

**STATE OF GEORGIA
COUNTY OF FULTON
CITY OF SOUTH FULTON**

**AN ORDINANCE AMENDING TITLE 6, HEALTH AND SANITATION, OF THE
CITY CODE OF ORDINANCES; PROVIDING FOR THE REDUCTION OF LITTER
THROUGHOUT THE CITY; ENHANCING PUBLIC HEALTH AND SANITATION AND
FOR OTHER LAWFUL PURPOSES**

(Sponsored by Councilman khalid)

WHEREAS, the City of South Fulton (“City”) is a municipal corporation duly organized and existing under the laws of the State of Georgia;

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

WHEREAS, Section 1.12(b)(13) of the City Charter authorizes the City to enact environmental regulations for the safety and protection of the City;

WHEREAS, the State of Georgia Environmental Division (“PPD”) requires cities throughout Georgia to adopt Municipal Separate Storm Sewer System (“MS4”) Ordinances;

WHEREAS, MS4 Ordinances are designed to reduce the discharge of pollutants, mitigate construction site runoff control, detect and eliminate illicit discharge and reduce pollution throughout the City;

WHEREAS, this Ordinance is modeled on EPD MS4 Ordinance requirements and the “Georgia Litter Control Law” (O.C.G.A. § 16-7-40 et. seq.) and is authorized by O.C.G.A. § 16-7-48; and

WHEREAS, this Ordinance is in the best interests of the health and general welfare of the City, its residents and general public.

THE COUNCIL OF THE CITY OF SOUTH FULTON HEREBY ORDAINS as follows:

Section 1. Title 6, Health and Sanitation, of the City of South Fulton Code of Ordinances is hereby amended by creating a new Chapter 6, Litter Control, which shall read as follows:

TITLE 6 – HEALTH AND SANITATION

...

CHAPTER 6. – LITTER CONTROL

Sec. 6-6001. – Description.

Litter found throughout our community often finds its way into our streams, rivers and lakes and detracts from our quality of life. Pollutants carried into our streams, rivers, and lakes by litter, diminish the quality of our water and its aquatic resources. Litter control ordinances provide a prohibition against littering and provide an enforcement mechanism with penalties for dealing with those found littering. This Chapter is modeled on the “Georgia Litter Control Law” (O.C.G.A. § 16-7-40 et. seq.) and adoption of this Chapter is authorized by O.C.G.A. § 16-7-48.

Sec. 6-6002. – Purpose and intent.

The purpose of this Chapter is to protect the public health, safety, environment, and general welfare through the regulation and prevention of litter. The objectives of this Chapter are:

- (1) Provide for uniform prohibition throughout the City of any and all littering on public or private property; and
- (2) Prevent the desecration of the beauty and quality of life of the City and prevent harm to the public health, safety, environment, and general welfare, including the degradation of water and aquatic resources caused by litter.

Sec. 6-6003. – Applicability.

This Chapter shall apply to all public and private property within the City of South Fulton.

Sec. 6-6004. – Compatibility with other regulations.

This Chapter is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this Chapter should be considered minimum requirements, and where any provision of this Chapter imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

SEC. 6-6005. – Definitions.

“**Litter**” means any organic or inorganic waste material, rubbish, refuse, garbage, trash, hulls, peelings, debris, grass, weeds, ashes, sand, gravel, slag, brickbats, metal, plastic, and glass containers, broken glass, dead animals or intentionally or unintentionally discarded materials of every kind and description which are not “waste” as such term is defined in O.C.G.A., §16-7-51, paragraph 6.

“**Public or private property**” means the right of way of any road or highway; any body of water or watercourse or the shores or beaches thereof; any park, playground, building, refuge, or conservation or recreation area; timberlands or forests; and residential, commercial, industrial, or farm properties.

Sec. 6-6006. – Prohibition against littering on public and private waters.

It shall be unlawful for any person or persons to dump, deposit, throw or leave or to cause or permit the dumping, depositing, placing, throwing or leaving of litter on any public or private property in the City or any waters in the City unless:

- (1) The property is designated by the State or by any of its agencies or political subdivisions for the disposal of such litter, and such person is authorized by the proper public authority to use such property;
- (2) The litter is placed into a receptacle or container installed on such property; or
- (3) The person is the owner or tenant in lawful possession of such property or has first obtained consent of the owner or tenant in lawful possession, or unless the act is done under the personal direction of the owner or tenant, all in a manner consistent with the public welfare.

