

STATE OF GEORGIA

CITY OF MORROW

ORDINANCE NO. 2016-02

**AN EMERGENCY ORDINANCE TO APPROVE A MORATORIUM ON THE ERECTION OR INSTALLATION OF, OR THE CITY OF MORROW'S ACCEPTANCE OF APPLICATIONS TO ERECT OR INSTALL, SIGNS MEASURING OVER THIRTY-FIVE (35) SQUARE FEET IN SIZE, OR INCORPORATING ELECTRONIC MESSAGING EQUIPMENT, OR BEING MORE THAN TWENTY (20) FEET TALL FROM THE BASE TO THE TOP.**

**WHEREAS**, the governing body of the City of Morrow, Georgia ("City") is the Mayor and City Council; and

**WHEREAS**, the City encompasses several sensitive areas; and

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

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

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

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

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

**WHEREAS**, the City Council seeks to prevent any Signs, Title 8, Planning and Development, Chapter 5, Signs, Section 8-5-2, Definitions, measuring over thirty-five (35) square feet in size, or incorporating electronic messaging equipment, or being more than twenty (20) feet tall from the base to the top, from being erected during this period of evaluation and/or revision of the sign regulations.

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

The Mayor and Council do hereby impose a moratorium of ninety (90) days, on the erection or installation of, or the City's acceptance of applications to erect or install, Signs, as defined in as defined in Title 8, Planning and Development, Chapter 5, Signs, Section 8-5-2, Definitions of the City's Code of Ordinances, measuring more than thirty-five (35) square feet in size, or incorporating electronic messaging equipment, or being more than twenty (20) feet tall from the base to the top, in order to maintain the status quo while City officials expeditiously undertake a review of the City's sign regulations. During the course of this moratorium, City officials are directed to cease accepting applications to erect or install any Sign that would be larger than thirty-five (35) square feet in size, or incorporating electronic messaging equipment, or being more than twenty (20) feet tall from the base to the top. This is a temporary emergency measure and shall be in place only until such time as the Mayor and Council have duly adopted a new or revised set of sign regulations or until the expiration of ninety (90) days, whichever comes first.

**SECTION I**

**IMPOSITION OF MORATORIUM**

(a) There is hereby imposed a moratorium on the erection or installation of, or the acceptance by the staff of the City of applications to erect or install Signs, measuring over thirty-

five (35) square feet in size, or incorporating electronic messaging equipment, or being more than twenty (20) feet tall from the base to the top.

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

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

(d) As of the effective date of this Ordinance, no applications to erect signs will be accepted by any employee or officer of the City with respect to any property in the City, and any application 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.

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

(f) 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 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. 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 II.**

(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.

## **SECTION III.**

(a) This Ordinance shall be codified in a manner consistent with the laws of the State of Georgia and the City.

(b) 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.

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

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

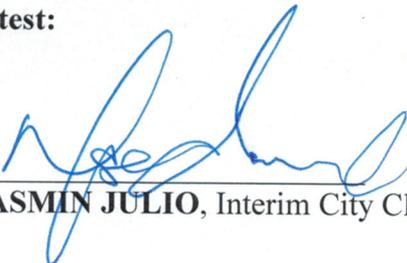
(e) The preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

**SO ORDAINED** this the 8th day of March, 2016.

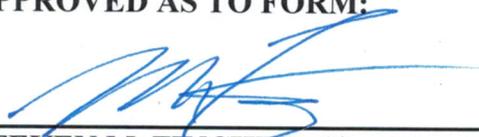
**CITY OF MORROW, GEORGIA**

  
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**JEFFREY A. DETAR**, Mayor

**Attest:**

  
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**YASMIN JULIO**, Interim City Clerk

**APPROVED AS TO FORM:**

  
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**STEVEN M. FINCHER**, City Attorney

(Seal)

