stand and any gas
155 station or natural gas provider.”
156

157 Section 4. In addition to any existing zoning, the Fireworks Overlay District is hereby
158 applied to those parcels, described on Exhibit “A,” a copy of which is attached hereto and
159 incorporated herein by reference. Such re-zonings are to be noted on the official City of College
160 Park Zoning Map approved by Mayor and Council as soon as reasonably possible following

161 adoption of this Ordinance, along with an editorial note on the official City of College Park
162 Zoning Map specifying the parcel(s) affected by this Ordinance and the date of adoption of this
163 Ordinance.

164 Until the re-zonings are indicated on the official City of College Park Zoning Map
165 approved by Mayor and Council, this Ordinance and Exhibit "A" shall govern over the official
166 City of College Park Zoning Map to the extent of any discrepancy between this Ordinance and
167 the official City of College Park Official Zoning Map.

168 Section 5. The preamble of this Ordinance shall be considered to be and is hereby
169 incorporated by reference as if fully set out herein.

170 Section 6.

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

174 (b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest
175 extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this
176 Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this
177 Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the
178 greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this
179 Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase
180 of this Ordinance.

181 (c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance
182 shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise
183 unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the

184 express intent of the Mayor and Council that such invalidity, unconstitutionality or
185 unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional
186 or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or
187 sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases,
188 clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional,
189 enforceable, and of full force and effect.

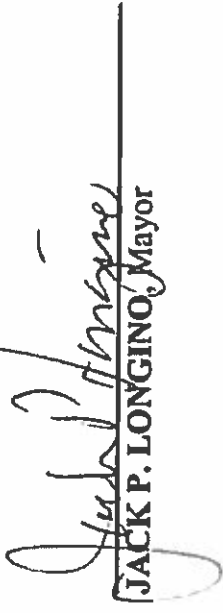
190 Section 7. All ordinances and parts of ordinances in conflict herewith are hereby
191 expressly repealed.

192 Section 8. Penalties in effect for violations of the Zoning Ordinance of the City of
193 College Park at the time of the effective date of this Ordinance shall be and are hereby made
194 applicable to this Ordinance and shall remain in full force and effect.

195 Section 9. The effective date of this Ordinance shall be the date of adoption unless
196 otherwise specified herein.

197 **ORDAINED** this 7th day of December, 2015.

CITY OF COLLEGE PARK, GEORGIA


JACK P. LONGINO, Mayor

202 ATTEST:

203
204 
205 MELISSA BROOKS, City Clerk

206
207 **APPROVED AS TO FORM:**

208

209

210


STEVEN M. FINCHER, City Attorney

Exhibit "A" **Fireworks Overlay District (FWO)**

