



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

REGULAR MEETING AGENDA

1. Call to Order
2. Invocation
3. Pledge of Allegiance
4. Approval of Consent Agenda
 - a. Meeting Minutes - Monday, September 24, 2018, Work Session and Regular Meeting.
 - b. Proclamation - Cliftondale United Methodist Church Day, Sunday, September 30, 2018. **(Edwards and Willis)**
 - c. Proclamation - Kingdom Life Church Day, Sunday, October 7, 2018. **(Edwards)**
 - d. Proclamation - Pointer Ridge Community Association Appreciation Day, Saturday, October 6, 2018. **(Baker)**
 - e. Appointment of Ms. Myrna Fuller to the Public Arts Commission. **(khalid)**
 - f. Request approval of an Assignment and Assumption of Lease and Consent of Landlord for real property located at 5399 Old National Highway. **(Agr2018-032)**

- g. Request approval of a sublease between the City of South Fulton and Fulton County, Georgia (Trammell Crowe Park). **(Agr2018-029)**
 - h. Request approval of an Intergovernmental Agreement of Automatic Aid (Fire) with the City of Atlanta. **(Agr2018-030)**
 - i. **[FIRST READING]** Ordinance welcoming all races to the City of South Fulton, encouraging equal opportunities, supporting diversity and for other lawful purposes. **(Gumbs - Ord2018-036)**
 - j. Resolution establishing a process for the appointment of legislative aides and for other lawful purposes. **(Jackson - Res2018-059)**
 - k. Resolution establishing worker's compensation protocols and for other lawful purposes. **(Res2018-060)**
 - l. Resolution of the City of South Fulton requesting and authorizing the local Delegation to introduce legislation at the regular 2019 session of the General Assembly of the State of Georgia to authorize a referendum election for the City's exercise of redevelopment and other powers and for other lawful purposes. **(Willis - Res2018-061)**
 - m. Resolution promoting tourism and development; to increase the hotel/motel tax charged within the City from five to eight percent and for other lawful purposes. **(Willis - Res2018-062)**
 - n. Resolution selecting a City Lobbyist and for other lawful purposes. **(khalid - Res2018-063)**
 - o. Resolution establishing a plan for an increased minimum wage for City of South Fulton employees and for other lawful purposes. **(Baker and khalid - Res2018-064)**
5. Approval of the Regular Meeting Agenda
6. Proclamations and Recognitions
- a. Proclamation - Hamilton Bohannon Day. **(Willis)**
 - b. Proclamation - Torrey Tomlinson - Old National Crime Prevention Day. **(khalid)**
 - c. Proclamation - Georgia Public Safety Appreciation Week. **(Gumbs)**
 - d. Proclamation - Fire Prevention Week. **(Edwards)**
 - e. Proclamation - Adrian Perry Appreciation Day. **(Gumbs)**
 - f. Proclamation - Pure Balance Chiropractic and Dr. Nikki McHenry Day. **(Baker)**
7. Public Comment

Speakers will be granted up to two minutes each and public comment will not exceed 30 minutes. Speakers will not be allowed to yield or donate their time to other speakers. Please present your speaker card prior to the commencement of the public comment

period.

8. Business

a. Ordinances

- i. **[SECOND READING]** Ordinance to establish telecommunications standards and for other lawful purposes. **(Rowell - Ord2018-040)**
- ii. **[SECOND READING]** Ordinance to amend Title 6, Health and Sanitation, of the City Code, to establish procedures for the collection, disposal, and recycling of solid waste and for other lawful purposes. **(Gumbs, Willis and Baker - Ord2018-041)**
- iii. **[FIRST READING]** Ordinance to adopt regulations for maintenance and use of rights-of-way; for permitting of special events; for permitting of utility encroachments; and for other lawful purposes. **(Rowell - Ord2018-042)**

b. Action Items

- i. Request approval of an Intergovernmental Agreement (IGA) by and between the City of South Fulton and the City of Peachtree Corners for provision of public works services. **(Agr2018-027)**

9. Discussion Items

- a. Transportation discussion regarding Campbellton Road at Jones Road, and Campbellton Road at Stonewall Tell Road.
- b. Financial update regarding Tax Allocation Notice (TAN).

10. City Manager's Report

11. City Attorney's Report

12. Mayor and City Council Comments (Two minutes each)

13. Executive Session (CLOSED), if necessary

14. Adjournment



CITY OF SOUTH FULTON



COUNCIL AGENDA ITEM

COUNCIL REGULAR MEETING

SUBJECT: Meeting Minutes - Monday, September 24, 2018, Work Session and Regular Meeting

DATE OF MEETING: 10/9/2018

DEPARTMENT: City Clerk

ATTACHMENTS:

Description	Type	Upload Date
Minutes_Combined_2018_09_24	Cover Memo	10/3/2018



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)

WORK SESSION MINUTES

1. Call to Order

Minutes:

The meeting was called to order by Mayor Edwards at 2:00pm. Following the roll call by the City Clerk, a quorum was present.

2. Discussion Items

a. Public Works Model Presentation - Odie Donald, City Manager

Minutes:

Mr. Donald outlined the public works model during his presentation. The presentation included:

- **Public Works Service Model**
- **Organizational Chart**
- **Service Responsibilities**

Following the presentation there was discussion and questions by Council. Mayor Edwards questioned as to the City's position in the event of inclement weather and would like addressing the inclement weather included in the presentation. The Manager replied, it would put us in a better position to deliver the service.

Councilmember Willis inquired as to TSPLOST and City projects being in compliance. He replied the City (Assistant City Manager as liaison) would be responsible in making sure compliance issues are met.

Councilmember Rowell addressed the performance based standards and would like to see all issues spelled out specifically (solid waste, recycling, transfer stations, etc) before entering into the IGA. Mr. Donald stated this was covered in last week's presentation as it relates to the metric moving from a frequency based process to a more direct results based.

Councilmember Jackson asked if public works personnel transferring over would have a position with CH2M Hill. The Manager answered, as long as they pass/meet the HR requirements.

Councilmember Gilyard spoke to the cooperative agreement with the City of Peachtree Corners and the City going directly to the vendors. Mr. Donald explained the City would have to procure it and timing is an issue. Councilmember Gilyard inquired about the fee charged to the vendor(s). Mr. Donald replied about 2 1/2% of the task order but it has not been determined. He will get the answer for Council.

Mayor Pro Tem Baker wanted to know how the IGA would effect public works employees wages and benefits. Mr. Donald detailed the transition process and that the vendor has agreed to bring over the public works employees who will have the City's benefits. He further outlined the total transition process from start to finish.

Councilmember Willis asked why this model for the City. Mr. Donald talked about prior transitions and the added expenses associated with moving the departments over and this recommendation would allow the City to deliver quality services in a timely manner.

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- b. Legislative Process Presentation - Renardo Paschal, Records Administrator

Minutes:

The City Manager announced the item is postponed to a later meeting.

- c. Sanitation Model Presentation - Melanie Winfield, Assistant City Manager

Minutes:

Ms. Winfield gave the sanitation model presentation. The presentation included:

- Considerations
- Highlights
- Next Steps (Action Items and Projected Completion)

Following the presentation Council had discussion and a question and answer period. Ms. Winfield answered all questions with the City Manager and City

Attorney's participation.

Councilmember Gilyard indicated the City currently has \$9 million budgeted for sanitation and how will this model impact that amount and what process will we have to make sure all person have a carrier. Ms. Winfield answered a process will be put in place to address those residents who do not select a carrier and a method to collect for their services. The City Manager indicated that \$9 million is an anticipated collection cost and expenses associated with the cost of service delivery are almost equal. The City would incur initial costs and then hoping for anticipated revenues on top of that without any expenses, would be a safer model.

Mayor Pro Tem Baker asked about the one-day of bulk services to residents and what it would entail. Ms. Winfield replied this will be fine-tuned as to one day a week, two days a week or one day a month as the model is finalized.

Councilmember Rowell wanted to know how the City of Sandy Springs ensures all households participate. The City Attorney spoke to the Sandy Springs model indicating South Fulton could use their model and modify by implementing a piece of our current plan to use one of the vendors from our current RFP to provide the service to households not being serviced. She is currently drafting a sanitation ordinance for a first read today.

Councilmember Willis questioned how we can be assured to obtain a high collection rate by using Fulton County's Tax Commissioner and how the City would control quality of provider service, number of trucks on the street and environmental issues. Ms. Winfield stressed we are only responsible for the 5% or 10% rate tacked on to the providers. The City would not have any direct involvement with residents only the providers. The City Manager indicated the Council would have control by wording the ordinance as to provider quality, number of trucks on the street and other related concerns. The City Attorney added there would be a minimum of 5% to the City by the providers.

Councilmember Gumbs wants optimization of routes and a dedicated person or staff member to monitor providers and if there will be an approved facility for senior citizens to take trash. Ms. Winfield clarified they would be using existing staff to oversee and monitor providers as outlined in the public works model, and the model will require providers to offer a discount to seniors. Councilmember Jackson added the City is on the right track by allowing residents to select their trash provider and asked who would recoup the amount from those who are not contracting with our providers. Ms. Winfield stated the tax commissioner could collect those monies if the City decides to go with that model. The City Attorney indicated she would amend the sanitation ordinance to include the following options: go to a secure location; City to provide services and then recoup; and City provides service through one of their contractors.

Councilmember Gilyard wants the communications department to inform the residents of the plan. The City Manager suggested that during the billing process, a flyer with the information could be added in the envelope.

Councilmember Rowell spoke to subdivisions that have their own collection process/providers. Ms. Winfield stated they can select their own provider, but still

provide the City with the minimum 5%.

Councilmember Gumbs questioned if residents could change providers and the answer was, each resident will have the opportunity to shop around and select their own provider.

Mayor Edwards addressed the City Manager and pointed out he likes the idea of the City having control and allowing residents to select their own provider but when we look at all the pieces we need to be mindful of additional contracts (e.g. Tax Commissioner Ferdinand). The Mayor then addressed the City Attorney and asked how she opined on the City's ability not to lose LOST. Attorney Walker's prior opinion was centered around one central provider and her recommendation was, if that would be the set-up, then we have that provider picked/finalized by October 1st, to allow the City to provide sufficient notice to the South Fulton residents as well as to make sure that the one provider who will have to set up for the whole City is able to set up.

After the discussion, the City Attorney indicated she would amend the sanitation ordinance for a first reading.

3. Executive Session (CLOSED), if necessary

Motion (Recess): Councilmember Willis

Second: Mayor Pro Tem Baker

[Motion Passed]

Yea: 6 Baker, Gilyard, Gumbs, Jackson, Rowell, Willis

Nay: 0

Abstain: 0

Not Voting: 1 khalid

Minutes:

A motion was made to recess for closed executive session to discuss real estate, personnel and litigation. The motion passed unanimously.

4. Adjournment

Motion (Adjourn): Councilmember khalid

Second: Councilmember Gilyard

[Motion Passed]

Yea: 7 Baker, Gilyard, Gumbs, Jackson, khalid , Rowell, Willis

Nay: 0

Abstain: 0

Not Voting: 0

Minutes:

The City Clerk announced there was no action taken during the executive session.

A motion was made to close executive session and adjourn the work session. The motion passed unanimously.

The executive session began at 2:59pm and ended at 3:31pm.

The work session adjourned at 3:31pm.

Mark Massey, City Clerk



DIVIDER SHEET



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 MINUTES

1. Call to Order

Minutes:

The meeting was called to order by Mayor Edwards at 3:32pm. Following the roll call by the City Clerk, a quorum was present.

Councilmember khalid took a point of personal privilege to wish Councilmember Willis a happy birthday.

2. Invocation

Minutes:

The invocation was rendered by Pastor Tony M. Phillips.

3. Pledge of Allegiance

Minutes:

The pledge of allegiance was recited in unison.

4. Approval of Consent Agenda

Motion (Remove): Councilmember Willis
Second: Councilmember Gumbs
[Motion Passed]

Yea: 7 Baker, Gilyard, Gumbs, Jackson, khalid , Rowell, Willis
Nay: 0
Abstain: 0
Not Voting: 0

Minutes:

a. A motion was made to remove Item f. (request approval of emergency roof repairs at fire Stations 1, 3 and 7 not to exceed \$130,000.00) to the regular meeting agenda for separate consideration.

Motion (Approve as Amended): Councilmember Willis
Second: Councilmember Gilyard
[Motion Passed]

Yea: 7 Baker, Gilyard, Gumbs, Jackson, khalid , Rowell, Willis
Nay: 0
Abstain: 0
Not Voting: 0

Minutes:

b. A motion was made to approve as amended the consent agenda as amended (moving Item f. to regular meeting agenda). The motion passed unanimously.

- a. Meeting Minutes - Friday, September 7, 2018, Special Called Meeting.
- b. Meeting Minutes - Tuesday, September 11, 2018, Work Session and Regular Meeting.
- c. Meeting Minutes- Tuesday, September 18, 2018, Special Called Meeting.
- d. Proclamation - Pastor Sylvia Carter Ministries Day, Friday, September 14, 2018. **(Edwards)**
- e. Request approval of an emergency purchase for police laptops not to exceed \$70,000.00. There is a critical need to equip incoming personnel with Toughbook Laptops as a vital function of day-to-day operations.
- f. Request approval of emergency roof repairs at Fire Stations 1, 3, and 7 not to exceed \$130,000.00. Staff is attempting to have the costs incurred in FY2018.

Minutes:

(REMOVED LETTER F. FROM CONSENT AGENDA TO THE REGULAR MEETING AGENDA)

- g. Request approval of Charles Abbott Associates, LLC contract renewal - Building Inspection Services for FY2019.
- h. Request Approval of Resolution accepting the Cambridge Meadows Subdivision Right-Of-Way Deed and for other lawful purposes.
(Res2018-058)

5. Approval of the Regular Meeting Agenda

Motion (Approve as Amended): Councilmember Willis

Second: Councilmember Rowell

[Motion Passed]

Yea: 7 Baker, Gilyard, Gumbs, Jackson, khalid , Rowell, Willis

Nay: 0

Abstain: 0

Not Voting: 0

Minutes:

- **The City Manager requested to add the Legislative Agenda Packet and the zoning contract.**
- **The City Attorney requested to add the sanitation model ordinance for first read.**

A motion was made to approve as amended the regular agenda (adding the legislative agenda packet, zoning contract and sanitation model ordinance for first reading). The motion passed unanimously.

6. Public Comment

Minutes:

The following citizens offered public comment:

- **Mr. A. W. Davis, District 4 - residents need to petition the State of Georgia to establish a logistic's plan.**
- **Mr. Charles Mitchell, District 4 - pleased to see the City look at the Sandy Springs sanitation model. The additional compromises of the truck routes should not be considered and the City needs to minimize using third party sources.**
- **Mr. Mike Taylor, District 4 - addressed Fulton Commissioners in regards to keeping the truck route ordinance as currently written.**
- **Ms. Glenda Collins, District 5 - thanked the Councilmembers for attending the Fulton County Commission meeting last week and has concerns with the truck ordinance, and the requirement of a vote from the County**

Commissioners.

- **Mr. Thant Coleman, District 4 - Ashwood Estates HOA President. Concerned with Short Road and Cedar Grove Roads being considered truck routes. This is a terrible place for truck routes it is hilly, has poor lighting and sometimes floods.**

Councilmember Willis informed residents a meeting took place last week with Union City and East Point Attorney who requested more concessions but they are inclined not to accept the concessions. She addressed District 3 and indicated only one resident showed-up for the Fulton County meeting. She is requesting residents to attend the next commission meeting and for citizens to pack the auditorium.

7. Business

a. Rezoning, Modifications, Variances (Public Hearings)

- i. **Request for modification - M18-005 Applicant. (District 1)**
Modification of three conditions identified in 1985 zoning case Z85-014 so that the applicant may comply with the traditional building height and freestanding signage regulations of the zoning district and amend the adopted site plan at 3900 Cascade Road.
DEFERRED by Council on August 28, 2018.

Motion (Approve): Councilmember Rowell

Second: Councilmember Jackson

[Motion Passed]

Yea: 7 Baker, Gilyard, Gumbs, Jackson, khalid , Rowell, Willis

Nay: 0

Abstain: 0

Not Voting: 0

Minutes:

Staff presented M18-005 Applicant (District 1), a request for modification.

Support:

Mr. Jason Sommer, Owner, distributed renderings of the property and gave an overview of the project and requested a modification of the 1985 zoning.

Other Support:

Ms. Vangie Watkins, Mr. Rich Wilkins, Mr. Don Johnson, Mr. Melford McRae.

A motion was made to approve M18-005 Applicant (District 1), based on staff recommendation. The motion passed unanimously.

- ii. Request for use permit - **U18-002 Applicant. (District 3)**
Use permit for a group residence for 5 to 8 children at 3910 Old Fairburn Road.

Motion (Deny): Councilmember Willis
Second: Councilmember Gumbs
[Motion Passed]

Yea: 7 Baker, Gilyard, Gumbs, Jackson, khalid , Rowell, Willis
Nay: 0
Abstain: 0
Not Voting: 0

Minutes:

Staff presented U18-002 Applicant (District 3), a request for use permit.

Support: Applicant did not appear.

Opposed:

Ms. Gwen Cox spoke on behalf of the group: Ms. Karen Ashley, Ms. Gloria Rancifer, Ms. Mary Turner, Ms. Jeannette Ellison, Ms. Carrie Johnson, Ms. Patricia Ramon, Ms. Norma Benson, Mr. Eddie Benson, D. Robinson, Gwen, Ms. Glenda Collins, Ms. Judine Heard.

A motion was made to deny U18-002 Applicant (District 3), based on staff recommendation. The motion passed unanimously.

- iii. Request for rezoning - **Z18-008 Applicant. (District 7)**
Rezoning from MIX with conditions (Mixed-Use District) to C-1 (Community Business District) and to consider a change in the Comprehensive Plan's future land use designation from Suburban II Neighborhood to Community Live-Work for two hotels on Ella Lane (Parcel ID 09F070300260401).

Motion (Approve w/ Conditions): Mayor Pro Tem Baker
Second: Councilmember Gumbs
[Motion Passed]

Yea: 7 Baker, Gilyard, Gumbs, Jackson, khalid , Rowell, Willis
Nay: 0
Abstain: 0
Not Voting: 0

Minutes:

Staff presented Z18-008 Applicant (District 7), a request for rezoning.

Support:

Ms. Sarah King, represents the owner and requested approval by Council.

Opposed:

Mr. Michael Veneble.

A motion was made to approve Z18-008 Applicant (District 7), with conditions based on staff recommendations. The motion passed unanimously.

b. Resolutions

- i. Resolution establishing the 2019 City of South Fulton Football Jamboree and for other lawful purposes. **(Willis - Res2018-055)**

Motion (Approve): Councilmember Willis

Second: Mayor Pro Tem Baker

[Motion Passed]

Yea: 7 Baker, Gilyard, Gumbs, Jackson, khalid , Rowell, Willis

Nay: 0

Abstain: 0

Not Voting: 0

Minutes:

A motion was made to approve Res2018-055 (2019 Youth Football Jamboree). The motion passed unanimously.

- ii. Resolution on expected standards of communication and for other lawful purposes. **(Willis and Gumbs - Res2018-056)**

Motion (Previous Question): Councilmember Willis

Second: Councilmember Gumbs

[Motion Withdrawn]

Yea: 0

Nay: 0

Abstain: 0

Not Voting: 0

Minutes:

A friendly amendment was made by Councilmember Gilyard to add the ability for Councilmembers to speak at City sponsored events, and Councilmembers to be notified of any meetings scheduled in their respective districts.

Councilmember Gumbs accepted the amendment.

- a. A motion was made to move the previous questions. The motion was recinded.**

Motion (Approve as Amended): Councilmember Willis

Second: Councilmember Gumbs

[Motion Passed]

Yea: 5 Baker, Gilyard, Gumbs, Jackson, Willis
Nay: 2 khalid , Rowell
Abstain: 0
Not Voting: 0

Minutes:

b. A motion was made to approve as amended Res2018-056 (standards of communication by adding the ability for Councilmembers to speak at City sponsored events, and Councilmembers to be notified of any meetings scheduled in their respective districts), as requested by Councilmember Gilyard. The motion passed, 5-2-0.

iii. Resolution ensuring parity of pay and for other lawful purposes. **(khalid - Res2018-057)**

Motion (Approve): Councilmember khalid
Second: Mayor Pro Tem Baker
[Motion Passed]

Yea: 7 Baker, Gilyard, Gumbs, Jackson, khalid , Rowell, Willis
Nay: 0
Abstain: 0
Not Voting: 0

Minutes:

A motion was made to approve Res2018-057 as presented. The motion passed unanimously.

c. Ordinances

i. **[SECOND READING]** Ordinance amending the City of South Fulton Hotel and Motel Taxation Ordinance and for other lawful purposes. **(Willis - Ord2018-039)**

Motion (Approve): Councilmember Willis
Second: Councilmember Gilyard
[Motion Passed]

Yea: 7 Baker, Gilyard, Gumbs, Jackson, khalid , Rowell, Willis
Nay: 0
Abstain: 0
Not Voting: 0

Minutes:

Councilmember Rowell inquired regarding the changes.

Councilmember Willis explained the change brings the City into compliance, changing the percentage down from 7% to 5%.

A motion was made to approve Ord2018-039 as presented. The motion passed unanimously.

- ii. **[FIRST READING]** Ordinance to establish telecommunications standards and for other lawful purposes. **(Rowell - Ord2018-040)**

Minutes:

City Attorney representative, Lenny Felgin, gave an overview of the Telecommunications Ordinance.

FIRST READING HEARD.

d. Action Items

- i. Request approval of the Youth Athletic Association Interim Plan (2018 Youth Football Season)

Motion (Approve): Councilmember khalid

Second: Councilmember Jackson

[Motion Passed]

Yea: 7 Baker, Gilyard, Gumbs, Jackson, khalid , Rowell, Willis

Nay: 0

Abstain: 0

Not Voting: 0

Minutes:

Parks and Recreation Director Tony Phillips requested approval of Council.

A motion was made to approve the Youth Athletic Association Interim Plan. The motion passed unanimously.

- ii. Request approval of an IGA for Public Works with the City of Peachtree Corners. **(Agr2018-027)**

Motion (Previous Question): Councilmember Willis

Second: Mayor Pro Tem Baker

[Motion Passed]

Yea: 5 Baker, Gilyard, Jackson, khalid , Willis

Nay: 0

Abstain: 0

Not Voting: 2 Gumbs, Rowell

Minutes:

a. A motion was made to move the previous question (approval of an IGA for Public Works with the City of Peachtree Corners). The motion passed, 5-0-2.

Motion (Authorize): Councilmember Willis

Second: Mayor Pro Tem Baker

[Motion Passed]

Yea: 5 Baker, Gilyard, Jackson, khalid , Willis
Nay: 0
Abstain: 0
Not Voting: 2 Gumbs, Rowell

Minutes:

The City Attorney and the Assistant City Manager further detailed the IGA not to exceed \$5.5 million. The City Manager requested Council to authorize staff to negotiate the terms.

Councilmember Gumbs questioned the necessity to approve the IGA now, and how Peachtree Corners was selected. Mr. Donald indicated staff could take the same route as the other department transition, but the Peachtree Corners model proved to be the best option for the public works transition.

Mayor Edwards announced Councilmembers Rowell and Gumbs had to leave early for evening District meetings.

Councilmembers Jackson and khalid agreed with Councilmember Gumbs and questioned the hastiness of entering into an IGA for public works.

Councilmember Willis discussed with Councilmembers the need to authorize staff to move forward with negotiations and bring the completed IGA back to Council for approval or denial.

Councilmember Gilyard expressed she would like to see another alternative, in case the Council does not agree with the negotiations for the IGA.

Mr. Donald indicated that the current model was outlined to Council at last week's meeting, but the vendor was not selected. Since that meeting, staff has met with various cities. Peachtree Corners was the best fit for the public works transition with no interruption in service. He also expressed the ultimate decision rests with Council. Staff will work with whatever format Council decides.

b. A motion was made to approve Agr2018-027 for authorization of staff to negotiation with the City of Peachtree Corners for an IGA for public works. The motion passed, 5-0-2.

iii. **ADD-ON ITEM: COSF 2019 State Legislative Agenda Items
(Packet)**

Motion (Authorize): Councilmember Willis

Second: Mayor Pro Tem Baker

[Motion Passed]

Yea: 5 Baker, Gilyard, Jackson, khalid , Willis
Nay: 0
Abstain: 0

Not Voting: 2 Gumbs, Rowell

Minutes:

ADD-ON ITEM:

The City Manager outlined the legislative agenda and requested authorization from Council to forward the legislative agenda to the South Fulton delegation. He also indicated that a meeting with the South Fulton Delegation needed to be scheduled.

