

CITY OF SOUTH FULTON, GEORGIA
South Fulton Service Center Auditorium, 5600 Stonewall Tell Road
Tuesday, January 23, 2018, 5:00 PM



The Honorable William "Bill" Edwards, Mayor (present)
The Honorable Mark Baker, District 7, Mayor Pro Tem (present)
The Honorable Catherine F. Rowell, District 1 Councilmember (present)
The Honorable Carmalitha Gumbs, District 2 Councilmember (present)
The Honorable Helen Z. Willis, District 3 Councilmember (present)
The Honorable Naeema Gilyard, District 4 Councilmember (present)
The Honorable Rosie Jackson, District 5 Councilmember (present)
The Honorable khalid kamau, District 6 Councilmember (present)

REGULAR MEETING AGENDA

WORK SESSION AGENDA

- Call to Order
- Executive Session regarding Personnel
- Discussion Items
 - a. Record of Pending Ordinances – David Dove, City Attorney Representative
 - b. Resolution to require certain protocols for citizens making public comments; to institute process of responding to citizens' questions provided in City Council meetings; providing transparency and accountability for the City of South Fulton; and for other purposes. **(Gumbs)**
 - c. Resolution to develop a park, recreation, trail and open space master plan for the City of South Fulton. **(Rowell and Gilyard)**
 - d. Resolution urging the Georgia General Assembly to oppose de-annexation legislation to create new municipalities; providing for severability, repealing inconsistent resolutions, providing an effective date, and for other purposes. **(Gilyard and Gumbs)**
 - e. An Ordinance to adopt the City SmokeFree Act of 2017. **(Rowell)**
- Adjournment

NAME OF ORDINANCE	SPONSOR	STATUS	TITLE
Parks and Recreation Title	Rowell	Drafting	Parks & Recreation
Sanitation Title	Willis	Staff Review (meeting with staff on 1/25)	Sanitation
Emergency Management Services Title	Mayor	Drafting	Emergency Services
Police Department Title	Mayor	Drafting	Police
Licensing Title	Mayor	Drafting	Licensing
Planning Title	Mayor	Drafting	Planning
Zoning Title	Mayor	Drafting	Zoning
City Employees & Hiring Title	Mayor	Drafting	City Employees & Hiring
Environment Title	Mayor	Drafting	Environment
Health Title	Mayor	Drafting	Health
Nuisance Title	Mayor	Drafting	Nuisances
Purchasing Title	Mayor	Drafting	Purchasing
Roads & Bridges Title	Mayor	Drafting	Roads & Bridges
Streets & Sidewalks Title	Mayor	Drafting	Streets & Sidewalks
Telecommunications Title	Mayor	Drafting	Telecommunications
Traffic & Vehicles Title	Mayor	Drafting	Traffic & Vehicles
Blight	Jackson	Attorney Review	Planning
Film Permitting Ordinance	Mayor	Attorney Review	Economic Development
Amusements & Entertainment Ordinance	Rowell	Attorney Review	Amusements & Entertainment
Capital Improvement Program	Rowell	Attorney Review	Planning
Noise Ordinance	Rowell and Gumbs	Drafting	Nuisance
Smart City Advisory Board	Rowell	Drafting	Planning
Supervision of a Minor	Willis	Drafting	Crime
Convenience Stores Ordinance	Willis	Drafting (to be included in Alcohol Licensing Code Section)	Business
Traffic Camera Ordinance	Rowell	Drafting (to follow up on Rules of the Road)	Roads & Highways
Ordinance to Establish a Performance Measurement and Reporting System for COSF	Rowell	Researching	Personnel
Administration Ordinance	Rowell	Researching	Administration
Anti-Blight Ordinance	Rowell	Attorney Review and Re-Drafting	Zoning
Illegal Trucking Ordinance	Rowell/Willis	Staff Review	Roads & Highways
Criminal Offenses Title	Mayor	Sent to Clerk on 1/17/2018	Criminal Offenses
De-Criminalization of Marijuana	Baker	Draft sent to Baker on 1/3/18	Crime
Nuisance Abatement Ordinance	Rowell	Draft sent to Rowell on 1/3/18	Planning
Minority and Women-Owned Business Amendment	Rowell	Draft sent to Rowell on 1/3/2018	Economic Development
Naming of Open Records Officer	Rowell	Draft sent to Rowell on 11/8/2017	Administration
Anti-Blight Ordinance Necessity Resolution	Rowell	Draft sent to Rowell on 10/19/2017	Zoning
Smoke Free Air Ordinance	Rowell	Draft sent to Rowell on 8/29/2017	Nuisance
Ordinance to Provide for a Development Impact Fee Advisory Committee	Rowell	Draft sent to Rowell on 12/6/2017 (Revised Version with ZBA requested)	Planning
Flood Plain Ordinance	Staff	Draft sent to City Manager on 9/22/2017	Planning
Loitering	Jackson	Draft Sent to Jackson on 1/9/2018	Crime
Gang Violence	Jackson	Draft Sent to Jackson on 1/9/2018	Crime
Authority in Public Emergency	Rowell	Draft Sent to Rowell on 1/3/2018	Administration
Extended Stay Ordinance	Rowell	Introduced - 1st Read 1/9/18	Planning
Impact Fees Ordinance	Rowell	HOLD - Commission must exist first	Planning
Fund Reserve/Balance Ordinance	Rowell	Passed	Administration
Rules of the Road Ordinance No. 2017-018	Rowell	Passed	Roads & Highways
Illegal ATV Ordinance 2017-027	Willis	Passed	Crimes
Ordinance for Franchise Agreement with CFEMC 2017-019	Baker	Passed	Utilities
Financial Policy Ordinance No. 2017-021	Rowell	Passed	Administration
Surcharge Ordinances (Parks and Police)	Mayor	Passed	Parks & Recreation
GMA Quote for Firefighter Cancer Policy	Staff	Passed	Personnel

