

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

4
5 **A RESOLUTION IMPOSING A MORATORIUM ON THE ACCEPTANCE OF**
6 **APPLICATIONS FOR AND THE ISSUANCE OF LAND USE PERMITS OR**
7 **OCCUPATION TAX CERTIFICATES/BUSINESS LICENSES PERTAINING TO:**
8 **ALCOHOL PACKAGE STORES AND ANY EXPANSIONS OF THE SAME,**
9 **TOBACCO RETAIL SALES, AUTOMOBILE GAS STATIONS/SERVICE**
10 **STATIONS, CONVENIENCE STORES, CHECK CASHING**
11 **ESTABLISHMENTS, PERSONAL CARE SERVICES, AUTOMOTIVE REPAIR**
12 **SHOPS, GROUP HOMES AND RESIDENCES, PAWN SHOPS, TOBACCO**
13 **RETAIL SALES, CANNABIS DISPENSARY, FARMER'S MARKET, GUN**
14 **RANGE, OPEN AIR MARKET, TINY HOMES AND SMALL BOX**
15 **ESTABLISHMENTS IN THE CITY OF SOUTH FULTON, GEORGIA,**
16 **EXCLUDING PARCELS IMMEDIATELY FACING FULTON INDUSTRIAL**
17 **BOULEVARD, AND FOR OTHER LAWFUL PURPOSES**
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19 **WHEREAS**, the City of South Fulton ("City") is a municipal corporation duly
20 organized and existing under the laws of the State of Georgia;
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22 **WHEREAS**, the duly elected governing authority of the City is the Mayor and
23 Council thereof ("City Council");

24 **WHEREAS**, the City has been vested with the power and authority to regulate
25 the practice, conduct or use of property for the purposes of maintaining health,
26 morals, safety, security, peace and the general welfare of the City;
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28 **WHEREAS**, Georgia cities are authorized to impose moratoria on zoning
29 decisions, permits and other development approvals. *See City of Roswell et al v.*
30 *Outdoor Systems, Inc.*, 274 Ga. 130 (2001); *Lawson v. Macon*, 214 Ga. 278 (1958);
31 *Taylor v. Shetzen*, 212 Ga. 101;
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33 **WHEREAS**, the City Council seeks to impose a moratorium while the City
34 is undertaking revisions to the Zoning Code (the "Code") and the land use map;
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36 **WHEREAS**, the City Council intends to allow its staff and consultant further
37 time to review its current ordinances to ensure that its laws preserve the quality
38 of life for citizens while imposing limited and effective land use regulations that
39 impact quality of life issues;
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41 **WHEREAS**, the City Council must take immediate and responsive action
42 to protect the interests of the City, and it is in the best interests of the health,
43 safety and welfare of the citizens of the City, that no new applications for land
44 use permits or occupation tax certificates/business licenses and any expansions
45 of the same for alcohol package stores, tobacco retail sales, automobile gas
46 stations/service stations, convenience stores, check cashing establishments,
47 personal care services, automotive repair shops, group homes and residences,
48 pawn shops, tobacco retail sales, cannabis dispensary, extended stay hotel, gun

range, open air market, tiny homes and small box establishments to be accepted in the City until 11:59 p.m. on November 24, 2020;

WHEREAS, the City Council finds 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," *Berman v. Parker*, 348 U.S. 26 (1954); *Kelo v. City of New London*, 545 U.S. 469 (2005);

WHEREAS, the City Council finds 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;

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

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

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

Section 1.