A motion was made to authorize sending the Legislative Agenda to the South Fulton Delegation. The motion passed, 5-0-2.

iv. **ADD-ON ITEM: Authorization of RFP No. 18-005: Zoning Ordinance**

Motion (Authorize): Councilmember Willis

Second: Councilmember khalid

[Motion Passed]

Yea: 4 Baker, Jackson, khalid , Willis

Nay: 1 Gilyard

Abstain: 0

Not Voting: 2 Gumbs, Rowell

Minutes:

ADD-ON ITEM:

A motion was made to authorize the Purchasing Director to move forward with RFP No. 18-005: Zoning Ordinance. The motion passed, 4-1-2.

Councilmember Gilyard requested the names of the sub contractors, their background and specialty area. Mr. Kerr indicated he would provide the information he has received on the vendors and share that information with Councilmember Gilyard as early as tomorrow.

v. **REMOVED FROM CONSENT AGENDA: Request approval of emergency roof repairs at Fire Stations 1, 3 and 7**

Motion (Approve): Councilmember Willis

Second: Councilmember Gilyard

[Motion Passed]

Yea: 5 Baker, Gilyard, Jackson, khalid , Willis

Nay: 0

Abstain: 0

Not Voting: 2 Gumbs, Rowell

Minutes:

REMOVED FROM CONSENT AGENDA:

The City Manager outlined the need for the roof repairs for inclusion in the FY2018 Budget.

Councilmember Willis asked for information on Fire Station No. 1.

Mayor Edwards suggested a more suitable plan for Fire Station No. 1 by demolishing the current building and putting something temporary in place until a permanent building can be structured. Mayor Edwards requested the City Manager to investigate the alternative and come back with the total cost.

Councilmember Willis would like the money to be used for a temporary building instead of repairing Station No. 1.

A motion was made to approve emergency contract for roof repairs for Fire Stations No. 3 and 7, and to allocate the funding specified for Fire Station No. 1 be used for temporary housing, all not to exceed \$130,000.00. The motion passed, 5-0-2.

vi. ADD-ON ITEM: Sanitation Ordinance - FIRST READING

Minutes:

ADD-ON ITEM:

[FIRST READING] Ordinance to amend Title 6, Health and Sanitation, of the City Code, to establish procedures for the collection, disposal, and recycling of solid waste and for other lawful purposes. (Ord2018-041 - Gumbs, Willis and Baker)

Councilmember khalid stated he did not agree with this sanitation model.

FIRST READING HEARD.

8. Chief Financial Officer's Report

Minutes:

DOCUMENT PROVIDED, NO PRESENTATION GIVEN.

- a. Income and Expenditure Financial Report, as of August 31, 2018.

9. City Manager's Report

Minutes:

NO PRESENTATION GIVEN.

- a. Monthly Report to Elected Officials - August 2018.

10. City Attorney's Report

Minutes:

11. Mayor and City Council Comments (Two minutes each)

Minutes:

NO COMMENTS MADE.

12. Executive Session (CLOSED), if necessary

Motion (Recess): Councilmember Willis

Second: Councilmember Gilyard

[Motion Passed]

Yea: 5 Baker, Gilyard, Jackson, khalid , Willis

Nay: 0

Abstain: 0

Not Voting: 2 Gumbs, Rowell

Minutes:

a. A motion was made to recess for closed executive session for real estate, litigation and personnel. The motion passed, 5-0-2.

The executive session began at 6:36pm and ended at 7.26pm.

Motion (Authorize): Mayor Pro Tem Baker

Second: Councilmember Gilyard

[Motion Passed]

Yea: 4 Baker, Gilyard, Jackson, Willis

Nay: 0

Abstain: 0

Not Voting: 3 Edwards, khalid , Rowell

Minutes:

The City Attorney announced that in executive session there was consensus with respect to the City Attorney's recommendation to do the following:

- **lift the restriction that is depicted on item 2 (which she will give to the City Clerk), pertaining to the portion of Hall Road for approximately 1,100 feet west of Campbellton-Fairburn Road (GA 92) that is exclusively within Union City; and,**
- **instruct Fulton County public works to clean up the map to un-restrict the area that is exclusively within Union City's boundaries on both sides.**

b. A motion was made to accept the City Attorney's recommendation. The motion passed, 4-0-3.

Motion (Other): Mayor Pro Tem Baker

Second: Councilmember Gilyard

[Motion Passed]

Yea: 4 Baker, Gilyard, Jackson, Willis
Nay: 0
Abstain: 0
Not Voting: 3 Edwards, khalid , Rowell

Minutes:

c. A motion was made to close the executive session. The motion passed, 4-0-3.

13. Adjournment

Motion (Adjourn): Councilmember Willis
Second: Mayor Pro Tem Baker
[Motion Passed]

Yea: 4 Baker, Gilyard, Jackson, Willis
Nay: 0
Abstain: 0
Not Voting: 4 Edwards, Gumbs, khalid , Rowell

Minutes:

A motion was made to adjourn the meeting. The motion passed, 4-0-3.

The meeting adjourned at 7:27pm.

Mark Massey, City Clerk



CITY OF SOUTH FULTON

COUNCIL AGENDA ITEM

COUNCIL REGULAR MEETING



SUBJECT: Proclamation - Cliftondale United Methodist Church Day

DATE OF MEETING: 10/9/2018

DEPARTMENT: City Clerk

ATTACHMENTS:

Description	Type	Upload Date
Proclamation - Cliftondale	Cover Memo	10/3/2018



City of South Fulton

WHEREAS, in May of 1964, the North Georgia Conference of the Methodist Church asked Mr. John Brinsfield, a student at Emory with plans to enter ministry, to survey the Cliftondale Community to determine the need for a Methodist Church in this area. Anticipating the need, the Conference purchased from Mr. Howard Hogan a seven-acre tract of land, part of the old Cook home place, located at 4095 Stonewall Tell Road.

WHEREAS, a cross-raising ceremony was held on Saturday evening, August 29, 1964, and on Sunday, August 30th, the Rev. Joseph L. Black, District Superintendent of the Atlanta-Southwest District, formally organized the Cliftondale Methodist Church.

WHEREAS, *Rev. Ruth Rogers (now deceased,) served the church from September 1964, through June of 1965.* Under her leadership, 17 new members were added, the first official Board met, and a Youth Fellowship was organized. The church was chartered on *September 30, 1964*, with thirty-two members.

WHEREAS, in July 1965, Rev. Richard Cathy, the first full-time pastor, was appointed. The first executive meeting of the W.S.C.S. (now U.M.W.) was held in July. A metal building was constructed on the church property and on June 5, 1966, the first service was held;

WHEREAS, in April of 1967, Reverend Cathy decided to become a chaplain of the U.S. Air Force, and the Rev. Carroll Alexander became the new pastor. With the merger of the Methodist Church and the Evangelical United Brethren in April 1968 the church became formally known as “**The Cliftondale United Methodist Church.**” Richard Long was appointed to serve in Cliftondale in 1971, and the church enjoyed its greatest period of growth to date, reaching approximately 350 members by 1978.

WHEREAS, in June 2004, Cliftondale merged with **Red Oak United Methodist Church**, located on Roosevelt Highway. Through the years Cliftondale United Methodist Church has been blessed with many spirit-filled ministers and involved lay people so that the church remains a viable force for good in the community. Rev. Walter Kimbrough was appointed Pastor in June 2018, and the church continues to reach beyond its walls in the areas of mission and evangelism, fulfilling the intent of John Wesley’s ministry, “the world is my parish” REAPING THE HARVEST CONTINUES.

NOW THEREFORE BE IT RESOLVED that Mayor and Council congratulates you for fifty-four years of faithful and dedicated service, for the many charitable ways in which you serve the community, especially our children and seniors, thanks you for serving as a light in the community and do hereby proclaim **Sunday, September 30, 2018** as **CLIFTONDALE UNITED METHODIST CHURCH DAY** in the City of South Fulton.

Mayor William ‘Bill’ Edwards

Councilmember Helen Willis



CITY OF SOUTH FULTON

COUNCIL AGENDA ITEM

COUNCIL REGULAR MEETING



SUBJECT: Proclamation - Kingdom Life Church Day

DATE OF MEETING: 10/9/2018

DEPARTMENT: City Clerk

ATTACHMENTS:

Description	Type	Upload Date
Proclamation - Kingdom Life Church Day	Cover Memo	10/3/2018



City of South Fulton

WHEREAS, Flames of Fire Ministries International, Inc. was started in 1993 as a Sunday Evening Bible Study under the dynamic leadership of Apostle Michael and Prophetess Gwen Leach;

WHEREAS, their ministry began while active members of Life Center Ministries in Dunwoody, Georgia under Pastors Buddy and Mary Crum;

WHEREAS, they learned early on that the Church of Jesus Christ is not contained within the four walls of a building, but it is meeting people where they, and therefore, they sought to serve the least, the lost and the disabled by distributing food and clothing to the community in Southwest Atlanta through the Open Hands of Jesus Ministry;

WHEREAS, their missionary efforts also took them to Eluthera, Bahamas, teaching and preaching the Word of God, while also ministering to addicts at “His House” during their rehabilitation period;

WHEREAS, after hosting their first conference, Flames of Fire Church was birthed with eight members, holding services at the Sheraton Inn (now Crown Plaza) in East Point, GA. After several moves, in 2000 property was purchased at 2466 Lawrence Street. Flames of Fire called East Point, Georgia home for 25 years;

WHEREAS, under the mighty move of God, after much prayer, searching and in-depth negotiations, Flames of Fire International, Inc. crossed its Jordan and purchased the current property at 2475 Creel Road where we celebrate, ***A New Church, A New Name (Kingdom Life Church), in a New City (City of South Fulton, Georgia);***

WHEREAS, the focus of this great move of God for Bishop W. Michael and Pastor Gwendolyn M. Leach continues to be teaching, preaching and demonstrating the Word of God, “Living in Faith Everyday, God’s Way”, Kingdom Life Church endeavors to be a light for Jesus Christ to the South Fulton Community for many years to come;

NOW, THEREFORE, BE IT RESOLVED that the Mayor and City Council honors Bishop Michael and Pastor Gwendolyn Leach for their faithfulness to the Call of God, welcomes them and their congregation to the City of South Fulton and do hereby proclaim, Sunday, October 7, 2018 as “**KINGDOM LIFE CHURCH DAY**” in the City of South Fulton.

Mayor William ‘Bill’ Edwards



CITY OF SOUTH FULTON



COUNCIL AGENDA ITEM

COUNCIL REGULAR MEETING

SUBJECT: Proclamation - Pointer Ridge Community Association Appreciation Day

DATE OF MEETING: 10/9/2018

DEPARTMENT: City Clerk

ATTACHMENTS:

Description	Type	Upload Date
Proclamation - Pointer Ridge - Baker	Cover Memo	10/5/2018



City of South Fulton

Whereas, the Pointer Ridge Community Association, a nonprofit Homeowners Association located in the City of South Fulton's District 7, is comprised of over 600 families, and has been in existence for nearly fifty years;

Whereas, the Pointer Ridge Community Association's mission is to 'love your neighbor as yourself,' and has thusly strived to implement these facets into the lives of their residents through programs, including assisting the community school through various PTA associations, food drives, and beautifying their neighborhood; and

Whereas, the Pointer Ridge Community Association's first fall 'Harvest Festival', is an event designed to not only party with purpose, but to bring together the Pointer Ridge Community, S.L. Lewis Elementary School, and City Officials, thereby raising awareness of community concerns, and rebuilding community confidence.

Now, therefore be it resolved, that the Mayor and City Council of the City of South Fulton do hereby proclaim Saturday, October 6th, 2018, as **"POINTER RIDGE COMMUNITY ASSOCIATION APPRECIATION DAY"** in the City of South Fulton, Georgia.

Mayor Pro Tem Mark Baker



CITY OF SOUTH FULTON

COUNCIL AGENDA ITEM

COUNCIL REGULAR MEETING



SUBJECT: Appointment of Ms. Myrna Fuller to Public Arts Commission

**DATE OF
MEETING:** 10/9/2018

DEPARTMENT: Planning



CITY OF SOUTH FULTON



COUNCIL AGENDA ITEM

COUNCIL REGULAR MEETING

SUBJECT: Agr2018-032 Request approval of 5399 Old National Highway Lease Assignment

DATE OF MEETING: 10/9/2018

DEPARTMENT: City Manager

ATTACHMENTS:

Description	Type	Upload Date
Agr2018-032 5399 Old National Highway Lease	Cover Memo	10/12/2018

**STATE OF GEORGIA
FULTON COUNTY**

ASSIGNMENT AND ASSUMPTION OF LEASE AND CONSENT OF LANDLORD

THIS AGREEMENT (referred to herein as “Consent Assignment”) is made and entered into by and between Fulton County, a political subdivision of the State of Georgia, (referred to herein as “Fulton County” and/or “Assignor”), the City of South Fulton, a municipal corporation of the State of Georgia, (referred to herein as “City of South Fulton” and/or “Assignee”) and Aarons, Inc. (referred to herein as “Sublandlord”) (collectively referred to as the “Parties”).

WHEREAS, Sublandlord did demise to Assignor, and Assignor did lease from Sublandlord real property located at 5399 Old National Highway, College Park, Georgia 30349, which is approximately 8,034 square feet, (referred to herein as “Demised Premises”), more particularly described in the Original Sublease (attached hereto as “Exhibit A”) (referred to herein as Original Sublease”);

WHEREAS, pursuant to Article 11 (Assignment and Subletting) of the Original Sublease, Assignor desires to transfer and assign all of its leasehold interests in and to the Demised Premises to Assignee;

WHEREAS, for purposes of this Consent Assignment, Assignor has requested the landlord, Jo-Ann Inc., (referred to herein as “Landlord”) to the Original Sublease’s consent to this assignment and assumption of the Original Sublease;

WHEREAS, Landlord consented to the assignment and assumption of the lease by virtue of a written correspondence dated _____, attached hereto as Exhibit "B" and incorporated herein by this reference (referred to herein as “Landlord’s Written Consent”); and

WHEREAS, Assignor agrees to assign all leasehold interests in and to the Demised Premises to Assignee and Assignee agrees to assume all obligations of Assignor as set forth in the Original Sublease;

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained and for good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

1. Sublandlord hereby consents to the assignment of the Original Sublease by Assignor to Assignee pursuant to Article 11 (Assignment and Subletting) of the Original Sublease.
2. The Parties acknowledge and agree that this Consent Assignment shall be effective (referred to herein as the “Effective Date”) upon: 1) Sublandlord providing an original executed copy of this Agreement to the City Manager for South Fulton and County Manager for Fulton County and 2) the Consent Assignment is adopted by the governing authority of the City of South Fulton and Fulton County Board of Commissioners.
3. This Consent Assignment shall not be deemed as Landlord’s permission for unauthorized subletting, alteration or assignment of the Demised Premises.

4. Assignor hereby assigns to Assignee and Assignee hereby assumes all of the obligations, responsibilities, and liabilities of Assignor arising under the Original Sublease from and after the Effective Date, except as set forth otherwise herein, and agrees to be bound by and to perform all of the terms, covenants, agreements, provisions, and conditions of the Original Sublease on Assignor's part to be performed or observed from and after the Effective Date. Sublandlord and Assignor will adjust, as between Sublandlord and Assignee, all Operating Expenses through the day prior to the Effective Date pursuant to the Original Sublease. Assignee will be responsible for operating expenses from and after the Effective Date.
5. The liability of Assignor under the Original Sublease and the due performance by Assignor of the obligations on its part to be performed under the Original Sublease arising from and after the Effective Date shall be discharged and released as of the Effective Date.
6. Any notice, demand, consent, approval, disapproval, or statement (collectively, "Notices") given under the Original Sublease and/or this Consent Assignment shall be given in accordance with the terms of paragraph 18, titled "Notices," of the Original Sublease, with the exception that all notices given under the Original Sublease and/or this Consent Assignment shall be mailed to:

If to Sublandlord:

Aaron's, Inc.
309 E. Paces Ferry Road, NE
Atlanta, Georgia 30305-2377
Attention: Vice President, Real Estate

With a copy to:

Aaron's Inc.
309 E. Paces Ferry Road, NE
Atlanta, Georgia 30305-2377
Attn: Legal Counsel, Real Estate

If to Assignor:

Richard Anderson, County Manager
141 Pryor Street, SW,
Suite 1000
Atlanta, Georgia 30303
dick.anderson@fultoncountyga.gov

With a copy to:

Patrise Perkins-Hooker, County Attorney
141 Pryor Street, SW,
Suite 4038
Atlanta, Georgia 30303
patrise.perkins-hooker@fultoncountyga.gov

Ellis Kirby – Director of the Department of Real Estate and Asset Management
141 Pryor Street, SW,
6th Floor
Atlanta, Georgia 30303
Ellis.kirby@fultoncountyga.gov

If to Assignee:

Odie Donald, City Manager
City of South Fulton
5440 Fulton Industrial Boulevard
South Fulton, Georgia 30336
odie.donald@cityofsouthfultonga.gov

With a copy to:

City of South Fulton City Attorney
Attention: Emilia C. Walker, City Attorney
8024 Fair Oaks Court
Jonesboro, Georgia 30236
ewalker@fincherdenmark.com

7. This Consent Assignment shall be governed and construed in accordance with the laws of the State of Georgia.
8. Sublandlord and Assignor confirm to Assignee that the Original Sublease is in full force and effect. Neither Sublandlord, Assignor nor Assignee is aware of any existing default by the other under the Original Sublease, nor of any event that would, after notice and/or the passage of time, constitute a default by the other.
9. Early Termination: Assignee may terminate this Consent Assignment for any reason by providing at least sixty (60) days written notice to the other parties. Upon termination of this Agreement for any reason, Assignee shall have the right to remove any and all movable property and equipment which it has furnished or installed on the premises, provided that, Assignee shall repair any and all damages to the premises caused by such installation or removal. Assignee shall not be responsible under this Consent Assignment and/or the Original Sublease for any build-out costs or unamortized expenses for any reason. Sublandlord acknowledges that Assignor incurred certain expenses for build-out costs, as reflected in Exhibit A in the Original Sublease, in the Premises based on its present intention of remaining in the Premises through 2022; accordingly, in the event Sublandlord terminates this Sublease at any time prior to March 31, 2022 for any reason other than Subtenant's uncured default, Sublandlord shall reimburse "Assignor" for the unamortized portion of such build-out expenses as of the date on which the Sublease terminates (assuming straight line amortization over six (6) years). Assignee acknowledge that Sublandlord incurred certain brokerage commission expenses in connection with this Sublease based on the expectation that Subtenant will remain in the Premises through 2022; accordingly, in the event Assignee terminates this Sublease at any time prior to March 31, 2022, "Assignee" shall reimburse Sublandlord for the

unamortized portion of such brokerage commission as of the date on which the Sublease terminates (assuming straight line amortization over six (6) years).

(SIGNATURES FOLLOW ON NEXT PAGE)

DRAFT

IN WITNESS WHEREOF, this Consent Assignment has been executed by the following:

SUBLANDLORD: AARON'S, INC.

By: _____

Name: _____

Title: _____

ASSIGNOR: FULTON COUNTY, GEORGIA

By: _____

**Robert L. Pitts, Chairman
Fulton County Board of Commissioners**

ATTEST

By: _____

Tonya R. Grier, Interim Clerk to the Commission

APPROVED AS TO FORM

Patrise Perkins-Hooker, County Attorney

ASSIGNEE: CITY OF SOUTH FULTON

By: _____

**Bill Edwards, Mayor
City of South Fulton**

ATTEST

By: _____

Mark, Massey, City Clerk

Agr2018-032

Date of Approval: ____/____/____

APPROVED AS TO FORM

Emilia C. Walker, City Attorney



CITY OF SOUTH FULTON

COUNCIL AGENDA ITEM

COUNCIL REGULAR MEETING



SUBJECT: Agr2018- 029 Request approval of Trammell Crow Park Sublease

DATE OF MEETING: 10/9/2018

DEPARTMENT: Attorney

ATTACHMENTS:

Description	Type	Upload Date
Agr2018-029 Sublease with FC - Trammell Crowe Park	Cover Memo	10/12/2018

**SUBLEASE BETWEEN THE CITY OF SOUTH FULTON AND
FULTON COUNTY, GEORGIA**

THIS SUBLEASE (referred to herein as the “Sublease”) is made and entered into by and between the City of South Fulton, a municipal corporation of the State of Georgia (referred to herein as the “City of South Fulton” or “COSF”), and Fulton County, Georgia, a political subdivision of the State of Georgia (referred to herein as the “County”) (both parties collectively referred to herein as the “Parties”) as follows:

WITNESSETH:

WHEREAS, pursuant to that certain Public Purpose Master Lease, dated December 1, 1999, as amended by that certain Amendment to Public Purpose Master Lease (Number One) dated as of April 10, 2000, and by that certain Amendment to Public Purpose Master Lease (Number Two) dated as of August 1, 2009 (said documents referred to herein collectively as the “Master Lease”), the County (as lessee), leases from the Fulton County Facilities Corp.(as the lessor), certain properties known as Trammel Crow Park, located on Cascade Road, in the City of South Fulton, Fulton County, Georgia, located in District 14F, Land Lots 60, 61, 80, and 81, with specific designated tax parcel identification numbers as follows: 14F0080LL0017;14F0080LL0025; 14F0081LL0156; 14F0081LL0321; 14F0081LL0396; and 14F0081LL0404; (referred to herein as the “Indentured Properties”); and

WHEREAS, the Indentured Properties--with the exception of another parcel (i.e., 14F0081LL0527) that is fully owned by Fulton County in fee simple, hereinafter, the “County-owned Trammell Crow Parcel”--serves as collateral for the issuance and sale of certain Certificates of Participation (referred to herein as “COPs”) executed by the Fulton County Facilities Corp., pursuant to that certain Indenture of Trust and Assignment of Public Purpose Master Lease, dated December 1, 1999, and entered into between Fulton County Facilities Corp.,

as Trustor, and First Union National Bank, as Trustee, as supplemented by that certain First Supplemental Indenture of Trust and Assignment of Public Purpose Master Lease dated August 1, 2009, between Fulton County Facilities Corp., as Trustor and U.S. Bank National Association, as successor trustee to First Union National Bank (referred to herein collectively as the “Indenture”);

WHEREAS, the Master Lease serves to further secure certain COPs, including any Additional Certificates, as these terms are defined in such Master Lease;

WHEREAS, COSF and County desire to enter into a sublease agreement in order to establish the terms, conditions and obligations of the Parties by which the County shall sublease the Indentured Properties to COSF, and COSF shall sublease the Indentured Properties from the County(the “Sublease”), and to also include in this Sublease the County-owned Trammell Crow Parcel (i.e., 14F0081LL0527) (the Indentured Properties and the County-owned Trammel Crow Parcel collectively referred to herein as the “Property”);

WHEREAS, Section 11.01 of the Master Lease authorizes the County to sublease the Indentured Properties upon the occurrence of certain conditions, and the County may sublease the County-owned Trammell Crow Parcel pursuant to O.C.G.A. § 32-9-2; and

WHEREAS, upon the expiration of the Sublease, the Indentured Properties, along with the County-owned Trammell Crow Parcel [i.e., the Property], will be sold to COSF as a group pursuant to the terms and conditions set forth in O.C.G.A. § 36-31-11.1; and

WHEREAS, COSF and County are also authorized to execute this Sublease pursuant to Article IX, Section III, Para. I and Article IX, Section II, Para. III (a) (1) of the Georgia Constitution, and other applicable laws.

NOW THEREFORE, for and in consideration of the mutual promises, the payment of rent as set forth below, the public purposes and the acknowledgments, covenants, and subleases contained herein, together with other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, COSF and County do hereby agree as follows:

ARTICLE 1 PROPERTY

1.1 County hereby subleases, rents, and demises to COSF, and COSF hereby takes, accepts, and sublets from County, on the terms and conditions and for the purposes set forth herein, the Indentured Properties, including the County Trammell Crow Parcel. The Indentured Properties and the County-owned Trammell Crow Parcel, and the improvements located thereon, are more particularly described on **Exhibit A,**” attached hereto and incorporated herein by reference.

ARTICLE 2 COUNTY’S INTEREST IN THE PROPERTY AND COSF’S COVENANT TO COMPLY WITH THE MASTER LEASE; USE OF THE PROPERTY

2.1 Except as may be specifically set forth herein, COSF and County acknowledge that the County holds certain parcels of the Property subject to the Master Lease and that this Sublease is made subject to the Master Lease, which is incorporated herein by reference. COSF further acknowledges that certain interests in the Master Lease have been assigned by the Fulton County Facilities Corp. under the terms of the Indenture, and COSF agrees to abide by such assignments.

