

1 AN ORDINANCE TO AMEND CHAPTER 46 (OFFENSES), ARTICLE 3 (OFFENSES
2 INVOLVING PUBLIC PEACE AND ORDER), DIVISION I (GENERALLY), SECTION 46-
3 140 (JUVENILE CURFEW) OF THE FULTON COUNTY CODE OF ORDINANCES TO
4 MODIFY THE TIME FOR CURFEW HOURS OF UNACCOMPANIED MINORS AGE
5 SIXTEEN (16) YEARS OR YOUNGER WITHIN THE UNINCORPORATED AREAS OF
6 FULTON COUNTY, GEORGIA; URGING MUNICIPALITIES LOCATED WITHIN
7 FULTON COUNTY, GEORGIA TO ADOPT SIMILAR LEGISLATION AS FULTON
8 COUNTY CODE SECTION 46-140; AND FOR OTHER PURPOSES.

9 **WHEREAS**, according to an article in the *Atlanta Journal – Constitution* dated
10 December 14, 2022 on Atlanta safety commission on youth violence prevention, Fulton
11 County and its municipalities have experienced an uptick in violence and crime involving
12 unaccompanied minors that have resulted in injuries and deaths; and

13 **WHEREAS** the Fulton County Board of Commissioners (“BOC”) desires to protect
14 the citizens of Fulton County, Georgia, by protecting their peace, personal safety, and
15 property at all times; and

16 **WHEREAS**, according to the City of Atlanta’s proposed amendment to its Youth
17 Curfew Ordinance, curfews have historically been used as a means to protect
18 nondelinquent youth from crime and to deny delinquent youth the opportunity to engage
19 in criminal behavior; and

20 **WHEREAS**, recent curfew laws across the nation have been amended to impose
21 more stringent curfew parameters to further promote safety; and

22 **WHEREAS**, the City of Atlanta has also experienced instances of juvenile violence
23 and believes it necessary to amend its existing curfew ordinance, which is a pending
24 agenda item set to appear on the City Council’s February 6, 2023 agenda; and

25 **WHEREAS**, on October 19, 1994, the Board of Commissioners adopted the
26 Juvenile Curfew Ordinance, via Resolution 94-RC-503, codified at Fulton County Code
27 (“FCC”) § 46-140, to be effective in unincorporated Fulton County; and

1 **WHEREAS**, FCC § 46-140 provides that curfew hours for unaccompanied minors
2 age seventeen (17) years or younger are 11:00 p.m. on any Sunday, Monday, Tuesday,
3 Wednesday, or Thursday until 6:00 a.m. on the following day, and 12:01 a.m. on any
4 Friday or Saturday until 6:00 a.m. on the following day; and

5 **WHEREAS**, the BOC finds it necessary to amend FCC § 46-140 by requiring the
6 curfew hours for unaccompanied minors age sixteen (16) years or younger to begin at
7 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m.
8 on the following day, and 11:00 p.m. on any Friday or Saturday until 6:00 a.m. on the
9 following day; and

10 **WHEREAS**, to be uniform and consistent with other juvenile curfew ordinances
11 that may be adopted by the municipalities within Fulton County, the Board of
12 Commissioners deems it necessary to define a “minor” as any person sixteen (16) years
13 or under, with this definition limited to the application of FCC § 46-140 only and shall not
14 be applicable to, or revise other Fulton County programs, rules or regulations that defines
15 a “minor” under a different age category; and

16 **WHEREAS**, the unincorporated area of Fulton County is now limited to a small
17 portion of Fulton County north of Interstate 20 around the Fulton County Executive Airport
18 – Charlie Brown Field; and

19 **WHEREAS**, the Board of Commissioners, nonetheless, fully supports and
20 encourages all municipalities located within Fulton County, Georgia to adopt uniform rules
21 and regulations regarding the institution of a curfew for unaccompanied minors age
22 sixteen (16) years or younger, or however each municipality classifies minors, between
23 the hours of 11:00 p.m. and 6:00 a.m. within their respective jurisdictions to the extent

1 that such initiatives promote the public good and general welfare of Fulton County and
2 the municipalities; and

3 **WHEREAS**, the BOC has authority, pursuant to Fulton County Code § 1-116, to
4 adopt ordinances and regulations for the governing and policing of the unincorporated
5 areas of Fulton County for the purpose of protecting and preserving the health, safety,
6 welfare and morals of the citizens thereof, as it may deem advisable, that are not in
7 conflict with general laws of this state and of the United States, and is further authorized
8 to provide penalties for violation of its ordinances or regulations.

