

1 STATE OF GEORGIA
2 COUNTY OF FULTON
3 CITY OF SOUTH FULTON

RES2019-034

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6 **A RESOLUTION IMPOSING A MORATORIUM ON THE ACCEPTANCE OF**
7 **APPLICATIONS FOR AND THE ISSUANCE OF LAND USE PERMITS OR**
8 **OCCUPATION TAX CERTIFICATES/BUSINESS LICENSES PERTAINING TO:**
9 **ALCOHOL PACKAGE STORES AND ANY EXPANSIONS OF THE SAME,**
10 **TOBACCO RETAIL SALES, AUTOMOBILE GAS STATIONS/SERVICE**
11 **STATIONS, CONVENIENCE STORES, CHECK CASHING ESTABLISHMENTS,**
12 **PERSONAL CARE SERVICES, AUTOMOTIVE REPAIR SHOPS, GROUP**
13 **HOMES AND RESIDENCES, PAWN SHOPS, TOBACCO RETAIL SALES,**
14 **CANNABIS DISPENSARY, EXTENDED STAY HOTELS, GUN RANGE, OPEN**
15 **AIR MARKET, AND TINY HOMES IN THE CITY OF SOUTH FULTON,**
16 **GEORGIA, AND FOR OTHER PURPOSES, EXCLUDING PARCELS**
17 **IMMEDIATELY FACING FULTON INDUSTRIAL BOULEVARD AND FOR**
18 **OTHER LAWFUL PURPOSES**

19
20 **WHEREAS**, the City of South Fulton ("City") is a municipal corporation duly
21 organized and existing under the laws of the State of Georgia;

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23 **WHEREAS**, the duly elected governing authority of the City, is the Mayor and
24 Council thereof ("City Council");

25 **WHEREAS**, the City has been vested with the power and authority to regulate
26 the practice, conduct or use of property for the purposes of maintaining health,
27 morals, safety, security, peace and the general welfare of the City;

28
29 **WHEREAS**, Georgia cities are authorized to impose moratoria on zoning
30 decisions, permits and other development approvals. *See City of Roswell et al v.*
31 *Outdoor Systems, Inc.*, 274 Ga. 130 (2001); *Lawson v. Macon*, 214 Ga. 278 (1958);
32 *Taylor v. Shetzen*, 212 Ga. 101;

33
34 **WHEREAS**, the City Council seeks to impose a moratorium while the City
35 is undertaking revisions to the Zoning Code (the "Code") and the land use map;

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37 **WHEREAS**, the City Council intends to allow its staff and consultant further
38 time to review its current ordinances to ensure that its laws preserve the quality
39 of life for citizens while imposing limited and effective land use regulations that
40 impact quality of life issues;

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42 **WHEREAS**, the City Council must take immediate and responsive action
43 to protect the interests of the City, and it is in the best interests of the health,
44 safety and welfare of the citizens of the City, that no new applications for land
45 use permits or occupation tax certificates/business licenses for alcohol package
46 stores and any expansions of the same, tobacco retail sales, automobile gas
47 stations/service stations, convenience stores, check cashing establishments,
48 personal care services, automotive repair shops, group homes and residences,

49 pawn shops, tobacco retail sales, cannabis dispensary, extended stay hotels,
50 gun range, open air market, and tiny homes to be accepted in the City until 5:00
51 p.m. on June 30, 2020;

52
53 **WHEREAS**, the City Council finds that the concept of "public welfare" is broad
54 and inclusive; that the values it represents are spiritual as well as physical, aesthetic
55 as well as monetary; and that it is within the power of the City "to determine that a
56 community should be beautiful as well as healthy, spacious as well as clean, well
57 balanced as well as carefully patrolled," *Berman v. Parker*, 348 U.S. 26 (1954); *Kelo*
58 *v. City of New London*, 545 U.S. 469 (2005);

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60 **WHEREAS**, the City Council finds that "general welfare" includes the valid
61 public objectives of aesthetics, conservation of the value of existing lands and
62 buildings within the City, making the most appropriate use of resources, preserving
63 neighborhood characteristics, enhancing and protecting the economic well-being of
64 the community, facilitating adequate provision of public services, and the
65 preservation of the resources of the City;

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67 **WHEREAS**, this moratorium is enacted as a limited measure to preserve the
68 status quo pending the City's review of its Zoning Code;

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70 **WHEREAS**, by enactment of this extension of this moratorium the City
71 Council does not intend to disturb the operation of any business located in the
72 city limit that possesses a valid land use permit and/or business
73 license/occupation tax certificate and was operating on the date of adoption of
74 this moratorium.