2.2 Except as may be specifically set forth herein, it is understood, covenanted, and agreed that during the Term and any extension, COSF shall only be obligated to comply with the terms and conditions of the Master Lease which are applicable to the County and those certain parcels comprising the Property. Both COSF and County also agree and covenant that they shall, respectively, not commit any act or omission which shall constitute a breach or Event of Default

under the Master Lease or result in a forfeiture of County's rights thereunder. Except as may be specifically set forth herein to the contrary, COSF shall not commit any act or omission which shall constitute a breach or Event of Default by it under the Master Lease.

2.3 Notwithstanding any term to the contrary herein, it is further understood and agreed that any breach of any term or condition of the Master Lease by COSF shall have the same force and effect as a breach of the same by County. Therefore, COSF expressly acknowledges that an Event of Default under the Master Lease by either COSF or the County, or an Event of Non-Appropriation by the County, as defined in the Master Lease, could result in immediate notice to the Parties to vacate the Property, and, upon such an event, COSF and County shall be required to surrender those certain parcels comprising the indentured parcels comprising the Property, which are included under the Master Lease, in accordance with the Master Lease, ordinary wear and tear excepted.

2.4 COSF and County acknowledge that COSF intends to use the Property as a public park. COSF and County acknowledge that changes in the scope or character (including use) of certain indentured parcels comprising the Property are subject to the prior approval requirements set forth in Section 5.04 of the Master Lease. COSF acknowledges that, during the term of the Sublease, the County will not consent to: (i) use the Property for any use other than a governmentally operated public park; (ii) a material change in the character or use of the Property; or (iii) any alterations, additions or improvements which would materially reduce or otherwise adversely affect the value of the Property, or that would otherwise adversely affect the tax treatment of the COPs, and as such COSF agrees to abide by these conditions and must seek the prior written consent of County for any such change within the Property that are not consistent with the Master Lease or this Sublease.

2.5 Except as otherwise provided for in the Master Lease, COSF expressly acknowledges that its interest in the Property pursuant to this Sublease shall at all times be subject to and subordinate to the lien of the Indenture during its term, and to all terms, conditions and provisions thereof, without the need for any further act or Sublease by COSF or County. COSF shall not subordinate its interest in certain parcels comprising the Property without the prior written consent of County and the Trustee under the Indenture established by the Master Lease as (as may be changed from time to time).

2.6 It is further understood and agreed that County will remain obligated to the Fulton County Facilities Corp. (hereinafter the “Prime Lessor”) under the provisions of the Master Lease as they relate to the financial obligations, expenses, taxes, base rent, operating expenses, repair and maintenance costs and expenses, taxes and insurance thereunder. However, as to the promises, covenants, terms, and conditions set forth in this Sublease, COSF assumes and obligates itself to undertake the financial obligations, expenses, taxes, rent, operating expenses, repair and maintenance costs and expenses, taxes and insurance for the Property.

2.7 COSF expressly covenants and agrees that it will not operate the Property as, or permit the Property to be operated as, any use that constitutes a “private use” as defined pursuant to Section 141 of the Internal Revenue Code without the prior written consent of County and Prime Lessor. To the extent required by law, COSF agrees to indemnify and hold County harmless for any use of the Property by COSF which has not been consented to by County and which causes the COPs issued under the Indenture to be considered “private activity bonds” as defined in Section 141 of the Internal Revenue Code. County acknowledges and agrees that the intended use of the Property by COSF is as a public park. Furthermore, the County consents to COSF’s use of the

Property as a public park and agrees that the use of the Property as a public park and shall not cause the COPs to be considered as “private activity bonds.”

2.8 As may be applicable to COSF as sublessee under the Master Lease, COSF covenants to comply with the tax covenants set forth in Section 12.03 of the Master Lease (as amended by Section 2-4.03 of the Amendment to Public Purpose Master Lease (Number Two)). A true and accurate copy of said Master Lease as amended is attached hereto as **Exhibit “B,”** and incorporated herein by this reference.

2.9 COSF agrees that in order to make funds available to make rent payments to the County on the dates and in the amounts specified herein during the Term of the Sublease, COSF will appropriate sums on a timely basis sufficient for any such payment or to maintain and operate the Property, unless it has exercised its right to terminate this Sublease.

ARTICLE 3 TERM

3.1 Subject to the termination provision of this Sublease, the term of this Sublease shall be for a period commencing on May 2, 2018, and running through December 31, 2019, subject to the termination provisions of this Sublease. Upon expiration of the Term, if COSF is not in default of the Sublease terms and conditions, and the County has not effectuated the transfer of the Property to the COSF, this Sublease shall automatically renew on a month-to-month basis, unless this Sublease is terminated pursuant to such rights of termination as may be set forth in this Sublease. Upon December 31, 2019 or expiration and/or termination of the Sublease, whichever comes later, the Indentured Properties, along with the County-owned Trammell Crowe Parcel [i.e., the Property], will be sold to COSF as a group pursuant to the terms and conditions set forth in O.C.G.A. § 36-31-11.1.

3.2 The terms and conditions of the Sublease during any extension shall be as set forth in Article 5, below.

3.3 In the event that the Term of the Sublease ends for any reason prior to the established expiration date, COSF shall only be responsible for a rent payment made or rent due during that calendar year. The total amount of rent owing for during each calendar year shall be the sum of the payments due from COSF for that calendar year as described in Article 5.

ARTICLE 4 TERMINATION

4.1 This Sublease may be terminated pursuant to such rights of termination as may be set forth in this Sublease.

4.2 In addition to other rights of termination set forth in this Sublease, COSF may terminate this Sublease for any reason, for its convenience and without cause, at any time by giving written notice to County at least one hundred twenty (120) days prior to the date when such termination shall become effective; provided that COSF shall return the Property to its original condition, reasonable wear and tear excepted.

4.3 The County may terminate this Sublease for its convenience and without cause at any time by giving written notice to COSF at least one hundred twenty (120) days prior to the date when such termination shall become effective.

4.4 COSF and County agree that COSF may terminate this Sublease upon not less than fifteen (15) days advance written notice to the County in the event that funds are not appropriated by the governing body of COSF for the payment of the rent due hereunder and/or the operational costs to maintain and operate the Property.

4.5 COSF and County further agree that this Sublease is subject to the Master Lease, and that the County may terminate the Master Lease as provided in Section 3.01 of the Master Lease. Upon any termination of the Sublease pursuant to the terms hereof, or upon the expiration of this Sublease, the obligations accrued and unsatisfied as of such termination or expiration and any indemnification obligation arising from acts or occurrences prior to the date of such termination or expiration shall survive the termination or expiration.

ARTICLE 5 RENT/OPERATIONAL COSTS

5.1 *Rent.* For use and rent of the Property, COSF hereby covenants and agrees to pay County in the amount of One Hundred Dollars (\$100.00) monthly during the term of the Sublease.

5.2 *Operational Costs.* COSF agree to be solely responsible for all operational costs related to the Property during the Term of this Sublease. For purposes of this Sublease, operational costs are those costs required to operate, maintain and administer to the Property on a daily basis, and include those other cost commonly associated and included within such costs.

5.2 Until further notice from County to COSF, rent checks shall be made payable and mailed to: Fulton County Finance Department with attention to Director of Finance: 141 Pryor Street SW, 7th Floor, Atlanta, GA 30303.

ARTICLE 6 CONDITION OF THE PROPERTY

Except as may be otherwise set forth in this Sublease, the Property is being subleased by County to COSF on an “As Is,” “Where is” basis. Except as may be otherwise set forth herein, the County makes no representations or warranties of any kind to COSF regarding the condition of the Property (or any and all improvements thereon), and including without limitations, as to the presence or suspected presence of hazardous waste or substances on, about, or under the

Property, or the fitness or suitability thereof or any part thereof in any respect or in connection with or for the purposes or uses of COSF. COSF acknowledges and agrees that, except as expressly set forth in this Sublease, the County has not made and is not making any representations, warranties or covenants, express or implied, as to the Property.

ARTICLE 7 CONFORMITY WITH LAW

7.1 COSF shall faithfully observe in the use of the Property all municipal and Fulton County ordinances and codes and state and federal statutes now in force or which may hereafter be in force and applicable to the property.

ARTICLE 8 UTILITIES

8.1 COSF, at COSF's sole cost and expense, shall pay for all utilities, if applicable, including but not limited to sewer, water, gas, electric, phone, and pest control, inclusive of termite control, at the Property during the term of this Sublease.

ARTICLE 9 REPAIRS

9.1 COSF agrees to repair and maintain the Property in good working order and condition, at its sole cost and expense, except: (i) for damage to the Property caused by the sole acts or omissions, whether intentional or negligent, of County and/or Prime Lessor, and/or their respective representatives, agents, employees, licensees, guests and/or invitees; and/or (ii) as otherwise provided in this Sublease.

9.2 Except as otherwise set forth herein, COSF shall also be solely responsible for the costs and expenses for the Property, of: (i) preventative maintenance services; (ii) repair and replacement of the heating, air conditioning, and ventilation equipment and fixtures; and (iii)

custodial and janitorial services sufficient to maintain the interior of buildings or facilities on the Property in a clean, well maintained condition.

9.3 If the Property is damaged by storm, fire, lightning or other casualty, COSF may elect to terminate this Sublease as of the date of such destruction, and rent shall be accounted for as between COSF and County, as provided for in this Sublease. If COSF does not terminate this Sublease as provided for above, COSF shall restore the Property to substantially the same condition as before damage as speedily as practicable within a reasonable period of time to be agreed upon in writing by and between COSF and the County. COSF shall use the proceeds of insurance policies required pursuant to Article 15 below to finance such restoration. If: (1) the Property is not so restored within the agreed upon period of time, or (2) the insurance proceeds are insufficient to complete the restoration of the Property, or (3) COSF elects to terminate the Sublease pursuant to the first sentence of this Section 9.3, the insurance proceeds shall be paid by COSF to the County and this Sublease shall terminate. In the event of such termination, rent shall abate as set forth in this Sublease.

ARTICLE 10 ACCESS TO THE PROPERTY

10.1 During any term of this Sublease, Prime Lessor and/or County shall have the right, but not the obligation, to enter onto the Property and maintain, repair or replace the Property or any part or improvement thereof, only after County has provided written notice to COSF of the required repair, replacement, or maintenance, and then only upon COSF's failure to effect such repair, replacement or maintenance, within the thirty (30) day period after such written notice from County to COSF (provided that if any such repairs are of such nature that they cannot reasonably be completed within said thirty (30) day period, upon County's consent, COSF shall have a reasonable, additional period of time to cure said default as long as COSF diligently and

continuously pursues said cure to completion). The foregoing notice requirements shall not apply in emergency conditions in which Fulton County shall have immediate access. All maintenance and repair costs incurred by the County stemming from the COSF's failure to perform such maintenance and repairs as required herein shall be paid/reimbursed to the County by COSF within thirty (30) days of County providing notice of such costs to COSF.

10.2 In the event that repairs, replacements and/or maintenance, are or must be undertaken at the Property other than by COSF, the County shall coordinate such action with COSF to assure minimal disruption of COSF's use of and access to the Property. Prior to actually entering the Property for purposes of such activities, the County shall, except for emergencies, provide at least twenty-four (24) hours advance written notice to COSF.

ARTICLE 11 NOTICE OF DEFAULT; DEFAULT

11.1 If either Party shall fail to perform any other of the covenants, terms or conditions of this Sublease, prior to exercising any rights or remedies against the other party on account thereof, the complaining party shall first provide the other party with written notice of the failure and provide such party with a fifteen (15) day period to cure such failure if the failure is a failure to pay rent or any other sum of money owed under this Sublease (applicable to COSF only), or a thirty (30) day period to cure such failure if the failure is a failure to perform any other covenant, term or condition of this Sublease by either party.

11.2 In the event that a failure reasonably requires more than thirty (30) days to remedy, then, notwithstanding the foregoing, with the complaining party's consent, and so long as the other party undertakes reasonable and continuous steps to cure such failure within thirty (30) days of the date of the complaining party's notice of failure regarding same, then the other party shall not be deemed to be in default hereunder.

11.3 In the event that either Party fails to remedy any such noticed failure pursuant to the terms of this Sublease, the complaining party may immediately terminate this Sublease by written notice to the other party. Whereupon the COSF shall vacate the Property within sixty (60) days of such written notice and surrender the Property to the County in broom swept condition, ordinary wear and tear excepted, and this Sublease shall end.

ARTICLE 12 NON-WAIVER OF DEFAULT

No failure of the County or COSF to exercise any power given to it, respectively, hereunder or to insist upon strict compliance by the other party with its respective obligations and no custom or practice of the Parties at variance with the terms hereof shall constitute a waiver of County's or COSF's right to demand exact compliance with the terms hereof.

ARTICLE 13 QUIET ENJOYMENT

The County covenants and agrees that in the event COSF shall perform all covenants and Subleases herein stipulated to be performed on COSF's part, COSF shall at all times during the Term, and any extension hereof, have the peaceable and quiet enjoyment and possession of said Property and other rights herein granted, without any manner of hindrance from County or any other party. County represents that the execution of this Sublease, compliance with the terms hereof, and use and occupation of the Property by COSF will not conflict with, cause a breach of or constitute a default under: (i) the terms of any Sublease or instrument to which County is party, specifically including the Master Lease, as amended; and/or (ii) the Indenture, as supplemented.

ARTICLE 14
WAIVER OF CLAIMS AND SUBROGATION

COSF and the County hereby waive all causes and rights to recovery against the other, and on behalf of any person or entity claiming through or under them, by way of subrogation or otherwise, for any loss or damage to the Property by reason of fire, casualty or any peril typically insured against by standard “all-risk” coverage insurance, regardless of cause or origin, including any act of negligence by any party. COSF and the County agree that the aforesaid waiver shall not impair or invalidate the coverage of any loss or damage by policies of insurance applicable thereto.

ARTICLE 15
PUBLIC LIABILITY INSURANCE

COSF shall, in full compliance with Article VII of the Master Lease, during the entire term hereof, keep in full force and affect a policy of public liability and property damage insurance (including contractual liability insurance) with respect to the Property under which the public liability limits shall be not less than \$1,000,000.00 bodily injury and property damage. A Certificate of Insurance evidencing the aforementioned insurance, which shall be delivered to County and shall list Fulton County, Georgia as an Additional Insured, is required to be purchased and maintained by the COSF pursuant to this Sublease and/or Master Lease. The COSF insurance shall apply as Primary Insurance before any other insurance or self-insurance, including any deductibles, non-contributory, and Waiver of Subrogation provided in favor of Fulton County Government. COSF must comply with the annual summary requirements of Article 7.01(c) of the Master Lease, as it pertains to the policies carried by COSF. Notwithstanding the language of Article 7.01(c), in complying with this provision of this Sublease, within 90 days of the close of the Term or any extension, COSF shall submit in writing

a summary of all insurance policies then in effect with respect to the Property to the “Notice” address of County.

ARTICLE 16 SUBLEASE SUBJECT TO MASTER LEASE

It is understood and agreed that this Sublease shall at all times be subject to and subordinate to the Master Lease, and COSF that shall assume and comply with all of the terms, covenants and agreements of the County under the Master Lease for those certain parcels of the Property as required by Section 11.01 of the Master Lease, with said Master Lease is incorporated herein by reference.

ARTICLE 17 TRANSFER OF INTEREST; ASSIGNMENT

Subject to the provisions of the Indenture and Master Lease, the County shall not, without COSF’s prior written consent (which consent may not be unreasonably withheld or delayed) and Prime Lessor’s prior written consent, transfer, mortgage, pledge or assign its interest in this Sublease or those certain parcels of the Property, or any part thereof that are part of the Master Lease.

Except as hereinafter provided, COSF shall not, without the County’s prior written consent (which consent may be not be unreasonably withheld or delayed) and Prime Lessor’s prior written consent, sublet the Property or assign this Sublease. Any such sublease or assignment shall be subject to all provisions of this Sublease.

ARTICLE 18 NOTICES

Any notice required to be given by or on behalf of either party to the other shall be in writing and given by mailing such notice by certified mail, return receipt requested, or by statutory overnight courier, overnight delivery requested, with receipt signature required,

addressed to the other party as follows (or to any other address that the party to be notified may have designated to the other party by like notice at least ten (10) days prior thereto):

- (i) If to County: County Manager
Fulton County Government Center
141 Pryor Street, S.W., Suite 10061
Atlanta, Georgia 30303

With a copy to: County Attorney
Fulton County Attorney's Office
Fulton County Government Center
141 Pryor Street, S.W., Suite 4038
Atlanta, Georgia 30303

Director of Real Estate and Asset Management
Fulton County Government Center
141 Pryor Street, S.W., Suite 600
Atlanta, Georgia 30303
- (ii) If to COSF: Odie Donald, City Manager
5440 Fulton Industrial Blvd
City of South Fulton, Georgia

With a copy: Emilia C. Walker, City Attorney
8024 Fair Oaks Court
Jonesboro, Georgia 30236

The Parties may substitute the recipient's names and addresses by giving notice as provided hereunder. Any notice given hereunder shall be deemed effective on the date such notice, being properly addressed, is deposited in a post office of the United States Postal Service, or sent by statutory overnight courier, overnight delivery requested, receipt signature required.

ARTICLE 19 ENVIRONMENTAL LAWS

19.1 To the extent, if any, required by law, COSF shall hold County harmless from, and shall indemnify County against, any damage, loss, expense, response costs or liability, resulting from hazardous substances generated, stored, used, disposed of or transported to, or for any other

reason existing on or under the Property as a result of COSF's use of the Property during the Initial Term and any Renewal Term. For purposes of this Sublease, "hazardous substances" shall mean: (i) any substance which contains gasoline, diesel fuel or other petroleum hydrocarbons; (ii) any substance which is flammable, radioactive, corrosive or carcinogenic; (iii) any substance the presence of which on the Property causes or threatens to cause a nuisance or health hazard affecting human health, the environment, the Property or property adjacent thereto; or (iv) any substance the presence of which on the Property requires investigation or remediation under any Hazardous Substance Law, as the same may hereafter be amended. "Hazardous Substance Law" means the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Sec. 9601 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6901 et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. Sec. 1801 et seq.; the Clean Water Act, 33 U.S.C. Sec. 1251 et seq.; the Clean Air Act, 42 U.S.C. Sec. 7401 et seq.; the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. Sec. 136 et seq.; the Toxic Substances Control Act, 15 U.S.C. Sec. 2601 et seq.; the Emergency Planning and Community Right to Know Act (SARA Title III) 42 U.S.C. Sec. 11001 et seq.; and any applicable state law or regulation. The COSF shall not be required to indemnify the County against liability or claims for damages, losses, or expenses, including attorney fees, arising out of bodily injury to persons, death, or damage to property caused by or resulting from the sole negligence of the County.

19.2 COSF hereby agrees that: (i) no activity will be conducted on the Property that will produce any Hazardous Substance as herein defined, except for such activities that are part of the ordinary course of COSF's business activities that are consistent with COSF's permitted uses under Article 2 of this Sublease (the "Permitted Activities") provided said Permitted Activities are conducted in accordance with all Environmental Laws and have been expressly approved in

advance in writing by County; (ii) the Property will not be used in any manner for the storage of any Hazardous Substances except for the storage of such materials that are used in the ordinary course of COSF's operation of the subject Property as a public park and expressly approved in advance in writing by County, provided such materials are properly stored in a manner and location meeting all Hazardous Substance Law and in quantities that do not exceed the amounts approved in writing by County; (iii) no portion of the Property will be used as a landfill or a dump; (iv) COSF will not install any underground tanks of any type; (v) COSF will not allow any surface or subsurface conditions to exist or come into existence that constitute, or with the passage of time may constitute, a public or private nuisance; (vi) COSF will not permit any Hazardous Substances to be brought onto the Property, except for the permitted materials described in subsection (ii) above, and if so brought or found located thereon, the same shall be immediately removed by the COSF, with proper disposal, and all required cleanup procedures shall be diligently undertaken by the COSF pursuant to all Hazardous Substance Laws.

ARTICLE 20 CONTINUED DURATION OF SUBLEASE

20.1 In the event that COSF remains in possession of the Property after the expiration or earlier termination of the Term, and absent a written demand for possession by County to COSF, this Sublease shall be automatically extended on a month-to-month basis, subject to thirty (30) days written notice of termination by either party, and otherwise on the terms and conditions set forth herein, so far as applicable.

ARTICLE 21 SURRENDER OF POSSESSION

21.1 Except as set forth hereunder, upon termination or expiration of this Sublease, COSF will peacefully surrender to County the Property in as good a condition and order as when received

under this Sublease, in broom swept condition except for reasonable use and wear thereof, and damage or casualty caused by earthquake, fire, public calamity, the elements, acts of God, or circumstances over which COSF has no control or for which County has responsibility under this Sublease; provided, however, that the provisions of Section 9.3 shall remain applicable in the event of such damage or casualty. All improvements, erections, additions, and alterations installed or placed on the Property by COSF, whether permanently affixed thereto or otherwise, shall continue and remain property of COSF and may be removed by COSF, in whole or in part, at any time prior to the expiration or termination of this Sublease. If COSF removes any or all of the improvements, erections, additions, and alterations installed or placed on the Property by it, COSF agrees to repair any specific damage resulting to the Property from said removal.

21.2 At any time before the expiration or termination of this Sublease, COSF shall have the right and privilege to remove all fixtures, equipment, appliances, movable furniture and personal property which it has placed on the Property, provided COSF must repair any specific damage resulting to the Property from such removal.

ARTICLE 22 CONDEMNATION

22.1 If the whole of the Property, or such portion thereof as will make the Property unusable for the purposes herein Subleased, shall be condemned by any legally constituted authority for any public use or purpose, then in either of said events the term hereby granted shall cease from the time when possession thereof is taken by public authorities, and rental shall be accounted for as between COSF and County as set forth in this Sublease. Such termination, however, shall be without prejudice to the rights of either County or COSF to recover compensation and damage caused by condemnation from the condemnor. It is further understood and agreed that neither

COSF nor County shall have any rights in any award made to the other by any condemning authority.

ARTICLE 23 EXTERIOR SIGNS

23.1 Any and all signs placed upon the Property by COSF must have prior approval from the County, with such approval to not be unreasonably withheld and shall be maintained in compliance with rules and regulations governing such signs, and COSF shall be responsible to the County for any damage caused by the installation, use or maintenance of said signs, and COSF agrees upon removal of said signs to repair all damage incident to such removal.

ARTICLE 24 OWNERSHIP BY SOUTH FULTON

24.1 Upon the expiration of the Sublease or Master Lease, the Property, including the Indentured Properties and the County-owned Trammell Crow Parcel, shall be sold to COSF as a group pursuant to the terms and conditions set forth in O.C.G.A. § 36-31-11.1.

ARTICLE 25 DAMAGE, INDEMNIFICATION

25.1 COSF agrees, to the extent, if any, allowed by law, to indemnify and save harmless County against all claims for damages to persons or property by reason of COSF's use or occupancy of the Property, and all expenses incurred by County because thereof, except for those matters caused by the negligence or intentional misconduct of County and/or Prime Lessor and/or their respective representatives, agents, employees, licensees, guests and/or invitees, for which the COSF shall not be liable in any manner and for which County shall, to the extent allowed by law, if any, indemnify and save harmless COSF.

ARTICLE 26
ESTOPPEL STATEMENT

26.1 COSF and County agree that from time to time, upon not less than ten (10) days prior request by a party, that the other party will deliver to the requesting party a statement in writing certifying: (a) that this Sublease is unmodified and in full force and effect (or, if there have been modifications, that the Sublease as modified is in full force and effect and stating the modifications); (b) the dates to which the rent and other charges have been paid or received; (c) to the best of the responding party's knowledge, that the requesting party is not in default under any provisions of this Sublease, or, if in default, the nature thereof in detail; and (d) such other information pertaining to this Sublease that the requesting party may reasonably request. Failure by the responding party to so reply within said ten (10) days shall be deemed confirmation by the requesting party that all Parties are in good standing under the Sublease. The County Manager is authorized to execute any and all documents required under this Article on behalf of Fulton County.

ARTICLE 27
GENERAL PROVISIONS

27.1 The headings, captions and numbers in this Sublease are solely for convenience and shall not be considered in construing or interpreting any provision in this Sublease. Wherever appropriate in this Sublease, personal pronouns shall be deemed to include other genders and the singular to include the plural, if applicable. The recitals and "WHEREAS" clauses set forth in the preamble above are considered material terms of this Sublease and are incorporated into this Sublease by reference. All terms, provisions, covenants and conditions to be observed and performed by either party shall be applicable to and binding upon that party's respective

representatives, administrators, successors and assigns, subject, however, to the restrictions as to assignment or subletting as provided herein.