Ethics Ordinance	Rowell	Passed	Administration
Ethics Amendment	Gumbs	Passed	Administration
AGL Franchise		Passed	Utilities
Ct. Quarterly Report	Staff	Passed	Courts
Amend Ct Ordinance to Impose Costs	Staff	Passed	Courts
Ordinance establishing court sessions	Staff	Passed	Courts
Historic and Cultural Landmarks Ordinance	Rowell	Passed	Planning
Vacant and Foreclosed Property Registration Ordinance 2017-20	Rowell	Passed	Building Regulations
Local Business Preference Ordinance	Rowell	Passed	Economic Development
Open Record Ordinance No. 2017-025	Rowell	Passed	Administration
Adult Entertainment Ordinance	Rowell	Passed	Zoning
Municipal Courts Ordinance No. 2017-017	Staff	Passed	Courts
Use of Code/Establish Code/Adopt Charter	Staff	Passed	N/A
Taxation		Passed	Taxation
Franchise Fee Ordinance for GA Power		Passed	Utilities
Franchise Fee Ordinance for Greystone		Passed	Utilities
Franchise Fee Ordinance for Phone and Cable Services		Passed	Utilities
Adult Beverages Taxation		Passed	Taxation
Business Occupation Taxation		Passed	Taxation
Building Regulations		Passed	Building Regulations
Board of Code Enforcement		Passed	Building Regulations
Zoning Board of Appeals Establishment		Passed	Zoning
Building Heights		Passed	Building Regulations
Planning Commission		Passed	Planning
Personnel Amendment for Pay Scale and Greivance		Passed	Personnel
Amend Code Enforcement Board Jurisdiction		Passed	Building Regulations
Appointments by Mayor and City Manager		Passed	Administration
Personnel Amendment for Limitations on Certain Employees		Passed	Personnel
Personnel Amendment for Manual, Plan and Hiring Interview		Passed	Personnel
Debt Policy Management Ordinance		Passed	Debt Policy



**CITY OF SOUTH FULTON
COUNCIL AGENDA ITEM**



SUBJECT: PUBLIC COMMENT RESOLUTION

DATE OF MEETING: 1/23/2018

DEPARTMENT: Administration

Work Session ()
Regular Meeting (X)
Recommendation ()
Policy/Discussion ()
Presentation ()
Other ()

