

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

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6 **A RESOLUTION OF THE CITY OF SOUTH FULTON ADOPTING HISTORIC AND**  
7 **CULTURAL LANDMARKS COMMISSION BYLAWS AND RULES OF PROCEDURE**  
8 **AND FOR OTHER LAWFUL PURPOSES**

9 (Sponsored by Councilperson khalid)

10  
11 **WHEREAS**, the City of South Fulton (“City”) is a municipal corporation duly  
12 organized and existing under the laws of the State of Georgia;

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

16 **WHEREAS**, the City Council desires through this Resolution to adopt the *City of*  
17 *South Fulton Historic and Cultural Landmarks Commission Bylaws and Rules of*  
18 *Procedure*, attached hereto as Exhibit A; and

19 **WHEREAS**, this Resolution is in the best interests of the health, safety and general  
20 welfare of the City and its employees, residents and visitors.

21 **THE COUNCIL OF THE CITY OF SOUTH FULTON, GEORGIA, HEREBY**  
22 **RESOLVES** as follows:

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24 **Section 1.** *The City of South Fulton Historic and Cultural Landmarks Commission*  
25 *Bylaws and Rules of Procedure*, attached hereto as Exhibit A, is hereby adopted by the  
26 City of South Fulton.

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

33 (b) To the greatest extent allowed by law, each and every section, paragraph, sentence,  
34 clause or phrase of this Resolution is severable from every other section, paragraph,  
35 sentence, clause or phrase of this Resolution. No section, paragraph, sentence, clause  
36 or phrase of this Resolution is mutually dependent upon any other section, paragraph,  
37 sentence, clause or phrase of this Resolution.

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

45 **Section 3.** The City Attorney and City Clerk are authorized to make non-substantive  
46 editing and renumbering revisions to this Resolution for proofing, codification, and  
47 supplementation purposes. The final version of all resolutions shall be filed with the City  
48 Clerk.

49 **Section 4.** The effective date of this Resolution shall be one week from the date of  
50 adoption, unless provided otherwise by the City Charter or state and/or federal law.

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79 The foregoing RESOLUTION No. 2020-\_\_\_\_\_, adopted on \_\_\_\_\_  
80 was offered by Councilmember \_\_\_\_\_, who moved its approval. The motion  
81 was seconded by Councilmember \_\_\_\_\_, and being put to a vote, the result  
82 was as follows:

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	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	_____	_____

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THIS RESOLUTION adopted this \_\_\_\_\_ day of \_\_\_\_\_ 2020. **CITY OF SOUTH FULTON, GEORGIA**

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WILLIAM "BILL" EDWARDS, MAYOR

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ATTEST:

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\_\_\_\_\_  
CORY E. ADAMS, INTERIM CITY CLERK

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APPROVED AS TO FORM:

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

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120 **City of South Fulton**  
121 **Historic and Cultural Landmarks Commission**  
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125 **Bylaws and Rules of Procedure**  
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127 **I. Authority**  
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129 The Historic and Cultural Landmarks Commission (hereinafter referred to as  
130 the "Historic and Cultural Landmarks Commission") has been created  
131 pursuant to the Georgia Historic Preservation Act, O.C.G.A. Section 44-10-21,  
132 et. seq., and the Historic and Cultural Landmark Commission ordinance  
133 adopted by the Mayor and City Council of the City of South Fulton on January  
134 9, 2018 and shall be governed by the terms thereof.  
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136 **II. Powers and Duties**  
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138 The Powers and Duties of the Historic and Cultural Landmarks Commission  
139 are established in Section 5-7004, other applicable sections of the Code of City  
140 of South Fulton, and O.C.G.A. § 44-10-25.  
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142 **III. Composition and Design of the Historic and Cultural Landmarks**  
143 **Commission**  
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145 A. **Members:** The Historic and Cultural Landmarks Commission shall be  
146 composed of ten (10) members. Eight of the members shall be qualified  
147 electors of the City who are appointed by the Mayor and ratified by the  
148 City Council. The planning and development director and the building  
149 official shall be ex officio, nonvoting members.  
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151 B. **Term:** The term of office of the members of the Historic and Cultural  
152 Landmarks Commission shall be for two (2) years. Members may be  
153 appointed to succeed themselves and shall serve at the discretion of the city  
154 council until a new member is appointed in their place.  
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156 C. **Eligibility:** Members of the Historic and Cultural Landmarks Commission  
157 must be residents of the City of South Fulton. In addition, the City Council

