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2 **ORDINANCE NO. 070026**
3 **0-07-31**
4

5 **An Ordinance of the City of Gainesville, Florida, imposing a temporary**
6 **moratorium on the issuance of any permit, development order, site plan**
7 **approval and any other official action of the City of Gainesville having the**
8 **effect of permitting or allowing the construction, operation or erection of an**
9 **electronic sign or an animated sign, as more specifically described in this**
10 **Ordinance, excluding approvals and permits for the maintenance of an**
11 **existing electronic sign or animated sign; the temporary moratorium shall**
12 **apply to all real property located within the corporate limits of the City of**
13 **Gainesville; providing a procedure for extraordinary hardship; providing a**
14 **severability clause; and providing an immediate effective date.**
15

16 **WHEREAS**, electronic signs and animated signs are a recent technological innovation
17 used for signage, primarily due to their unusually strong and effervescent light intensity; and

18 **WHEREAS**, there is a strong likelihood that electronic signs and animated signs will
19 proliferate throughout the city causing sign-induced visual blight, causing a decrease in property
20 values, threatening the aesthetics of the City, causing traffic safety problems, thus threatening the
21 public health, welfare and safety of the City; and

22 **WHEREAS**, the proliferation of electronic signs and animated signs may become a safety
23 hazard for motorists, incompatible with residential neighborhoods and the proper development of
24 the city; and

25 **WHEREAS**, the City of Gainesville has found that it is necessary to impose a temporary
26 moratorium to allow sufficient time for the City to study, review, hold public hearings, prepare
27 and adopt new regulations for electronic signs and animated signs; and

28 **WHEREAS**, a temporary moratorium on permitting the construction or erection of
29 electronic signs and animated signs will result in identification of the most appropriate regulation

1 of electronic signs and animated signs for the City, the protection and enhancement to the
2 adjacent uses, and the adoption of a regulatory ordinance, as appropriate; and

3 **WHEREAS**, the City Commission finds that it is essential to protect and preserve the
4 aesthetics, the environment and the public health, welfare and safety of the City and its citizenry,
5 that it is in the City's best interest, and that it is consistent with the Comprehensive Plan for the
6 City to study the potential impact of use of electronic signs and animated signs within the
7 Moratorium area; and

8 **WHEREAS**, the City Commission, after holding a public hearing finds that it is
9 appropriate to impose a temporary moratorium on the construction, operation and erection of
10 electronic signs and animated signs; and

11 **WHEREAS**, pursuant to law, an advertisement no less than two columns wide by 10 inches long
12 was placed in a newspaper of general circulation notifying the public of this proposed ordinance and of the
13 Public Hearing to be held in the City Commission Meeting Room, First Floor, City Hall, in the City of
14 Gainesville at least seven (7) days after the day the first advertisement was published; and

15 **WHEREAS**, a second advertisement no less than two columns wide by 10 inches long was placed
16 in the aforesaid newspaper notifying the public of the second Public Hearing to be held at the adoption
17 stage at least five (5) days after the day the second advertisement was published; and

18 **WHEREAS**, public hearings were held pursuant to the published and mailed notices described
19 above at which hearings the parties in interest and all others had an opportunity to be and were, in fact,
20 heard.

21 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**
22 **CITY OF GAINESVILLE, FLORIDA:**

1 **Section 1.** Findings. The City Commission adopts the foregoing findings.

2 **Section 2.** Purpose

3 (a) The purpose of this Ordinance is to enable the City of Gainesville sufficient time to
4 review, study, hold public hearings, and prepare and adopt an amendment or amendments to the
5 City of Gainesville Land Development Code, relating to the allowance of construction, operation
6 or erection of electronic signs and animated signs within the Moratorium area, as defined in
7 Section 3 below. The City will not take any action on any application or issue any development
8 permit or development order that permits or allows construction or erection of electronic signs
9 and animated signs within the Moratorium area, except as provided in this Ordinance.