BACKGROUND: (HISTORY, FACTS AND ISSUES)

REQUESTED BY COUNCILWOMAN GUMBS

RECOMMENDED ACTION:

DEPARTMENT HEAD: _____ **DATE:** _____

BUDGET:

FUNDING SOURCE:

FINANCE APPROVAL: _____ **DATE:** _____

ADMINISTRATIVE COMMENTS AND RECOMMENDATION: _____

CITY MANAGER

DATE

Action Taken By Council: _____

STATE OF GEORGIA

**COUNTY OF FULTON
CITY OF SOUTH FULTON**

RESOLUTION NO. 2018-XXX

**RESOLUTION TO REQUIRE CERTAIN PROTOCOLS FOR
CITIZENS MAKING PUBLIC COMMENTS; TO INSTITUTE
PROCESS OF RESPONDING TO CITIZENS' QUESTIONS PROVIDED
IN CITY COUNCIL MEETINGS; PROVIDING TRANSPARENCY AND
ACCOUNTABILITY FOR THE CITY OF SOUTH FULTON; AND FOR
OTHER PURPOSES. (Gumbs)**

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

WHEREAS, in our system of representative government, the Mayor and City Council members are charged with the responsibility of informing themselves and making sound decisions that affect the lives of the residents of the City; and

WHEREAS, it is a commonly accepted practice in Georgia cities to provide an opportunity for citizens to give public comment as part of City Council meetings; and

WHEREAS, it is the desire of the Mayor and the Council that citizens be provided the opportunity to make comments at City Council meetings in accordance with established procedures; and

WHEREAS, it is important to provide a fair and open response to questions presented to the Mayor and Council, so that citizens are informed and engaged in our local government.

**THEREFORE, IT IS NOW RESOLVED BY THE CITY COUNCIL OF
THE CITY OF SOUTH FULTON, GEORGIA, AS FOLLOWS:**

1. **Public Comments Generally.** Citizens of the City who wish to make public comments at a City Council meeting, must adhere to the following protocol:

- a. The person desiring to speak should rise, address the City Council, and when recognized, state their name, address, and the City Council district in which they reside.
 - b. Comments shall be limited to three (2) minutes per citizen and no person other than a citizen of the City shall be permitted to speak during the public comment period unless that speaker is recognized by the Mayor or any City Council member. Such special recognition may include recognition of elected officials or dignitaries in the audience. The Council may choose to waive the three-minute requirement for any speaker at its discretion.
2. **Responses to Questions.** The City Manager or his or her designee shall observe the comments made to the Council, and if a question is posed by a citizen who provides their email address or phone number, the City Manager or his or her designee shall make every reasonable effort to answer the question within two business days.

The Council acknowledges that questions may be posed by citizens which cannot be answered to the satisfaction of the citizen. However, even if the City Manager or his or her designee cannot answer a citizen's question, they shall contact the citizen and explain the limitations of the request. Reasons for failing to provide an answer may include, but are not limited to: the question falls outside the control, administration, or purview of the City; the answer requires the release of confidential information; the answer destroys attorney-client privilege or confidentiality; the question addresses a personnel matter; the question is one that cannot be answered with facts; the question requires the disclosure of personal identifying information; the question requires disclosure of discussions in executive session; the question requires the disclosure of information obtained in an incomplete investigation; the question requires disclosure of any information that would otherwise be exempt from disclosure pursuant to O.C.G.A. § 50-18-72(a); the question, in the discretion of the City Manager or his or her designee cannot otherwise be answered.

3. **Posting of Responses to Questions.** The City Council seeks to provide transparency in government. However, the Council also acknowledges that the responses to some questions posed by citizens

may reveal information about the citizen which should not be made publicly available. Therefore, when responding to a citizen's question, the City Manager or his or her designee shall determine whether, in his or her view, the response to the question contains information that would benefit the public generally. If a determination is made in the affirmative, the City Manager or his or her designee shall make every reasonable effort to include that information in the "How Do I" section of the City's website.

