

**ORDINANCE 2019-28**

**AN ORDINANCE ENACTING A MORATORIUM PROHIBITING  
APPROVAL OF APPLICATIONS FOR ELECTRONIC DISPLAY SIGNS  
FOR A PERIOD OF NOT MORE THAN SIX MONTHS**

**WHEREAS**, City Council called for a public hearing to be held on November 18, 2019 to consider the enactment of a moratorium to prohibit approval of applications for electronic display signs, including LED flashing or moving signs, and signs with moving or changing text, for a period of not more than six months, to allow time for the Brevard Planning Board to review, study and recommend any changes to the existing Unified Development Ordinance regarding such signs, including but not limited to changes to Section 12.9.D of the Unified Development Ordinance, entitled, "Electronic Display Signs."

**WHEREAS**, the City's Planning Staff, responsible for the enforcement of Chapter 12 of the Unified Development Ordinance, has encountered repeated violations of this chapter which, in part, attempts to regulate electronic display signs but instead demonstrates an inadequacy of the ordinance at preventing moving graphics and images with changes alternating less than five-second intervals, and where the brightness of electronic display signs is also problematic and distracting to motorists, necessitating this moratorium. The alternative to a moratorium is to continue permitting new signs while preparing any necessary amendments, but given the potentially detrimental impact that any one sign could have upon the safety of motorists and the character of the community, Council has deemed this alternative to be unacceptable.

**WHEREAS**, this moratorium shall only include electronic display signs, as described in Sections 12.6.E and 12.9.D and those which are capable of displaying graphical images and scrolling or changing messages with various degrees of intensity to allow time for the Brevard Planning Board to review, study and recommend any changes to the existing Unified Development Ordinance with the expectation that City Council will enact an amendment to the Unified Development Ordinance appropriate for addressing electronic display signage in the City of Brevard by the expiration of this moratorium.

**WHEREAS**, the City has complied with the requirements of General Statutes Section 160A-364 regarding notice and hearing requirements.

**WHEREAS**, moving and flashing signs can create safety concerns by distracting drivers. Such signs have dramatically grown in numbers as a result of Fourth Circuit Court of Appeals decisions holding that there are First Amendment restrictions on the regulation of such signs because all such regulation must be "content neutral," and that regulating moving and flashing signs could almost never be "content neutral" if it is the moving or flashing that is being regulated. More recent Fourth Circuit decisions and a decision from the United States Supreme Court now make it appropriate for City Council to review this matter again, as these recent decisions have re-examined the meaning of "content neutral," and potentially allow City Council more leeway in regulating such moving and flashing signs from a standpoint designed to enhance the health, safety and general well-being of the public and to take appropriate actions with regard to safety concerns occurring as such signs distract drivers.

**WHEREAS**, alternative actions, such as undertaking a lengthy study of this matter which is necessary to appropriately examine alternatives and make legislative changes which must go through the Planning Director's office, the Planning Board, Public Hearing and then to Council for action, would allow the number of potentially unsafe signs to continue to expand and multiply, to the detriment of the public, without a moratorium on applications for such signs.

**WHEREAS**, from evidence at the public hearing, the City Council hereby finds that it is in the best interest of the City of Brevard and its residents that:

1. City Council hereby imposes a moratorium upon the permitting of any electronic display sign, which are described in the City of Brevard Unified Development Ordinance.

2. This moratorium shall prohibit approval of applications for electronic display signs as described in the City of Brevard Unified Development Ordinance, Chapter 12, Sections 12.6(E) and 12.9(D), and shall begin upon **November 18, 2019** and end upon **May 18, 2020**.

3. The moratorium ending **May 18, 2020**, is reasonably necessary so that Chapter 12 of the Unified Development Ordinance can be adequately and appropriately addressed by the Planning Board and by City Council.

4. During the period of the moratorium, the City Council instructs the City Manager and City Planning Director to assist the Planning Board in making a thorough but expeditious review of Chapter 12 of the Unified Development Ordinance and provide recommendations to City Council for further action by City Council.

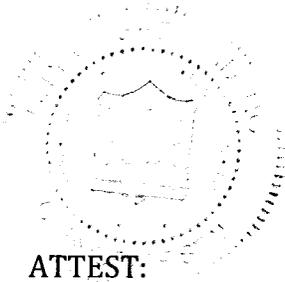
**NOW, THEREFORE**, based upon the foregoing findings of fact, be it hereby ordained:

**Section 1.** A moratorium is hereby implemented, effective **November 18, 2019**, and continuing through **May 18, 2020**, during which moratorium period no new applications for electronic display signs as described in the City of Brevard Unified Development Ordinance, Chapter 12, Sections 12.6(E) and 12.9(D), shall be accepted for filing.

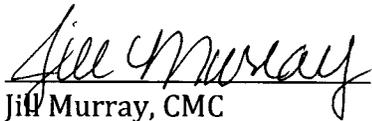
**Section 2.** During the moratorium period, the Planning Board and City Council shall expeditiously review Chapter 12 of the Unified Development Ordinance, with the expectation that City Council will have enacted an amendment to the Unified Development Ordinance for electronic display signage in the City of Brevard by the expiration of this moratorium.

**Section 3.** This Ordinance shall become effective upon its adoption and approval.

Adopted and approved this the 18<sup>th</sup> day of November, 2019.

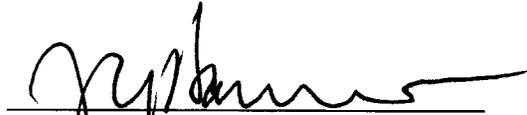


ATTEST:

  
Jill Murray, CMC  
City Clerk

APPROVED AS TO FORM:

  
Michael K. Pratt  
City Attorney

  
Jimmy Harris  
Mayor