

1 STATE OF GEORGIA

2

3 COUNTY OF FULTON

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5 AN ORDINANCE BY THE MAYOR AND COUNCIL OF THE CITY OF FAIRBURN,
6 GEORGIA ESTABLISHING A TEMPORARY MORATORIUM ON ACCEPTING
7 REZONING APPLICATIONS, BUILDING PERMITS, LAND DISTURBANCE PERMITS
8 AND ANY AND ALL OTHER PERMITS AND/OR APPLICATIONS AS IT RELATES TO
9 NEW DEVELOPMENT OF PARCELS ADJACENT TO HIGHWAY 74, INCLUDING,
10 BUT NOT LIMITED TO, PARCELS OF LAND LYING WITHIN THE HIGHWAY 74
11 OVERLAY DISTRICT; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER
12 PURPOSES.

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14 WHEREAS, the City of Fairburn has been vested with substantial powers and rights
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16 to generally regulate the practice, conduct or use of property for the purposes of maintaining
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18 health, morals, safety, peace and the general welfare of the City of Fairburn; and

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20 WHEREAS, Georgia law recognizes that local governments may impose moratoria on
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22 zoning decisions, building permits and other development approvals where exigent
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24 circumstances warrant the same, pursuant to City of Roswell v. Outdoor Systems, Inc., 274 Ga.
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26 130 (2001); Taylor v. Shetzen, 212 Ga. 101 (1955); and

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28 WHEREAS, the courts take judicial notice of a local government's inherent ability to
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30 impose moratoria on an emergency basis; and

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32 WHEREAS, the Georgia Supreme Court, in DeKalb County v. Townsend, 243 Ga. 80
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34 (1979), held that, "To justify a moratorium, it must appear first, that the interests of the public
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36 generally, as distinguished from those of a particular class, require such interference;
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38 and second, that the means are reasonably necessary for the accomplishment of the purpose,
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40 and not unduly oppressive upon individuals"; and

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42 WHEREAS, the City of Fairburn has found that the interests of the public necessitate
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44 the enactment of a moratorium for health, safety, morals and general welfare purposes by means
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46 which are reasonable and not unduly oppressive; and

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1 **WHEREAS**, the Governing Authority of the City of Fairburn, as part of its planning,
2 zoning and growth management responsibilities, finds there is an immediate need to review the
3 City’s Comprehensive Plan, Zoning Ordinance and associated economic development plans for
4 the Highway 74 corridor (Planned Development, Commercial and Highway 74 Overlay District);
5 and

6 **WHEREAS**, the Governing Authority of the City of Fairburn deems it necessary to
7 develop a Zoning Ordinance which integrates each of these concerns and, therefore, considers and
8 approves this moratorium a proper exercise of their powers under law; and

9 **WHEREAS**, the Governing Authority of the City of Fairburn deems it necessary to enact
10 this moratorium in order to address the nature and composition of development along the Highway
11 74 corridor as same relates to the overall economic plan for such development, so as to study and
12 ensure that development in the subject area is aligned with the City’s overall and long term
13 economic development goals.

14 **BE IT ORDAINED BY THE CITY COUNCIL OF FAIRBURN, GEORGIA** and it
15 is **HEREBY ORDAINED** by authority of same as follows:

16 **Section I.** There is hereby imposed a moratorium on the acceptance of proposed site plans,
17 development plans, rezoning applications and applications for building permits or any other
18 license or permit regarding new development of the subject parcels along the Highway 74 corridor
19 / Highway 74 Overlay District.

20 **Section II.** The duration of this moratorium shall be until the City reviews development in the
21 subject area, as well as the City’s Comprehensive Plan, Zoning Ordinance and overall and long-
22 term economic development goals for the area.

1 **Section III.** Unless sooner terminated or extended, the moratorium shall expire at 11:59 P.M. on
2 February 28, 2022.

3 **Section IV.** The effective date of this Ordinance shall be the date of adoption unless otherwise
4 specified herein.
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7 **BE IT ORDAINED** by the City Council of Fairburn, this 13th day December, 2021.
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9 CITY OF FAIRBURN, GEORGIA

10 *Elizabeth Carr-Hurst*
11 Elizabeth Carr-Hurst, Mayor
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14 APPROVED AS TO FORM:

15 *William R. Turner*
16 William R. Turner, City Attorney
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ATTEST:

Deannia Ray
Deannia Ray, City Clerk