10 (b) It is further the purpose of this Ordinance to fulfill the City's constitutional charge
11 and statutory obligations to protect and preserve the environment and the public health, welfare
12 and safety of the citizens of the City of Gainesville, and in particular to protect the public health,
13 welfare and safety of the citizens, and the value, use and enjoyment of real property in the City of
14 Gainesville during the interim period described in this Ordinance, and thus defer official
15 governmental action until the City of Gainesville has properly reviewed, studied, held public
16 hearings and adopted amendments, if any, to the City of Gainesville Land Development Code, as
17 necessary.

18 **Section 3.** Definitions.

19 (a) "Animated sign" means any sign that uses movement or change of lighting or change
20 of color to depict action or create a special effect or scene. Also includes a sign or device visible
21 from the public right-of-way with letters or characters that move or change more frequently than
22 every 3 minutes. The move or change can occur mechanically or electronically without altering

1 the face or the surface of the sign. Time and temperature devices are not exempt from this
2 definition.

3 (b) "Application for permit" means any application for permit, including a building and
4 electric permit, concept plan review, preliminary or final development plan review, special use
5 permit, or any other application of the City of Gainesville having the effect of permitting or
6 allowing the construction, operation or erection of electronic signs and animated signs.

7 (d) "Development order" means any order granting, denying, or granting with
8 conditions an application for permit.

9 (e) "Electronic sign" means any sign, or portions of sign, where any light source,
10 including but not limited to incandescent bulbs or light-emitting diodes (LED), constitute the sign
11 text or image. This type of sign includes, but is not limited to electronic message boards;
12 television screens; plasma screens; digital screens; flat screens; LED screens; video boards; other
13 types of electric and electronic display boards and screens; and holographic displays. Electronic
14 signs include projected images or messages onto buildings or other objects. Signs that are
15 illuminated by light sources only for the purpose of internal or external translucent illumination are
16 not considered electronic signs, nor are non-animated neon signs.

17 (f) "Moratorium area" means all real property that is within the corporate limits of the
18 City of Gainesville, Florida.

19 **Section 4.** Imposition of Moratorium

20 For a period of (182) days from and after the adoption date of this ordinance, ending at
21 11:59 p.m. on Monday, October 22, 2007:

1 (a) No application for permit, development order, or any other official action of the
2 City having the effect of permitting or allowing the construction, operation or erection of an
3 electronic sign or animated sign may be filed, accepted, or processed, other than an application for
4 the maintenance of an existing electronic sign or an existing animated sign, located in the
5 Moratorium area by any Department, Board, Commission, or Agency of the City of Gainesville,
6 except as provided in subsection (c) below and Section 5 of this Ordinance;

7 (b) No development order may be issued for any application for permit, or any other
8 official action of the City, located in the Moratorium area permitting or having the effect of
9 permitting the construction, operation or erection of an electronic sign or animated sign, unless an
10 application for a permit, development order or any other official action of the City was properly
11 filed with the City of Gainesville on or before 5:00 p.m. on Monday, April 23, 2007, except as
12 provided in subsection (c) below and Section 5 of this Ordinance; and

13 (c) The imposition of the moratorium is not intended to affect nor does it affect: (i)
14 either the processing of any application for permit or the issuance of a development order, or any
15 other official action of the City, within the Moratorium area for which any application for permit
16 was properly filed with the City of Gainesville on or before 5:00 p.m. on Monday, April 23, 2007;
17 (ii) the processing of any application for permit, or the issuance of a development order, for the
18 maintenance of any electronic sign or animated sign that was in lawful existence and operation as
19 of Monday, April 23, 2007.

20 **Section 5. Alleviation of Extraordinary Hardship**

21 (a) The City Commission may authorize exceptions to the moratorium imposed by this
22 Ordinance when it finds, based upon substantial competent evidence presented to it, that deferral

1 of action on an application for permit, development order, or other official action of the City for
2 the duration of the moratorium would impose an extraordinary hardship on a landowner or
3 petitioner.

