

**STATE OF GEORGIA**

**CITY OF MORROW**

**ORDINANCE NO. 2018-03**

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF MORROW, GEORGIA BY REVISING SECTION 703 (“FENCES, GENERAL RULE”) OF ARTICLE VII (“EXCEPTIONS, MODIFICATIONS AND ENCROACHMENTS”) IN APPENDIX A (“ZONING ORDINANCE”); TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER LAWFUL PURPOSES.

**WHEREAS**, the duly elected governing authority of the City of Morrow, Georgia (the “City”) is the Mayor and Council thereof; and

**WHEREAS**, the Mayor and Council, as a part of planning, zoning and growth management, have been in review of the City’s 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; and

**WHEREAS**, the Mayor and Council, therefore, consider it paramount that land use regulation continue in the most orderly and predictable fashion with the least amount of disturbance to landowners and to the citizens of the City. The Mayor and Council 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 the City’s 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, 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 Council 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 “to determine that a community should be beautiful as well as healthy, spacious as well as clean, well balanced as well as carefully patrolled.” Kelso v. City of New London, 545 U.S. 469 (2005); Berman v. Parker, 348 U.S. 26 (1954). It is also the opinion of the City that “general welfare” includes the valid public objectives of aesthetics, conservation of the value of existing lands and buildings within the City, 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; and

**WHEREAS**, the Mayor and Council are, and have been interested in, developing a cohesive and coherent policy regarding certain uses 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**, in light of these interests and goals, the Mayor and Council find it desirable and in the best interest of the health, safety and welfare of the citizens of the City to amend certain provisions in the City’s Zoning ordinance regulating fences.

**BE IT AND IT IS HEREBY ORDAINED BY THE GOVERNING AUTHORITY OF THE CITY OF MORROW, GEORGIA**, and by the authority thereof:

**Section 1.** That subsection I of paragraph 2 in Section 703 (“Fences, general rules”) of Article VII (“Exceptions, Modifications and Encroachments”) in Appendix A (“Zoning

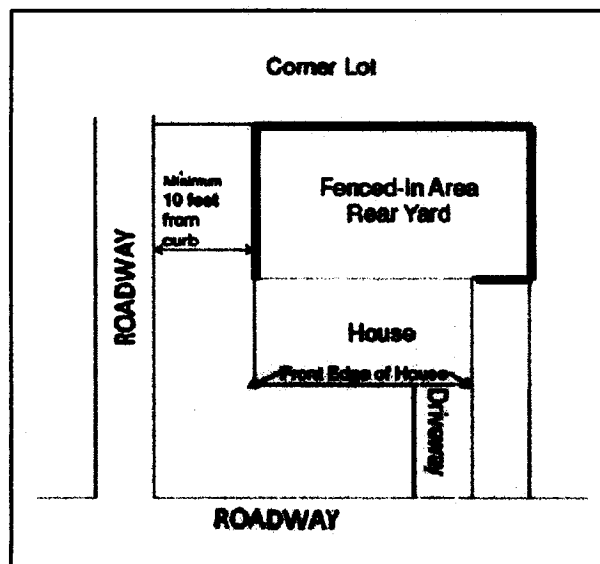
Ordinance”) of the Code of Ordinances, City of Morrow, Georgia is hereby amended by striking, in its entirety, the current text contained therein and by inserting the following text in lieu thereof, which shall read and be codified as follows:

- I. *Homeowners Association written approval shall be required with submittal of fence permit application, if applicable.*

**Section 2.** That subsection J of paragraph 2 in Section 703 (“Fences, general rules”) of Article VII (“Exceptions, Modifications and Encroachments”) in Appendix A (“Zoning Ordinance”) of the Code of Ordinances, City of Morrow, Georgia is hereby repealed in its entirety.

