

1 AN ORDINANCE TO AMEND CHAPTER 101 (GENERAL PROVISIONS AND
2 COUNTY GOVERNING AUTHORITY), ARTICLE II (COUNTY GOVERNING
3 AUTHORITY), DIVISION 2 (RULES OF ORDER AND PROCEDURE) OF THE
4 FULTON COUNTY CODE OF ORDINANCES TO MODIFY CODE SECTION 101-
5 66(b)(3) TO PRIORITIZE PUBLIC COMMENTS TO FULTON COUNTY RESIDENTS;
6 AND FOR OTHER PURPOSES.
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8 WHEREAS, in conformity with the provisions of the Open Meetings Act,
9 O.C.G.A. § 50-14-1 *et seq.*, the Board of Commissioners enacted the Fulton County
10 Board of Commissioners' Meetings Organization and Procedural Rules ("Procedural
11 Rules") at its Recess Meeting on January 19, 1994, as codified in Section 101-61, *et*.
12 *seq.* of the Fulton County Code; and

13 WHEREAS, to stay vigilant and aware of the concerns of Fulton County
14 residents regarding matters affecting Fulton County, Georgia, the Board of
15 Commissioners allows public participation at its meetings in the form of public
16 comments; and

17 WHEREAS, the process for conducting public comments at the regular and
18 recess meetings of the Board of Commissioners is codified in Fulton County Code
19 Section 101-66(b)(3); and

20 WHEREAS, meetings of public bodies under United States jurisprudence are
21 construed as creating "limited public fora", such that access may be restricted without
22 violating the First Amendment where the restrictions consist of content neutral
23 conditions for time, place, and manner of access, as long as these conditions are
24 narrowly tailored to serve some significant government interest; and

25 WHEREAS, courts have found that there is a significant government interest, of
26 the kind sufficient to support content-neutral time, place, and manner restrictions, in
27 conducting orderly, efficient meetings of public bodies; and

1 **WHEREAS**, courts have also held that residency restrictions that allowed a
2 public body to decline to hear arguments at its meetings by persons who were not
3 residents or taxpayers of the jurisdiction, did not violate the First Amendment or Equal
4 Protection Clauses of the U.S. Constitution, as the limitation amounted to content-
5 neutral restriction designed to promote orderly and efficient conduct of meetings; and

6 **WHEREAS**, there has been an increasing number of public comments from
7 members of the public who reside outside of Fulton County, which has taken time away
8 from Fulton County residents during the public comment portion of meetings of the
9 Board of Commissioners; and

10 **WHEREAS**, as a limited public forum for First Amendment purposes, the
11 meetings of the Board of Commissioners are not open for unlimited public commentary,
12 but are simply limited platforms to discuss topics at hand that affect the residents of
13 Fulton County; and

14 **WHEREAS**, the Board of Commissioners has a compelling governmental interest
15 to hear from its residents who are directly affected by its actions and have a stake in the
16 business of Fulton County; and

17 **WHEREAS**, the Board of Commissioners desires to prioritize the needs and
18 concerns of the residents of Fulton County and finds it necessary to improve and make
19 efficient the process for the public to make comments at its meetings; and

20 **WHEREAS**, the Fulton County Board of Commissioners (“BOC”) has authority,
21 pursuant to the Constitution of the State of Georgia, Article 9, Sec. 2 ¶ 1(a), to adopt
22 reasonable ordinances, resolutions, or regulations relating to its affairs for which no

1 provision has been made by general law and which is not inconsistent with the
2 Constitution or any local law applicable thereto; and

3 **WHEREAS**, to ensure that that the public comment portion of its meetings afford
4 its residents the ability to participate in matters that directly affect them, the Board of
5 Commissioners deems it necessary to amend Rule 6 of the Procedural Rules, as
6 codified in Section 101-66(b)(3) to prioritize hearing from Fulton County residents in the
7 limited time available for public comments.

8 **NOW, THEREFORE, BE IT ORDAINED**, that the Fulton County Board of
9 Commissioners hereby amends the Public Comment provisions of Rule 6 of its
10 Procedural Rules, as codified in the Fulton County Code of Ordinances, Section 101-
11 66(b)(3)(d), by modifying this subsection so that, when amended, Section 101-66(b)(3)
12 shall read in full as is set forth in Attachment A, hereto and incorporated by reference as
13 if fully set forth herein.

14 **BE IT FINALLY ORDAINED**, that this Ordinance shall become effective when
15 passed and adopted, and that all ordinances and resolutions and parts of ordinances
16 and resolutions in conflict with this Ordinance are hereby repealed to the extent of the
17 conflict.

18 **PASSED AND ADOPTED** by the Board of Commissioners of Fulton County,
19 Georgia this 4th day of May, 2022.

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**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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Comment FINAL.doc

Sec. 101-66. Agenda, preparation of; public comment.