158 shall appoint representatives who have demonstrated their civic interest,  
159 general knowledge of the community, independent judgment and  
160 availability to prepare for and attend meetings. Whenever feasible,  
161 appointees should be practicing professionals from the fields of  
162 architecture, landscape architecture, history, urban planning, archeology,  
163 real estate, law, or other disciplines related to historic preservation.  
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165 D. **Compensation:** All members will serve without compensation, but may  
166 be reimbursed for actual expenses incurred in the performance of their  
167 duties.  
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169 E. **Vacancies:** Resignation from the Historic and Cultural Landmarks  
170 Commission must be submitted in writing to the Clerk of Commission. The  
171 City of South Fulton Mayor and Historic and Cultural Landmarks  
172 Commission, upon receiving written charges and after a public hearing,  
173 shall remove members of the Historic and Cultural Landmarks Commission  
174 for just cause, including, but not limited to:

- 175 1. Failure to attend three (3) consecutive, regular voting meetings of the  
176 Historic and Cultural Landmarks Commission without an adequate  
177 excuse for such absence;
- 178 2. Failure to maintain permanent residence within the jurisdiction of City  
179 of South Fulton;
- 180 3. Violation of the City of South Fulton code of conduct; or
- 181 4. Violation of the Historic and Cultural Landmarks Commission Rules of  
182 Procedure or Bylaws.  
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184 Vacancies caused by resignation or death or for other reasons shall be filled  
185 for the unexpired term in the same manner as for a full term. The Chair shall  
186 recommend to the governing authority that a vacancy be declared and that  
187 the vacant position be filled for the remainder of that member's unexpired  
188 term. An individual appointed to serve the remainder of an unexpired term  
189 shall be eligible to be reappointed.  
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191 **IV. Officers**  
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193 **A. Officers:** The Historic and Cultural Landmarks Commission shall elect its  
194 initial officers at the first meeting following their appointment and  
195 thereafter in September of each year. If a vacancy should occur in any office,  
196 an individual shall be elected from the membership to serve for the  
197 remainder of the unexpired term. Officers shall serve one-year terms and  
198 shall be eligible for reelection. If neither the Chair nor the Vice Chair is  
199 present for a meeting, then the Historic and Cultural Landmarks  
200 Commission shall elect on the record at such meeting a member who is  
201 present to serve as temporary Acting Chair for the meeting only.

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1. **Chair:** The Historic and Cultural Landmarks Commission shall elect one of its members as Chair, from among the majority of a quorum present. The Chair shall preside at all meetings and hearings. The Chair shall decide all points of order and procedure, subject to the Historic and Cultural Landmark ordinance, these bylaws, and any rules of procedure or guidelines adopted by the Historic and Cultural Landmarks Commission, unless directed otherwise by a majority of the members in session at the time. The Chair may discuss or vote on any matter before the body.

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2. **Vice Chair:** The Historic and Cultural Landmarks Commission shall elect one of its members as Vice Chair, from among the majority of a quorum present, in the same manner as the Chair. The Vice Chair shall serve as acting Chair in the absence of the Chair, or when the Chair shall refrain from participation because of a conflict of interest and shall have the same powers and duties as the Chair when acting in that capacity. Upon the resignation or disqualification of the Chair, the Vice Chair shall assume the position of Chair for the remainder of the unexpired term.