4 (b) A request for an exception based upon extraordinary hardship shall be filed with
5 the City Manager or designee, including a fee of \$350.00 by the owner/petitioner, or the
6 petitioner with the consent of the owner/petitioner, to cover processing and advertising costs, and
7 shall include a recitation of the specific facts that are alleged to support the claim of extraordinary
8 hardship, and shall contain such other information as the City Manager shall prescribe as
9 necessary for the City Commission to be fully informed with respect to the application.

10 (c) A public hearing on any request for an exception for extraordinary hardship shall
11 be held by the City Commission at the first regular meeting of the City Commission that occurs
12 after the expiration of the period for publication of notice of the request for an exception.

13 (d) Notice of the filing of a request for an exception, and the date, time, and place of
14 the hearing thereon shall be published once at least 7 days prior to the hearing in a newspaper of
15 general circulation within the city limits of the City of Gainesville, Florida.

16 (e) In reviewing an application for an exception based upon a claim of extraordinary
17 hardship, the City Commission shall consider, at a minimum, the following criteria:

18 (1) The extent to which the applicant has, prior to Monday, April 23, 2007,
19 received City of Gainesville permits or approvals for the electronic sign or animated sign.

20 (2) The extent to which the applicant has, prior to Monday, April 23, 2007,
21 made a substantial expenditure of money or resources in reliance upon permits or other approvals
22 of the City of Gainesville directly associated with the construction, operation or erection of the

1 electronic sign or animated sign, such as the installation of utility infrastructure or any other
2 improvements.

3 (3) Whether the applicant, prior to April 23, 2007, has contractual
4 commitments in reliance upon permits or other approvals of the City of Gainesville to construct,
5 operate or erect the electronic sign or animated sign.

6 (4) Whether the applicant, prior to April 23, 2007, has in reliance upon permits
7 or other approvals of the City of Gainesville incurred financial obligations to a lending institution
8 which, despite a thorough review of alternative solutions, the applicant cannot meet unless the
9 electronic sign or animated sign is permitted or allowed.

10 (5) Whether the moratorium will expose the applicant to substantial monetary
11 liability to third persons; or would leave the applicant completely unable, after a thorough review
12 of alternative solutions, to earn a reasonable investment backed expectation on the real property
13 that is affected by this Ordinance.

14 (f) At a minimum, the City Commission shall consider the following non-exclusive
15 factors under the criteria set forth in subsection (e) above:

- 16 (1) The history of the property;
- 17 (2) The history of the commercial, business or any use on the property;
- 18 (3) The location of the property to any major highway, collector or arterial
19 streets; and
- 20 (4) The present signage on the property.

1 (g) At the conclusion of the Public Hearing and after reviewing the evidence and
2 testimony placed before it, the City Commission shall act upon the request either to approve,
3 deny, or approve in part and deny in part the request made by the applicant.

4 **Section 6.** If any word, phrase, clause, paragraph, section or provision of this ordinance
5 or the application hereof to any person or circumstance is held invalid or unconstitutional, such
6 finding shall not affect the other provisions or applications of the ordinance which can be given
7 effect without the valid or unconstitutional provisions or application, and to this end the
8 provisions of this ordinance are declared severable.

9 **Section 7.** This ordinance shall stand repealed as of 12:01 a.m. on Tuesday, October 23,
10 2007, unless sooner repealed; provided, however, that nothing herein shall prevent the readoption
11 or ratification of this Ordinance in the same or similar form.

12 **Section 8.** This ordinance shall become effective immediately upon final adoption.

13 **PASSED AND ADOPTED** this 11th day of June, 2007.

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19 By: Pegeen Hanrahan
20 Pegeen Hanrahan, Mayor
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26 ATTEST:

APPROVED AS TO FORM AND LEGALITY

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31 Kurt Lannon, Clerk of the Commission
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Marion J. Radson, City Attorney

JUN 12 2007

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2 This ordinance passed on first reading this 14th day of May, 2007

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4 This ordinance passed on second reading this 11th day of June, 2007.

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