4. **Severability.** To the extent, any portion of this Resolution is declared invalid, unenforceable or non-binding, that shall not affect the remaining portions of this Resolution.
5. **Repeal of Conflicting Provisions.** All City resolutions are hereby repealed to the extent they are inconsistent with this Resolution.
6. **Effective Date.** This Resolution shall take effect immediately.

The foregoing Resolution 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 RESOLUTION adopted this _____ day of _____ 2018.
CITY OF SOUTH FULTON, GEORGIA

WILLIAM "BILL" EDWARDS, MAYOR

ATTEST:

MARK MASSEY, CITY CLERK

Item#: Res2018-XXX Date: ____/____/____

APPROVED AS TO FORM:

JOSH BELINFANTE, INTERIM CITY ATTORNEY

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

RESOLUTION NO. 2018-XXX

**RESOLUTION TO DEVELOP A PARK, RECREATION, TRAIL AND
OPEN SPACE MASTER PLAN FOR THE CITY OF SOUTH FULTON
(Rowell and Gilyard)**

WHEREAS, the City Council of the City of South Fulton has identified an investment in parks, recreation and open space as a strategic priority because of the intrinsic environmental, aesthetic, and recreation benefits that will be derived for the city and its citizens;

WHEREAS, investments in park, recreation and open space are a source of positive economic development which include business attraction, enhanced property values, increased municipal revenue and meets the recreational needs of citizens and;

WHEREAS, the City Council supports commissioning a master plan that includes an organizational, operational, maintenance, financial, service and program analysis, needs assessment, demographic trends, and recommendations and strategies for improvement and implementation. Engaging the community is a key element of the plan. They will assist with designing local standards to prioritize park, recreation, trail and open space needs citywide and;

WHEREAS, the Park, Recreation Trail and Open Space Master Plan will provide a comprehensive vision for parkland, recreation opportunities, trails and open space, enhance natural resources, and provide appropriate levels of recreation in the city for all residents and;

WHEREAS, the Park, Recreation and Open Space Master Plan shall provide for priorities, strategies, and recommendations to guide the

management and design of the park, recreation, trail and open space system through 2035;

WHEREAS, the adoption of a Park, Recreation, Trail and Open Space Master Plan is vital to the City's ability to compete for grants and contracts funding for capital improvements, renovations, and maintenance of the City's park system, and the plan shall be presented by the Director of Parks and Recreation to the City Council.

NOW THEREFORE IT IS NOW RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOUTH FULTON, GEORGIA AS FOLLOWS:

1. **Recitals.** The aforesaid recitals are not mere recitals, but are material portions of this resolution.
2. **Approval of Execution.** The Mayor is hereby authorized to sign all documents necessary to effectuate this Resolution including, but not limited to, the Master Plan. The City Clerk is authorized to execute, attest to, and seal any document that may be necessary to effectuate this Resolution including, but not limited to, the Master Plan, subject to approval as to form by the City Attorney.
3. **Severability.** To the extent, any portion of this Resolution is declared invalid, unenforceable or non-binding, that shall not affect the remaining portions of this Resolution.
4. **Repeal of Conflicting Provisions,** All City resolutions are hereby repealed to the extent they are inconsistent with this Resolution.
5. **Effective Date.** This Resolution shall take effect immediately.

The foregoing Resolution No. **2018-XXX**, was 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 RESOLUTION adopted this _____ day of _____ **2018**. CITY
OF SOUTH FULTON, GEORGIA.

WILLIAM "BILL" EDWARDS, MAYOR

ATTEST:

MARK MASSEY, CITY CLERK

Item#: Res2018-XXX Date: ____/____/____

APPROVED AS TO FORM:

JOSH BELINFANTE, INTERIM CITY ATTORNEY

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

RESOLUTION NO. 2018-XXX

TO URGE THE GEORGIA GENERAL ASSEMBLY TO OPPOSE DE-ANNEXATION LEGISLATION TO CREATE NEW MUNICIPALITIES; PROVIDING FOR SEVERABILITY, REPEALING INCONSISTENT RESOLUTIONS, PROVIDING AN EFFECTIVE DATE, AND FOR OTHER PURPOSES. (Gilyard, Rowell, Gumbs and Willis)