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4. **Secretary:** A Secretary shall be appointed by the Director of Community Development and Regulatory Affairs, from amongst the staff members in such department. The Secretary shall cause a record to be made of each meeting of the Historic and Cultural Landmarks Commission which shall include, at a minimum, a record of all resolutions, proceedings, and actions of the body. Further, the Secretary, at the discretion of the Chair, shall prepare the agenda for each meeting and maintain the minutes of the meetings of the Historic and Cultural Landmarks Commission.

## V. Meetings, Quorum, and Affirmation of Motions

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Meetings of the Historic and Cultural Landmarks Commission shall be held at the call of the Chair and at such other times as the Historic and Cultural Landmarks Commission may determine. All meetings of the Historic and Cultural Landmarks Commission shall be open to the public and be in accordance with O.C.G.A. § 50-14-1, et. Seq. the “Open Meetings Act.” However, members of the public shall not address the Historic and Cultural Landmarks Commission until invited to do so by the Chair. A time limit may be set by the Historic and Cultural Landmarks Commission for the presentations or remarks of non-members.

A. **Regular Meetings:** Regular meetings of the Historic and Cultural Landmarks Commission shall be held bi-monthly on the second Tuesday of

244 the month at 1:00pm at Welcome All Park; provided that meetings may be  
245 held at some other convenient place if directed by the Chair in advance of  
246 the meeting. If a regularly scheduled meeting occurs on a legal holiday, the  
247 Chair may set an alternate day for the meeting.

248 B. **Special Meetings:** Special meetings of the Historic and Cultural  
249 Landmarks Commission may be held at any time by the Chair or by a vote  
250 of at least two (2) of the Commission members. At least forty-eight (48)  
251 hours' notice of the time and place of special meetings shall be given to each  
252 member; provided that this requirement may be waived by consent of all  
253 the members. The purpose of the special meeting must be stated in the  
254 notice.

255 C. **Cancellation of Meetings:** Whenever there is no business before the  
256 Historic and Cultural Landmarks Commission, the Chair may dispense with  
257 a regular meeting by giving notice to all members not less than twenty-four  
258 (24) hours prior to the time set for the meeting. Additionally, when the City  
259 of South Fulton Government has closed its offices due to inclement  
260 weather, then any meetings of the Historic and Cultural Landmarks  
261 Commission for that day shall be cancelled.

262 D. **Adjourned Meetings:** Should the Historic and Cultural Landmarks  
263 Commission not complete the business before it, the Chair may adjourn the  
264 same and schedule a continuation of the same meeting until the Agenda has  
265 been completed.

266 E. **Quorum:** To constitute a quorum for the transaction of business, there  
267 shall be required to be present at any meeting of the Historic and Cultural  
268 Landmarks Commission at least five (5) members. No action shall be taken  
269 without a quorum of members present.

270 F. **Agenda:** The agenda for each meeting shall be prepared by the Secretary,  
271 at the direction of the Chair. The normal order of business at each meeting  
272 shall be:

- 273 (1) call to order,
- 274 (2) determination of quorum,
- 275 (3) approval of the agenda,
- 276 (4) approval of minutes of the previous meeting,
- 277 (5) applications for certificates of appropriateness,
- 278 (6) old business,
- 279 (7) new business, then
- 280 (8) adjournment.
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282 G. **Decisions:** Decisions of the Historic and Cultural Landmarks  
283 Commission shall be by a majority of those members present and voting, a  
284 quorum being present. In the event of a member’s abstention based on a  
285 conflict of interest or other disqualification, the abstention shall count as if  
286 that member were absent and the number of persons necessary for a  
287 majority shall be reduced accordingly without affecting the quorum.  
288 Decisions may be made by voice vote.

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290 H. **Committees:** The Chair shall appoint any committees found necessary to  
291 facilitate business before the Historic and Cultural Landmarks Commission  
292 and shall be an ex-officio member of all committees. With the concurrence  
293 of the commission, committees may include residents of the city who are  
294 not members of the commission.