9 **NOW, THEREFORE, BE IT RESOLVED**, by the Fulton County Board of
10 Commissioners that the Juvenile Curfew Ordinance, as codified at Fulton County Code
11 § 46-140 is hereby amended to reflect the curfew time for unaccompanied minors age
12 sixteen (16) years or younger as 11:00 p.m. on any Sunday, Monday, Tuesday,
13 Wednesday, or Thursday until 6:00 a.m. on the following day, and 11:00 p.m. on any
14 Friday or Saturday until 6:00 a.m. on the following day, as reflected in Exhibit "A,"
15 attached hereto and incorporated herein by this reference.

16 **BE IT FURTHER RESOLVED**, that the Clerk to the Commission is hereby directed
17 to immediately distribute this Resolution to all municipalities located within Fulton County
18 upon its passage to ensure that the aims of this Resolution is considered.

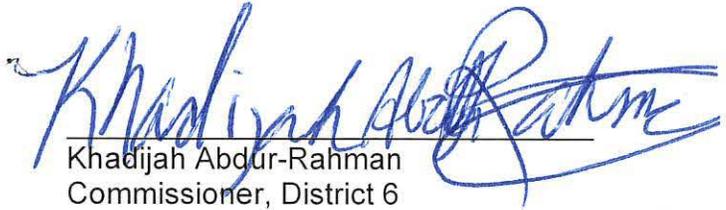
19 **BE IT FINALLY RESOLVED**, that this Resolution shall become effective upon its
20 adoption, and that all resolutions and parts of resolutions in conflict with this Resolution
21 are hereby repealed to the extent of the conflict.

22 **PASSED AND ADOPTED** by the Board of Commissioners of Fulton County,
23 Georgia, this 1st day of February 2023.

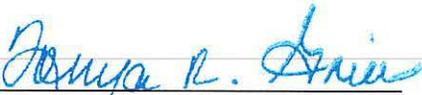
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

FULTON COUNTY BOARD OF COMMISSIONERS

SPONSORED BY:


Khadijah Abdur-Rahman
Commissioner, District 6

ATTEST:


Tonya R. Grier
Clerk to the Commission



APPROVED AS TO FORM:


Y. Soo Jo
County Attorney

[https://fc0365.sharepoint.com/sites/CountyAttorney/CALegislation/BOC/Resolutions/2023 Resolutions/Abdur-Rahman/2.1.23 Ordinance to Amend Juvenile Curfew.docx](https://fc0365.sharepoint.com/sites/CountyAttorney/CALegislation/BOC/Resolutions/2023%20Resolutions/Abdur-Rahman/2.1.23%20Ordinance%20to%20Amend%20Juvenile%20Curfew.docx)

ITEM # 23-0096 RM 2/1/23
REGULAR MEETING

1 EXHIBIT A

2 **Sec. 46-140. Juvenile curfew.**

3 (a) *Title of section.* This section shall be known as the Fulton County Juvenile Curfew
4 Ordinance.