WHEREAS, the City of Stockbridge is a municipal corporation located within Henry County, Georgia duly organized and existing under the laws of the State of Georgia and is charged with providing public services to residents located within its corporate limits;

WHEREAS, under the Constitution and laws of the State of Georgia, the General Assembly may amend the corporate limits of any municipal corporation;

WHEREAS, legislation has been introduced in the Georgia General Assembly to de-annex portions of the City of Stockbridge in order to create a new municipality;

WHEREAS, neither the governing body of the City of Stockbridge nor the voters of the City of Stockbridge have consented to the introduction or passage of this legislation;

WHEREAS, the entire membership of the Georgia Municipal Association was unanimous in supporting the position in its 2018 Legislative Policies that portions of existing municipalities should not be de-annexed to create new municipalities unless consented to by the governing body of the existing municipality or the voters of the existing municipality; and

WHEREAS, the governing body of the City of South Fulton wishes to express its support for and solidarity with the City of Stockbridge in opposing the de-annexation legislation that has been introduced.

THEREFORE, IT IS NOW RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOUTH FULTON GEORGIA, AS FOLLOWS:

Section 1 **Opposition to De-Annexation Legislation to Create New Municipalities.** – The Council of the City of South Fulton hereby urges the members of the Georgia General Assembly to oppose any de-annexation legislation that is inconsistent with the 2018 Legislative Policies adopted by the Georgia Municipal Association.

Section 2. **Approval of Execution** - The Mayor is hereby authorized to sign all documents and to perform all other acts necessary to effectuate this Resolution on behalf of the City of South Fulton. The City Clerk is authorized to effectuate, attest to, and seal any document which may be necessary to effectuate this Resolution, subject to approval as to form by the City Attorney.

Section 3. **Severability** – To the extent any portion of this Resolution is declare to be invalid, unenforceable, or non-binding, that shall not affect the remaining portions of this Resolution.

Section 4 **Delivery** – The City Clerk is hereby instructed to deliver a copy of this Resolution to all members of the General Assembly who serve in the Fulton County delegation.

The foregoing Resolution 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 RESOLUTION adopted this _____ day of _____ 2018.
CITY OF SOUTH FULTON, GEORGIA

WILLIAM "BILL" EDWARDS, MAYOR

ATTEST:

MARK MASSEY, CITY CLERK

Item#: Res2018-XXX Date: ____/____/____

APPROVED AS TO FORM:

JOSH BELINFANTE, INTERIM CITY ATTORNEY

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

ORDINANCE No. 2017-XXX

**A proposed ordinance co-sponsored by Councilmember Rowell
and Councilmember Gumbs**

AN ORDINANCE TO ADOPT THE CITY SMOKEFREE ACT OF 2017.

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 City Council is authorized by O.C.G.A. § 36-35-3 to adopt ordinances relating to its property, affairs, and local government;

WHEREAS, the City Council is authorized by O.C.G.A. § 31-12A-12 to enact ordinances regulating smoking within the City;

WHEREAS, pursuant to City Charter Section 3.10(b), the City Council is authorized to adopt ordinances it deems necessary, expedient, or helpful for the health, welfare, sanitation, comfort, and well-being of the inhabitants of the City;

WHEREAS, the City finds it to be in the public interest and for the health, welfare, sanitation, comfort, and well-being of the City and its inhabitants to regulate smoking in certain areas and buildings within the City;

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

Section 1: Establishment of Health and Sanitation Code of Ordinance

The City of South Fulton Code of Ordinances is hereby amended by adding a new Title, to be numbered Title 6, which shall include the following language:

Title 6: Health and Sanitation

Section 2: Adoption of Smokefree Air Ordinance

Title 6 of the City of South Fulton Code of Ordinances is hereby amended by adding a new Chapter, to be numbered Chapter 1, which shall include the following language:

Chapter 1: Smokefree Air

Sec. 6-1001. – Short Title

This Chapter shall be known as the City of South Fulton Smokefree Air Ordinance.

Sec. 6-1002. – Code adopted.