**ARTICLE 28
RIGHTS CUMULATIVE**

28.1 All rights, powers, and privileges conferred hereunder upon the Parties hereto shall be cumulative to, and shall not restrict, those rights, powers, and privileges given by law.

**ARTICLE 29
BROKERAGE**

29.1 COSF and County represent that neither party has dealt with any real estate broker in connection with this Sublease.

**ARTICLE 30
FORCE MAJEURE**

30.1 COSF and County shall not be required to perform any term, condition, or covenant in this Sublease so long as such performance is delayed or prevented by force majeure, which shall mean acts of God, labor disputes (whether lawful or not), material or labor shortages, restrictions by any governmental authority, civil riots, floods, and any other cause not reasonably within the control of County or COSF, as the case may be, and which by the exercise of due diligence the affected party is unable, wholly or in part, to prevent or overcome.

**ARTICLE 31
UNDERSTANDINGS; TIME IS OF THE ESSENCE;
COVENANTS RUNNING WITH THE LAND**

31.1 This Sublease sets forth all provisions and understandings between the Parties relative to the Property. There are no provisions, understandings, representations or inducements, either written or oral, between the Parties other than those set forth herein. It is mutually understood and agreed that no alterations or variations of the terms of this Sublease shall be valid unless made in writing and signed by the Parties hereto, and that no oral understandings or Subleases

not incorporated herein shall be binding on either party hereto. The Parties agree that time is of the essence in this Sublease. All express covenants of this Sublease shall be deemed to be covenants running with the land.

**ARTICLE 32
TAXES**

32.1 If applicable, COSF shall be responsible for any and all ad valorem taxes pertaining to the Property for the duration of the Sublease.

**ARTICLE 33
EFFECTIVE DATE**

33.1 The effective date of this Sublease shall be the date of the closing on the transfer of the parks, which for purposes of this Sublease is May 31, 2018. This Sublease shall become binding upon its adoption of the governing bodies of both Parties.

IN WITNESS WHEREOF, the Parties hereto have executed quadruplicate originals of the Sublease as of the date the last party hereto affixes its signature to this Sublease.

BY FULTON COUNTY, GEORGIA:

By:

**Robert L. Pitts, Chairman,
Fulton County Board of Commissioners**

ATTEST

By:

**Tonya R. Grier,
Interim Clerk to the Commission**

Approved as to form by:

Patrise Perkins-Hooker, County Attorney

BY CITY OF SOUTH FULTON:

By:

Bill Edwards, Mayor, City of South Fulton

ATTEST

By:

Mark, Massey, City Clerk

Agr2018-029

Date of Approval ____/____/____

Approved as to form by:

Emilia C. Walker, City Attorney

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

EXHIBIT B
MASTER LEASE



CITY OF SOUTH FULTON



COUNCIL AGENDA ITEM

COUNCIL REGULAR MEETING

SUBJECT: Agr2018-030 Request approval of an IGA with the City of Atlanta - Fire

DATE OF MEETING: 10/9/2018

DEPARTMENT: City Manager

ATTACHMENTS:

Description	Type	Upload Date
Agr2018-032 IGA Automatic Aid -Fire_ with City of Atlanta	Cover Memo	10/10/2018



CITY OF ATLANTA

INTERGOVERNMENTAL AGREEMENT OF AUTOMATIC AID

This agreement is made and entered into this 1st day of July 2018, by and between THE CITY OF ATLANTA, GEORGIA, a municipal corporation existing under the laws of the State of Georgia (referred hereto as “the City”) and THE CITY OF SOUTH FULTON, GEORGIA, a municipal corporation existing under the laws of the State of Georgia (referred hereto as “COSF”).

WITNESSETH

WHEREAS, the City of Atlanta and City of South Fulton have contiguous boundaries; and

WHEREAS, South Fulton, Georgia is a municipality organized under the Laws of the State of Georgia, acting by and through its duly elected governing body; and; and

WHEREAS, the City of Atlanta is a municipality organized under the Laws of the State of Georgia, acting by and through its duly elected City Council; and

WHEREAS, the Georgia Constitution, ARTICLE IX, § 2, ¶3 prohibits cities from exercising governmental authority within each other’s boundaries except by intergovernmental agreement or as otherwise provided by law; and

WHEREAS, the COSF and the City desire to enter into an Intergovernmental Agreement for the COSF to provide fire protection, fire suppression, emergency medical, hazardous material, technical rescue and support assistance within specific boundaries of the City for a period commencing upon execution of this Intergovernmental Agreement (“IGA”) and ending on

December 31, 2018. This agreement may renew on January 1 of the successive year for up to a period of two (2) years only by written consent of the parties.

WHEREAS, it is the intent of the COSF and the City of Atlanta, Georgia that this IGA shall cancel and replace the Intergovernmental Agreement entered into by the City of Atlanta and Fulton County, Georgia which authorized Fulton County to Provide Fire Protection, Fire Suppression, Emergency Medical, Hazardous Material, Technical Rescue, and Support Assistance in Specific areas within the boundaries of the City of Atlanta, the legislative approval of which, **(10-R-1691)**, was adopted by the Atlanta City Council on September 20, 2010 and Approved by the Mayor of Atlanta on September 28, 2018.

WHEREAS, the COSF and the City of Atlanta, Georgia resolve to provide the best possible protection to its citizens in accordance with Georgia Law O.C.G.A. § 25-6-1 et seq. as now existing and hereafter amended, and as may be applicable, to prevent disastrous incidents from occurring and maximize on saving of life and property when disastrous incidents do occur by sharing of resources by like-minded jurisdictions.

WHEREAS, the COSF and the City of Atlanta each maintain and staff a fire department for the purpose of fire suppression, protection, prevention, rescue, emergency medical services, hazardous material, technical rescue and support services; and

WHEREAS, it is the desire of the respective governing authorities represented by the signatories hereto, to enter into this Agreement for Automatic Aid pursuant to the Georgia Automatic Aid Act O.C.G.A. § 36-69-4, as existing and hereafter amended and as may be applicable, adopted pursuant to the 1983 Constitution of the State of Georgia, Article IX, Section II, paragraph 3.

NOW THEREAFTER BE IT RESOLVED AS FOLLOWS:

The City of South Fulton, Georgia designates the Fire Chief or his/her designee to act on behalf of COSF on all matters relating to the activities and functions of the Georgia Automatic Aid Pact.

The City of South Fulton, Georgia may withdraw its agreement by delivering written notice to the City of Atlanta Fire Rescue Chief giving ninety (90) days' notice pursuant to O.C.G.A. § 25-6-1, et seq.

There shall be no liability imposed on the COSF for any action or failure to act as a party of this Agreement/Pact. (O.C.G.A. § 25-6-5)

That the COSF or his/her designee shall be authorized to act on behalf of the City of South Fulton Fire Department on all matters relating to the activities and functions of the Automatic Aid Resource Agreement/Pact once it has been established.

That the COSF Fire Department liabilities, privileges, and immunities, including those of its firefighters and other personnel acting on its behalf, shall be governed by O.C.G.A. § 25-6-1, et seq.

That each party agrees to furnish resources and facilities and to render services to prevent and combat any type of fire disaster or major emergency in accordance with duly adopted Automatic Aid Plans (Georgia Emergency Operations Plan [GEOP], Emergency Management Assistance Compact [EMAC], Local Emergency Operational Plan [LEOP], Georgia Automatic Aid State Fire And Rescue Response Plan) whether heretofore or hereafter adopted, detailing the method and manner by which such resources, facilities, and services are to be made available and furnished, which operational plans may include provisions for training and testing to make such

automatic aid effective; provided, however, that no party shall be required to deplete unreasonably its own resources, facilities, and services in furnishing such automatic aid.

NOW THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the parties hereto agree as follows:

PURPOSE AND INTENT- 1.0

1(a): The purpose of this Agreement is for the COSF to provide fire protection, fire suppression, emergency medical, hazardous material, technical rescue and support assistance within specific areas of the City for a period commencing on the date of execution.

1(b): The COSF therefore agrees to provide the City of Atlanta with services consistent with the overall quality of services provided throughout the COSF.

1(c): The City will pay for the costs of providing such services as agreed upon within this Agreement, and cooperate with the COSF in the provision of those fire rescue services.

AUTOMATIC AID – 2.0

2(a): The level of automatic aid shall exist at a level agreed upon in writing and signed by both, the City of Atlanta Fire Chief and the City of South Fulton Fire Chief or a designee of the respective Fire Chief.

2(b): The automatic aid actually furnished may be recalled at the discretion of the Fire Chief or Commissioner/Director of Public Safety or their designee of the furnishing jurisdiction.

2(c): The parties will participate in joint training exercises to promote a basic standardization of operations and philosophy to the extent necessary as determined and agreed upon by the Fire Chief or designee of the respective Fire Chief.

2(d): Requesting parties will accept credentials of deployed teams and resources as defined by the Georgia State Standards and Training Council and in other response plans (local, regional, state, interstate) as specifically defined.

STANDBY OF EQUIPMENT – AUTOMATIC AID – 3.0

3(a): Each party agrees and acknowledges that it will be the responsibility of each party to provide the backup coverage necessary for its own department.

3(b): In the event that a jurisdiction has dedicated a major amount of fire suppression or specialized equipment on an incident, the jurisdiction may request aid to cover vacant areas by locating AUTOMATIC aid units into the affected jurisdiction.

SUPERVISION – 4.0

4(a): The furnishing jurisdiction shall dispatch a Chief Officer (Incident Command System [ICS], National Incident Management System [NIMS] Qualified Incident Commander). The Chief Officer shall coordinate resources of the furnishing jurisdiction and shall report to the Chief Officer of the receiving jurisdiction.

4(b): When the furnishing jurisdiction's (Incident Command System, National Incident Management System Qualified Incident Commander) Chief Officer arrives before the (Incident Command System, National Incident Management System Qualified Incident Commander) Chief Officer of the receiving jurisdiction, that officer shall coordinate and give the general directions as to the work to be done. This officer will be in command until properly relieved by the Chief Officer of the jurisdiction receiving aid.

4(c): Personnel who are being furnished will work under their own supervisors and with their own equipment except as provided in paragraph 2(a).

4(d): All general direction relative to the work will be given by the appropriate officers of the receiving jurisdiction to the (Incident Command System, National Incident Management System Qualified Incident Commander) Chief Officer of the furnishing jurisdiction under the authority of O.C.G.A. § 36-69-3(b, e) except as provided in paragraph 2(a).

LIABILITY – 5.0

5(a): There is no special duty imposed by this Agreement on either party or its respective personnel to respond to fire, rescue, or other calls pursuant to this Agreement as per O.C.G.A. § 25-6-5(a).

5(b): No employee of a party shall be deemed to be an employee or agent of the other party because of any action or incident arising pursuant to this Agreement as per O.C.G.A. § 25-6-5-(b).

5(c): All damages or repairs to any equipment or apparatus shall be the responsibility of the owner jurisdiction as per O.C.G.A. § 25-6-5-(c).

COMPENSATION FOR AID – 6.0

6(a): For fire and rescue services to be rendered pursuant to this Agreement, the City shall pay to the COSF an annual amount of \$ 809,550.25 which shall be remitted to the COSF as follows: \$ 404,775.13, as a pro-rated amount due fifteen calendar days from the date of execution of this agreement. This total amount will cover calendar year 2018. For each subsequent year, \$ 809,550.25 shall be remitted to the City of South Fulton as follows: the first installment of \$ 404,775.13 is due net 15 days from date of invoice provided to the City, with final payment of \$ 404,775.12 remitted biannually net 15 days from date of invoice provided to the City of Atlanta. The above-mentioned payments shall be made in compliance with the current Fiscal Calendar for the City.

All invoices shall be submitted to:

Atlanta Fire Rescue Department
Fiscal Business Manager/ Accounting Office
226 Peachtree Street, SW
Atlanta, Georgia 30303

6(b): Equipment, personnel, and/or services provided pursuant as mutual aid for periods or durations not exceeding 24 hours shall be at no charge to the party requesting aid with the only exception of expendable items such as foam which shall be replaced by the party requesting aid; however, any expenses recoverable from third parties shall be equitably distributed among responding parties. Nothing herein shall operate to bar recovery of funds from any state or federal agency under any existing statutes.

COSF FIRE DEPARTMENT SERVICES - 7.0

7(a): The COSF Fire Department will automatically respond and utilize resources when providing fire prevention, fire suppression, emergency medical, hazardous material, technical rescue, and support services in contiguous geographic service areas of Atlanta Fire Station 36 on a continual 24-hour per day basis in accordance with Georgia law, City Ordinances. These services shall be provided within the jurisdictional boundaries of the City enumerated in Attachment A, attached hereto and hereby incorporated into this IGA.

7(b): The COSF Fire Department providing the aid shall provide the equivalent of comparably equipped unit(s) as determined by ICS-420-1 and existing units being utilized by the COA; and

staffed with a minimum of four members in each instance of emergency based on local conditions at the time of emergency.

7(c): The COSF Fire Department units will respond to all calls-for-service within the specific jurisdictional limits of the City as enumerated in Attachment A, as dispatched through the 911 system.

7(d): The COSF Fire Department unit(s) shall be deemed the primary responder in the areas identified (see Attachment A) and shall make every reasonable effort to meet all existing performance metrics as noted for EMS and Fire with response targets of 7:59 & 8:12 respectively while maintaining safe operations, consistent with the departmental average response time.

7(e): The COSF Fire Department will respond to and render aid in emergency, life-saving and in-progress fire incidents occurring inside the boundaries of the City, and to locations covered by existing mutual aid agreements. In the event that the COSF fire department personnel must respond to incidents occurring outside the boundaries of the City, the City shall ensure sufficient Fire Department personnel remain in the City to continue routine and emergency fire suppression and emergency medical activities.

EQUIPMENT -8.0

8(a): The COSF shall provide uniformed firefighters, of any rank, with the COSF's own standard support equipment necessary to carry out the fire suppression, fire protection and emergency medical services functions contemplated by this Agreement.

8(b): The COSF shall furnish and maintain in good working condition for the benefit of the City, all necessary emergency communication facilities and equipment necessary and proper for the purpose of performing the services, duties and responsibilities described in this Agreement.

8(c): Each COSF fire engine, ladder truck and battalion vehicle shall be furnished with standard

support equipment as necessary and appropriate to carry out services contemplated by this Agreement.

8(d): There shall only be one public address (PA) system at City of South Fulton Station 2 and this system shall be properly connected to speakers needed to meet the requirement of NFPA 1221 § 8.1.1.9. Both parties shall communicate together and coordinate any changes related to this section. Further, the City shall be responsible for all costs and expenses associated with the installation of equipment needed for operating the PA system.

RECORDKEEPING AND REPORTING -9.0

9(a): The COSF Fire Department is the central repository for all departmental records and makes available public records as defined by the Georgia Open Records Act, O.C.G.A. § 50-18-70, et seq. During the term of this Agreement, the COSF will continue to maintain all reports relating to Fire Department activity within the City.

9(b): The COSF shall prepare and deliver quarterly reports to the city Fire Chief or his / her designee. The reports shall describe the type and number of calls for fire and first responder non-transport emergency medical services responded to by the COSF Fire Department.

9(c): Except as limited by any provision of state or federal law, the City may request, review and access data and COSF records to ensure compliance with this Agreement.

9(d): The COSF Fire Department shall document incidents within the City of Atlanta using the equipment and records management system (RMS) provided by the COSF Fire Department.

EVENT OF DEFAULT -10.0

An event of default shall mean a material breach of this Agreement by the COSF as follows:

10(a): COSF repeatedly disregards local priorities established by the Mayor of the City of Atlanta which the COSF is required to observe by this Agreement and which have been communicated in

writing by action of the Atlanta City Council to the COSF on more than one occasion.

10(b): The COSF consistently fails to meet the levels of service outlined in Article 4, which failure has been communicated in writing by action of the Atlanta City Council to the COSF on more than one occasion.

An event of default shall mean a material breach of this Agreement by the City as follows:

10(c): Failure of the City to make prompt payment as stipulated in section 5.0.

RELEASE OF CLAIMS – 11.0

11(a): Each of the parties agree to release the other party from any and all liabilities, claims, judgments, costs, or demands for damage to its own property whether directly arising or indirectly arising out of the use of any vehicle, equipment, or apparatus by the other party during the provision of service pursuant of this Agreement as per O.C.G.A. § 25-6-5(b).

THIRD PARTY BENEFICIARIES – 12.0

12(a): This Agreement shall not be construed as, or deemed to be, an Agreement for the benefit to any third party or parties, and no third parties shall have any right of action hereunder for any cause whatsoever.

TERM OF AGREEMENT –13.0

13(a): This Agreement shall commence upon its approval and appropriate recording in the minutes by the respective governing bodies of the parties. Renewal of this Agreement shall require written notice by both the COSF and the City and shall not be automatic.

13(b): The initial term of this Agreement shall be for a period following commencement as set forth in this paragraph and ending on December 31, 2018. This agreement may renew on January 1 of the successive year for up to a period of two (2) years only by written consent of the parties.

13(c): Nothing in this article shall preclude termination pursuant to section 10.

ENTIRE AGREEMENT – 14.0

14(a): This Agreement shall constitute the entire Agreement between the parties and no modification thereof shall be binding unless evidenced by a subsequent signed written Agreement.

14(b): This Agreement shall be the sole instrument for the provision of emergency fire and rescue service AUTOMATIC aid between the parties.

TERMINATION – 15.0

15(a): Either party of this Agreement may terminate the Agreement by giving not less than ninety (90) days advance written notice to the other party.

15(b): Upon termination of this agreement (termination date) the City will be eligible for a pro-rated reimbursement of funds for service(s) not provided under this agreement.

SEVERABILITY OF TERMS – 16.0

16(a): In the event any part or provision of this Agreement is held to be invalid, the remainder of this Agreement shall not be affected thereby and shall continue in full force and effect.

16(b): No terms contained in this Agreement shall be deemed to conflict with or alter the terms of the Intergovernmental Agreement for the Provision of Fire and Rescue Services between City of South Fulton, Georgia and The City of Atlanta, Georgia ("Intergovernmental Agreement"). If there arises such a conflict, The Intergovernmental Agreement shall take precedence and continue to be binding. To the extent that a Court of competent jurisdiction finds any such conflict, the provision of this Agreement that is found to be conflicting shall be severed and the remainder of this Agreement will continue in full force and effect as if the conflicting provision or portion were not part of this Agreement.

GOVERNING LAW – 17.0

17(a): This Agreement shall be governed in all respects by the laws of the State of Georgia.

CONSTRUCTION – 18.0

18(a): Nothing in this Agreement is intended to or shall be construed as modifying the respective rights and obligations of the parties under an AUTOMATIC Aid Agreement as specifically provided by the Georgia AUTOMATIC Aid Act O.C.G.A. § 39-69-1, et seq.

CANCELATION OF PRIOR IGA – 19.0

19(a): Insofar as upon its incorporation the COSF inherited the 2010 Intergovernmental Agreement between the City of Atlanta, Georgia and Fulton County, approved by the Mayor and City Council of the City of Atlanta via City Resolution 10-R-1691, this Agreement shall cancel and replace that 2010 Intergovernmental Agreement in its entirety.

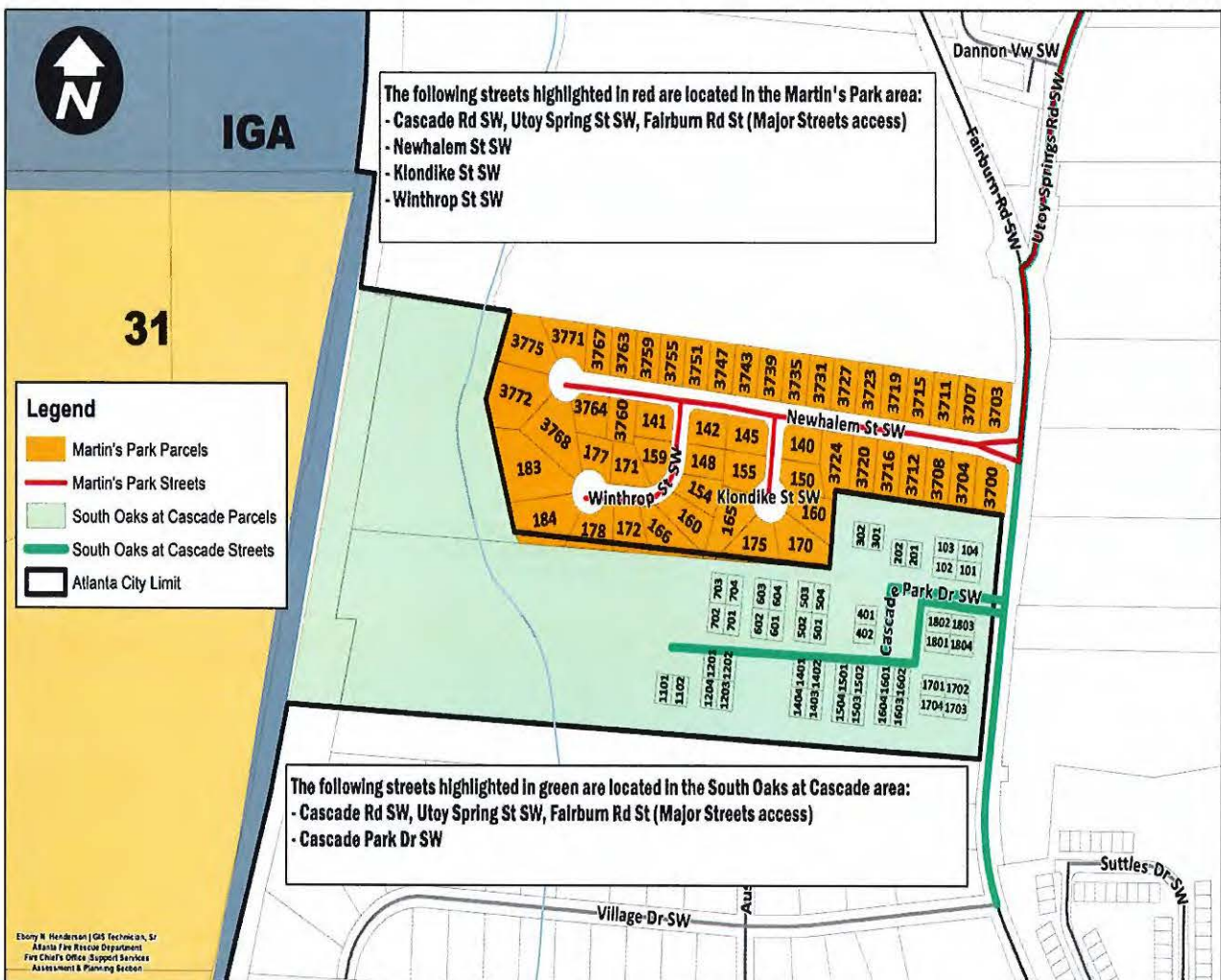
IN WITNESS WHEREOF, we have caused this Agreement to be executed on the date appearing above.

