CITY OF FOREST PARK

STATE OF GEORGIA

ORDINANCE NO. _____

AN ORDINANCE BY THE MAYOR AND COUNCIL OF THE CITY OF FOREST PARK, GEORGIA ESTABLISHING A MORATORIUM ON THE ACCEPTANCE OF APPLICATIONS FOR CERTAIN SIGNS; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR AN ADOPTION DATE AND EFFECTIVE DATE; TO PROVIDE A PENALTY; AND FOR OTHER PURPOSES.

WHEREAS, the City of Forest Park has been vested with substantial powers, rights and functions to generally regulate signs for the purposes of maintaining health, morals, safety, security, peace, and the general welfare of the City of Forest Park; and

WHEREAS, Georgia law recognizes that local governments may impose moratoria on certain approvals where exigent circumstances warrant the same, pursuant to case law found at *City of Roswell et al v. Outdoor Systems, Inc.*, 274 Ga. 130, 549 S.E.2d 90 (2001); *Lawson v. Macon*, 214 Ga. 278, 104 S.E.2d 425 (1958); *Taylor v. 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

WHEREAS, the Georgia Supreme Court, in the case of *DeKalb County v. Townsend*, 243 Ga. 80 (1979), held that, "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 Forest 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 Mayor and Council of the City of Forest Park have, as a part of planning growth management, been in review of the City's sign ordinance and have been studying the City's best estimates and projections of the type of signage which could be anticipated within the City of Forest Park; and

WHEREAS, the Mayor and Council deem it important to develop a comprehensive plan which integrates all of these concerns and therefore considers this moratorium a proper exercise of its police powers; and

WHEREAS, the Mayor and Council therefore consider it paramount that sign 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 Forest Park. The Mayor and Council have always had a strong interest in the promotion of the traditional police power goals of health, safety, morals, aesthetics and the general welfare of the community; and 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 Forest 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; and

NOW THEREFORE be it resolved by the Mayor and Council of the City of Forest Park and by the authority of the same:

SECTION I.

FINDINGS OF FACT

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

(a) It appears that the City's ordinances require an additional review by the City of Forest Park as they relate to signs;

(b) Substantial disorder, detriment and irreparable harm would result to the citizens, businesses and City of Forest Park if the current sign ordinance were to be utilized by property owners prior to a more thorough review;

(c) The City's ongoing revision of its code requires that a limited cessation of permits with respect signs, be enacted;

(d) It is necessary and in the public interest to delay, for a reasonable period of time, the processing of any applications for such developments, to ensure that the design, development and location of the same are consistent with the long-term planning objectives of the City; and

(e) That the Georgia Supreme Court has ruled that limited moratoria are reasonable and do not constitute land use when such moratoria are applied throughout the City under *City of Roswell et al v. Outdoor Systems Inc.*, 274 Ga. 130, 549 S.E.2d 90 (2001)

SECTION II.

IMPOSITION OF MORATORIUM

(1) There is hereby extended a moratorium on the acceptance by the staff of the City of Forest Park of rezoning or the acceptance of applications for variances, permits or inspections for any signs in excess of 200 square feet in area, or for any other license or permit, for the purpose of authorizing signs in excess of 200 square feet in area;

(2) The duration of this extended moratorium shall be until the City adopts a revision of the City Code of the City of Forest Park related to the above referenced use or until November ~~15~~ 18, 2014, whichever first occurs;

(3) This moratorium shall be effective as of the date of adoption of this Ordinance;

(4) This moratorium shall have no effect upon approvals or permits previously issued or previously approved by the City. The provisions of this Ordinance shall not affect the issuance of permits that have received preliminary or final approval by the City on or before the effective date of this Ordinance;

(5) As of the effective date of this Ordinance, no applications for signs in excess of 200 square feet in area will be accepted by any agent, employee or officer of the City with respect to any property in the City of Forest Park, and any permit so accepted for filing will be deemed in error, null and void and of no effect whatsoever and shall constitute no assurance whatsoever of any right to engage in any act, and any action in reliance on any such permit shall be unreasonable;

(6) The following procedures shall be put in place immediately. Under *Cannon v. Clayton County,* 255 Ga. 63, 335 S.E.2d 294 (1985); *Meeks v. City of Buford,* 275 Ga. 585, 571 S.E.2d 369 (2002); *City of Duluth v. Riverbroke Props.*, 233 Ga. App. 46, 502 S.E.2d 806 (1998), the Supreme Court stated, "Where a landowner makes a substantial change in position by expenditures and reliance on the probability of the issuance of a building permit, based upon an existing zoning ordinance and the assurances of zoning officials, he acquires vested rights and is entitled to have the permit issued despite a change in the zoning ordinance which would otherwise preclude the issuance of a permit." Pursuant to this case, the City of Forest Park recognizes that, unknown to the City, de facto vesting may have occurred. The following procedures are established to provide exemptions from the moratorium where vesting has occurred:

A written application, including verified supporting data, documents and facts, may be made requesting a review by the Mayor and Council at a scheduled meeting of any facts or circumstances which the applicant feels substantiates a claim for vesting and the grant of an exemption.

SECTION III.

EXEMPTION

(1) During the term of this moratorium, any person may file an application for exemption from this moratorium related to signs with the Mayor and Council. The Mayor and Council may grant such exemption where the proposed establishment(s) is/are deemed to be in conformity with the proposed ordinances to be considered during the term of this moratorium.

(2) Should the Mayor and Council grant such exemption, the staff of the City of Forest Park may accept an application for a sign permit. However, the grant of an exemption from this moratorium in no way confers any rights upon the applicant or the exempted sign, application or request.

(3) Any exemption granted by the Mayor and Council shall not constitute final approval of such application or requests by the City. Any granted exemption shall merely grant the City staff the ability to accept and process the subject application in accordance with all City laws.

SECTION IV.

(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 invalidity,

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

SECTION V.

All Ordinances or parts of Ordinances in conflict with this Ordinance are, to the extent of such conflict, hereby repealed.

SECTION VI.

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

ORDAINED this 19th day of MAY, 2014.

David Lockhart
Mayor

Maudie McCord
Mayor Pro-tempore, Ward Three

Tommy Smith
Councilmember, Ward One

Dabouze Antoine
Councilmember, Ward Two

Latresa Akins
Councilmember, Ward Four

Linda Lord
Councilmember, Ward Five

ATTEST:

City Clerk

(THE SEAL OF THE CITY OF FOREST PARK, GEORGIA)

Approved as to form:

City Attorney