

# **ORDINANCE 2024-02**

## **AN ORDINANCE AUTHORIZING A TEMPORARY MORATORIUM ON ALL ANNEXATION APPLICATIONS, LAND USE PETITIONS AND LAND DEVELOPMENT PERMITS**

**WHEREAS**, the City of Dallas, Georgia, as stated in its City Charter Sec. 1.14(41), is authorized to exercise and enjoy all other powers, functions, rights, privileges, and immunities necessary or desirable to promote or protect the safety or general welfare of the city and its inhabitants; and

**WHEREAS**, the Mayor and the City Council has determined that the City's current zoning ordinance, Chapter 44, which was enacted in 1975 and has been periodically amended since that time, is in need of a complete overhaul in order to best effectuate the City's current and future development; and

**WHEREAS**, the Georgia Supreme Court has previously found the adoption of a moratorium is authorized under the general police power of the local government. DeKalb County v. Townsend Associates, Inc., 243 Ga. 80, 252 S.E.2d 498 (1979).; and

**WHEREAS**, the Mayor and City Council find that the best interests, health, morals, aesthetics and general welfare of the citizens of Dallas can be furthered with an adoption of a land use ordinance that provides for development in an orderly, regulated and predictable manner; and,

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

**WHEREAS**, the City has drafted a complete overhaul of Chapter 44 Zoning to update to a Unified Development Code (UDC) which centralizes, organizes and updates development policy/ordinances in the City of Dallas, and that UDC is currently under public hearing and review and is anticipated to be codified in September, 2024.

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DALLAS, GEORGIA:**

### **Section I**

- a) There is hereby imposed a moratorium on the acceptance by the staff of the City of Dallas of any and all annexation applications, land use petitions and land development permits as described in the Code of Ordinances of the City of Dallas.

- b) The duration of this moratorium shall be until October 5, 2024.
- c) The City Council may, prior to the expiration of this moratorium, and after appropriate notice and public comment, extend its term as the Council may elect to approve.
- d) This moratorium shall be effective as of the date of its adoption.
- e) This moratorium shall have no effect upon annexation applications, land use petitions and land development permits applied for prior to the effective date of this ordinance.
- f) The provisions of this Ordinance shall not affect the issuance of permits or site plan reviews that have received final approval by the City on or before the effective date of this Ordinance.
- g) As of the effective date of this Ordinance, no annexation applications, applications for land use petitions and land development permits as described use be accepted by any agent, employee or officer of the City with respect to any property, 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.
- h) 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."
  - 1. Pursuant to this case, the City of Dallas 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:

- i. 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.
- ii. The Mayor and Council, upon a majority vote, shall approve or deny the application for an exemption after consideration of the evidence and consultation with City officials and the City Attorney.

## **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.
- 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 III**

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

**Section IV**

This Ordinance shall take effect immediately upon passage.

**SO SHALL IT BE RESOLVED, PASSED, ADOPTED AND APPROVED BY THE MAYOR AND COUNCIL OF THE CITY OF DALLAS, GEORGIA THIS THE \_\_\_\_\_ day of \_\_\_\_\_, 2024.**

\_\_\_\_\_  
L. James Kelly, Mayor

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James R. Henson, Councilmember

\_\_\_\_\_  
Cooper Cochran, Councilmember

\_\_\_\_\_  
Nancy R. Arnold, Councilmember

\_\_\_\_\_  
Christopher B. Carter, Councilmember

\_\_\_\_\_  
Leah Alls, Councilmember

\_\_\_\_\_  
Candace Callaway, Councilmember

ATTEST:

\_\_\_\_\_  
Tina Clark, City Clerk of the City of Dallas, GA

\_\_\_\_\_  
Date