5 (b) *Findings and purpose.* It is the responsibility of the Fulton County Board of
6 Commissioners to protect the health, safety, and welfare of the citizens of Fulton
7 County. The Fulton County Board of Commissioners is concerned about the increase
8 in criminal activity engaged in by minors especially those crimes that occur after
9 hours and/or times in which juveniles should be at home. During public hearings held
10 in Fulton County, many parents voiced their concerns about the increase in youth
11 violence, the need to protect our children from being victims of crimes that occur after
12 hours, and the need to make parents more responsible for their children. These
13 parents have stated that a child curfew ordinance is one initiative in protecting our
14 children from being the victims and perpetrators of crime. In an effort to keep our
15 communities drug free and our streets safe by reducing the numbers of crimes that
16 are committed by and against minors after hours, the board of commissioners
17 believes that a child curfew ordinance is in the best interest of the citizens of Fulton
18 County. As one parent expressed at a public hearing, "a juvenile curfew ordinance is
19 an attempt by Fulton County to save at least one child's life." Accordingly, the Fulton
20 County Board of Commissioners finds and declares that the purpose of this section
21 is to reduce the number of crimes committed by and against juveniles after hours,
22 and to safeguard the welfare of our children in areas in unincorporated Fulton County.

23 (c) *Definitions.* The following words and phrases, whenever used in this section, shall
24 be construed as defined in this section:

25 *Adult* means a person who is at least 18 years of age and authorized by a parent or
26 guardian to have the care and custody of a minor, or an emancipated minor.

27 *Curfew hours* means 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or
28 Thursday until 6:00 a.m. on the following day, and ~~42:04 a.m.~~ 11:00 p.m. on any Friday or
29 Saturday until 6:00 a.m. on the following day.

30 *Emancipated minor* means:

31 (1) Any person under the age of 18 who is or has been married or who is not under
32 the care, custody, and control of a parent, parents, guardian, person standing in
33 locus parentis, or the juvenile court of competent jurisdiction; or

34 (2) Any person under the age of 18 who has had the disabilities of minority removed
35 by a court of competent jurisdiction.

36 *Emergency* means an unforeseen combination of circumstances or the resulting
37 state that calls for immediate action. The term includes, but is not limited to, a fire, a
38 natural disaster, or automobile accident, or any situation requiring immediate action to
39 prevent serious bodily injury or loss of life.

1 *Establishment* means any privately owned place of business operated for a profit to
2 which the public is invited including, but not limited to, any place of amusement or
3 entertainment.

4 *Guardian* means a person who, under court order, is the guardian of the person of a
5 minor, or a public or private agency with whom a minor has been placed by the court.

6 Minor for purposes of this section only, minor means any person ~~47~~ 16 years of age
7 or under.

8 *Operator* means any individual, firm, association, partnership, or corporation
9 operating, managing, or conducting any establishment. The term includes the members
10 or partners of an association or partnership and officers of a corporation.

11 *Parent* means a person who is a natural parent, an adopted parent, or stepparent of
12 another person.

13 *Public place* means any place to which the public or a substantial group of the public
14 has access that includes, but is not limited to, streets, highways, and the common areas
15 of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

16 *Remain* means linger or stay, or fail to leave premises when requested to do so by
17 an officer or the owner, operator, or the person in control of the premises.

18 *Serious bodily injury* means bodily injury that causes death or creates a substantial
19 risk of serious permanent disfigurement, or protracted loss or impairment of the function
20 of any bodily member or organ.

21 (d) *Curfew for persons ~~47~~16 years of age or younger.*

22 (1) It is unlawful for any minor ~~47~~16 years of age or younger, to loiter, wander, stroll,
23 or play in or upon the public place, streets, highways, roads, alleys, parks,
24 playgrounds or other public grounds, establishments, public buildings, places of
25 amusement, eating places, vacant lots, or any place in unincorporated Fulton
26 County unsupervised by an adult, parent, or guardian having the lawful authority
27 to be at such places, between the hours of 11:00 p.m. on any day and 6:00 a.m.
28 on the following day; provided, however, that on Fridays and Saturdays the
29 effective hours are between ~~12:01 a.m.~~ 11:00 p.m. and 6:00 a.m. of the following
30 day.

31 (2) It shall be unlawful for the parent, guardian, or other person having custody or
32 control of any minor ~~47~~16 years of age or younger to knowingly or, by insufficient
33 control, to allow such minor to be in or upon the public place, streets or any other
34 places listed in subsection (d)(1) of this section in unincorporated Fulton County
35 between the hours of 11:00 p.m. on any day and 6:00 a.m. the following day, or
36 on Fridays and Saturdays between the hours of ~~12:01 a.m.~~ 11:00 p.m. and 6:00
37 a.m. the following day, except as provided by subsection (f) of this section.