The Georgia Smokefree Air Act of 2005, O.C.G.A. § 31-12A-1, *et seq.* and its implementing regulations of the Georgia Department of Community Affairs are adopted by reference as though fully set forth herein.

Sec. 6-1003. – Definitions.

The following words and phrases, whenever used in this Chapter, shall be construed as defined in this Section:

Bar means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food constitutes less than 60 percent of total revenue, and is only incidental to the consumption of those beverages, including

but not limited to, taverns, nightclubs, cocktail lounges, and cabarets, and where absolutely no persons are permitted on the premises under the age of 18.

Business means a sole proprietorship, partnership, joint venture, corporation, or other business entity formed for profit-making purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural or other professional services are delivered.

Cigarette means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains:

- (1) Any roll of tobacco wrapped in paper or in any substance not containing tobacco;
- (2) Tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette;
- (3) Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or
- (4) Any device that heats liquid nicotine for inhalation in a vaporized form and emits excess vapor into the general atmosphere (e-cigarette).

Employee means a person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and a person who volunteers his or her services for a non-profit entity.

Employer means a person, business, partnership, association, corporation, including a municipal corporation, trust, or non-profit entity that employs the services of one or more individual persons.

Enclosed area means all space between a floor and ceiling that is enclosed on all sides by solid walls or windows (exclusive of doorways) that extend from the floor to the ceiling.

Health care facility means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentists, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.

Infiltrate means to permeate an enclosed area by passing through its walls, ceilings, floors, windows, or ventilation systems to the extent that an individual can smell secondhand smoke.

Outdoor public facility means any sports arenas, ball fields, parks, amphitheaters, tennis centers, tennis courts and other outdoor recreation area owned by the City.

Place of employment means an area under the control of a public or private employer that employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways. A private residence is not a place of employment unless it is used as a child care, adult day care, or health care facility. This term shall not include vehicles used in the course of employment.

Private club facilities means a building or leased space where the persons present are solely members of a club such as the Elks Club or the Veterans of Foreign Wars that is for the members' exclusive use only.

Public place means an enclosed area to which the public is invited or in which the public is permitted, including but not limited to, banks, bars, educational facilities, health care facilities, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports arenas, theaters, and waiting rooms. A private residence is not a public place unless it is used as a child care, adult day care, or health care facility.

Restaurant means an eating establishment where the sale of food is 60 percent or more of total revenue, including but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term restaurant shall include a bar area within the restaurant.

Retail tobacco store means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

Secondhand smoke means smoke emitted from lighted, smoldering, or burning tobacco when the person smoking is not inhaling, smoke emitted from the mouthpiece during puff drawing, and smoke exhaled by the person smoking.

Service line means an indoor line in which one or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money.

Shopping mall means an enclosed public walkway or hall area that serves to connect retail or professional establishments.

Smoking means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, e-cigarette, pipe, weed, or plant.

Smoking area means a separately designated enclosed room which need not be entered by an employee in order to conduct business that is designated as a smoking area and, when so designated as a smoking area, shall not be construed as to deprive employees of a nonsmoking lounge, waiting area, or break room.

Sports arena means sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys, and other similar places where members of the general public assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events.

Sec. 6-1004. – Application of Chapter to City facilities.

All enclosed facilities, including buildings and vehicles owned, leased, or operated by the City shall be subject to the provisions of this Chapter.

Sec. 6-1005. – Prohibition of smoking in public places.

Except as otherwise specifically authorized, smoking shall be prohibited in all enclosed public places, per O.C.G.A. § 31-12A-4.

Sec. 6-1006. – Prohibition of smoking at City outdoor public facilities.

- (a) Smoking shall not be permitted within 25 feet of bleachers, dugouts, pools, restrooms, playgrounds or sports field sidelines where people may be sitting.

- (b) If designated smoking areas are provided at any facility, then smoking is only permitted within that designated area.

Sec. 6-1007. – Prohibition of smoking in places of employment.