Addendum A

Automatic Aide Coverage Model

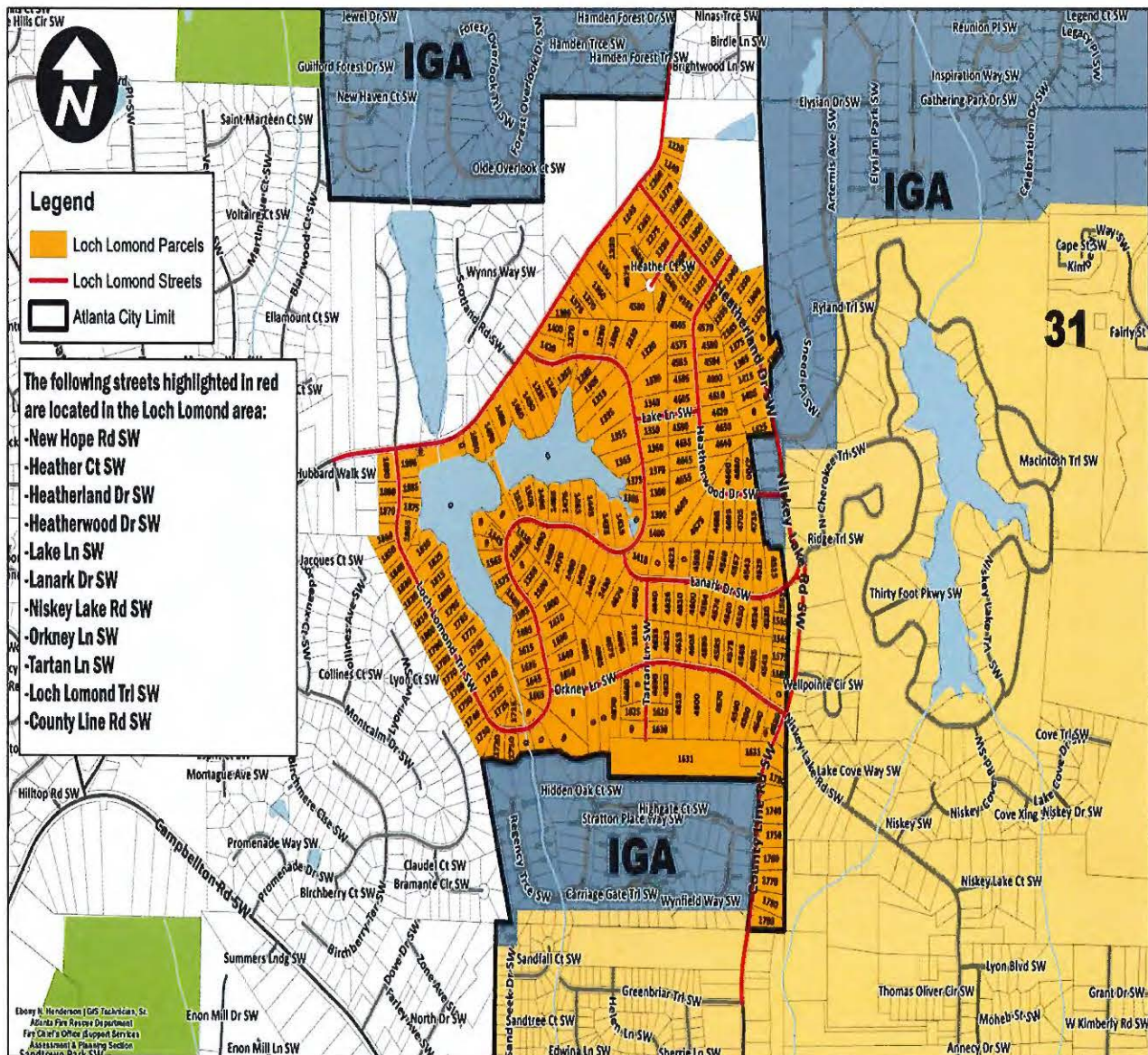
Martin's Park Area Overview

The residential area known as Martin's Park is located off of Fairburn Road in the City of South Fulton. Martin's Park is 11.66 acres and includes the streets of Winthrop Street, Newhalem Street, and Klondike Street. Martin's Park has 51 parcels and a population of approximately 143.



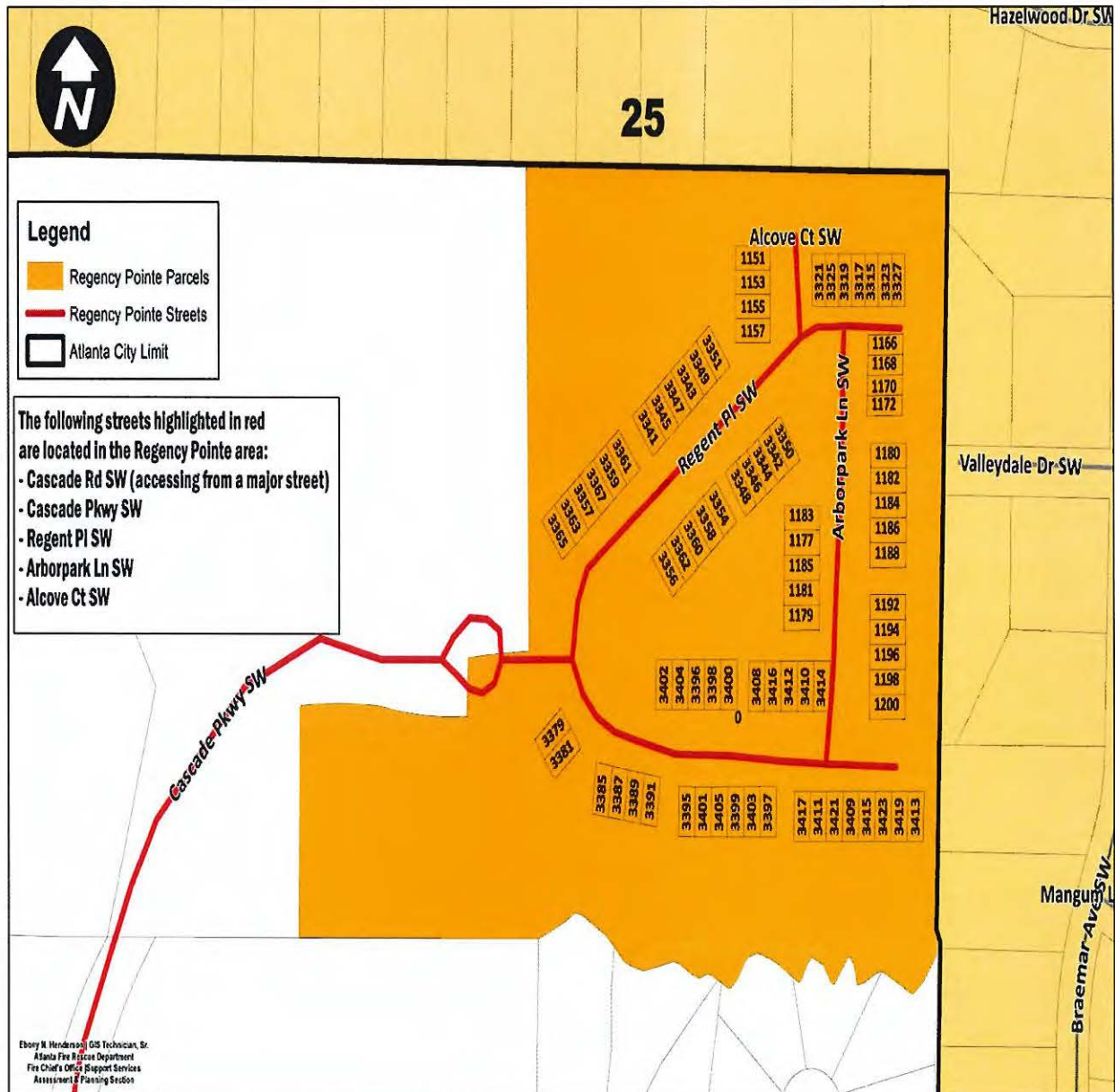
Loch Lomond Estates

The residential area known as **Loch Lomond Estates** is located off of Fairburn Road in the City of South Fulton. **Loch Lomond Estates** is 271 acres and includes streets of Loch Lomond Trail, New Hope Road, Heather Court, Heatherland Drive, Heatherwood Drive, Lake Lane, Lanark Drive, Niskey Lake, Orkney Lane, and Tartan Lane. Based on the 2010 Census, **Loch Lomond Estates** has 232 households and a population of approximately 680.



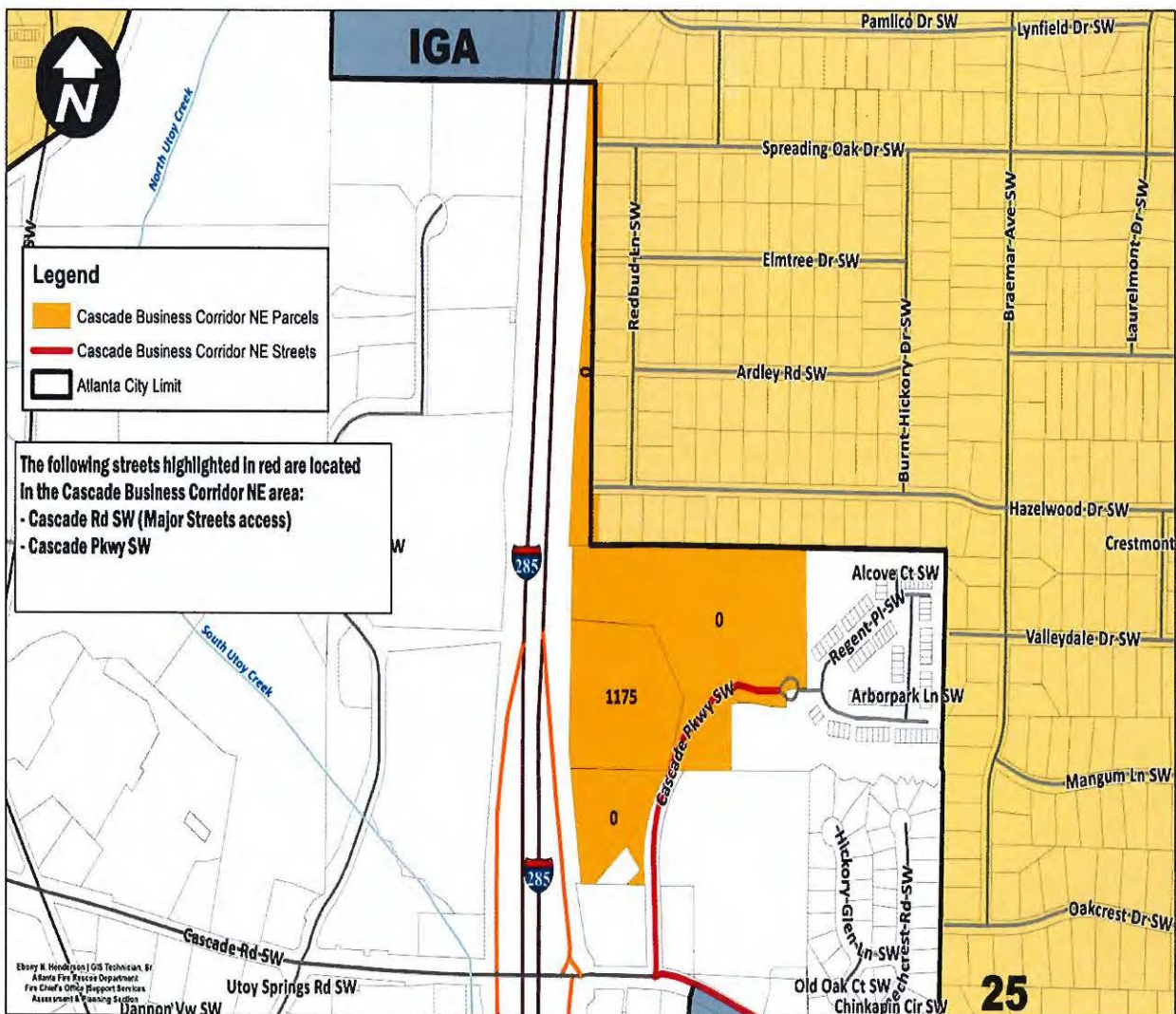
Regency Pointe

The residential area known as **Regency Pointe** is located off of Cascade Road in the City of South Fulton. **Regency Pointe** is 15.32 acres and includes the streets of Arbor Park Lane, Regent Place, and Alcove Court. **Regency Pointe** has 83 parcels and a population of approximately 192.



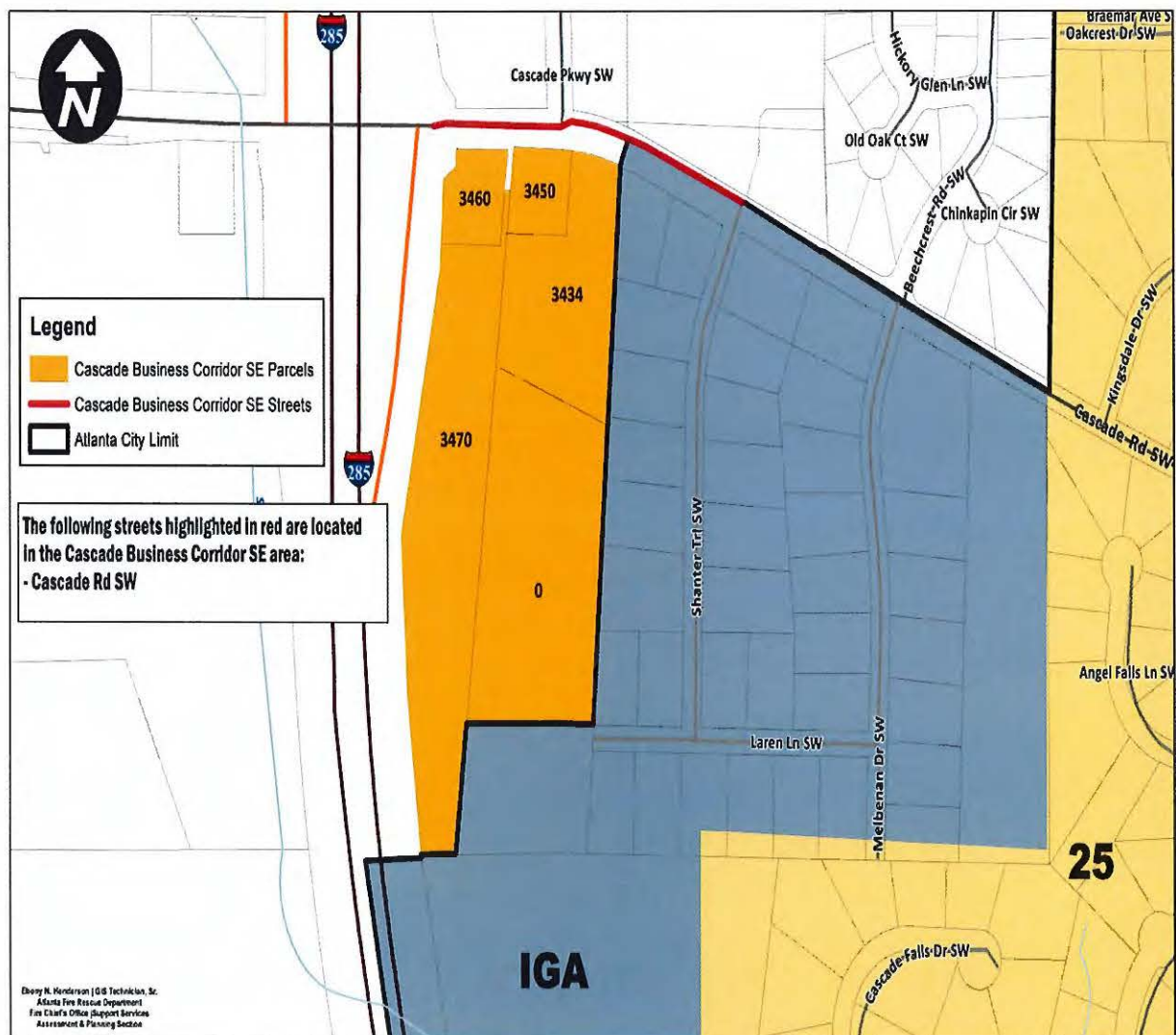
Northeast Cascade Business Corridor Area Overview

The commercial area known as **Northeast Cascade Business Corridor** is located off of Cascade Road in the City of South Fulton. **Northeast Cascade Business Corridor** is 23.64 acres and includes the streets of Cascade Road. **Northeast Cascade Business Corridor** has 4 parcels and no residential population.

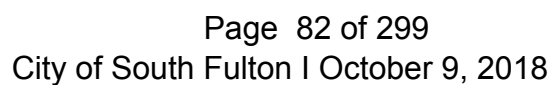


Southeast Cascade Business Corridor Area Overview

The commercial area known as **Southeast Cascade Business Corridor** is located off of Cascade Road in the City of South Fulton. **Southeast Cascade Business Corridor** has 4 parcels and no residential population.



The commercial area known as **Southwest Cascade Business Corridor** is located off of Cascade Road in the City of South Fulton. **Southwest Cascade Business Corridor** has 2 parcels and no residential population



Streets Annexed into The City of Atlanta 2017

Loch Lomond Streets

New Hope Rd SW
Heather Ct SW
Heatherland Dr SW
Heatherwood Dr SW

Lake Ln SW
Lanark Dr SW
Niskey Lake Rd SW
Orkney Ln SW
Tartan Ln SW
Loch Lomond Trl SW

County Line Rd SW

Martin's Park Streets

Cascade Rd SW, Utoy Spring St SW,
Fairburn Rd St (Major Streets access)

Newhalem St SW
Klondike St SW
Winthrop St SW

Streets from Previous Intergovernmental Agreement

Apollo Drive
Beaver Falls Place
Bethany Forrest Drive
Boise Trail
Cascade Knolls Drive
Cascade Pointe Drive
Cascade Road
Celebration Court
Celebration Drive
Claridge Trace
Danforth Road
East Court Drive

Cascade Business Corridor NE Streets

Cascade Rd SW (Major Streets access)
Cascade Pkwy SW

Regency Pointe Streets

Cascade Rd SW (Major Streets access)
Cascade Pkwy SW
Regent Pl SW
Arborpark Ln SW
Alcove Ct SW

Cascade Business Corridor SE Streets

Cascade Rd SW

Cascade Business Corridor SW Streets

Cascade Rd SW

South Oaks at Cascade Streets

Cascade Rd SW, Utoy Spring St SW,
Fairburn Rd St (Major Streets access)
Cascade Park Dr SW

Hamden Forest Drive
Hamden Forest Trail
Inspiration Way
Jewel Court
Jewel Drive
Laren Lane
Legacy Place
Legend Court
Melbenan Drive
New Britain Drive
New Haven Court
New Hope Road

Elysian Park
Elysian Drive
Fern Brooks Drive
Forest Crossing Drive
Forest Overlook Court
Forest Overlook Drive
Forest Overlook Trail
Gathering Park Drive
Glennhurst Lane
Green Cup Court
Green Cup Lane
Guilford Forest Drive
Guilford Forest Lane

Niskey Lake Circle
Niskey Lake Road
Park Center Drive
Regency Crest Court
Regency Crest Drive
Regency Park Drive
Rehoboth Circle
Reunion Court
Reunion Place
Shanter Trail
Straton Trace
Twin Tendrils
Willowood Lane

Additional Streets Requested

Cape Street
Cherokee Trail
Fairly Way



CITY OF SOUTH FULTON

COUNCIL AGENDA ITEM

COUNCIL REGULAR MEETING



SUBJECT: Ord2018-036 Welcoming City

DATE OF MEETING: 10/9/2018

DEPARTMENT: Attorney

ATTACHMENTS:

Description	Type	Upload Date
Ord2018-036 Welcoming all Races to City	Cover Memo	10/4/2018

1 STATE OF GEORGIA
2 COUNTY OF FULTON
3 CITY OF SOUTH FULTON
4

5 **ORDINANCE NO. 2018-036**

6 **AN ORDINANCE WELCOMING ALL RACES TO THE CITY OF SOUTH FULTON,**
7 **ENCOURAGING EQUAL OPPORTUNITIES, SUPPORTING DIVERSITY AND FOR**
8 **OTHER LAWFUL PURPOSES**

9 **(Sponsored by Councilperson Gumbs)**

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

12
13 **WHEREAS**, the duly elected governing authority of the City is the Mayor and
14 Council thereof ("City Council");

15
16 **WHEREAS**, the City Council finds that a government's openness to different
17 races and cultures plays a key roles in economic growth;

18
19 **WHEREAS**, the City Council desires a diverse community that values the
20 differences in people and recognizes that people with different backgrounds, skills,
21 attitudes and experiences bring fresh ideas and perceptions;

22 **WHEREAS**, the City Council finds that a government which embraces diversity
23 will attract a wider range of employment candidates and appeal to persons from all
24 walks of life;

25
26 **WHEREAS**, through this ordinance, the City Council desires to encourage and
27 harness such diversity to make City services relevant and approachable; and

28
29 **WHEREAS**, the City Council finds this Ordinance to be in the best interests of
30 the health, safety and general welfare of the City.

31
32 **THE MAYOR AND COUNCIL OF THE CITY OF SOUTH FULTON HEREBY**
33 **ORDAINS** as follows:

34
35 **Section 1:** The City of South Fulton Code of Ordinances Title 1, Administration,
36 Chapter 1, General Provisions, Section 1-1002, Reserved, is hereby amended to read
37 as follows:

38
39 **TITLE 1 – ADMINISTRATION**

40
41 **CHAPTER 1 - GENERAL PROVISIONS**

42 ...

Section 1-1002. Welcome to the City of South Fulton.

The City of South Fulton hereby welcomes all races, cultures and religions to participate and play a key role in the City's health, development, prosperity and economic growth. The City encourages all residents, businesses, employees and employers to value the difference in people and recognize that people with different backgrounds, skills and experiences bring fresh ideas and perceptions.

Section 2. It is hereby declared to be the intention of the Mayor and Council that: (a) All sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the city council to be fully valid, enforceable and constitutional.

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

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

Section 3. All Ordinances and parts of Ordinances in conflict herewith are hereby expressly repealed.

Section 4. The effective date of this Ordinance shall be the date of adoption unless provided otherwise by the City Charter or state and/or federal law.

73 The foregoing **ORDINANCE No. 2018-036**, adopted on _____
74 was offered by Councilmember _____, who moved its approval. The motion
75 was seconded by Councilmember _____, and being put to a vote, the
76 result was as follows:

77

78 **"FIRST READING"**

79

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AYE

NAY

82 William "Bill" Edwards, Mayor

83 Mark Baker, Mayor Pro Tem

84 Catherine Foster Rowell

85 Carmalitha Lizandra Gumbs

86 Helen Zenobia Willis

87 Gertrude Naeema Gilyard

88 Rosie Jackson

89 khalid kamau

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THIS ORDINANCE adopted this _____ day of _____ 2018. **CITY OF SOUTH
FULTON, GEORGIA.**

“FIRST READING”

WILLIAM “BILL” EDWARDS, MAYOR

ATTEST:

MARK MASSEY, CITY CLERK

APPROVED AS TO FORM:

EMILIA C. WALKER, CITY ATTORNEY



CITY OF SOUTH FULTON

COUNCIL AGENDA ITEM

COUNCIL REGULAR MEETING



SUBJECT: Res2018-059 Appointment of Legislative Aides

DATE OF MEETING: 10/9/2018

DEPARTMENT: Attorney

ATTACHMENTS:

Description	Type	Upload Date
Res2018-059 Appointment of Legislative Aides	Cover Memo	10/4/2018

1 STATE OF GEORGIA
2 COUNTY OF FULTON
3 CITY OF SOUTH FULTON
4
5

6 **RESOLUTION No. 2018-059**

7
8 **A RESOLUTION ESTABLISHING A PROCESS FOR THE APPOINTMENT OF**
9 **LEGISLATIVE AIDES AND FOR OTHER LAWFUL PURPOSES**

10 **(Sponsored by Councilperson Jackson)**

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

13
14 **WHEREAS**, the duly elected governing authority of the City is the Mayor and City
15 Council;

16
17 **WHEREAS**, Section 4.15 of the City Charter authorizes the City Council to
18 establish personnel policies and procedures; and

19
20 **WHEREAS**, this Resolution is in the best interests of the health and general
21 welfare of the City, its residents and general public.

22
23 **NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE MAYOR AND CITY**
24 **COUNCIL** as follows:

25
26 **Section 1.**

- 27
28 a. **Appointment.** City Council legislative aides ("Legislative Aides") hired from the
29 effective date of this Resolution shall be selected and appointed by the
30 Councilmember to whom they will assist, subject to confirmation by the City
31 Council. An advertisement for candidates may be issued by the procurement
32 department, at a Councilmembers' election.
33
34 b. **Supervision.** Legislative aids shall work under the supervision and direction of
35 the Councilmember by whom they were appointed. Legislative aids shall serve
36 at will, and may be removed by their assigned Councilmember, with or without
37 cause, subject to confirmation by the City Council. Unless earlier removed,
38 legislative aids shall serve the length of their appointing Councilmembers' term.
39
40 c. **Additional Reporting.** Legislative Aides shall report to the Human Resource
41 Director for any grievances and other administrative concerns.
42

43

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

48 (b) To the greatest extent allowed by law, each and every section, paragraph, sentence,
49 clause or phrase of this Resolution is severable from every other section, paragraph,
50 sentence, clause or phrase of this Resolution. No section, paragraph, sentence, clause
51 or phrase of this Resolution is mutually dependent upon any other section, paragraph,
52 sentence, clause or phrase of this Resolution.

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

60 **Section 3.** All Resolutions and parts of Resolutions in conflict herewith are hereby
61 expressly repealed.

62 **Section 4.** The effective date of this Resolution shall be October 1, 2018 unless
63 provided otherwise by the City Charter or state and/or federal law.
64

65 **Section 5. Instruction to City Clerk.** The City Clerk is hereby instructed to
66 circulate a copy of this Resolution to the City Council Legislative Aids.

