

STATE OF GEORGIA  
COUNTY OF FULTON  
CITY OF SOUTH FULTON

ORDINANCE NO. 2019-0XX

AN ORDINANCE AMENDING TITLE 5, PLANNING AND ZONING, APPENDIX C OF THE CITY CODE OF ORDINANCES (2018-047), ADDING DEFINITIONS, LIMITATIONS ON LIKE USES, NOTICE OF LAND DISTURBANCES, AND FOR OTHER LAWFUL PURPOSES

(Sponsored by Councilman khalid)

Summary & Talking Points

- *Limits the number of “like uses” (e.g. gas stations, beauty salons, discount retail stores) in an a given area, promoting diversity of services and retail available to South Fulton residents*
- *Requires developers to inform residents of anything being built in their neighborhood*

**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 (“City Council”);

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

**WHEREAS**, the City Council, as a part of planning, zoning and growth management, is in a process of assessing the City’s zoning regulations, and studying the type of development which could be anticipated within the City;

**WHEREAS**, the City Council has a strong interest in growth management so as to promote safety, aesthetics and the general welfare of the community; in particular, promotion of the safety and economic prosperity of its citizens, protection of the aesthetic qualities of the City including access to air and light, limiting oversaturation of like uses and encouraging economic diversity and services and products available to South Fulton residents;

**WHEREAS**, the City Council seeks to promote transparency with the public between residential and commercial property developers and the community; and

**WHEREAS**, the City Council has conducted a properly advertised public hearing in accordance with the Georgia Zoning Procedures Act prior to adoption of this Ordinance (would this be accomplished by the first reading of the ordinance?); and

**WHEREAS**, the City Council finds this Ordinance to be in the best interests of the health, safety, economic vitality and general welfare of the City.

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

**Section 1.** It is hereby ordained by City Council that the following sections, paragraphs, sentences, clauses and phrases of this Ordinance be amended as such:

1. **Article III, Section 3.3 - Definitions** shall be amended to include:
  - a. **Beauty Supply Store** shall be defined as any retail business whose principal activity is the sale of hair or skin care products.
  - b. **Cannabis Dispensary** shall be defined as any retail business authorized by the State of Georgia to dispense cannabis or products containing cannabis, THC or CBD for any medicinal or recreational purposes, including medical pharmacies that dispense cannabis or cannabis products.
  - c. **Discount Retail** shall be defined as any retail business whose principal activity is the sale of merchandise at discounted prices, including but not limited to, consignment stores and stores selling used products or appliances.
  - d. **Farmer's Market** shall be defined as any open-air market, whether temporary or permanent, whose principal activity is the sale of food or merchandise
  - e. **Gas Station** shall be any retail business selling gasoline or diesel fuel stored in underground tanks
  - f. **Gun Range** shall be any retail business whose principal activity is the firing of guns.
  - g. **Gun Store** shall be defined as any retail business whose principal activity is the sale of firearms or ammunition; or whose gross receipts for the sales of guns and/or ammunition exceeds the gross receipts from sales of other products.
  - h. **Hair Salon** shall be defined as any commercial business whose principal activity is the cutting or styling of hair
  - i. **Liquor Store** shall be defined as any retail business whose principal activity is the sale of alcoholic beverages or spirits; or whose gross receipts for the sales of alcoholic beverages or spirits exceeds the gross receipts from sales of other products. No individuals under 18 years of age shall be allowed in these stores.
  - j. **Nail Salon** shall be defined as any commercial business whose principal activity is the trimming, painting, polishing of fingernails or toenails.
  - k. **Open Air Market** shall be defined as any retail business whose principal activity is the sale of food or merchandise outdoors, excluding the sale of foodstuffs at the site where they are produced (i.e. farms, wineries)

- i. **Smoke Shop** shall be defined as any retail business whose principal activity is the sale of tobacco or tobacco products, including hookahs, cigars, vaporizers or vaporizing oils; or whose gross receipts for the sales of tobacco or tobacco products exceeds the gross receipts from sales of other products. No individuals under 18 years of age shall be allowed in these stores.
- m. **Tiny Home** shall be defined as any detached residential dwelling whose total indoor square footage is less than 1000 square feet.