- (a) Smoking shall be prohibited in all enclosed facilities within places of employment, except for approved smoking rooms. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices (excluding home offices), elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, vehicles, outdoor restaurant patios, and all other enclosed facilities.
- (b) This prohibition on smoking shall be communicated to all existing employees by the effective date of this Chapter and to all prospective employees upon their application for employment.
- (c) Smoking rooms shall comply with requirements for a smoking lounge in the latest state approved edition of the International Mechanical Code and shall meet the following requirements:
 - a. The smoking area shall be located in a non-work area where no employee, as part of his or her work responsibilities, shall be required to enter, except such work responsibilities shall not include custodial or maintenance work carried out in the smoking area when it is unoccupied.
 - b. The smoking area shall be for the use of employees only.
 - c. All air from the room shall be exhausted directly to the outside allowing for no re-circulation.
 - d. The room shall be constructed with permanent walls on all four sides that completely enclose the room. Any doors into the smoking room shall have automatic closures.
 - e. Be constructed such that a negative pressure exists between the smoking room and all adjoining spaces. The exhaust system shall operate at all times except for scheduled maintenance and repair.

- f. All switches or disconnects for any exhaust system supporting the smoking room shall not be located inside the smoking room.
- (d) Before using a smoking room, the employer must:
 - a. Submit a certified test and balance report for the space to the City Building Department.
 - b. Post the room occupancy on the outside of the room based on the International Mechanical Code.
 - c. Have the space inspected by the City Building Department.
 - d. Post the approval letter from the City Building Official in a frame on the outside of the smoking room.

Sec. 6-1008. – Reasonable distance.

Smoking is prohibited within a reasonable distance of ten feet outside an enclosed area where smoking is prohibited, so as to ensure that tobacco smoke does not enter the area through entrances, windows, ventilation systems, or other means.

Sec. 6-009. – Where smoking is not regulated.

- (a) Notwithstanding any other provision of this Chapter to the contrary, the following areas shall be exempt from the provisions of Sections 6-1005 through 6-1007:
- (b) Private residences, except when used as a licensed childcare, adult day care, or health care facility.
- (c) Hotel and motel rooms that are rented to guests and are designated as smoking rooms that have separate ventilation; provided, however, that no more than 20 percent of rooms rented to guests in a hotel or motel may be so designated.
- (d) Retail tobacco stores; provided that smoke from these places does not infiltrate into areas where smoking is prohibited under the provisions of this Chapter.
- (e) Private and semiprivate rooms in nursing homes and long-term care facilities that are occupied by one or more persons, all of whom are

smokers and have requested in writing to be placed in a room where smoking is permitted and separately ventilated.

(f) Outdoor areas except those covered by the provisions of Section 6-1008.

(g) All workplaces of any manufacturer, importer, or wholesaler of tobacco products, of any tobacco leaf dealer or processor, all tobacco storage facilities, and any other entity set forth in O.C.G.A. § 10-13A-2.

(h) Facilities owned by private clubs where only members are present, and no persons under the age of 18 are permitted on premises.

(i) Bars, as defined in Section 6-1003.

Sec. 6-1010. – Declaration of establishment as nonsmoking.

Notwithstanding any other provision of this Chapter, an owner, operator, manager, or other person in control of an establishment, facility, or outdoor area may declare that entire establishment, facility, or outdoor area as a nonsmoking place. Smoking shall be prohibited in any place in which a sign conforming to the requirements of subsection 6-1011(a) is posted.

Sec. 6-1011. – Advertisements and posting of signs.

(a) "No Smoking" signs or the international "No Smoking" symbol consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it may be clearly and conspicuously posted by the owner, operator, manager, or other person in control in every public place and place of employment where smoking is prohibited by this Chapter.

(b) All ashtrays and other smoking paraphernalia shall be removed from any area where smoking is prohibited by this Chapter by the owner, operator, manager, or other person having control of the area. This does not prohibit these items for resale purposes.

- (c) Unregulated establishments that allow smoking under Section 6-1009, except for subsection (a), shall post conspicuously at every entrance a sign indicating that smoking is permitted.
- (d) Any bar or facility owned by private clubs that intend to permit smoking, shall include in their advertisements and promotions a statement that contains the language, "No person under the age 18 will be permitted."