67 The foregoing **RESOLUTION No. 2018-059**, adopted on _____
68 was offered by Councilmember _____, who moved its approval. The motion
69 was seconded by Councilmember _____, and being put to a vote, the
70 result was as follows:

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	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	_____	_____

85 THIS RESOLUTION adopted this _____ day of _____ 2018. CITY OF
86 SOUTH FULTON, GEORGIA
87
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93 _____
94 WILLIAM "BILL" EDWARDS, MAYOR
95
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99 ATTEST:
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103 _____
104 MARK MASSEY, CITY CLERK
105
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110 APPROVED AS TO FORM:
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112
113

114 _____
115 EMILIA C. WALKER, CITY ATTORNEY
116



CITY OF SOUTH FULTON

COUNCIL AGENDA ITEM

COUNCIL REGULAR MEETING



SUBJECT: Res2018-060 Worker's Compensation Protocols

DATE OF MEETING: 10/9/2018

DEPARTMENT: Attorney

ATTACHMENTS:

Description	Type	Upload Date
Res2018-060 Worker's Compensation Protocol	Cover Memo	10/4/2018

1 STATE OF GEORGIA
2 COUNTY OF FULTON
3 CITY OF SOUTH FULTON
4

5 **RESOLUTION NO. 2018-060**
6

7 **A RESOLUTION TO ESTABLISH WORKERS' COMPENSATION PROTOCOLS AND**
8 **FOR OTHER LAWFUL PURPOSES**
9

10 **WHEREAS**, the City of South Fulton ("City") is a municipal corporation duly
11 organized and existing under the laws of the State of Georgia;
12

13 **WHEREAS**, the Mayor and Council ("City Council") is the duly elected governing
14 authority of the City;
15

16 **WHEREAS**, pursuant to O.C.G.A. § 34-9-1, *et seq.*, the City must provide
17 Workers' Compensation coverage to its employees in the event of work place injuries;
18

19 **WHEREAS**, pursuant to O.C.G.A. § 34-9-154, the City may comply with its duties
20 as an employer to provide workers' compensation through membership in a Group Self-
21 Insurance Fund;
22

23 **WHEREAS**, the Mayor and Council adopted Resolution No. 2017-038 on August
24 8, 2017 authorizing the City to apply to obtain workers' compensation insurance
25 coverage through the Georgia Municipal Association;

26 **WHEREAS**, the City applied and enrolled in the Georgia Municipal Association
27 Self Insurance Workers Compensation Fund on August 11, 2017;

28 **WHEREAS**, the Mayor and Council finds that membership in the GMA Workers'
29 Compensation Self-Insurance Fund is beneficial to and in the best interests of the City;
30 and

31 **WHEREAS**, the City Council finds this Resolution to be in the best interest of the
32 City, its residents and the general public.

33 **NOW, THEREFORE, THE MAYOR AND CITY COUNCIL OF SOUTH FULTON,**
34 **GEORGIA, HEREBY RESOLVES:**

35 **Section 1:** Volunteer Firemen, Certified Volunteer Policemen and Elected
36 Officials shall be covered under the GMA Workers Compensation Self-Insurance Fund
37 while performing their duties on behalf of the City.

38 *****
39

40
41 **Section 2.** It is hereby declared to be the intention of the Mayor and Council that: (a)
42 All sections, paragraphs, sentences, clauses and phrases of this Resolution are or
43 were, upon their enactment, believed by the City Council to be fully valid, enforceable
44 and constitutional.

45 (b) To the greatest extent allowed by law, each and every section, paragraph,
46 sentence, clause or phrase of this Resolution is severable from every other section,
47 paragraph, sentence, clause or phrase of this Resolution. No section, paragraph,
48 sentence, clause or phrase of this Resolution is mutually dependent upon any other
49 section, paragraph, sentence, clause or phrase of this Resolution.

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

57 **Section 3.** All Resolutions and parts of Resolutions in conflict herewith are hereby
58 expressly repealed.

59 **Section 4.** The effective date of this Resolution shall be the date of adoption unless
60 provided otherwise by the City Charter or state and/or federal law.
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The foregoing **RESOLUTION No. 2018-060**, 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

APPROVED AS TO FORM:

EMILIA C. WALKER, CITY ATTORNEY



CITY OF SOUTH FULTON

COUNCIL AGENDA ITEM

COUNCIL REGULAR MEETING



SUBJECT: Res2018-061 Redevelopment Referendum Election

DATE OF MEETING: 10/9/2018

DEPARTMENT: Attorney

ATTACHMENTS:

Description	Type	Upload Date
Res2018-061 Redevelopment Referendum	Cover Memo	10/4/2018

1 STATE OF GEORGIA
2 COUNTY OF FULTON
3 CITY OF SOUTH FULTON
4

5 **RESOLUTION NO. 2018-061**
6

7 **A RESOLUTION OF THE CITY OF SOUTH FULTON REQUESTING AND**
8 **AUTHORIZING THE LOCAL DELEGATION TO INTRODUCE LEGISLATION AT THE**
9 **REGULAR 2019 SESSION OF THE GENERAL ASSEMBLY OF THE STATE OF**
10 **GEORGIA TO AUTHORIZE A REFERENDUM ELECTION FOR THE CITY'S**
11 **EXERCISE OF REDEVELOPMENT AND OTHER POWERS AND FOR OTHER**
12 **LAWFUL PURPOSES**
13

14 **(Sponsored by Councilperson Willis)**
15

16 **WHEREAS**, the City of South Fulton ("City") is a municipal corporation duly
17 organized and existing under the laws of the State of Georgia;
18

19 **WHEREAS**, the Mayor and Council ("City Council") is the duly elected governing
20 authority of the City;
21

22 **WHEREAS**, the City Charter Section 3:10 authorizes the City to "adopt and
23 provide for the execution of such ordinances, resolutions, rules, and regulations, not
24 inconsistent with this charter and with the Constitution and the laws of the State of
25 Georgia;"
26

27 **WHEREAS**, Article IX, Section II, Paragraph VII(b) of the Georgia Constitution
28 authorizes the General Assembly by local law, to grant to the City all redevelopment
29 and other powers under Chapter 44 of Title 36 of the O.C.G.A., the "Redevelopment
30 Powers Law," as amended, to undertake and carry out community redevelopment, to
31 create tax allocation districts, to issue tax allocation bonds, and to incur other
32 obligations and to exercise redevelopment powers as fully as the "Redevelopment
33 Powers Law" may now or hereafter permit and not to limit any redevelopment powers
34 permitted under the "Redevelopment Powers Law;"
35

36 **WHEREAS**, the Georgia Constitution further provides that no local law of the
37 General Assembly granting the City all redevelopment and other powers under the
38 "Redevelopment Powers Law" shall become effective unless approved in a referendum
39 by a majority of the qualified voters voting thereon in the City;
40

41 **WHEREAS**, the City wishes to convey its desire to have local legislation granting
42 the City all redevelopment and other powers under the "Redevelopment Powers Law"
43 and calling for a referendum election submitting this local legislation to the electors of
44 the City for approval or rejection; and
45

WHEREAS, the City Council finds this Resolution to be in the best interest of the City, its residents and the general public.

**NOW, THERFORE, THE MAYOR AND CITY COUNCIL OF SOUTH FULTON,
GEORGIA, HEREBY RESOLVES:**

Section 1:

A. REQUEST TO LOCAL LEGISLATIVE DELEGATION: The City respectfully requests that the local legislative delegation introduce legislation at the 2019 session of the Georgia General Assembly granting the City all redevelopment and other powers under the "Redevelopment Powers Law," as amended, and authorizing an election in the City concerning the approval or rejection of local legislation granting the City all redevelopment and other powers under the "Redevelopment Powers Law," as amended. The local act shall authorize the City to undertake and carry out community redevelopment, to create tax allocation districts, to issue tax allocation bonds, and to incur other obligations within the meaning of and as fully permitted under the provisions of Article IX, Section II, Paragraph VII(b) of the Constitution of the State of Georgia of 1983, as amended, and to authorize the City to exercise redevelopment powers as fully as the "Redevelopment Powers Law" may now or hereafter permit and not to limit any redevelopment powers permitted under the "Redevelopment Powers Law."

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

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

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

Section 3. All Resolutions and parts of Resolutions in conflict herewith are hereby expressly repealed.

87 **Section 4.** The effective date of this Resolution shall be the date of adoption unless
88 provided otherwise by the City Charter or state and/or federal law.

89
90 **Section 5.** ***Instruction to City Clerk.*** The City Clerk is hereby instructed to email
91 copies of this Resolution to all members of the local legislative delegation.
92

The foregoing **RESOLUTION No. 2018-061**, 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

_____	_____
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111 THIS RESOLUTION adopted this _____ day of _____ 2018. CITY OF
112 SOUTH FULTON, GEORGIA

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119 _____
120 WILLIAM "BILL" EDWARDS, MAYOR

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126 ATTEST:

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129 _____
130 MARK MASSEY

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137 APPROVED AS TO FORM:

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140 _____
141 EMILIA C. WALKER, CITY ATTORNEY



CITY OF SOUTH FULTON

COUNCIL AGENDA ITEM

COUNCIL REGULAR MEETING



SUBJECT: Res2018-062 Hotel and Motel Tax Increase

DATE OF MEETING: 10/9/2018

DEPARTMENT: Attorney

ATTACHMENTS:

Description	Type	Upload Date
Res2018-062 Hotel and Motel Tax Increase	Cover Memo	10/4/2018

1 **STATE OF GEORGIA**
2 **COUNTY OF FULTON**
3 **CITY OF SOUTH FULTON**
4

5 **RESOLUTION NO. 2018-062**
6

7 **A RESOLUTION TO PROMOTE TOURISM AND DEVELOPMENT; TO INCREASE**
8 **THE HOTEL/MOTEL TAX CHARGED WITHIN THE CITY FROM FIVE TO EIGHT**
9 **PERCENT AND FOR OTHER LAWFUL PURPOSES**
10

11 **(Sponsored by Councilperson Willis)**
12

13 **WHEREAS**, the City of South Fulton ("City") is a municipal corporation duly
14 organized and existing under the laws of the State of Georgia;
15

16 **WHEREAS**, the Mayor and Council ("City Council") is the duly elected governing
17 authority of the City;
18

19 **WHEREAS**, pursuant to State law, O.C.G.A. § 48-13-50 et seq., the City is
20 authorized to levy an excise tax on the hotels and motels within the City (hereinafter a
21 "hotel/motel tax"), the general purpose of which is to promote, attract, stimulate, and
22 develop conventions and tourism within the City and for the provision of other local
23 government services;
24

25 **WHEREAS**, pursuant to State law, the City currently provides for a tax rate of
26 five percent of the amount paid for a guest room in a hotel or motel within the City,
27 unless an exemption applies;
28

29 **WHEREAS**, pursuant to O.C.G.A. § 48-13-50(b)(2), the City may charge a
30 hotel/motel tax at a rate up to eight percent, provided that the City adopts a resolution
31 specifying the tax rate, identifying the projects or tourism product development purposes
32 to be funded by the tax, and specifying the allocation of proceeds;

33 **WHEREAS**, subsequent to the adoption of any such resolution, any such
34 hotel/motel tax must be approved through the enactment of a local Act by the Georgia
35 General Assembly;

36 **WHEREAS**, the City Council finds it in the public interest to increase the City's
37 hotel/motel tax rate to eight percent, for the purpose of funding items such as
38 infrastructure projects which appeal to and support visitors' experience, museums, art
39 galleries, parks, trails, and other recreational facilities, performing arts facilities, corridor
40 and gateway improvements, signage and any/all other physical improvements
41 associated with a community "branding" campaign; and
42

43 **WHEREAS**, the City Council finds this Resolution to be in the best interest of the
44 City, its residents and the general public.

45 **NOW, THEREFORE, THE MAYOR AND CITY COUNCIL OF SOUTH FULTON,**
46 **GEORGIA, HEREBY RESOLVES:**

47 **Section 1:** The City Council hereby requests that legislation be presented at the
48 next session of the Georgia General Assembly, establishing a hotel/motel excise tax
49 pursuant to O.C.G.A. § 48-13-51(b) on the following terms:

- 50 (1) The rate of the tax shall be eight percent of the charge for the furnishing for value
51 to the public of any room or rooms, lodgings, or accommodations furnished by any
52 person or legal entity licensed by, or required to pay business or occupation taxes
53 to, the City of South Fulton, for operating within the City a hotel, motel, inn, lodge,
54 tourist camp, tourist cabin, campground, or any other place in which rooms,
55 lodgings, or accommodations are regularly or periodically furnished for value.
56
57 (2) The tourism product development projects to be supported by this excise tax are
58 designated to support and fund visitors' experience, museums, art galleries,
59 parks, trails, and other recreational facilities, performing arts facilities, corridor and
60 gateway improvements, signage and any/all other physical improvements
61 associated with a community "branding" campaign.

62
63 The proceeds of the hotel motel excise tax shall be allocated as follows:

- 64
65 (1) 3 ½% shall be allocated for the purpose of promoting tourism, conventions
66 and trade shows within the City of South Fulton;
67
68 (2) 1 ½% shall be allocated towards tourism product development purposes,
69 including renovations to infrastructure and other City attractions, corridor
70 and gateway improvements, and signage and any/all other physical
71 improvements associated with a community "branding" campaign and any
72 other permissible use under O.C.G.A. § 48-13-50 et seq.; and
73
74 (3) 3% shall be allocated to the general fund of the City of South Fulton.

75
76
77 *****

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

82 (b) To the greatest extent allowed by law, each and every section, paragraph,
83 sentence, clause or phrase of this Resolution is severable from every other section,
84 paragraph, sentence, clause or phrase of this Resolution. No section, paragraph,
85 sentence, clause or phrase of this Resolution is mutually dependent upon any other
86 section, paragraph, sentence, clause or phrase of this Resolution.

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

94 **Section 3.** All Resolutions and parts of Resolutions in conflict herewith are hereby
95 expressly repealed.

96 **Section 4.** The effective date of this Resolution shall be the date of adoption unless
97 provided otherwise by the City Charter or state and/or federal law.
98

99 **Section 5. Instruction to City Clerk.** The City Clerk is hereby instructed to email
100 copies of this Resolution to all members of the local legislative delegation.
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The foregoing **RESOLUTION No. 2018-062**, 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

APPROVED AS TO FORM:

EMILIA C. WALKER, CITY ATTORNEY



CITY OF SOUTH FULTON

COUNCIL AGENDA ITEM

COUNCIL REGULAR MEETING



SUBJECT: Res2018-063 City Lobbyist Selection

DATE OF MEETING: 10/9/2018

DEPARTMENT: Attorney

ATTACHMENTS:

Description	Type	Upload Date
Res2018-063 City Lobbyist Selection	Cover Memo	10/4/2018

1 STATE OF GEORGIA
2 COUNTY OF FULTON
3 CITY OF SOUTH FULTON
4
5

6 **RESOLUTION No. 2018-063**

7
8 **A RESOLUTION TO SELECT A CITY LOBBYIST AND FOR OTHER LAWFUL**
9 **PURPOSES**

10 **(Sponsored by Councilperson khalid)**

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

13
14 **WHEREAS**, the duly elected governing authority of the City, is the Mayor and
15 Council thereof ("City Council");

16 **WHEREAS**, the City Council desires by this Resolution to initiate the process for
17 the selection of a professional lobbyist to promote the City's interests, as needed, at the
18 state and federal government level; and

19
20 **WHEREAS**, this Resolution is in the best interests of the health and general
21 welfare of the City, its residents and general public.

22
23
24 **NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE MAYOR AND CITY**
25 **COUNCIL** as follows:

- 26
27 1. The aforesaid recitals are not mere recitals, but are material portions of this
28 Resolution.
29
30 2. If budgeted for in the current fiscal year, the Mayor may select a Professional
31 Lobbyist, subject to approval by a majority vote of City Council, to advocate
32 on behalf of the City to the State Legislature and Federal Government.
33

34 *****

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

39 (b) To the greatest extent allowed by law, each and every section, paragraph, sentence,
40 clause or phrase of this Resolution is severable from every other section, paragraph,
41 sentence, clause or phrase of this Resolution. No section, paragraph, sentence, clause

or phrase of this Resolution is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Resolution.

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

Section 3. All Resolutions and parts of Resolutions in conflict herewith are hereby expressly repealed.

Section 4. The effective date of this Resolution shall be the date of adoption unless provided otherwise by the City Charter or state and/or federal law.

The foregoing **RESOLUTION No. 2018-063**, 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

APPROVED AS TO FORM:

EMILIA C. WALKER, CITY ATTORNEY



CITY OF SOUTH FULTON

COUNCIL AGENDA ITEM

COUNCIL REGULAR MEETING



SUBJECT: Res2018-064 Future Minimum Wage Increase

DATE OF MEETING: 10/9/2018

DEPARTMENT: Attorney

ATTACHMENTS:

Description	Type	Upload Date
Res2018-064 Future Minimum Wage Increase	Cover Memo	10/4/2018

1 **STATE OF GEORGIA**
2 **COUNTY OF FULTON**
3 **CITY OF SOUTH FULTON**
4
5

6 **RESOLUTION No. 2018-064**

7
8 **A RESOLUTION ESTABLISHING A PLAN FOR AN INCREASED MINIMUM WAGE**
9 **FOR CITY OF SOUTH FULTON EMPLOYEES AND FOR OTHER LAWFUL**
10 **PURPOSES**
11

12 **(Sponsored by Mayor Pro Tem Baker and Councilperson kamau)**
13

14 **WHEREAS**, the City of South Fulton ("City") is a municipal corporation duly
15 organized and existing under the laws of the State of Georgia;
16

17 **WHEREAS**, the duly elected governing authority of the City is the Mayor and
18 Council thereof ("City Council");
19

20 **WHEREAS**, Section 4.15 of the City Charter authorizes the City Council to put
21 rules and regulations in place concerning the pay for persons employed by the City;
22

23 **WHEREAS**, the City Council finds that earning a livable wage is critical to
24 employee survivability and morale;

25 **WHEREAS**, the City Council finds that establishing a reasonable minimum wage
26 will help to boost the economy and worker productivity and reduce poverty, income
27 inequality and employee turnover; and

28 **WHEREAS**, the City Council finds consideration of a Fifteen (\$15) Dollar hourly
29 minimum wage for persons employed by the City to be in the best interest of the City, its
30 residents and the general public.

31 **NOW THEREFORE, THE COUNCIL OF THE CITY OF SOUTH FULTON**
32 **HEREBY RESOLVES AS FOLLOWS:**
33

34 **Section 1.** The City Council hereby acknowledges its intent to increase the
35 hourly minimum wage for City employees to Fifteen (\$15) Dollars effective as of the
36 commencement of Fiscal Year 2020. The City hereby instructs any vendor conducting
37 a classification and compensation study for the City to incorporate the City's intent to
38 increase the City's minimum wage as set further herein.
39

40 *****
41

42
43 **Section 2.** It is hereby declared to be the intention of the City Council that:

44 (a) All sections, paragraphs, sentences, clauses and phrases of this Resolution
45 are, or were, upon their enactment, believed by the City Council to be fully valid,
46 enforceable and constitutional.

47 (b) To the greatest extent allowed by law, each and every section, paragraph,
48 sentence, clause or phrase of this Resolution is severable from every other section,
49 paragraph, sentence, clause or phrase of this Resolution. No section, paragraph,
50 sentence, clause or phrase of this Resolution is mutually dependent upon any other
51 section, paragraph, sentence, clause or phrase of this Resolution.

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

59 **Section 3.** All Resolutions and parts of Resolutions in conflict herewith are
60 hereby expressly repealed.

61 **Section 4.** The effective date of this Resolution shall be the date of adoption
62 unless provided otherwise by the City Charter or state and/or federal law.
63
64

65 The foregoing **RESOLUTION No. 2018-064**, adopted on _____
66 was offered by Councilmember _____, who moved its approval. The motion
67 was seconded by Councilmember _____, and being put to a vote, the
68 result was as follows:

69			
70		AYE	NAY
71	William "Bill" Edwards, Mayor	_____	_____
72	Mark Baker, Mayor Pro Tem	_____	_____
73	Catherine Foster Rowell	_____	_____
74	Carmalitha Lizandra Gumbs	_____	_____
75	Helen Zenobia Willis	_____	_____
76	Gertrude Naeema Gilyard	_____	_____
77	Rosie Jackson	_____	_____
78	khalid kamau	_____	_____

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80
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CITY OF SOUTH FULTON

COUNCIL AGENDA ITEM

COUNCIL REGULAR MEETING



SUBJECT: Proclamation - Hamilton Bohannon Day

DATE OF MEETING: 10/9/2018

DEPARTMENT: City Clerk

ATTACHMENTS:

Description	Type	Upload Date
Proclamation - Hamilton Bohannon	Cover Memo	10/3/2018



City of South Fulton

WHEREAS, Hamilton Bohannon, a major contributor to the World of Contemporary Music, professionally known as Bohannon, is a multi-talented artist, writer, producer, musician, author, and entrepreneur;

WHEREAS, Bohannon was born of Native American and Black American descent to Willie and Sarah Bohannon in Newnan, GA. He attended Clark College, now Clark Atlanta University and is a member of Alpha Phi Alpha Fraternity, Inc. After graduating from Clark College with a degree in Music and Secondary Education, Bohannon was offered a music scholarship in percussion to attend Indiana University. Instead, he taught public school;

WHEREAS, Bohannon left the school system to join Stevie Wonder as his drummer, which further propelled him in becoming a bandleader at Motown Records. *Bohannon and the Motown Sound*, as his band was known, backed Smokey Robinson and The Miracles, Stevie Wonder, Marvin Gaye, The Temptations, The Four Tops, Martha and The Vandellas, Gladys Knight and The Pips, Diana Ross and The Supremes and the entire roster of Motown artists in live concerts;

WHEREAS, Disco, Techno, House Music, Modern Dance Music, and Hip Hop are five genres of music that Bohannon has pioneered and innovated. His style of music, by keeping “four on the floor”, led to Modern Dance Music;

WHEREAS, Bohannon has charted Billboard’s top 100 R&B charts 41 times. His music has been featured in several movie sound tracks including *Empire*, *Encino Man*, and *Daddy’s Little Girls*, *Entertainment Tonight*, several television shows, commercials and films. JAY Z, Mary J Blige, PDiddy, Snoop Dogg, Heavy D, and Justin Timberlake are just some of the over 300 artists that have sampled Bohannon’s music; and

WHEREAS, with the continued growth of Bohannon's music he remains faithful in giving to youth and the community. He is an avid supporter of programs that foster communication between adults and teens. He has not only opened his home, but also his heart, to further advance the creativity and vision of children. He leads by example and inspires children and adults to achieve more than imagination can conceive.

NOW THEREFORE BE IT RESOLVED that the Mayor and the City Council of the City of South Fulton congratulates Hamilton Bohannon on his service and contributions to the citizens of South Fulton and does hereby proclaim **Tuesday, October 9, 2018**, as **“HAMILTON BOHANNON DAY”** in the City of South Fulton, Georgia.

Councilwoman Helen Z. Willis

Page 123 of 299

City of South Fulton | October 9, 2018



CITY OF SOUTH FULTON



COUNCIL AGENDA ITEM

COUNCIL REGULAR MEETING

SUBJECT: Proclamation - Torrey Tomlinson-Old National Crime Prevention Day

DATE OF MEETING: 10/9/2018

DEPARTMENT: City Clerk

ATTACHMENTS:

Description	Type	Upload Date
Proclamation - Torrey Tomlinson-Old National Day	Cover Memo	10/3/2018



City of South Fulton

PROCLAMATION OF THE CITY OF SOUTH FULTON RECOGNIZING TORREY TOMLINSON for ORGANIZING COMMUNITIES TO FIGHT CRIME

WHEREAS, Torrey Tomlinson, a son of Old National & the City of South Fulton; who has, along with his organization Old National Entertainment (O.N.E.) successfully organized community events & celebrations in the Old National Community for over a decade;

WHEREAS, after working a full day, when he heard a four-year-old girl had gone missing from the Old National Walmart, took several hours to walk the streets of Old National, talked with several residents on the phone, and posted information about her disappearance on his page, which has thousands of followers; and

WHEREAS, one of Mr. Tomlinson's followers contacted him with a tip which lead to the arrest of the man who disappeared with the four-year-old girl.

NOW, THEREFORE, BE IT RESOLVED, that Mayor and Council join in celebrating **Wednesday, October 10, 2018, as TORREY TOMLINSON – OLD NATIONAL CRIME PREVENTION DAY** in the City of South Fulton.