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296 **VI. Rules of Procedure**

297 A. **Historic and Cultural Landmarks Commission Meeting**  
298 **Procedure:** The following rules of procedure will be followed regarding  
299 items before the Historic and Cultural Landmarks Commission.

- 300 1. City of South Fulton staff will present their report and  
301 recommendations on each request.
- 302 2. Public Input will be received from the petitioner and any other  
303 individuals or groups that wish to speak in favor of a request.
- 304 3. Public Input is then received from anyone who wishes to speak in  
305 opposition of a request.
- 306 4. Statements in opposition to the request may be followed, if  
307 necessary, by a brief response from the Petitioner.
- 308 5. The Public Input Session will close and no additional public  
309 comments will be accepted, unless requested by the Historic and  
310 Cultural Landmarks Commission.
- 311 6. The Historic and Cultural Landmarks Commission will discuss the  
312 request. At the discretion of the Chair, Historic and Cultural  
313 Landmarks Commission members may ask for further information  
314 from members of the public who spoke during the Public Input  
315 Session.

- 316 7. The Historic and Cultural Landmarks Commission will then  
317 entertain a motion and take a vote on the request.
- 318 8. Motions can be for approval, approval with conditions, deny or for  
319 mutual agreement to extend the time period for the request.
- 320 9. A Sign-In Sheet for those in attendance will be prepared for the  
321 meeting and an announcement requesting that those present add  
322 their name and address to the sheet will be made at the opening of  
323 the meeting.
- 324 10. Any person speaking to the Historic and Cultural Landmarks  
325 Commission shall be asked to provide their Name and Home  
326 Address. Speakers shall address all comments to the Historic and  
327 Cultural Landmarks Commission and not to other members of the  
328 audience. The following time limits for speakers shall be observed:
- 329 i. The Petitioner or one representative – no more than ten (10)  
330 minutes.
- 331 ii. Any individual who wishes to speak for or against a petition  
332 or issue shall have three (3) minutes to address the Historic  
333 and Cultural Landmarks Commission. Historic and Cultural  
334 Landmarks Commission has the discretion to ask more  
335 questions and to allow the individual to answer any such  
336 additional questions to fully address the issue.
- 337 iii. The petitioner will be allowed to clarify any issues during  
338 public comment and shall have a minimum of two (2) minutes  
339 to do so. The Historic and Cultural Landmarks Commission has  
340 the discretion to allow more time for any such comment.
- 341 iv. The commission has discretion to ask more questions or allot  
342 more time for public comment and or questions as they see fit  
343 after a motion to do so.

344 **VII. Staff**  
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346 The Staff shall provide technical and clerical assistance as the Historic and  
347 Cultural Landmarks Commission may require and shall maintain permanent  
348 and complete records of the activities of the Historic and Cultural Landmarks  
349 Commission.

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**VIII. Conflict of Interest**

- A. A member shall not cast a vote on any issue before the Historic and Cultural Landmarks Commission which involves the interests of that member or an organization in which that member has an ownership interest or position of control or directly represents. Neither shall a member cast a vote on any matter, which could provide direct financial benefit to that member. Whenever a conflict of interest situation arises in the conduct of business the following actions shall be taken:
  - 1. The individual member shall divulge the existence and reasons for the potential conflict.
  - 2. The Historic and Cultural Landmarks Commission shall decide if such a conflict exists.
  - 3. If it is decided that a conflict exists, the affected member shall refrain from presenting, voting on, or discussing the project, other than answering a direct question.
  - 4. Should the Historic and Cultural Landmarks Commission determine that a conflict of interest does not exist, the nature of the alleged conflict and the reason(s) for determining a conflict did not exist shall be entered into the minutes.