- (a) The Fulton County Board of Commissioners holds a regular meeting (first Wednesday of the month) and a recess meeting (third Wednesday of the month). The agenda is prepared by the clerk's office in concert with the county manager's office. The deadline for submitting items for regularly scheduled board of commissioners' meetings to the clerk's office for inclusion on the next agenda is 10:00 a.m. on Friday prior to the meeting. A final copy of the agenda is distributed to the commissioners, county attorney, county manager and appropriate staff by 2:00 p.m. on the Friday preceding the scheduled meeting of the board. Copies are also made available to the public at that time. A post agenda is provided after the meeting. The post agenda is a precursor to the final minutes and reflects actions taken by the board at a particular meeting. Post agendas/preliminary minutes are distributed by the clerk's office within 48 hours of a meeting.
- (b) The agenda preparation procedure is as follows:
- (1) Any commissioner wishing to place an item on the agenda may do so and should submit a memorandum to the clerk stating the item to be placed on the agenda. Any supporting documents germane to the item should also be submitted.
 - (2) Adding of items to the agenda during the meeting is disfavored. Where there is a showing of an emergency or extraordinary circumstances exist, an item may be added to the agenda when it is separately voted on and is adopted during the meeting by a supermajority of the board of commissioners. A motion shall be properly made and must carry to add each item to the agenda on the day of the meeting. That item shall appear on the post agenda under the "added during the meeting" heading.
 - (3) During the public comment portion of a board meeting, citizens may voice county related requests, concerns, opinions, etc. At the regular meeting, speakers will be heard prior to the zoning portion of the agenda; if applicable, at the recess meeting, prior to the county manager's unfinished business. Before speaking, each speaker presenting in person must fill out a speaker card, located at the assembly hall entrance and podium. All speaker cards must be submitted to the clerk's staff, prior to the commencement of public comment, who will accept them on a first-come, first served basis. The meeting will be aired live on all official Fulton County Government media platforms as designated by the Fulton County Department of External Affairs. Speakers wishing to submit public comment to the board in writing can do so by submitting their comments in all forms deemed allowable by the Fulton County Department of External Affairs. To be read into the record, written comments must be received by 5:00 p.m. on the Tuesday, immediately prior to the meeting in the form outlined. All virtual public comments and requests to speak in person must be submitted before the clerk sounds the start of the meeting.
 - a. Speakers who cannot be present at assembly hall may speak live or via videoconference (ex. Zoom). Speakers can also speak live from other county facilities made available, such as the North Fulton Service Center or the South Fulton Service Center.
 - b. Comments via e-mail shall be provided electronically to the BOC and their staff before the meeting begins and all comments shall be included as part of the minutes of the board of commissioners meeting.
 - c. Comments via e-mail that are the same in nature or pertain to the same BOC agenda item number shall be categorized by county staff ahead of the meeting. To expedite time, for e-mailed public comments that are the same in nature or pertain to the same BOC agenda item number or subject matter/topic, the clerk or other assigned staff shall read the agenda item number and/or topic, and then read the list of public commenters' names and locations (if given) that are in support of the item; then read the list of public commenters' names and locations (if given) who oppose the agenda item or topic. This rule shall apply to all forms of pre-written/pre-recorded public comment.

- 1 d. Public comment will occur prior to the business portion of the BOC meeting and will be strictly
2 limited to 30 minutes. In-person comments will be made first, followed by written/mailed
3 comments. Regardless of the form of the public comment (spoken/written) the time limit will be
4 two minutes, and no time shall be yielded to other speakers. **Priority for public comment will be**
5 **given to Fulton County citizens. Non-Fulton County citizens will only be heard after all in-**
6 **person Fulton County citizens have been heard and the time allotted for public comment has**
7 **not expired, except as otherwise provided in this code section. County staff shall verify the**
8 **residency of each public speaker prior to such person being heard by the board.**
- 9 e. In the event the 30-minute time limit is reached prior to public comments being completed,
10 public comment will be suspended and the business portion of the BOC meeting will commence.
11 Public comment will resume at the end of the meeting. Similarly, written comments (that were
12 timely submitted) not previously read, may be read at the end of the meeting.
- 13 f. Speaker cards will provide three options for those individuals who want to speak that were not
14 able to comment during the initial 30-minute public comment time limit:
- 15 1. Speak at the end of the meeting;
- 16 2. Be placed at the front of the line for public comment at the next meeting; or
- 17 3. Provide written comment that will be read at the end of the BOC meeting.
- 18 g. In the event that none of these three options are selected, the individual will forfeit their right to
19 public comment for that day.

20 NOTE: If the subject matter involves an issue to be resolved, the citizen should first contact the county
21 manager's office, which will ensure that the relevant department heads and other individuals are
22 contacted to rectify the matter. If the issue cannot be resolved through the county manager's efforts,
23 the citizen may then contact a commissioner so that the matter can be placed on a board meeting
24 agenda. The commissioner should then inform the clerk by memorandum stating the subject to be
25 discussed and the citizen who will speak.

26 The address and phone number of the citizen should be conveyed. Any supporting material germane to
27 the issue should also be submitted.

- 28 (4) Whenever any agenda item, via resolution, seeks board approval of a written agreement, a copy of the
29 written agreement shall be attached to the agenda item or resolution and shall be distributed by the
30 clerk as with other agenda items. Upon approval of the item, the clerk shall include a copy of the
31 written agreement in the official minutes of the board meeting at which such approval occurred.

32 (93-RC-701, Rule 6, 1-5-94; Res. No. 08-0255, 3-5-08; Ord. No. 19-0446, 6-19-19; Ord. No. 21-0578, 8-4-21)