Mayor William 'Bill' Edwards

Mayor Pro Tem Mark Baker

Councilmember Catherine Rowell

Councilmember Carmalitha Gumbs

Councilmember Helen Z. Willis

Councilmember Naeema Gilyard

Councilmember Rosie Jackson

Councilmember khalid kamau



CITY OF SOUTH FULTON

COUNCIL AGENDA ITEM

COUNCIL REGULAR MEETING



SUBJECT: Proclamation - Georgia Public Safety Appreciation Week

DATE OF MEETING: 10/9/2018

DEPARTMENT: City Clerk

ATTACHMENTS:

Description	Type	Upload Date
Proclamation - Public Safety Week	Cover Memo	10/5/2018



City of South Fulton

October 2018 – National Crime Prevention Month

Georgia Public Safety Appreciation Week (October 3-9, 2018)

Whereas, the vitality of our city, county, and state depends on how safe we keep our homes, neighborhoods, schools, workplaces, and communities;

Whereas, crime and the fear of crime destroys our trust in others and in civic institutions, threatening the community's health, prosperity, and quality of life;

Whereas, people of all ages must be made aware of what they can do to prevent themselves and their families, neighbors, and coworkers from being harmed by crime; people of all ages must be made aware of the dangers of crime and how they can protect themselves from becoming victims;

Whereas, crime prevention initiatives must include self-protection and security, but they must go further to promote collaborative efforts to make neighborhoods safer for all ages and to develop positive opportunities for young people; adults must invest time, resources, and policy support in effective prevention and intervention strategies for youth, and adults must make sure to engage teens in programs to drive crime from their communities; and

Whereas, effective crime prevention programs succeed because of partnerships with law enforcement, other government agencies, civic groups, schools, faith communities, businesses, and individuals. They also help to nurture communal responsibility and instill pride.

Now, therefore, the Mayor and Council, do hereby proclaim **October 2018 as Crime Prevention Month, and the week of October 3-9, 2018 as Georgia Public Safety Appreciation Week** in the City of South Fulton, Georgia.

Councilwoman Carmalitha Gumbs



CITY OF SOUTH FULTON

COUNCIL AGENDA ITEM

COUNCIL REGULAR MEETING



SUBJECT: Proclamation - Fire Prevention Week

DATE OF MEETING: 10/9/2018

DEPARTMENT: City Clerk

ATTACHMENTS:

Description	Type	Upload Date
Proclamation - Fire Prevention Week	Cover Memo	10/3/2018



City of South Fulton

WHEREAS, the City of South Fulton is committed to ensuring the safety and security of all those living in and visiting our City;

WHEREAS, fire is a serious public safety concern both locally and nationally, and homes are the locations where people are at greatest risk from fire;

WHEREAS, three out of five home fire deaths result from fires in properties without working smoke alarms;

WHEREAS, City of South Fulton residents should install smoke alarms in every sleeping room, outside each separate sleeping area, and on every level of the home;

WHEREAS, people feel safest in their home, it is also the place people are at the greatest risk of fire, with four out of five U.S. fire deaths occurring at home;

WHEREAS, City of South Fulton residents who have planned and practiced a home fire escape plan are more prepared and will therefore be more likely to survive a fire;

WHEREAS, City of South Fulton Fire Rescue Department is dedicated to reducing the occurrence of home fires and home fire injuries;

WHEREAS, City of South Fulton residents are responsive to Fire Safety education measures and are able to take personal steps to increase their safety from fire, especially in their homes; and

WHEREAS, the 2018 Fire Prevention Week theme is, "Look. Listen. Learn. Be aware. Fire can happen anywhere".

- Look for places fire can start
- Listen for the sound of the smoke alarm
- Learn two ways out of each room

This year's Fire Prevention Week theme works to educate about three basic but essential steps to take to reduce the likelihood of fire.

NOW, THEREFORE, BE IT RESOLVED, That the Mayor and City Council recognizes the great importance of fire prevention, commends the efforts of the South Fulton Fire Rescue Department's efforts to educate the public about fire safety, and does hereby proclaim **Sunday, October 7 through Saturday, October 13, 2018** as "**FIRE PREVENTION WEEK**" in The City of South Fulton, Georgia.

Mayor William 'Bill' Edwards



CITY OF SOUTH FULTON

COUNCIL AGENDA ITEM

COUNCIL REGULAR MEETING



SUBJECT: Proclamation - Adrian Perry Appreciation Day

**DATE OF
MEETING:** 10/9/2018

DEPARTMENT: City Clerk



CITY OF SOUTH FULTON



COUNCIL AGENDA ITEM

COUNCIL REGULAR MEETING

SUBJECT: Proclamation - Pure Balance Chiropractic & Dr. Nikki McHenry Day

DATE OF MEETING: 10/9/2018

DEPARTMENT: City Clerk



CITY OF SOUTH FULTON

COUNCIL AGENDA ITEM

COUNCIL REGULAR MEETING



SUBJECT: Ord2018-040 Telecommunications Standards

DATE OF MEETING: 10/9/2018

DEPARTMENT: Attorney

ATTACHMENTS:

Description	Type	Upload Date
Ord2018-040 Telecommunications Standards	Cover Memo	10/3/2018

1 **STATE OF GEORGIA**
2 **COUNTY OF FULTON**
3 **CITY OF SOUTH FULTON**
4

5 **ORDINANCE NO. 2018-040**

6 **AN ORDINANCE TO ESTABLISH TELECOMMUNICATIONS STANDARDS**
7 **AND FOR OTHER LAWFUL PURPOSES**

8 **(Sponsored by Councilperson Rowell)**

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

11
12 **WHEREAS**, the duly elected governing authority of the City is the Mayor and
13 Council thereof ("City Council");

14
15 **WHEREAS**, the Telecommunications Act of 1996 preserved, with certain
16 limitations, local government land use and zoning authority concerning the placement,
17 construction, and modification of wireless telecommunications facilities;

18 **WHEREAS**, the facilitation of the development of wireless service technology
19 can be an economic development asset to the City of South Fulton and a significant
20 benefit to its residents;

21
22 **WHEREAS**, to accomplish the above stated objectives and to ensure that the
23 placement, construction or modification of wireless telecommunications facilities
24 complies with all applicable Federal laws, and is consistent with its land use policies, the
25 City of South Fulton is adopting a single, comprehensive, wireless telecommunications
26 ordinance; and

27
28 **WHEREAS**, the health, safety and welfare of the citizens of the City will be
29 benefitted by the adoption of this Ordinance.

30
31 **THE MAYOR AND COUNCIL OF THE CITY OF SOUTH FULTON HEREBY**
32 **ORDAINS** as follows:

33
34 **Section 1:** The Code of Ordinances of the City of South Fulton is hereby revised
35 by adoption of a new Title 12, Chapter 2, entitled "Telecommunication Facilities and
36 Antennas," to read in its entirety as follows:

37
38 **TITLE 12. LICENSES, PERMITS AND BUSINESS REGULATIONS**

39
40 **CHAPTER 2. TELECOMMUNICATION FACILITIES AND ANTENNAS**
41

42
43 **Sec. 12-2001. Purpose and Legislative Intent.**
44

45 The purpose of this Chapter is to establish guidelines for the siting of all wireless
46 communications towers and antennas which will encourage the development of wireless
47 communications facilities, including all Equipment and network components, while
48 protecting the health, safety, and welfare of the public and maintaining the aesthetic
49 integrity of the community, maintain the stability of property values of the residents of
50 the City, ensure that residents and businesses in the City of South Fulton have reliable
51 access to wireless telecommunications networks and state of the art communications
52 services that is accomplished according to the City of South Fulton's adopted zoning,
53 planning, and design standards.
54

55 The goals of this Chapter, therefore, are:

- 56 1) Ensure access to reliable wireless telecommunications services throughout all
57 areas of the City of South Fulton;
58
- 59 2) Encourage the use of existing monopoles, towers, utility poles and other
60 structures for the collocation of telecommunications facilities to minimize the total
61 number of towers and antennas within the community necessary to provide
62 adequate personal wireless services to residents of the City of South Fulton;
- 63 3) Minimize the number of new monopoles and towers that would otherwise need to
64 be constructed for the use of existing structures;
65
- 66 4) Encourage the location of monopoles and towers, to the extent possible, in areas
67 where the adverse impact on the community will be minimal;
68
- 69 5) To protect residential areas and land uses from potential adverse impact of
70 telecommunications towers, antenna support structures and wireless
71 telecommunications Facilities;
72
- 73 6) To promote the health, safety, and general welfare of the public by regulating the
74 siting of and establishing development standards for wireless facilities and
75 related wireless support structures, Equipment, and infrastructure;
76
- 77 7) Minimize the potential adverse effects associated with the construction of
78 monopoles and towers through the implementation of reasonable design,
79 landscaping and construction practices;
80
- 81 8) To avoid potential damage to property caused by wireless telecommunications
82 Facilities by insuring that such structures are soundly and carefully designed,
83 constructed, modified, maintained, and removed when no longer used or when
84 determined to be structurally unsound;
- 85 9) To preserve those areas of significant scenic or historic merit;

- 86 10)To facilitate implementation of an Existing Tower Map for the City of South
87 Fulton;
- 88 11)To promote and encourage the joint use of new and existing tower sites among
89 service providers;
- 90 12)To enhance the ability of the providers of wireless telecommunications services
91 to deliver such services to the community effectively and efficiently;
- 92 13)To follow and promote policies embodied in Section 704 of the Federal
93 Telecommunications Act of 1996 and O.C.G.A. § 36-66B-1, *et al.*, in such a
94 manner as not to unreasonably discriminate between Providers of functionally
95 equivalent wireless services or to prohibit or have the effect of prohibiting
96 personal wireless services in the City;
- 97 14)To encourage the location of Telecommunication Support Structures on
98 municipal property but not in public parks;
- 99 15)To enhance the ability of the Providers of Telecommunications Services to
100 deliver such services to the community effectively, efficiently and safely; and
- 101 16)To be consistent with all overlay districts within the City, to the extent practicable
102 and to the extent not in conflict with this Chapter, State or Federal law.

103 **Sec. 12-2002. - Definitions.**

104 For the purposes of this Chapter, and where not inconsistent with the context of a
105 particular section, the defined terms, phrases, words, abbreviations, and their
106 derivations shall have the meaning given in this section. When not inconsistent with the
107 context, words in the present tense include the future tense, words used in the plural
108 number include words in the singular number, and words in the singular number include
109 the plural number. The word "shall" is always mandatory, and not merely directory.
110 Words not defined herein shall be construed to have the meaning given by common and
111 ordinary usage and shall be interpreted within the context of the sentence, section and
112 article in which they occur.

113 As used in this Chapter, the following terms shall have the meanings ascribed
114 below:

115 *Abandonment* means the intent to abandon or discontinue operations as evidenced
116 by voluntary conduct such as written notice to the City to stop using the Facility or
117 failure to use a wireless telecommunications facility for a period of six months or more.

118 *Accessory facility or structure* means a structure serving or being used in
119 conjunction with the Wireless Telecommunications Facilities, and located on the same
120 property or lot as the Wireless Telecommunications Facilities, including but not limited
121 to: utility or transmission equipment, storage equipment, storage sheds or cabinets.

122 *Accessory use* means a Tower and/or Antenna is located on a lot or parcel shared
123 with a different existing primary use or existing structure.

124 *Alternative Telecommunication Support Structure:* Clock telecommunication support
125 structures, bell telecommunication support structures, church steeples, light/power

poles, electric transmission telecommunication support structures, man-made trees and similar natural or man-made alternative-design mounting structures that camouflage or conceal the presence of Antennas or telecommunication support structures. An Alternative Telecommunication Support Structure may include a pre-existing building.

Antenna means a system of electrical conductors that transmit and/or receive electromagnetic waves or radio frequency or other wireless signals. Such shall include, but not be limited to radio, television, cellular, paging, personal telecommunications services (PSC), microwave telecommunications and services not licensed by the FCC, but not expressly exempt from the City's siting, building and permitting authority.

Antenna array means a single set or group of antennas and their associated mounting hardware, transmission lines or other appurtenances which share a common attachment device such as a mounting frame or mounting support.

Applicant means a person or entity submitting an application for a Wireless Telecommunications Facility, including the property owner, antenna support structure owner, and any proposed tenants for the facility.

Application means the formal request submitted to the City to construct or modify a wireless support structure, Alternative Telecommunications Support Structure or a wireless facility.

Attached wireless telecommunications facility means an antenna or antenna array that is secured to an existing building or structure (except an antenna support structure) with any accompanying pole or device which attaches it to the building or structure, together with transmission cables, and an equipment cabinet, which may be located either on the roof or inside/outside of the building or structure. An Attached Wireless Telecommunications Facility is considered to be an accessory use to the existing principal use on a site.

Building Permit means the official administrative authorization issued by the City prior to beginning construction.

Co-location means The placement or installation of new Telecommunications Facilities, including but not limited to, Antennas, upon a single telecommunication support structure or Alternative Telecommunication Support Structure previously approved and constructed, including towers and Monopoles, both self-supporting and guyed, in a manner that negates the need to construct a new freestanding telecommunications support structure in the City..

Concealed means a wireless telecommunications facility that is disguised, hidden, part of an existing or proposed structure or placed within an existing or proposed structure, to include antennas, ancillary structures, and utilities.

Coverage means the geographic area reached by an individual wireless telecommunications facility installation.

166 *Directional antenna* means an antenna or array of antennas designed to
167 concentrate a radio signal in a particular area.

168 *Effective radio power (ERP)* means the product of the antenna power input and the
169 numerically equal antenna power gain.

170 *Equipment* means any device or telecommunications infrastructure component
171 serving or being used in conjunction with the delivery or transmission of all types of
172 Telecommunication Services, including but not limited to, Antennas, utility transmission
173 devices, power supplies, generators, batteries, cables, storage sheds, shelters or
174 similar structures, small cell devices, and similar wireless transmitters or conduits.

175 *Equipment Enclosure* means an enclosed structure, cabinet or shelter used to
176 contain the Equipment.
177

178 *Existing tower map* refers to the siting map approved by City Council to identify
179 existing sites where wireless telecommunications facilities are located as may be
180 amended from time to time. Such map may be derived from proprietary information
181 submitted by wireless providers (see Map 1).

182 *FAA* means the Federal Aviation Administration.

183 *FCC* means the Federal Communications Commission.

184 *Fall Zone* means the area in which a wireless support structure may be expected to
185 fall in the event of a structural failure, as measured by engineering standards.

186 *Geographic search area (GSA)* means an area designated by a wireless provider or
187 operator within which the placement of Equipment is necessary to meet the engineering
188 requirements of an Applicant's cellular network or other broadcasting need.

189 *Guyed tower* means a style of telecommunication support structure consisting of a
190 single truss assembly composed of sections with bracing incorporated. The sections
191 are attached to each other, and the assembly is attached to a foundation and supported
192 by a series of wires that are connected to anchors placed in the ground or on a building.

193 *Height*, when referring to a telecommunication support structure or other structure,
194 means the distance measured from ground level to the highest point on the
195 telecommunication support structure or Alternative Telecommunication Support
196 Structure, including all Antennas or lightning rods

197 *Historic structures* means structures formally designated as a historic structure as
198 designated by the City Historic Preservation Commission or Georgia Historic
199 Preservation Division of the Department of Natural Resources or the United States
200 Department of the Interior; have sufficient historic merit as determined by the City
201 Council and the historic preservation commission so as to require preservation.

202 *Lattice tower* means a guyed or self-supporting, open frame structure that has three
203 or four sides used to support telecommunications equipment.

204 *Low power mobile radio service telecommunications facility* means an unmanned
205 facility which consists of equipment for the reception, switching and transmission of low
206 power mobile radio service communications. Such facilities may be elevated, either
207 building-mounted or ground-mounted; transmitting and receiving antennas; low power
208 mobile radio service base equipment; or interconnection equipment. The facility types
209 include: roof and/or building mounted facilities, freestanding low power mobile radio
210 service facilities, and micro-cell or repeater facilities.

211 *Low power telecommunications facility* means an unmanned facility consisting of
212 equipment for the reception, switching and/or receiving of wireless telecommunications
213 operating at 1,000 watts or less effective radiated power (ERP) including, but not limited
214 to the following:

- 215 (1) Point-to-point microwave signals.
- 216 (2) Signals through FM radio transmitters.
- 217 (3) Signals through FM radio boosters under ten watts ERP.
- 218 (4) Cellular, enhanced specialized mobile radio (ESMR), paging services and
219 personal communications networks (PCN).
- 220 (5) Private, low power mobile radio services which include industrial, land
221 transportation, emergency public safety and government, automatic vehicle
222 monitoring, personal mobile (CB's) and HAM operators.

223 *Low power telecommunications facility accessory building* means an unmanned
224 building used to house equipment related to a communications facility.

225 *Low power commercial radio mobile network* means a system of low power
226 commercial telecommunications facilities which allows wireless conversation to occur
227 from site to site.

228 *Major Modifications* means improvements to existing Telecommunications Facilities
229 or Support Structures that result in a substantial change to the Facility or Structure as
230 further described in this Chapter.

231 *Minor Modifications* means improvements to existing Telecommunications Facilities
232 and Support Structures that result in some material change to the Facility or Support
233 Structure but of a level, quality or intensity that is less than a "substantial" change as
234 described further in this Chapter.

235 *Micro-cell* means a low power mobile radio service telecommunications facility used
236 to provide increased capacity in high call-demand areas or to improve coverage to weak
237 areas. Micro-cells communicate with the primary low power mobile radio service facility
238 in a coverage area via fiber optic cable or microwave. The typical coverage area for a
239 micro-cell is a one-mile radius or less.

240 *Microwave antenna* means a dish-like antenna used to link communications sites by
241 wireless transmission of voice or data.

242 *Modification or modifications* shall have the same meaning as in O.C.G.A. § 36-
243 66B-3(7), except that modifications may also include: (i) an increase in structure height

of a pre-existing tower up to 30 percent so long as such height increase does not trigger FAA lights requirements; or (ii) the removal and replacement of a pre-existing tower with a tower at the same location that may be up to 30 percent taller so long as any such structure height increase does not trigger FAA lighting requirements. Any modification under (i) or (ii) may only occur upon a demonstration deemed sufficient to the Community Development Director that increasing structure height will allow collocation on the tower by a separate wireless service provider and that such collocation will obviate the need for a new wireless telecommunications facility in South Fulton. Any modification under (ii) shall, to the extent reasonably practicable, match the general design aesthetic of the pre-existing tower with an emphasis placed on stealth technology, though the Director shall be authorized to allow reasonable changes in tower design to accommodate technology advances or engineering loading requirements. Any modification in compliance with (i) and (ii) shall authorize a corresponding percentage increase in the size of the associated equipment compound.

Monopole means style of freestanding Telecommunication Support Structure that consists of a single shaft usually composed of two or more hollow sections that are in turn attached to a foundation. This type of support structure is designed to support itself without the use of guy wires or other stabilization devices. These facilities are mounted to a foundation that rests on or in the ground or on the roof of a building.

Omni-directional antenna means an antenna that is equally effective in all directions, the size of which varies depending on the frequency and gain for which it is designed.

Ordinary maintenance means the normal repair and maintenance of a telecommunications facility without adding, removing or changing any components of a telecommunications facility. Maintenance includes inspections, testing and modifications that maintain functional use, aesthetic and structural integrity. Ordinary maintenance includes replacing antennas and accessory equipment on a like-for-like basis within an existing telecommunications facility, strengthening the support structure's foundation or of the support structure itself, and relocating the antennas of approved telecommunications facilities to different height levels on an existing telecommunications support structure upon which they are currently located.

Planning commission means the City of South Fulton Planning Commission.

Preexisting towers and preexisting antennae means any tower or antenna, including a monopole, for which a building permit or special use permit has been properly issued prior to the effective date of this Chapter, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

Provider means any legal entity authorized and/or engaged in the provision of Telecommunication Services.

Public Officer as used in O.C.G.A. §§ 41-2-7—41-2-17, shall mean the Chief Building Inspector of, or Director of, the South Fulton Community Development Department.

288 *Public Right-of-way* means and includes all public streets and utility easements
289 now or hereafter owned by or granted to the City, but only to the extent of the City's
290 right, title, interest or authority to authorize or permit an Applicant to occupy and use
291 such streets and easements for the erection and operation of Telecommunication
292 Facilities.

293 *Radio frequency engineer* means a radiofrequency expert with specialized training
294 and experience in the development and analysis of telecommunication networks and
295 facilities, or a professional engineer licensed in the State of Georgia and experienced in
296 the telecommunications field; however, in the event that this Chapter requires an
297 engineering certification regarding structural loading or other certification associated
298 with the safety or integrity of structures, a certification by a professional engineer
299 licensed in the State of Georgia shall be required.

300 *Repeater* means a low power mobile radio service telecommunications facility used
301 to extend coverage of cell areas to areas not covered by the originating facility.

302 *Residential district* shall mean any zoning district in the City of South Fulton that
303 allows single-family residential uses as a permitted use.

304 *Scenic view* means a wide angle or panoramic field of sight that may include natural
305 and/or manmade structures and activities. A scenic view may be from a stationary
306 viewpoint or be seen as one travels along a roadway, waterway, or path. A view may be
307 to a faraway object, such as a mountain, or a nearby object.

308 *Screening* means the use of design, existing buildings and structures, existing
309 buffers and proposed vegetation and color to obscure a wireless telecommunications
310 facility.

311 *Sectorized panel antennas* means an array of antennas, usually rectangular in
312 shape, used to transmit and receive telecommunications signals.

313 *Separation* means the vertical distance between one carrier's antenna array and the
314 antenna array of another carrier.

315 *Siting* means the method and form of placement of a wireless telecommunications
316 facility on a specific area of a property.

317 *Small Cell or Small Cell Installation.* See "Micro-Cell."

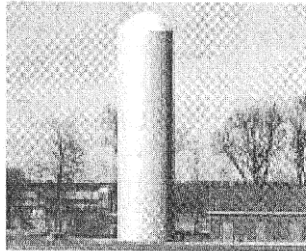
318 *Stealth technology installation* means alternative-design structures that in the
319 opinion of the City Council are compatible with the natural setting and surrounding
320 structures, and effectively camouflage or conceal the presence of antennas or towers.

321
322 **EXAMPLES OF STEALTH TECHNOLOGY**

323 [../images/54-](#)



Flagpole



Silo



Pine Tree

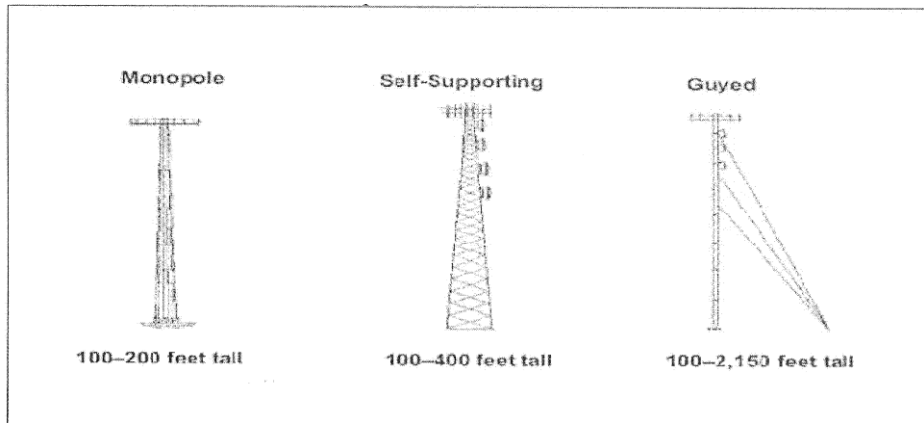
324 [3A.png](#)

325 *Substantial Increase in Size* means:

- 326 (i) Any increase in an existing telecommunication support structure Height by
327 more than 10% or 10 feet (on private property) or 20 feet (on Right-of-
328 Way), whichever is greater, as previously approved by the City, or
329 increase in the width of the added appurtenances more than 20 feet on
330 private property or 6 feet on the Right-of-Way as a result of Modification or
331 Co-location of Antennas or similar telecommunication Equipment;
- 332 (ii) An increase in the dimensions of a Telecommunication Facility's
333 Equipment compound as approved by the City as a result of Modification
334 or Co-location by more than 10%, inclusive of the increase due to
335 placement of an additional Equipment compound or, if in the Right-of-
336 Way, an installation of any Equipment compound where none existed prior
337 to the Modification or Co-location;
- 338 (iii) A Modification or Co-location that will, as proposed, violate condition(s) of
339 approval of an existing Telecommunication Facility, including any
340 subsequently adopted amendments;
- 341 (iv) A Modification or Co-location of Equipment that, as proposed, will exceed
342 the applicable weight limits for an existing Telecommunication Facility, as
343 approved by the City;
- 344 (v) The addition of more than four (4) new Equipment cabinets or one (1) new
345 shelter;
- 346 (vi) The excavation outside existing leased or owned property and current
347 easements; and/or
- 348 (vii) For concealed or stealth-designed facilities, if a Modification or Co-location
349 would defeat the concealment elements of the wireless tower or base
350 station.