Sec. 6-1012 – Nonretaliation.

No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, or customer because that employee, applicant, or customer exercises any rights afforded by this Chapter or reports or attempts to prosecute a violation of this Chapter.

Sec. 6-1013. – Enforcement.

- (a) This Chapter shall be enforced by an authorized designee of the City.
- (b) Notice of the provisions of this Chapter shall be given to all applicants for a business license in the City.
- (c) Any citizen who desires to register a complaint under this Chapter may initiate enforcement with police and code enforcement.
- (d) Fire marshal or designee shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance with this Chapter.
- (e) An owner, manager, operator, or employee of an establishment regulated by this Chapter shall inform persons violating this Chapter of the appropriate provisions thereof.
- (f) Notwithstanding any other provision of this Chapter, an employee or private citizen may bring legal action to enforce this Chapter.
- (g) In addition to the remedies provided by the provisions of this section, the City manager or any person aggrieved by the failure of the owner, operator, manager, or other person in control of a public

place or a place of employment to comply with the provisions of this Chapter may apply for injunctive relief to enforce those provisions in any court of competent jurisdiction.

Sec. 6-1014. – Violations and penalties.

- (a) A person smoking tobacco in violation of this ordinance shall be guilty of a misdemeanor and, if convicted, shall be punished by a fine of not less than \$100.00 nor more than \$500.00, in accordance with O.C.G.A. § 16-12-2.
- (b) A person who owns, manages, operates, or otherwise controls a public place or place of employment and who fails to comply with the provisions of this Chapter shall be guilty of an infraction, punishable by:
 - a. A fine not exceeding \$100 for a first violation.
 - b. A fine not exceeding \$200 for a second violation within one year.
 - c. A fine not exceeding \$500 for each additional violation within one year.
- (c) In addition to the fines established by this section, violation of this Chapter by a person who owns, manages, operates, or otherwise controls a public place or place of employment may result in the suspension or revocation of any permit or license issued to the person for the premises on which the violation occurred.
- (d) Each day on which a violation of this Chapter occurs shall be considered a separate and distinct violation.

Sec. 6-1015. – Public education.

The City may engage in a continuing program to explain and clarify the purposes and requirements of this Chapter to citizens affected by it, and to guide owners, operators, and managers in their compliance with it. The program may include publication of a brochure for affected businesses and individuals explaining the provisions of this Chapter.

Sec. 6-1016. – Governmental agency cooperation.

The City Manager shall annually request other governmental and educational agencies having facilities within the City to establish local operating procedures in cooperation and compliance with this Chapter. This includes urging all federal, state, county, City, and school district agencies to update their existing smoking control regulations to be consistent with the current health findings regarding secondhand smoke.

Sec. 6-1017. – Other applicable laws.

This Chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

Sec. 6-1018 – Liberal construction.

This Chapter shall be liberally construed so as to further its purposes.

Section 3: Severability

In the event any portion of this ordinance shall be declared or adjudged invalid or unconstitutional, it is the intention of the City Council of the City of South Fulton, Georgia, that such adjudication shall in no manner affect the other sections, sentences, clauses or phrases of this ordinance which shall remain in full force and effect, as if the invalid or unconstitutional section, sentence, clause or phrase were not originally a part of the ordinance.

Section 4: Repealer

All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

Section 5: Effective Date

Unless specifically specified elsewhere in this Ordinance, the effective date of this Ordinance shall be _____.

The foregoing Ordinance No. **2018-XXX** was offered on _____ by Councilmembers _____, who moved its approval. The motion was seconded by Councilmember _____, and being put to a vote, the result was as follows:

“FIRST READING”

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

THIS ORDINANCE adopted this _____ day of _____ 2017. **CITY
OF SOUTH FULTON, GEORGIA**

“FIRST READING”

WILLIAM “BILL” EDWARDS, MAYOR

ATTEST:

MARK MASSEY, CITY CLERK

Item#: Ord2018-XXX Date: ____/____/____

APPROVED AS TO FORM:

JOSH BELINFANTE, INTERIM CITY ATTORNEY