1. The moratorium imposed herein incorporates the findings and statements set forth in the preceding "Whereas" clauses and such clauses are made a part of this moratorium.
2. Except as allowed in paragraph 5 below, for a period beginning from the date of adoption of this Resolution until 11:59 p.m. on November 24, 2020, there shall be a complete moratorium on the acceptance of any land use permit application or application for an occupation tax certificate/business license, and any expansions of the same, for alcohol package stores, tobacco retail sales, automobile gas stations/service stations, convenience stores, check cashing establishments, personal care services, automotive repair shops, group homes and residences, pawn shops, tobacco retail sales, cannabis dispensary, extended stay hotels, gun range, open air market, tiny homes and small box establishments in the City, excluding parcels immediately facing Fulton Industrial Boulevard.
3. Except as allowed in paragraph 5 below, for a period beginning on the date of adoption of this Resolution and ending at 11:59 p.m. on November 24, 2020

no land use permit or occupation tax certificate/business license shall be issued and no land use permit application or occupation tax certificate/business license application shall be granted or denied for the establishment or expansion of alcohol package stores, tobacco retail sales, automobile gas stations/service stations, convenience stores, check cashing establishments, personal care services, automotive repair shops, group homes and residences, pawn shops, tobacco retail sales, cannabis dispensary, extended stay hotels, gun range, open air market, tiny homes and small box establishments in the City, excluding parcels immediately facing Fulton Industrial Boulevard.

4. For the purposes of this Resolution, "small box establishment" means a retail store that is 16,000 square feet or less in size, which offers for sale a variety of convenience shopping goods and continuously offers the majority of the items in their inventory for sale at a price lower than traditional retail stores. Small box discount store does not include stores that contain a pharmacy, sell gasoline or diesel fuel, or primarily sell specialty food items (i.e. meats, seafood, cheese, or oils and vinegars).
5. This moratorium has no effect whatsoever on those valid and proper land use permit applications and/or occupation tax certificate/business license applications filed on or before the imposition of this moratorium and those applications may be considered, deferred, decided, granted or denied for the establishment or expansion of alcohol package stores and any expansions of the same, tobacco retail sales, automobile gas stations/service stations, convenience stores, check cashing establishments, personal care services, automotive repair shops, group homes and residences, pawn shops, tobacco retail sales, cannabis dispensary, extended stay hotels, gun range, open air market, tiny homes and small box establishments in the City, pursuant to the ordinances of the City as they existed on the date the application was filed.
6. The moratorium shall expire at 11:59 p.m. on November 24, 2020, unless shortened or extended by official action of the City Council.
7. Nothing in this Resolution shall prevent the continued operation of any business operating under a validly issued land use permit and/or occupation tax certificate/business license as of the date of enactment of this moratorium.
8. As of the effective date of this Resolution, any action taken by any City employee, representative or agent which is contrary to this Resolution will be deemed in error, null and void and of no effect whatsoever and shall constitute no assurance whatsoever of any right to engage in any act, and any action in reliance on any such action shall be unreasonable.

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

149 (b) To the greatest extent allowed by law, each and every section, paragraph,
150 sentence, clause or phrase of this Resolution is severable from every other section,
151 paragraph, sentence, clause or phrase of this Resolution. No section, paragraph,
152 sentence, clause or phrase of this Resolution is mutually dependent upon any other
153 section, paragraph, sentence, clause or phrase of this Resolution.

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

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

164 **Section 4.** The City Attorney and City Clerk are authorized to make non-
165 substantive editing and renumbering revisions to this Resolution for proofing,
166 codification, and supplementation purposes. The final version of all ordinances shall
167 be filed with the city clerk.

168 **Section 5.** The effective date of this Resolution shall be the date of adoption,
169 unless provided otherwise by the City Charter or state and/or federal law.
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The foregoing RESOLUTION No. 2020-_____, 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	_____	_____
Carmalitha Gumbs, Mayor Pro Tem	_____	_____
Catherine Foster Rowell	_____	_____
Helen Zenobia Willis	_____	_____
Gertrude Naeema Gilyard	_____	_____
Corey Reeves	_____	_____
khalid kamau	_____	_____
Mark Baker	_____	_____

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

WILLIAM "BILL" EDWARDS, MAYOR

ATTEST:

CORY E. ADAMS, INTERIM CITY CLERK

APPROVED AS TO FORM:

EMILIA C. WALKER, CITY ATTORNEY