**IX. Code of Conduct**

- A. Each member of the Historic and Cultural Landmarks Commission shall adhere to the following code of conduct as contained in Section 45-10-3 of the Official Code of Georgia Annotated:
  - 1. Uphold the Constitution, laws, and regulations of the United States, the State of Georgia, the City of South Fulton and all governments therein and never be a party to their evasion;
  - 2. Never discriminate by the dispensing of special favors or privileges to any one, whether or not for remuneration;
  - 3. Not engage in any business with the government, either directly or indirectly, which is inconsistent with the conscientious performance of his or her governmental duties;

- 388 4. Never use any confidential information received in the performance of  
389 governmental duties as a means for making private profit;
- 390 5. Expose corruption wherever discovered;
- 391 6. Never solicit, accept, or agree to accept gifts, loans, gratuities,  
392 discounts, favors, hospitality, or services from any person, association,  
393 or corporation under circumstances from which it could reasonably be  
394 inferred that a major purpose of the donor is to influence the  
395 performance of the member's official duties;
- 396 7. Never accept any economic opportunity under circumstances where he  
397 or she knows or should know that there is a substantial possibility that  
398 the opportunity is being afforded him or her with intent to influence his  
399 or her conduct in the performance of his or her official duties;
- 400 8. Never engage in other conduct which is unbecoming to a member or  
401 which constitutes a breach of public trust; and
- 402 9. Never take any official action with regard to any matter under  
403 circumstances in which he or she knows or should know that he or she  
404 has a direct or indirect monetary interest in the subject matter of such  
405 matter or in the outcome of such official action.

406 **X. Applications for certificates of appropriateness**

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- 408 A. **Requirements:** Submission of applications for certificates of  
409 appropriateness shall be made at the City of South Fulton's City Hall. No  
410 applications shall be considered by the Commission unless they are  
411 complete, including all necessary exhibits. Provided, however, that the  
412 Commission may consider applications not complying with this paragraph  
413 only upon a finding by the Commission, entered in the record, of  
414 extraordinary or unusual circumstances which would make compliance  
415 with this provision impractical. The Chair, together with Staff, shall  
416 determine the completeness of submitted applications one week prior to the  
417 meeting. Should an application be determined to be incomplete, the  
418 applicant will be contacted by Staff with a request for additional material.  
419 In the event that the requested material is not presented by the scheduled  
420 meeting, that application shall be withdrawn from the agenda.
- 421 B. **Deadline for Submission:** Applications for certificates of  
422 appropriateness shall be submitted thirty (30) days prior to the meeting  
423 where it will be reviewed by 3 pm. Should this day fall upon a legal holiday,

424 applications of certificate of appropriateness shall be due the following  
425 business day by 3pm.

426 C. **Public Notice:** Public notice of applications for certificates of  
427 appropriateness shall be accomplished either by advertisement in the local  
428 paper or by posting of a sign on the subject property.

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430 D. **Representation:** The applicant or a bona fide representative of the  
431 applicant should be present at the meeting or meetings where the  
432 application for a certificate of appropriateness is reviewed. In the event that  
433 no representative is present for an application, that application may be  
434 considered withdrawn.

435 E. **Timeliness of the Commission:** Action on a certificate of  
436 appropriateness must be taken by the Commission within 45 days after the  
437 filing of a complete application. This time limit can be extended by mutual  
438 agreement between the applicant and the Commission.

439 F. **Determination of Material Change:** Staff shall determine for each  
440 application whether the request concerns ordinary maintenance or repair.  
441 Staff may seek the opinion of the Chair or Vice Chair in this determination.  
442 Such determinations will be reported at the next regularly scheduled  
443 meeting of the Historic and Cultural Landmarks Commission.

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445 **XI. Amendments**

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447 The Historic and Cultural Landmarks Commission may submit a request to the  
448 City Council for amendment of these bylaws subject to an affirmative vote of  
449 five (5) members of the Historic and Cultural Landmarks Commission,  
450 provided that written notice of the request to amend and the content of the  
451 amendment has been distributed to each member at least ten (10) days prior to  
452 the meeting at which the vote to amend is taken.