

1 STATE OF GEORGIA

2
3 CITY OF COLLEGE PARK

4
5 ORDINANCE NO. 2016-01

6
7
8 AN EMERGENCY ORDINANCE TO APPROVE A MORATORIUM ON
9 THE ERECTION OR INSTALLATION OF, OR THE CITY OF COLLEGE
10 PARK'S ACCEPTANCE OF APPLICATIONS TO ERECT OR INSTALL,
11 SIGNS MEASURING OVER THIRTY-FIVE (35) SQUARE FEET IN SIZE,
12 OR INCORPORATING ELECTRONIC MESSAGING EQUIPMENT, OR
13 BEING MORE THAN TWENTY (20) FEET TALL FROM THE BASE TO
14 THE TOP.
15

16 WHEREAS, the governing body of the City of College Park, Georgia ("City") is the

17 Mayor and City Council; and

18 WHEREAS, the City encompasses several sensitive areas; and

19 WHEREAS, the City endeavors to protect its scenic character through undertaking
20 proper controls on development; and

21 WHEREAS, the City regulates signage for purposes of protecting public safety in
22 addition to the City's aesthetic interests; and

23 WHEREAS, in June 2015, the U.S. Supreme Court, in *Reed v. Gilbert, Az.*, 135 S. Ct.
24 2218 (2015), issued an opinion regarding the constitutionality of content-based sign regulations;
25 and

26 WHEREAS, based upon its review of the Court's decision in *Reed v. Gilbert, Az.*, the
27 City desires to review its ordinances to determine whether they are constitutionally sound; and

28 WHEREAS, the City seeks to maintain the status quo while evaluating whether it is
29 necessary to revise and/or readopt its sign ordinances and, if necessary, undertaking to
30 expeditiously revise and/or readopt its sign regulations; and

31 WHEREAS, the City Council seeks to prevent any Signs, as defined in Section 2 of
32 Section XVII-A of Appendix A, Zoning, of the Code of Ordinances, measuring over thirty-five

33 (35) square feet in size, or incorporating electronic messaging equipment, or being more than
34 twenty (20) feet tall from the base to the top, from being erected during this period of evaluation
35 and/or revision of the sign regulations.

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

38 The Mayor and Council do hereby impose a moratorium of ninety (90) days, on the
39 erection or installation of, or the City's acceptance of applications to erect or install, Signs, as
40 defined in Section 2 of Section XVII-A of Appendix A. Zoning, of the City's Code of
41 Ordinances, measuring more than thirty-five (35) square feet in size, or incorporating electronic
42 messaging equipment, or being more than twenty (20) feet tall from the base to the top, in order
43 to maintain the status quo while City officials expeditiously undertake a review of the City's sign
44 regulations. During the course of this moratorium, City officials are directed to cease accepting
45 applications to erect or install any Sign that would be larger than thirty-five (35) square feet in
46 size, or incorporating electronic messaging equipment, or being more than twenty (20) feet tall
47 from the base to the top. This is a temporary emergency measure and shall be in place only until
48 such time as the Mayor and Council have duly adopted a new or revised set of sign regulations or
49 until the expiration of ninety (90) days, whichever comes first.

50 **SECTION I**

51 **IMPOSITION OF MORATORIUM**

52 (a) There is hereby imposed a moratorium on the erection or installation of, or the
53 acceptance by the staff of the City of applications to erect or install Signs, measuring over thirty-
54 five (35) square feet in size, or incorporating electronic messaging equipment, or being more
55 than twenty (20) feet tall from the base to the top.

56 (b) This moratorium shall be effective as of the date of its adoption.

57 (c) This moratorium shall have no effect upon approvals or permits previously issued
58 or as to development plans previously approved by the City. The provisions of this Ordinance
59 shall not affect the issuance of permits or site plan reviews that have received preliminary or
60 final approval by the City on or before the effective date of this Ordinance.

61 (d) As of the effective date of this Ordinance, no applications to erect signs will be
62 accepted by any employee or officer of the City with respect to any property in the City, and any
63 application so accepted for filing will be deemed in error, null and void and of no effect
64 whatsoever and shall constitute no assurance whatsoever of any right to engage in any act, and
65 any action in reliance on any such permit shall be unreasonable.

66 (e) However, notwithstanding the foregoing, a written application, including verified
67 supporting data, documents, and facts, may be made which specifically requests a review by the
68 Mayor and Council at a scheduled meeting of any facts or circumstances which the applicant
69 feels substantiates a claim for the grant of an exemption from this Moratorium either by virtue of
70 an existing vested right to proceed under the existing laws and regulations, or by virtue of
71 exigent or emergency circumstances.

72 (f) The following procedures shall be put in place immediately. Under *Cannon v.*
73 *Clayton County*, 255 Ga. 63, 335 S.E.2d 294 (1985); *Meeks v. City of Buford*, 275 Ga. 585, 571
74 S.E.2d 369 (2002); *City of Duluth v. Riverbroke Props.*, 233 Ga. App. 46, 502 S.E.2d 806
75 (1998), the Supreme Court stated, “Where a landowner makes a substantial change in position by
76 expenditures and reliance on the probability of the issuance of a building permit, based upon an
77 existing zoning ordinance and the assurances of zoning officials, he acquires vested rights and is
78 entitled to have the permit issued despite a change in the zoning ordinance which would
79 otherwise preclude the issuance of a permit.” Pursuant to this case, the City recognizes that,

80 unknown to the City, de facto vesting may have occurred. The following procedures are
81 established to provide exemptions from the moratorium where vesting has occurred:
82 a. A written application, including verified supporting data, documents and facts,
83 may be made requesting a review by the Mayor and Council at a scheduled
84 meeting of any facts or circumstances which the applicant feels substantiates a
85 claim for vesting and the grant of an exemption.

86 **SECTION II.**

87 (a) It is hereby declared to be the intention of the Mayor and Council that all sections,
88 paragraphs, sentences, clauses and phrases of this Ordinance are and were, upon their enactment,
89 believed by the Mayor and Council to be fully valid, enforceable and constitutional.
90 (b) It is hereby declared to be the intention of the Mayor and Council that, to the
91 greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of
92 this Chapter is severable from every other section, paragraph, sentence, clause or phrase of this
93 Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the
94 greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this
95 Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase
96 of this Ordinance.

97 **SECTION III.**

98 (a) This Ordinance shall be codified in a manner consistent with the laws of the State
99 of Georgia and the City.
100 (b) In the event that any phrase, clause, sentence, paragraph or section of this
101 Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise
102 unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the
103 express intent of the Mayor and Council that such invalidity, unconstitutionality or

104 unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional
105 or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or
106 sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases,
107 clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional,
108 enforceable, and of full force and effect.


109 (c) The effective date of this Ordinance shall be the date of adoption unless otherwise
110 stated herein.

111 (d) All Ordinances or parts of Ordinances in conflict with this Ordinance are, to the
112 extent of such conflict, hereby repealed.

113 (e) The preamble of this Ordinance shall be considered to be and is hereby
114 incorporated by reference as if fully set out herein.

115
116 SO ORDAINED this the 19th day of January, 2016.
117

CITY OF COLLEGE PARK, GEORGIA


JACK P. LONGINO, Mayor

Attest:


MELISSA BROOKS, City Clerk

(Seal)

APPROVED AS TO FORM:

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STEVEN M. FINCHER, City Attorney