

COUNTY OF HENRY

STATE OF GEORGIA

RESOLUTION NO. 18-01

A RESOLUTION TO PROVIDE TO IMPOSE A MORATORIUM ON COMMERCIAL AND RESIDENTIAL ZONINGS, ANNEXATIONS, RE-ZONINGS, AND BUILDING PERMITS FOR A PERIOD NOT TO EXCEED ONE HUNDRED EIGHTY (180) DAYS WHILE THE CITY CONSIDERS CHANGES TO ITS ZONING ORDINANCE; TO PROVIDE FOR THE PURPOSE OF THE MORATORIUM, TO PROVIDE FOR FINDINGS OF FACT, IMPOSITION OF MORATORIUM, THE DURATION OF THE MORATORIUM; TO PROVIDE FOR AN APPEAL PROCESS; TO PROVIDE FOR SEVERABILITY; TO PROVIDE A PENALTY; TO PROVIDE AN EFFECTIVE DATE OF THIS RESOLUTION; AND FOR OTHER PURPOSES.

WHEREAS, the Mayor and City Council of Hampton have been vested with substantial powers, rights and functions to generally regulate the practice, conduct or use of property for the purposes of maintaining health, morals, safety, security, peace, and the general welfare of the City of Hampton; and

WHEREAS, Georgia law recognizes that local governments may impose moratoria on zoning decisions, building permits, and other development approvals where exigent circumstances warrant the same, pursuant to the case law found at Taylor v. Shetzen, 212 Ga. 101, 90 S.E.2d 572 (1955); Lawson v. Macon, 214 Ga. 278, 104 S.E.2d 425 (1958); and most recently City of Roswell et al v. Outdoor Systems, Inc., 274 Ga. 130, 549 S.E. 2d 90 (2001); 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 Mayor and City Council of Hampton have 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 City Council of Hampton have, as a part of planning, zoning and growth management, been reviewing the City's Comprehensive Plans and the Zoning Ordinance and have been studying the City's best estimates and projections of the type of development which could be anticipated within the City of Hampton; and

WHEREAS, the Mayor and City Council of Hampton deems it important to develop a Zoning Ordinance which integrates all of these concerns and therefore considers this moratorium a proper exercise of their police powers; and

WHEREAS, the Mayor and City Council of Hampton therefore consider it paramount that land use regulation continues in the most orderly and predictable fashion with the least amount of disturbance to landowners and to the citizens of the City of Hampton. The Mayor and City Council of Hampton 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; 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 of Hampton 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 City Council of Hampton 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 of Hampton "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), it is also the opinion of the City of Hampton that "general welfare" includes the valid public objectives of aesthetics, conservation of the value of existing lands and buildings within the City of Hampton, 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 of Hampton; and

WHEREAS, the Mayor and City Council of Hampton are, and have been interested in developing a cohesive and coherent policy regarding residential and commercial growth and zoning in the City of Hampton, and have intended to promote community development through stability, predictability and balanced growth which will further the prosperity of the City of Hampton as a whole; and

WHEREAS, the Economic Development/Main Street Director, the City Engineer, the City selected stakeholders, and the City Attorney are reviewing the City's comprehensive plan and Zoning Ordinance; and

WHEREAS, it is in the best interest of the citizens of Hampton to place a moratorium on the application and issuance of residential and commercial zoning permits, annexations and re-zonings until the review is completed.

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF HAMPTON GEORGIA AND IT IS HEREBY RESOLVED:

SECTION 1. FINDINGS OF FACT

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

- a. It appears that the City of Hampton Zoning Ordinance is in the process of being reviewed and revised by the City;
- b. The City's ongoing revision of its Zoning Ordinance requires that a limited cessation of the application and issuance of residential and commercial zoning permit applications, re-zoning applications, and annexations;
- c. It is necessary and in the public interest to delay, for a reasonable period of time, the processing of any applications for such new residential and commercial zoning permits, re-zonings and annexations to ensure that the same are consistent with the long-term planning objectives of the City; and

SECTION 2. IMPOSITION OF MORATORIUM

- a. There is hereby imposed a moratorium on the application and issuance by the staff of the City of site plans, development plans, permits and other approvals and on their acceptance of applications for new residential and commercial zoning applications, re-zonings, and annexations for all zoning districts.
- b. The duration of this moratorium shall be until the City completes its review and update to its Zoning Ordinance or until the expiration of one hundred eighty (180) days from enactment, whichever first occurs.
- c. This moratorium shall be effective as of the date of adoption of this Resolution.
- d. This moratorium shall have no effect upon approved permits, applications, annexations, rezonings, etc. occurring before the effective date of this Resolution.
- e. As of the effective date of this Resolution, except for the allowances in Section 2(d), no applications for development, annexation, re-zoning or permits will be accepted by any agent, employee or officer of the City with respect to any property in the City of Hampton. Should any be so accepted for filing, it 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 license or permit shall be unreasonable.

- f. The following procedures shall be put in place immediately. Under the Supreme Court case of Cannon v. City of Hampton, 255 Ga. 63, 335 S.E.2d 294 (1985), 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 Hampton 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:

1. A written application, including verified supporting data, documents and facts, may be made requesting a review by the Mayor and City Council of Hampton 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 3. During the duration of the moratorium described in Section II of this Resolution all zoning, permits, re-zonings, annexations, or building permits shall be denied or granted within thirty (30) days of receipt of the City’s receipt of the application.

SECTION 4. During the duration of the moratorium described in Section 2 of this Resolution, the City of Hampton’s procedure for variances and annexations Ordinances shall not be enforced.

SECTION 5. It is hereby declared to be the intention of the Mayor and City Council of Hampton that all sections, paragraphs, sentences, clauses and phrases of this Resolution are and were, upon their enactment, believed by the Mayor and City Council of Hampton to be fully valid, enforceable and constitutional. It is hereby declared to be the intention of the Mayor and City Council of Hampton that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Resolution is severable from every other section, paragraph, sentence, clause or phrase therein. It is hereby further declared to be the intention of the Mayor and City Council of Hampton, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Resolution is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Resolution. In the event that any phrase, clause, sentence, paragraph or section of this Resolution 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 City Council of Hampton 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 Resolution and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Resolution shall remain valid, constitutional, enforceable, and of full force and effect.

SECTION 6. All Resolutions or parts of Resolutions in conflict with this Resolution are, to the extent of such conflict, hereby repealed.

SECTION 7. The preamble of this Resolution shall be considered to be and is hereby incorporated by reference as if fully set out herein.

SO RESOLVED, this _____ day of March, 2018.

ATTEST:

Pat Watson, City Clerk

APPROVED AS TO FORM:

L'Erin Barnes Wiggins, City Attorney

THE CITY OF HAMPTON, GEORGIA

STEVE HUTCHISON, Mayor

ANN TARPLEY, Mayor Pro Tem

HENRY BYRD, Council Member

ERROL MITCHELL, Council Member

WILLIE TURNER, Council Member

STEPHANIE BODIE, Council Member

ELTON BROWN, Council Member