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76 **THE COUNCIL OF THE CITY OF SOUTH FULTON, GEORGIA,**
77 **HEREBY RESOLVES** as follows:

78
79 **Section 1.**

- 80
81 1. The moratorium imposed herein incorporates the findings and statements
82 set forth in the preceding "Whereas" clauses and such clauses are made
83 a part of this moratorium.
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85 2. Except as allowed in paragraph 4 below, for a period beginning from the
86 date of adoption of this Resolution until 5:00 p.m. on June 30, 2020, there
87 shall be a complete moratorium on the acceptance of any land use permit
88 application or application for an occupation tax certificate/business license
89 relating to alcohol package stores and any expansions of the same,
90 tobacco retail sales, automobile gas stations/service stations, convenience
91 stores, check cashing establishments, personal care services, automotive
92 repair shops, group homes and residences, pawn shops, tobacco retail
93 sales, cannabis dispensary, EXTENDED STAY HOTELS, gun range, open
94 air market, and tiny homes in the City, excluding parcels immediately
95 facing Fulton Industrial Boulevard.
96
97 3. Except as allowed in paragraph 4 below, for a period beginning on the date

98 of adoption of this Resolution and ending at 5:00 p.m. on June 30, 2020 `no
99 land use permit or occupation tax certificate/business license shall be issued
100 and no land use permit application or occupation tax certificate/business
101 license application shall be granted or denied for the establishment or
102 expansion of alcohol package stores and any expansions of the same,
103 tobacco retail sales, automobile gas stations/service stations, convenience
104 stores, check cashing establishments, personal care services, automotive
105 repair shops, group homes and residences, pawn shops, tobacco retail sales,
106 cannabis dispensary, extended stay hotels, gun range, open air market, and
107 tiny homes in the City, excluding parcels immediately facing Fulton
108 Industrial Boulevard.

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110 4. This moratorium has no effect whatsoever on those valid and proper land
111 use permit applications and/or occupation tax certificate/business license
112 applications filed on or before the imposition of this moratorium and those
113 applications may be considered, deferred, decided, granted or denied for
114 the establishment or expansion of alcohol package stores and any
115 expansions of the same, tobacco retail sales, automobile gas
116 stations/service stations, convenience stores, check cashing
117 establishments, personal care services, automotive repair shops, group
118 homes and residences, pawn shops, tobacco retail sales, cannabis
119 dispensary, extended stay hotels, gun range, open air market, and tiny
120 homes in the City, pursuant to the ordinances of the City as they existed
121 on the date the application was filed.

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123 5. The moratorium shall expire at 5:00 p.m. on June 30, 2020, unless
124 shortened or extended by official action of the City Council.

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126 6. Nothing in this Resolution shall prevent the continued operation of any
127 business operating under a validly issued land use permit and/or
128 occupation tax certificate/business license as of the date of enactment of
129 this moratorium.

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131 7. As of the effective date of this Resolution, any action taken by any City
132 employee, representative or agent which is contrary to this Resolution will be
133 deemed in error, null and void and of no effect whatsoever and shall constitute
134 no assurance whatsoever of any right to engage in any act, and any action in
135 reliance on any such action shall be unreasonable.

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138 **Section 2.** It is hereby declared to be the intention of the City Council that: (a) All
139 sections, paragraphs, sentences, clauses and phrases of this Resolution are or were,
140 upon their enactment, believed by the City Council to be fully valid, enforceable and
141 constitutional.

142 (b) To the greatest extent allowed by law, each and every section, paragraph,
143 sentence, clause or phrase of this Resolution is severable from every other section,

144 paragraph, sentence, clause or phrase of this Resolution. No section, paragraph,
145 sentence, clause or phrase of this Resolution is mutually dependent upon any other
146 section, paragraph, sentence, clause or phrase of this Resolution.

147 (c) In the event that any phrase, clause, sentence, paragraph or section of this
148 Resolution shall, for any reason whatsoever, be declared invalid, unconstitutional or
149 otherwise unenforceable by the valid judgment or decree of any court of competent
150 jurisdiction, it is the express intent of the City Council that such invalidity,
151 unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not
152 render invalid, unconstitutional or otherwise unenforceable any of the remaining
153 phrases, clauses, sentences, paragraphs or sections of the Resolution.

154 **Section 3.** All prior City zoning moratoriums are hereby concluded and replaced
155 by this moratorium. In addition, all Resolutions and parts of Resolutions in conflict
156 herewith are hereby expressly repealed.

157 **Section 4.** The city attorney and city clerk are authorized to make non-substantive
158 editing and renumbering revisions to this Resolution for proofing, codification, and
159 supplementation purposes. The final version of all ordinances shall be filed with the
160 city clerk.

161 **Section 5.** The effective date of this Resolution shall be the date of adoption,
162 unless provided otherwise by the City Charter or state and/or federal law.

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164 **Section 6. Instruction to City Clerk:** The City Clerk is hereby directed to circulate
165 a copy of this Resolution to the Director of the City Department of Community and
166 Regulatory Affairs and contracted Zoning Consultants promptly following its adoption.
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190 THIS RESOLUTION adopted this 23 day of July 2019.

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CITY OF SOUTH FULTON, GEORGIA

W Edwards
WILLIAM "BILL" EDWARDS, MAYOR

ATTEST:

S Diane White
S. DIANE WHITE, CITY CLERK

APPROVED AS TO FORM:

[Signature]
EMILIA C. WALKER, CITY ATTORNEY



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The foregoing RESOLUTION No. 2019-034, adopted on July 23, 2019 was offered by Councilmember Willis, who moved its approval. The motion was seconded by Councilmember Jackson, and being put to a vote, the result was as follows:

	AYE	NAY
William "Bill" Edwards, Mayor	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mark Baker, Mayor Pro Tem	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Catherine Foster Rowell	<input type="checkbox"/> Absent	<input type="checkbox"/>
Carmalitha Lizandra Gumbs	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Helen Zenobia Willis	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Gertrude Naeema Gilyard	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Rosie Jackson	<input checked="" type="checkbox"/>	<input type="checkbox"/>
khalid kamau	<input checked="" type="checkbox"/>	<input type="checkbox"/>