**Article IV. – Section 4.4 – Like Uses.**

- i. Permits or variances for the following land uses, as defined by Article III, Section 3., shall be limited no more than one of such like uses per **20 square miles**, whichever is greater:
  - 1. Adult Bookstore
  - 2. Adult Entertainment
  - 3. Garage, Truck and Heavy Equipment Repair
  - 4. Landfill
  - 5. Mobile Home Park
  - 6. Prison or Correctional Facility (can we regulate this?)
  - 7. Salvage/Storage/Junk Facility
  - 8. Transfer Station
  - 9. Truck Stop
  - 10. Truck Terminal
- ii. Permits or variances for the following land uses, as defined by Article III, Section 3., shall be limited no more than two of such like uses per **one (1) square miles**, whichever is greater:
  - 1. Babysitting
  - 2. Beauty Supply Store
  - 3. Cannabis Dispensary
  - 4. Convenience Store
  - 5. Car Wash
  - 6. Check Cashing Establishment
  - 7. Cannabis Dispensary
  - 8. Day Care Facility
  - 9. Discount Retail
  - 10. Farmers Market
  - 11. Garage, Automotive Repair
  - 12. Gas Station (no min. or max number of bays)
  - 13. Gun Range
  - 14. Gun Store
  - 15. Group Residence/Shelter (increased from current 3.337, lines 593-595)
  - 16. Group Residence for Children (increased from current 3.337, lines 593-595)
  - 17. Kennel
  - 18. Liquor Store
  - 19. Open Air Market
  - 20. Pawn Shop
  - 21. Rooming House

22. Seasonal Business Use

23. Service Station (4 or fewer bays; what are 5+ defined as?)

2. **Article IV, Section 4.19** (currently open) shall be amended to become: **Public Notice & Hearings for Land Disturbance.**

a. **Notice of Public Hearing for Land Disturbance.** For any and all developments of land except an addition of less than 700 square feet to a single-family home, notice of a public hearing shall be posted before land is disturbed for development as follows:

(1) At the expense of the developer, written notice of the nature of the planned or propose land use, and the date, time and place of a public hearing shall be males by First Class Mail to all property owners within one square mile of the boundaries of the subject property as measured by the use of the official zoning map, and as such property owners are listed on the tax records of the county, at least 15 days before a Public Hearing.

(2) At the expense of the developer, signs shall be posted within the public right-of-way in front of the subject property at least 15 days before the Public Hearing. One (1) sign shall be posted for each 500 feet of street frontage or fraction thereof along each street on which the subject property has frontage. Signs shall be double-faced and posted so that the face of the sign is at a right angle to the street in order that said signs can be read by the traveling public in both directions. The lettering on the signs shall be at least one (1) inch in size and the sign shall state the nature of the proposed land use and the date, time and place of the Public Hearing.

(3)

b. **Public Hearing for Land Disturbance.** For any and all developments of land except an addition of less than 700 square feet to a single-family home, a Public Hearing shall be held, at the expense of the developer, to allow residents within one (1) square mile of the development site to ask questions of and express concerns to the developer regarding how the planned or proposed land use might affect current residents, property values, public safety, environmental or noise concerns, ingress to or egress from the area, or any other issues that might affect their quality of life.

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**Section 2.** 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 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 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 3.** All Ordinances and parts of Ordinances in conflict herewith are hereby expressly repealed.

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

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

**Section 6.** *Instruction to City Clerk.* Unless vetoed, the City Clerk is hereby directed to forward a copy of this Ordinance to the Department of Community Development and Regulatory Affairs.

The foregoing ORDINANCE No. 2018-xxx, adopted on \_\_\_\_\_ was offered by Councilmember \_\_\_\_\_, who moved its approval. The motion was seconded by Councilmember \_\_\_\_\_, and being put to a vote, the result was as follows:

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

THIS ORDINANCE adopted this \_\_\_\_\_ day of \_\_\_\_\_ 2018. **CITY OF SOUTH FULTON, GEORGIA**

\_\_\_\_\_  
WILLIAM "BILL" EDWARDS, MAYOR

ATTEST:

\_\_\_\_\_  
MARK MASSEY, CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
EMILIA C. WALKER, CITY ATTORNEY