### STATE OF GEORGIA

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#### CITY OF COLLEGE PARK

## ORDINANCE NO. 2024-

AN ORDINANCE BY THE MAYOR AND COUNCIL OF THE CITY OF COLLEGE PARK,

- 2 GEORGIA ESTABLISHING A ONE HUNDRED AND TWENTY (120) DAY MORATORIUM 3 ON THE ACCEPTANCE OF APPLICATIONS FOR PERMITS, LICENSES, AND CERTIFICATES RELATED TO THE DEVELOPMENT OF CERTAIN PERMISIBLE USES 4 WHILE THE CITY COMPLETES A COMPREHENSIVE REVIEW OF ITS ZONING AND 5 LAND USE REGULATIONS; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE 6 FOR SEVERABILITY; TO PROVIDE FOR AN ADOPTION DATE AND AN EFFECTIVE 7 8 DATE; TO PROVIDE A PENALTY; AND FOR OTHER PURPOSES. 9 WHEREAS, the City of College Park ("City") has been vested with substantial powers, 10 rights, and functions to generally regulate the practice, conduct or use of property for the purposes 11 of maintaining health, morals, safety, security, peace, and the general welfare of the City; and 12 WHEREAS, Georgia law recognizes that local governments may impose moratoria on 13 zoning decisions, building permits, and other development approvals where exigent circumstances 14 warrant the same, pursuant to case law found at City of Roswell et al v. Outdoor Systems, Inc., 274
- 16 Shetzen, 212 Ga. 101, 90 S.E.2d 572 (1955); and
- WHEREAS, the courts take judicial notice of a local government's inherent ability to impose moratoria on an emergency basis; and

Ga. 130, 549 S.E.2d 90 (2001); Lawson v. Macon, 214 Ga. 278, 104 S.E.2d 425 (1958); Taylor v.

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

generally, as distinguished from those of a particular class, require such interference; and second, that the means are reasonably necessary for the accomplishment of the purpose, and not unduly oppressive upon individuals." The City of College Park has found that the interests of the public necessitate the enactment of a moratorium for health, safety, morals, and general welfare purposes by means which are reasonable and not unduly oppressive; and

WHEREAS, the Comprehensive Plan for the City dictates industrial land use character areas to be primarily reserved for assembly, warehousing, and other light industrial operations; and

WHEREAS, the Comprehensive Plan for the City dictates transportation/utilities land use character areas to be primarily reserved for automobile and transportation-oriented services; and

WHEREAS, the Mayor and Council deem it important to implement additional regulations governing truck stops, truck terminals, trucking facilities, and warehousing and distribution centers in a manner consistent with the current City's Comprehensive Plan; and

WHEREAS, the Mayor and Council, therefore, consider it paramount that land use regulation continue in the most orderly and predictable fashion with the least amount of disturbance to landowners and to the citizens of the City of College Park. The Mayor and Council have always had a strong interest in growth management so as to promote the traditional police power goals of health, safety, morals, aesthetics and the general welfare of the community; in particular, the lessening of congestion on City streets, security of the public from crime and other dangers, promotion of health and general welfare of its citizens, protection of the aesthetic qualities of the City including access to air and light, and facilitation of the adequate provision of transportation and other public requirements; and

WHEREAS, it is the belief of the Mayor and Council of the City of College Park that the
concept of "public welfare" is broad and inclusive; that the values it represents are spiritual as well
as physical, aesthetic as well as monetary; and that it is within the power of the City "to determine
that a community should be beautiful as well as healthy, spacious as well as clean, well balanced
as well as carefully patrolled," Berman v. Parker, 348 U.S. 26, 75 S.Ct. 98 (1954); Kelo v. City of
New London, 545 U.S. 469, 125 S. Ct. 2655, 162 L. Ed. 2d 439 (2005). It is also the opinion of
the City that "general welfare" includes the valid public objectives of aesthetics, conservation of
the value of existing lands and buildings within the City, making the most appropriate use of
resources, preserving neighborhood characteristics, enhancing, and protecting the economic well-
being of the community, facilitating adequate provision of public services, and the preservation of
the resources of the City.

