

1 **AN ORDINANCE TO AMEND CHAPTER 101 (GENERAL PROVISIONS AND**
2 **COUNTY GOVERNING AUTHORITY), ARTICLE 2 (COUNTY GOVERNING**
3 **AUTHORITY), DIVISION 2 (RULES OF ORDER AND PROCEDURE), SECTION 101-**
4 **68 (DECORUM) OF THE FULTON COUNTY CODE OF ORDINANCES TO MAKE**
5 **DEFAMATION OF OTHER COMMISSIONERS EXPRESSLY PROHIBITED AND TO**
6 **PROVIDE PENALTIES FOR ANY VIOLATION; AND FOR OTHER PURPOSES.**

7
8 **WHEREAS**, the duly elected governing authority of Fulton County, Georgia (the
9 “County”) is the Fulton County Board of Commissioners (the “Board”);

10 **WHEREAS**, Board meetings are the place where matters involving governance
11 are discussed and decided and the place where commissioners execute their duties
12 and responsibilities and the place where the execution of these duties is on public
13 display; and

14 **WHEREAS**, professionalism and civility, at all times, by commissioners in the
15 execution of their duties and responsibilities fosters respect between commissioners
16 and thoughtful debate of issues and results in the efforts of commissioners to be
17 directed to issues and not cause personal ill will; and

18 **WHEREAS**, professionalism and civility between commissioners fosters
19 participation and debate, promotes better policy and decision-making, is in keeping with
20 our democratic model of self-governance, and presents an opportunity to set a positive
21 example of conduct; and

22 **WHEREAS**, commissioners typically maintain professions and pursue careers in
23 addition to their civic service on the Board; and

24 **WHEREAS**, false information and/or unjustified personal attacks injurious to the
25 reputation of a commissioner are likely to be equally harmful to the image of the County
26 in various respects, including, but not limited to, its ability to attract highly qualified

27 candidates for employment, to retain and gain quality economic development and to
28 leverage the County's credit; and

29 **WHEREAS**, the Board has authority, pursuant to the Constitution of the State of
30 Georgia, Article 9, Sec. 2 ¶ 1(a), to adopt reasonable ordinances, resolutions, or
31 regulations relating to the County's affairs for which no provision has been made by
32 general law and which is not inconsistent with the Constitution or any local law
33 applicable thereto; and

34 **WHEREAS**, in conformity with the provisions of the Open Meetings Act,
35 O.C.G.A. § 50-14-1 *et seq.*, the Board enacted certain provisions of its Rules of Order
36 and Procedure (the "Rules") at its Regular Meeting on January 5, 1994, with said
37 regulations being codified in Chapter 101 (General Provisions and County Governing
38 Authority), Article II (County Governing Authority), Division 2 (Rules of Order and
39 Procedure) of the Fulton County Code of Ordinances ("Code") as Section 101-61 *et*
40 *seq.*; and

41 **WHEREAS**, Section 101-68 (Decorum) of the Code, last amended on September
42 1, 2021 via Agenda Item No. 21-0582, sets forth mandatory guidelines for what is
43 appropriate conduct by each member of the Board during official meetings and contains
44 penalties for a violation of those guidelines but does not expressly prohibit defamation;
45 and

46 **WHEREAS**, the Board finds it necessary to explicitly prohibit its members from
47 expressing defamatory statements during or in connection a Board meeting where the
48 damages therefrom are likely to be significant; and

49 **WHEREAS**, the Board does not intend to deprive any person of his, her or their
50 right to freedom of speech or to punish privileged communications under the libel and
51 slander laws of Georgia but only to foster and encourage positive communication and
52 discourage libelous and slanderous communications that harm commissioners and the
53 County and cast a negative light on all those associated with the County; and

54 **WHEREAS**, the Board of Commissioners desires to amend the text of Section
55 101-68 (Decorum) of the Code so as to add an express prohibition against defamatory
56 statements and to authorize the imposition of a penalty for a violation of said provision.

57 **NOW, THEREFORE, BE IT ORDAINED**, that the Fulton County Board of
58 Commissioners hereby amends Section 101-68 of the Fulton Code of Ordinances, by
59 adding subsection (e) in Section 1. General Expectations so that, when amended,
60 Section 101-68, Section 1 shall read in full as follows:

61 “Sec. 101-68. - Decorum.

62 1. General Expectations.

63 (a) All commissioners and all staff members shall treat each other and
64 the public in a dignified, courteous and respectful manner; value all
65 opinions; be tolerant of others and; recognize that inappropriate
66 behavior damages the perception of the County.

67 (b) Commissioners seeking information from staff shall do so within the
68 confines of proper decorum.