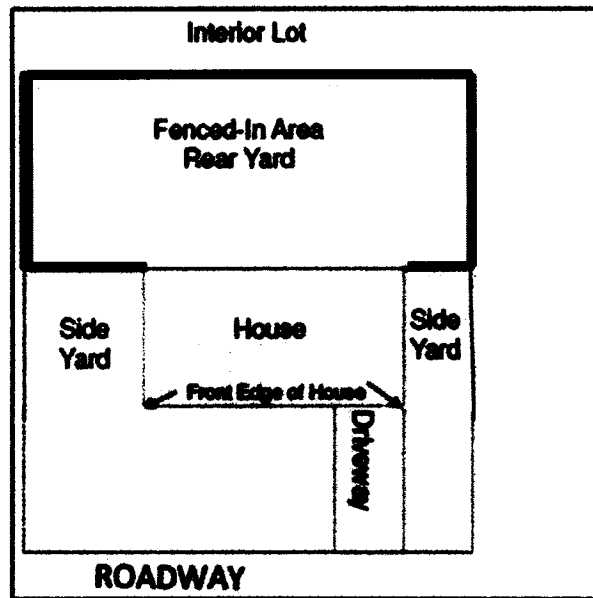
**Section 3.** That Figure 703(F) (“Fence location for corner lots”) in Section 703 (“Fences, general rules”) of Article VII (“Exceptions, Modifications and Encroachments”) in Appendix A (“Zoning Ordinance”) of the Code of Ordinances, City of Morrow, Georgia is hereby amended by striking, in its entirety, the current image and text contained therein and by inserting the following image and text in lieu thereof, which should read, appear and be codified as follows:

*Figure 703(F). Fence location for corner lots.*



**Section 4.** That Figure 703(G) (“Fence location for interior lots”) in Section 703 (“Fences, general rules”) of Article VII (“Exceptions, Modifications and Encroachments”) in Appendix A (“Zoning Ordinance”) of the Code of Ordinances, City of Morrow, Georgia is hereby amended by striking, in its entirety, the current text and image contained therein and by inserting the following text and image in lieu thereof, which should read, appear and be codified as follows:

*Figure 703(G). Fence location for interior lots.*



**Section 5.** That the preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

**Section 6.** (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 or 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 Ordinance 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 7.** That all ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

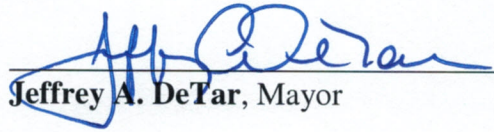
**Section 8.** That this Ordinance shall be codified in a manner consistent with the laws of the State of Georgia and the City of Morrow.

**Section 9.** That the effective date of this Ordinance shall be the date of adoption unless otherwise specified herein.

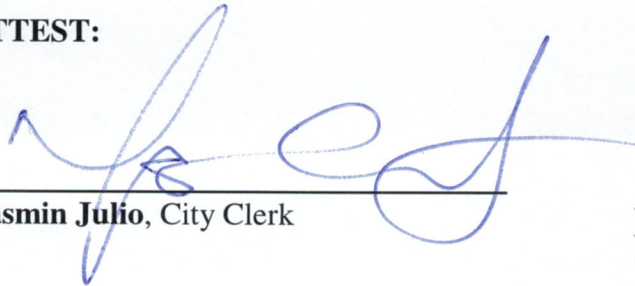
[SIGNATURES CONTAINED ON THE FOLLOWING PAGE]

**ORDAINED** this 27th day of March, 2018.

**CITY OF MORROW, GEORGIA**

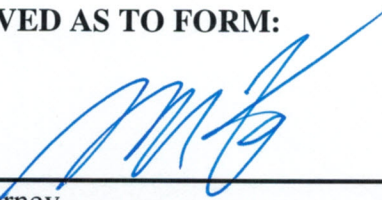
  
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**Jeffrey A. DeTar, Mayor**

**ATTEST:**

  
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**Yasmin Julio, City Clerk**



**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
City Attorney