38 (3) It shall be unlawful for any owner, operator, or employee of an establishment to
39 knowingly allow a minor to be in or upon the premises of an establishment in
40 unincorporated Fulton County between the hours of 11:00 p.m. on any day and
41 6:00 a.m. the following day, or on Fridays and Saturdays between the hours of

1 ~~12:01 a.m.~~ 11:00 p.m. and 6:00 a.m. the following day, except as provided by
2 subsection (f) of this section.

3 (e) *Offenses.*

4 (1) A minor commits an offense if he or she remains in any public place or on the
5 premises of any establishment in unincorporated Fulton County during curfew
6 hours.

7 (2) A parent or a guardian of a minor commits an offense if he or she knowingly
8 permits, or by insufficient control allows, the minor to remain in any public place
9 or on the premises of any establishment in unincorporated Fulton County during
10 curfew hours.

11 (3) An owner, operator, or employee of an establishment commits an offense if he
12 or she knowingly allows a minor to remain in or upon the premises of any
13 establishment in unincorporated Fulton County during curfew hours. It is a
14 defense to prosecution under this section that the owner, operator, or employee
15 of an establishment promptly notified the Fulton County Police Department that
16 a minor was present on the premises of the establishment during curfew hours
17 and refused to leave.

18 (f) *Exceptions.* The provisions of this section shall not apply in the following instances:

19 (1) When a minor is accompanied by his or her parent, guardian, or other adult
20 having the lawful care and custody of the minor;

21 (2) When the minor is upon an emergency errand directed by his or her parent or
22 guardian or other adult person having the lawful care and custody of such minor,
23 or if such minor is seeking medical treatment;

24 (3) When the minor is returning directly home from a school activity, entertainment,
25 recreational activity, or dance;

26 (4) When the minor is returning directly home from lawful employment that makes it
27 necessary to be in the above referenced places during the prescribed period of
28 time;

29 (5) When the minor is attending or traveling directly to or from an activity involving
30 the exercise of first amendment rights of free speech, freedom of assembly, or
31 free exercise of religion;

32 (6) When the minor is in a motor vehicle of parental consent for normal travel. All
33 cases of interstate travel through unincorporated Fulton County are excepted
34 from the curfew;

35 (7) When the minor is an emancipated minor as defined in O.C.G.A. § 20-2-
36 16.03(3).

37 (g) *Violations and penalties.* Penalties for violation of this section are as follows:

38 (1) Upon conviction of violations of this section for the first time, an adult, parent,
39 guardian or owner, operator or employee of an establishment shall be given a
40 warning citation. Upon further convictions, an adult, parent, guardian or owner,

1 operator or employee of an establishment shall be subject to a fine not to exceed
2 \$500.00, or imprisonment in the Fulton County jail for not more than 60 days, or
3 by both this fine and imprisonment. Any adult, parent, guardian or owner,
4 operator or employee of an establishment who violates any provision of this
5 section shall be guilty of a misdemeanor. Except as otherwise provided each
6 violation of this section shall constitute a separate offense.

7 (2) Adjudication of violations of this section by minors shall be made in accordance
8 with O.C.G.A. tit. 15 (O.C.G.A. § 15-1-1 et seq.).

9 (h) *Enforcement.* Before taking any enforcement action under this section, a Fulton
10 County police officer shall ask the apparent offender's age and the reason for being
11 in the public place. The officer shall not issue a citation or make an arrest under this
12 section unless the officer reasonably believes that an offense has occurred and that,
13 based on any response and other circumstance that no exception listed in subsection
14 (f) of this section is present.

15 (i) *Severability.* If any portion of this section or the application thereof shall be held
16 invalid or unconstitutional, the other provisions of this section shall not be affected,
17 and to this end the provisions of this section are declared to be severable.