Sec. 6-6007. – Vehicle loads causing litter.

No person shall operate any motor vehicle with a load on or in such vehicle unless the load on or in such vehicle is adequately secured to prevent the dropping or shifting of materials from such load onto the roadway.

Sec. 6-6008. – Violations.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. Any person who has violated or continues to violate the provisions of this ordinance, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise sentenced in a manner provided by law.

Sec. 6-6009. – Evidence.

- (1) Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle, boat, airplane, or other conveyance in violation of this ordinance, it shall be prima facie evidence that the operator of the conveyance has violated this Chapter.
- (2) Except as provided in subsection (1), whenever any litter which is dumped, deposited, thrown or left on public or private property in violation of this Chapter is discovered to contain any article or articles, including but not limited to letters, bills, publications or other writing which display the name of the person thereon in such a manner as to indicate that the article belongs or belonged to such person, it shall be a rebuttable presumption that such person has violated this ordinance.

Sec. 6-60010. – Penalties.

Any person who violates this Chapter shall be guilty of a violation and, upon conviction thereof, shall be punished as follows:

- (1) By a fine of **\$50 for a first offense**, and not less than **\$100** and not more than \$1,000 for subsequent offenses; and

- (2) In addition to the fine set out in subsection 1 above, the violator **may be reequi**
to reimburse the City for the reasonable cost of removing the litter when the litter
is or is ordered removed by the City; and/or
- (3) (A) In the sound discretion of the court, the person may be directed to pick up
and remove from any public street or highway or public rightof way for a
distance not to exceed one mile any litter **they have** deposited and any and
all litter deposited thereon by anyone else prior to the date of execution of
sentence; or
- (B) In the sound discretion of the court, the person may be directed to pick up
and remove any and all litter from any public property, private right-of-way,
or with prior permission of the legal owner or tenant in lawful possession of
such property, any private property upon which it can be established by
competent evidence that **they have** deposited litter. Pick up and removal
shall include any and all litter deposited thereon by anyone prior to the date
of execution of sentence; and
- (4) ~~The court may publish the names of persons convicted of violating this Chapter.~~

Sec. 6-60011. – Enforcement.

All law enforcement agencies, officers and officials of this state or any political subdivision thereof, or any enforcement agency, officer or any official of any commission of this state or any political subdivision thereof, are hereby authorized, empowered and directed to enforce compliance with this article.

Section 3. It is hereby declared to be the intention of the City Council that: (a) All sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the City Council to be fully valid, enforceable and constitutional.

(b) 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. No section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Resolution.

(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 City 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.

Section 4. All Ordinance and Resolutions in conflict herewith are hereby expressly repealed.

Section 5. The City Attorney, City Clerk and contracted City Codifier are authorized to make non-substantive formatting and renumbering edits to this ordinance for proofing, codification, and supplementation purposes. The final version of all ordinances shall be filed with the clerk.

Section 6. The effective date of this Ordinance shall be on the date as set forth under Sec. 3.21 of the City Charter unless provided otherwise by applicable local, state and/or federal law.

The foregoing Ordinance No. 2020-xxx was moved for approval by Councilmember _____ . The motion was seconded by Councilmember _____ , and being put to a vote, the result was as follows:

	AYE	NAY
William "Bill" Edwards, Mayor	_____	_____
Carmalitha Gumbs, Mayor Pro Tem	_____	_____
Catherine Foster Rowell	_____	_____
Helen Zenobia Willis	_____	_____
Gertrude Naeema Gilyard	_____	_____
Corey Reeves	_____	_____
khalid kamau	_____	_____
Mark Baker	_____	_____

THIS ORDINANCE so adopted this _____ day of _____ 2020. **CITY OF SOUTH FULTON, GEORGIA.**

WILLIAM "BILL" EDWARDS, MAYOR

ATTEST:

S. DIANE WHITE, CITY CLERK

APPROVED AS TO FORM:

EMILIA C. WALKER, CITY ATTORNEY