69 (c) A commissioner shall not speak until recognized by the chair and
70 likewise shall not interrupt another commissioner's remarks. All

71 comments made by a commissioner shall directly address the
72 motion or item being discussed.

73 (d) Any commissioner shall have the right to express dissent from or
74 protest against any resolution or action of the Board and have the
75 reason entered into the minutes.

76 (e) **No commissioner shall make or cause to be made any**
77 **defamatory statement about another commissioner. The**
78 **phrase “defamatory statement” as used herein is defined by**
79 **Georgia law and includes the statutory definitions outlined in**
80 **O.C.G.A. §§ 51-5-1 and 51-5-4.**

81 **BE IT FURTHER ORDAINED**, that the Fulton County Board of Commissioners
82 hereby amends Section 101-68 of the Fulton Code of Ordinances, by revising Section 3.
83 Penalties so that, when amended, Section 101-68, Section 3 shall read in full as follows:

84 “Sec. 101-68. - Decorum.

85 ...

86 3. Penalties

87 (a) For each violation of this section, the violator may be subject to the
88 following penalties:

89 (1) Administrative sanction.

90 A. For a first violation by the violator of this section, the
91 Board may impose upon the violator an administrative
92 sanction in an amount not to exceed \$250.

93 B. For a second violation by the violator of this section
94 that occurs within twelve months after a first violation
95 by him or her, the Board may impose upon the
96 violator an administrative sanction in an amount not to
97 exceed \$500.

98 C. For a third (or subsequent) violation by the violator of
99 this section that occurs within twelve months after the
100 first violation by him or her, the Board may impose
101 upon the violator an administrative fine in an amount
102 not to exceed \$1000.

103 D. A second violation of this section by a violator that
104 occurs more than twelve months after a prior violation
105 by him or her shall be treated as a first violation under
106 subsection A.

107 E. Within 20 days of the imposition of any sanction
108 imposed under this subsection, the violator shall
109 deposit into the general fund of Fulton County
110 monies equaling the entire amount of that sanction.

111 (2) Public reprimand. The Board may publicly reprimand the
112 violator for the offending conduct, which may be an official
113 censure/reprimand expressing the Board's displeasure with
114 the offending conduct. In the event the violator is a member
115 of the Board, such censure/reprimand shall not have any

116 legal effect on that member's ability to continue to serve as a
117 member of the Board.

118 **(3) Denial of future legal defense. In the case of a violation for**
119 **making or causing a defamatory statement to be made about**
120 **another commissioner, in addition to the sanctions herein, the**
121 **Board may also subject the violator to preemptive denial of all**
122 **requests for legal representation in any civil or administrative**
123 **proceeding against him or her individually arising out of the**
124 **defamatory statement made.**

125 (b) The penalties provided in this subsection are not mutually
126 exclusive. The Board, in its discretion, may impose **any**
127 **combination of the** ~~either or both~~ penalties for a violation of
128 this section.

129 (c) The penalties stated in this subsection are in addition to (and
130 do not replace, limit or otherwise alter) any other lawful
131 power provided to the commission under Georgia law, the
132 Fulton County Code of Laws, or Robert's Rules of Order,
133 Newly Revised.

134 (d) For purposes of this section, any of the following actions by
135 a commissioner or a staff member supports a decision that
136 said person violated subsection (a):

137 (1) conduct that a reasonable person would find to be
138 hostile, offensive, intimidating, humiliating or

139 threatening and is unrelated to a governance or public
140 policy issue presently before the Board;

141 (2) conduct that constitutes unlawful harassment or
142 discrimination in violation of state or federal law or this
143 Code;

144 (3) conduct that references sexual acts, bodily functions
145 or demeans groups of people due to their religious
146 beliefs or race; that is inherently inappropriate for a
147 formal proceeding before the Board; and that a
148 reasonable person would find is vulgar, profane or
149 obscene;

150 (4) conduct that would tend to incite violence;

151 (5) conduct that falsely disparages the character or
152 reputation of another commissioner or a County
153 employee; or

154 (6) any other conduct undertaken for the purpose of
155 disrupting or undermining the order of any meeting or
156 formal proceeding before the commission.

157 **BE IT FINALLY ORDAINED**, that this Ordinance shall become effective when
158 passed and adopted, and that all ordinances and resolutions and parts of ordinances
159 and resolutions in conflict with this Ordinance are hereby repealed to the extent of the
160 conflict.

PASSED AND ADOPTED by the Board of Commissioners of Fulton County,
Georgia this _____ day of _____, 2022.

**FULTON COUNTY BOARD OF
COMMISSIONERS**

SPONSORED BY:

Marvin S. Arrington, Jr., Commissioner
District 5

ATTEST:

Tonya R. Grier, Clerk to the Commission

APPROVED AS TO FORM:

Y. Soo Jo, County Attorney

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