# BE IT AND IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF COLLEGE PARK, GEORGIA and by the authority of the same:

SECTION I.

# 57 FINDINGS OF FACT

The Mayor and Council hereby make the following findings of fact:

- (a) It appears the City's Code of Ordinances require additional review by the City as it relates to the following land uses: truck stops, truck terminals, trucking facilities, and warehousing and distribution centers;
- (b) Substantial disorder, detriment and irreparable harm would result to the citizens, businesses, and City if the current zoning and land use regulations relating to truck stops, truck terminals, trucking facilities, and warehousing and distribution center, were continued prior to a more thorough review;

66	(c)	It is necessary and in the public interest to delay, for an additional reasonable period
67		of time, to ensure that the design, development, and location of truck stops, truck
68		terminals, trucking facilities, and warehousing and distribution centers are consistent
69		with the long-term planning objectives of the City; and
70	(d)	That the Georgia Supreme Court has ruled that limited moratoria are reasonable and
71		do not constitute land use when such moratoria are applied throughout the City under
72		City of Roswell et al v. Outdoor Systems Inc., 274 Ga. 130, 549 S.E.2d 90 (2001).
73		SECTION II.
74		IMPOSITION OF MORATORIUM
75	(a)	There is hereby imposed a moratorium on the acceptance by the staff of the City of
76		College Park of applications for permits, occupation tax certificates, inspections or
77		applicable licenses for the development of any truck stops, truck terminals, trucking
78		facilities, and warehousing and distribution centers.
79	(b)	The duration of this moratorium shall be until the City adopts a revision of the Code
80		of Ordinances related to the regulations governing truck stops, truck terminals,
81		trucking facilities, and warehousing and distribution centers, or until one hundred
82		and twenty (120) days from the effective date of this Ordinance, whichever occurs
83		first.
84	(c)	This moratorium shall be effective as of the date of its adoption.
85	(d)	This moratorium shall have no effect upon applications submitted prior to the
86		effective date of this Ordinance, nor to approvals or permits previously issued by the
87		City.

(e) As of the effective date of this Ordinance, no applications, permits, or licenses governing truck stops, truck terminals, trucking facilities, and warehousing and distribution centers will be accepted by any agent, employee, or officer of the City with respect to any property in the City. Any applications, permits, and licenses so accepted for filing will be deemed in error, null and void and of no affect whatsoever, and shall constitute no assurance whatsoever of any right to engage in any act, and any action in reliance on any such license shall be unreasonable.

### **SECTION III.**

- (a) It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses, and phrases of this Ordinance are and were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable, and constitutional.
- (b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause, or phrase of this Chapter is severable from every other section, paragraph, sentence, clause, or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause, or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause, or phrase of this Ordinance.
- (c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such

111	invalidity, unconstitutionality or unenforceability shall, to the greatest extent			
112	allowed by law, not render invalid, unconstitutional or otherwise unenforceable any			
113	of the remaining phrases, clauses, sentences, paragraphs or sections of the			
114	Ordinance and that, to the greatest extent allowed by law, all remaining phrases,			
115	clauses, sentences, paragraphs and sections of the Ordinance shall remain valid,			
116	constitutional, enforceable, and of full force and effect.			
117	SECTION IV.			
118	All Ordinances or parts of Ordinances in conflict with this Ordinance are, to the extent of			
119	such conflict, hereby repealed.			
120	SECTION V.			
121	The preamble of this Ordinance shall be considered to be and is hereby incorporated by			
122	reference, as if fully set out herein.			
	<b>SO ORDAINED</b> this day of, 2024.			
	CITY OF COLLEGE PARK, GEORGIA			
	Bianca Motley Broom, Mayor			
	ATTEST:			
	City Clerk			
	APPROVED AS TO FORM:			
	City Attorney			