351 *Technically feasible and viable* means capable of being provided through
352 technology which has been demonstrated in actual applications (not simply through
353 tests or experiments) to operate in a workable manner.

Telecommunications facility means any physical component utilized in the provision of all types of telecommunications services, including all telecommunication support structures, Alternative Telecommunication Support Structures, Antennas, Equipment, infrastructure apparatus, base support mechanism, accessory Equipment, towers, Monopoles, Small Cell Installations, and physical attachments necessary for the provision of such Telecommunications Services.



Source: www.cdc.gov/niosh

Telecommunication Facility Owner means any person or entity that directly or indirectly owns, controls, operates, or manages Telecommunications Facilities, including any related Equipment or property within the City, used or to be used for the purpose of offering or transmitting signals used in the provision of any Telecommunication Services.

Telecommunications Service(s) mean the transmittal of voice, data, image, graphic, and video programming between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or other facilities. This term shall include commercial mobile radio services, unlicensed wireless services, and common carrier wireless exchange services as identified in the Telecommunications Act of 1996.

Telecommunication Support Structure means any freestanding structure that is designed to support or capable of supporting and constructed primarily for the purpose of supporting telecommunication Equipment; this term shall include self-supporting, guyed, and Monopole support structures. The term includes, and is not limited to, radio and television transmission telecommunication support structures, microwave telecommunication support structures, common-carrier telecommunication support structures, cellular telecommunication support structures, man-made trees, Alternative Telecommunication Support Structures, and other similar structures. In the Public Rights-of-Way, only Telecommunication Support Structures erected for the installation of Small Cells shall be permitted.

Utility means any person, corporation, municipality, county, or other legal entity, or department thereof or entity related or subordinate thereto, providing retail or wholesale

electric, data, cable, or Telecommunications Services, or otherwise subject in any way to the lawful jurisdiction of the Commission.

Utility Easement means any easement owned by the City and acquired, established, dedicated, or devoted for public utility purposes not inconsistent with Telecommunication Facilities, Telecommunication Support Structures, Alternative Telecommunication Support Structures, and any Antennas.

Visual Quality means the appropriate design, arrangement, and location of telecommunication support structures in relation to the built or natural environment to avoid abrupt or severe differences.

Whip antenna means an antenna that is cylindrical in shape. Whip antennas can be directional or omni-directional; size varies with the frequency and gain for which they are designed.

Sec. 12-2003. Removal of Abandoned Telecommunication Facilities

Any Telecommunication Support Structure or Antenna that is not operated for a continuous period exceeding six (6) months shall be considered abandoned, and the owner of such Telecommunication Facility shall place the applicable Antenna or Telecommunication Support Structure into operation or remove the same within sixty (60) days of receipt of notice from the City Manager notifying the owner of such abandonment. If all applicable Telecommunication Support Structure(s) or Antenna(s) are not removed within said sixty (60) days, the City may, at the direction of the City Manager or designee, and in the manner provided in the O.C.G.A. §§ 41-2-7—41-2-17, remove such Antenna or Telecommunication Support Structure at the owner or co-owners' expense. If there are two (2) or more users of a single Telecommunication Support Structure, this provision shall not become effective unless and until all users cease utilizing the Telecommunication Support Structure.

Sec. 12-2004. Legal Status Provisions.

(a) Whenever the regulations of this Chapter require a greater width, depth, or size of yard, or impose other more restrictive standards than are required in or under any other statute or covenants, with the exception of the Telecommunications Act of 1996, the requirements of this Chapter shall govern. Whenever the provisions of any other statute, covenant or provision of the City Code of Ordinances shall require more restrictive standards than those of this Chapter, the provisions of such statutes, codes or covenants shall govern.

(b) Any preexisting Telecommunication Facility which does not meet the requirements of this Chapter shall be considered nonconforming and

subject to the nonconforming use provisions of the South Fulton zoning ordinance; provided, however, that the installation of a new Antenna on a Preexisting Telecommunication Support Structure shall not constitute the expansion of a nonconforming use provided that (a) the new Antenna does not result in a Substantial Increase in Size and (b) the resulting Height of the Preexisting Telecommunication Support Structure is less than the maximum Height of the telecommunication support structure previously approved by the City.

Sec. 12-2005. Annual Registration of Telecommunication Facilities

The owner of any Telecommunications Facility shall submit an annual registration of such Facility on forms provided by the City. Each annual registration shall identify the tax parcel identification and physical street address for the parcel on which such Telecommunication Facility is located. Each annual registration of such Telecommunication Facility shall describe all Telecommunication Support Structures, Alternative Telecommunication Support Structures, Antennas, and other Telecommunication Equipment on the site, describe in detail any improvements during the preceding calendar year, and, for Telecommunication Support Structures only, state the total gross income from all improvements on the site for the preceding calendar year. Each annual return shall be filed with the City Manager or designee on or before April 1st of each year and shall be accompanied by an annual administrative fee in an amount of \$75.00. Section 54-22 shall apply where an owner fails to comply with the provisions of this Section.

Sec. 12-2006. Principle or Accessory Use.

A Telecommunication Support Structure and/or Antenna is considered a principal use if located on any parcel as the sole or primary structure, and is considered an accessory use if located on a parcel shared with a different existing primary use or existing structure. An existing use or structure on the same parcel shall not preclude the installation of an Antenna or Telecommunication Support Structure. For purposes of determining whether the erection of a Telecommunication Support Structure or Antenna complies with the requirements of the zoning district in which it is located (including, but not limited to, all setback and buffer requirements), the dimensions of the entire parcel shall control, even though the Antenna or Telecommunication Support Structure may be located on a leased area within the dimensions of such parcel.

Sec. 12.2007. Inventory of Existing Sites.

The Community Development Director shall maintain an itemized list of all Telecommunication Support Structures or Alternative Telecommunication Support

Structures, active and inactive, which are located within the municipal limits of the City. This list shall include specific information about the location (latitude and longitude coordinates), Height, design, Telecommunication Support Structure type and general suitability for Antenna co-location of each Telecommunication Support Structure and authorized Alternative Telecommunication Support Structure, and other pertinent information as may be decided by the Community Development Director.

Sec.12-2008. Design Standards

A. Design.

(1) Monopoles shall be subject to the following:

- (a) Monopoles shall be designed to accommodate at least three (3) telecommunications providers.**
- (b) The compound area surrounding the Monopole must be of sufficient size to accommodate Accessory Equipment for at least three (3) telecommunications providers.**
- (c) Unless otherwise required by the Federal Communications Commission, the Federal Aviation Administration, or the City of South Fulton, Monopoles shall have a galvanized silver or gray finish.**

(2) Non-Monopole Telecommunication Facilities shall be subject to the following:

- (a) The Facilities shall be designed to accommodate at least four (4) telecommunications providers.**
- (b) A compound area surrounding the Facility must be of sufficient size to accommodate Accessory Equipment for at least four (4) telecommunications providers.**
- (c) Unless otherwise required by the Federal Communications Commission, the Federal Aviation Administration, or the City of South Fulton, all Facilities shall have a galvanized silver or gray finish.**

B. Stealth Telecommunications Facilities shall be designed to accommodate the collocation of other antennas.

C. Lighting and Marking. Telecommunications facilities or Support Structures shall not be lighted or marked unless required by the Federal Communications Commission or the Federal Aviation Administration (FAA). If

lighting is required, the Community Development Director or designee may review the available federally-approved lighting alternatives and approve the design that would cause the least disturbance to the surrounding area.

D. Signage. No signage or other identifying markings of any nature shall be permitted upon any Telecommunication Support Structure or authorized Alternative Telecommunication Support Structure without prior approval of the City and shall comply with the City's existing sign ordinance, unless otherwise required by the FAA, FCC, or other applicable authority.

E. Landscaping.

(1) Where adequate vegetation is not present, Telecommunication Support Structures shall be landscaped with a landscaped strip of plant materials which effectively screens the view of the Equipment compound. Landscaped strips shall be a minimum of ten (10) feet in width and shall be located outside the fenced perimeter of the compound. Landscaped strips shall satisfy the minimum design and planting requirements for buffers established in the City's Code of Ordinances.

(2) Existing mature tree growth and natural land forms on any site containing an approved Telecommunications Facility shall be preserved to the maximum extent possible. Where natural vegetation around the perimeter of the site would provide an adequate visual screen, an undisturbed buffer may be utilized.

(3) Amateur radio Telecommunication Support Structures, or receive-only Antennas, shall not be subject to the provisions of this Section unless such structures exceed thirty-five (35) feet in Height.

F. Setbacks. The following minimum setbacks are established:

(1) Property Lines. Unless otherwise stated herein, Telecommunication Support Structures shall be setback from all property lines a distance equal to their height measured from the base of the structure to its highest point. Alternative Telecommunication Support Structures shall be governed by the setbacks required by the underlying zoning district.

(2) Residential Dwellings. Unless otherwise stated herein, Telecommunication Support Structures and Alternative Support Structures shall be setback from all off-site residential dwellings a distance equal to the height of the structure. There shall be no setback requirement from dwellings located on the same parcel as the proposed structure. Existing or replacement utility poles shall not be subject to a setback requirement.

557 (3) Unless otherwise stated herein, Guy-wires and all accessory Equipment
558 shall be setback from all property lines in accordance with the minimum
559 setback requirements in the underlying zoning district and shall be
560 completely contained within the parcel on which the Telecommunication
561 Support Structure is located. Accessory Equipment associated with an
562 existing or replacement utility pole shall not be subject to a setback
563 requirement.

564
565 (4) The Zoning Board of Appeals shall have the authority to reduce or waive
566 any required setback upon the request of the applicant for a Variance if
567 the Telecommunications Facility or Support Structure will be less visible
568 as a result of the diminished setback. The Zoning Board of Appeals must
569 also find that the reduction or waiver of the setback is consistent with the
570 purposes and intent of this ordinance. The structure must still meet the
571 underlying setback requirements of the zone.

572
573 G. Height. The following minimum height standards have been established:

574
575 (1) Telecommunication Support Structures shall not exceed a height of
576 one hundred fifty (150) feet from the base of the structure to the top
577 of the highest point. Any proposed Telecommunication Support
578 Structure shall be designed to be the minimum height needed to
579 meet the service objectives of the applicant.

580
581 (2) The Zoning Board of Appeals shall have the authority to reduce or
582 waive the height restrictions listed in this section upon the request
583 of the applicant for a Variance and a satisfactory showing of need
584 for a greater height. With its waiver request the Applicant shall
585 submit such technical information or other justifications as are
586 necessary to document the need for the additional height to the
587 satisfaction of the Zoning Board of Appeals.

588
589 H. Accessory Equipment, including any buildings, cabinets or shelters, shall be
590 used only to house equipment and other supplies in support of the operation
591 of the Telecommunication Facility or Support Structure. Any Equipment not
592 used in direct support of such operation shall not be stored on the site.

593
594 I. Telecommunication Support Structures over one hundred (100) feet in Height
595 shall not be located closer than one thousand five hundred (1,500) feet from
596 any existing Telecommunication Support Structure that is over one hundred
597 (100) feet in Height.

598
599 **Sec. 12-2009. Security Fencing/Anti-Climbing Devices.**

600
601 (a) All Telecommunication Support Structures and related Equipment shall be
602 enclosed by fencing not less than six (6) feet in Height and shall also be

equipped with appropriate anti-climbing devices. Fencing shall be of chain link, wood, or other approved alternative materials, as determined by the Community Development Director or designee.

- (b) Amateur radio Telecommunication Support Structures, or receive-only Antennas, shall not be subject to the provisions of this section unless such structures exceed thirty-five (35) feet in Height.

Sec. 12-20010. Applicability.

All new Telecommunication Facilities, as well as Modification of any Telecommunication Facility, shall be subject to the regulations contained within this Chapter except as provided in subsections (1) –(3), inclusive:

- 1) *Public property.* Telecommunications Facilities on property owned by the City, with the exception of Rights-of-Way, and approved by City Council.
- 2) *Amateur radio; receive-only antennas.* This Chapter shall not govern any amateur radio tower, or the installation of any antenna, that is under 60 feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.
- 3) *Pre-existing Telecommunications Facilities.* Any Telecommunications Facility for which a permit has been properly issued prior to the effective date of this Chapter shall not be required to meet the provisions of this Chapter, other than the requirements of sections 54-3, 54-5, 54-6, 54-7, 54-8, 54-12, 54-13, 54-18, 54-21, 54-22, 54-26 and 54-27. However, in the event a Pre-existing Telecommunications Facility ceases to function, then the subject tower, antennae and/or related equipment shall be removed from the subject property within ninety (90) days.
- 4) *Additional Antenna(s).* If an additional Antenna is Co-located upon a Preexisting Telecommunication Support Structure or Alternative Telecommunication Support Structure after adoption of this Ordinance, the fencing and landscaping requirements of Sections 54-8 and 54-9 shall be a required part of the permitting process.

Sec. 12-20011. Co-location Mandate; Availability of Suitable Existing Structures; Demonstration of Necessity.

- (a) Applicants for the erection of an Antenna, except amateur radio operators, shall be required to Co-locate upon an existing Telecommunication Support Structure or authorized Alternative Telecommunication Support Structure to the extent reasonable. No new Telecommunication Support Structure, except amateur radio Telecommunication Support Structures, shall be permitted unless the Applicant demonstrates to the satisfaction of the City that no existing Telecommunication Support Structure or authorized Alternative Telecommunication Support Structure can

accommodate the Applicant's proposed Antenna(s) and related Equipment. The Applicant must present an affidavit which lists the available existing Telecommunication Support Structures and reasons why Co-location on those Telecommunication Support Structures is not possible. All evidence submitted shall be signed and sealed by appropriate licensed professionals or qualified industry experts and shall consist of more than mere conclusory statements that no existing Telecommunication Support Structure is suitable. Evidence submitted to demonstrate that no existing Telecommunication Support Structure can accommodate the proposed Antenna shall consist of one or more of the following:

- (1) That no existing Telecommunication Support Structures or suitable, authorized Alternative Telecommunication Support Structures are located within the Geographic Search Area required to meet the Applicant's engineering requirements;
- (2) That existing Telecommunication Support Structures or Alternative Telecommunication Support Structures within the Geographic Search Area do not have sufficient structural strength to support the Applicant's proposed Antenna(s) and related Equipment. Such information shall be certified by a Georgia-licensed professional engineer;
- (3) That the Applicant's proposed Antenna(s) would cause electromagnetic interference with public safety emergency communications or existing Antenna(s) in the Geographic Search Area, or the Antenna(s) on the existing Telecommunication Support Structures or Alternative Telecommunication Support Structures in the Geographic Search Area would cause interference with the Applicant's proposed Antenna(s);
- (4) That the cost or contractual provisions required by the Telecommunication Support Structure owner or co-owners to share an existing Telecommunication Support Structure in the Geographic Search Area or to adapt an existing Telecommunication Support Structure for Co-location are unreasonable. Costs exceeding the erection of a new Telecommunication Support Structure are presumed to be unreasonable; and/or
- (5) That the Applicant adequately demonstrates that there are other limiting factors that render existing Telecommunication Support Structures or authorized Alternative Telecommunication Structures unsuitable for Co-location.

- (b) For each of the above, the Applicant must provide a listing of the existing Telecommunication Support Structures or authorized Alternative Telecommunication Support Structures within the Geographic Search Area that were considered, and ultimately rejected, by the Applicant and provide a detailed explanation of why the existing Telecommunication Support Structures or authorized Alternative Telecommunication Structures within the Geographic Search Area are not suitable.

Sec. 12-20012. Building Codes; Safety Standards.

To ensure the structural integrity of Telecommunication Facilities, the owner, permittee, or subsequent lessee of a Telecommunication Support Structure or Alternative Telecommunication Support Structure shall ensure that all applicable Telecommunication Facilities on such site are maintained in compliance with standards contained in applicable local building codes. If, upon inspection, the Chief Building Official concludes that an applicable Telecommunication Facility fails to comply with all governing codes and standards, or constitutes a danger to persons or property, then upon receipt of written notice by the owner, permittee, or lessee of such a facility, the recipient shall have fifteen (15) days to bring the Telecommunication Facility into compliance with such standards. If the owner, permittee, or lessee fails to bring the Telecommunication Facility into compliance within the 15-day period, the City may, at the direction of the Chief Building Official, remove the non-compliant Telecommunication Facility at the owner, permittee, or lessee's expense. Prior to the removal of any telecommunication facility, the Community Development Director or designee may consider detailed plans submitted by the owner, permittee, or subsequent lessee for repair of substandard Telecommunication Support Structures, and may grant a reasonable extension of the above referenced compliance period. Any such removal by the City shall be in the manner provided in O.C.G.A. §§ 41-2-7—41-2-17.

Sec. 12-20013. Change of Ownership or Control Notification.

- (a) Upon the transfer of ownership or control of any Telecommunication Facility not located in a Public Right-of-Way or of any parcel upon which such a Telecommunication Facility has been erected, the party transferring such ownership or control shall notify the City of the transaction in writing within thirty (30) days of the transfer.
- (b) A Grantee and any proposed assignee or transferee of an existing permit to erect and operate a Telecommunication Facility in a Public Right-of-Way shall provide and certify, via sworn affidavit, the following information to the City not more than thirty (30) days after the date of such transfer or assignment of control:

- (1) Information setting forth the nature, terms, and conditions of the proposed transfer or assignment of ownership and/or control;
- (2) All contact information for the transferee/assignee; and
- (3) Any other information reasonably required by the City.

Sec. 12-20014. Permit Application Required.

An application for a telecommunications facility permit shall be required for the construction or placement of all new wireless Telecommunications Facilities, Telecommunication Support Structures, modification of Telecommunication Support Structures and Alternative Telecommunication Support Structures and Co-Location of Antenna(s) and Equipment on existing Telecommunication Facilities, whether on private lands or public rights-of-way. . Telecommunications facility permits shall be reviewed in accordance with the standards set forth in this Chapter. The application forms and other documents and papers necessary for the implementation and enforcement of this section shall be on such forms provided by the City or, if such forms are not available, on Applicant's identifiable letterhead and include all required submissions of this Chapter. No application shall be considered by the City until such application is complete and accompanied by all necessary documents, papers, and other evidence of eligibility as may be set forth or otherwise required by the application, as well as any application fee. All applications shall be sworn to by the Applicant if an individual, or by a partner if a partnership, or by a manager or member if a limited liability company, or by an officer or equivalent position if a corporation or other legal entity.

Sec. 12-20015. Application for Permit to Modify or Co-Locate Telecommunication Facilities Not Resulting in a Substantial Increase in Size.

- (a) *Application of Section.* The Community Development Director or designee may approve the erection of additional Antennas or otherwise telecommunications Equipment upon existing Telecommunication Support Structures or Alternative Telecommunication Support Structures under this section that do not result in a Substantial Increase in Size as defined in this Article to any existing Telecommunication Facility.
- (b) *Setback Adjustments.* As part of any approval under this section, the Community Development Director or designee may reduce setback requirements for applications not in the Right-of-Way by up to ten (10) percent to compensate for irregularly shaped lots or parcels.
- (c) *Contents of Applications on private property.* All applications for permits to Modify an existing Telecommunication Facility and/or Co-locate telecommunication Equipment onto an existing Telecommunication Support Structure or Alternative Telecommunication Support Structure shall contain or have attached thereto the following information:

- (1) Name, address and telephone number of a principal office and local agent of the Applicant;
- (2) An affirmative indication that the Applicant seeks either to Modify an existing Telecommunication Facility or Co-locate a Telecommunication Facility or Facilities on an existing Telecommunication Support Structure or Alternative Telecommunication Support Structure as well as an affirmative indication that the proposed plans do not result in a Substantial Increase in Size;
- (3) The Physical Address of the Telecommunication Support Structure or Alternative Telecommunication Support Structure to be modified or upon which a proposed Antenna(s) is to be installed;
- (4) Name of the person, firm, corporation or association performing Modifications to existing Telecommunication Support Structures or Alternative Telecommunication Support Structures or erecting the Antenna(s);
- (5) Written consent of the owner of the existing Telecommunication Support Structure or Alternative Telecommunication Support Structure, and any party with an ownership interest in the applicable Telecommunication Support Structure or Alternative Telecommunication Support Structure to be modified or upon which the Antenna(s) is to be erected;
- (6) Proof of and/or certified copies of any required approval and registration, to provide such services in the State of Georgia, where applicable, and any other required FAA, FCC, or otherwise state and federal approval, registration, and/or licensure required to erect, Modify, or Co-locate the proposed Telecommunication Facility;
- (7) A description of the Telecommunication Services to be provided by and through, or otherwise in connection with, the proposed Telecommunication Facility or Modified, existing Telecommunication Support Structure or Alternative Telecommunication Support Structure;
- (8) An affirmative declaration that the Applicant shall comply with all applicable federal, state, and local laws and regulations, including all applicable provisions of the City's Code of Ordinances and conditions imposed by the City regarding the erection and maintenance of Telecommunication Facilities consistent with

federal standards and, if applicable, applied equally to all users of the Public Rights-of-Way;

- (9) Applications for permits to co-locate through the erection of new Antenna(s) or other Telecommunication Facilities onto an existing Telecommunication Support Structure or Alternative Telecommunication Support Structure, shall contain or have attached thereto six (6) sets of accurate scale drawings including a scaled site plan and a scaled elevation view and other supporting drawings, calculations, and other documentation including, but not limited to, the method of construction and attachment to the Telecommunication Support Structure for the proposed Telecommunication Facility or Facilities. Plans for Co-location shall be certified by an independent registered structural engineer licensed in the State of Georgia as meeting all current safety and design standards of all applicable federal, state, and City codes and regulations; and

- (10) Any other information as the Community Development Director or designee may require to demonstrate full compliance with this Chapter, all other ordinances of the City and all applicable requirements of state or federal law.

- (d) *Additional requirements for Right-of-Way applications.* Applicants seeking to Modify or Co-locate Telecommunication Facilities on City property and/or in any Public Right-of-Way within the municipal limits of the City shall provide the following, in addition to the requirements of subsection (c):

- (1) Proof of adequate insurance or self-insurance of the Applicant to defend and cover all claims of third parties against the Applicant and/or City personnel related to the use of the Public Rights-of-Way;

- (2) A description of the Applicant's service area, where applicable, which shall be sufficiently detailed so as to allow the City to respond to subscriber or end-user inquiries. For the purpose of this paragraph, an Applicant providing Telecommunication Services may, in lieu of or as a supplement to a written description, provide a map on 8 1/2 by 11 inch paper that is clear and legible and that fairly depicts the service area within the municipal limits of the City. If such service area is less than the municipal limits of the City, the map shall describe the boundaries of the geographic area to be served in clear and concise terms;

- 865 (3) Proof of the existence of a valid telecommunications franchise to
866 locate utilities in the public Rights-of-Way of the City, as applicable,
867 in accordance with State law.
868
- 869 (e) *Review Procedures.*
870
- 871 (1) Pre-Application Conference. Prior to submitting any application
872 governed by this section, all Applicants shall be required to attend a
873 pre-application meeting with the Chief Building Official and
874 applicable City staff to discuss the requirements for the application.
875 The Chief Building Official shall have the discretion to waive this
876 requirement.
877
- 878 (2) Deficiencies in Applications. The Community Development Director
879 or designee shall notify an Applicant submitting an application
880 governed by this section of any identified deficiencies therein within
881 thirty (30) calendar days of receipt of such an application. If the
882 Community Development Director or designee determines an
883 application is not complete, he shall notify the Applicant in writing of
884 any information required to complete the application. To the extent
885 additional information is required, the time required for an Applicant
886 to provide such information shall not be counted toward the sixty
887 (60) calendar day review period set forth herein. Upon any
888 resubmittal of an application, the Community Development Director
889 or designee shall have ten (10) additional calendar days to give
890 notice as to the completeness of the revised submission. If the
891 application remains incomplete after resubmission, said
892 incompleteness may serve as valid reason for denial of the
893 application.
894
- 895 (3) Determination by the City. Within sixty (60) calendar days after
896 receiving an application under this section, unless otherwise
897 deemed incomplete and denied for that purpose after resubmission,
898 the Community Development Director, at the direction of the Chief
899 Building Official or designee, shall issue a written determination
900 granting, granting subject to enumerated condition(s), or denying
901 the application in whole or in part. To the extent an application is
902 denied, the written determination shall be based solely on whether
903 the installation results in a Substantial Increase in Size as defined
904 in this Chapter and said basis shall be included in the written
905 determination.
906
- 907 (f) Appellate Rights. An Applicant may appeal the Community Development
908 Director's decision with respect to an application, including any denial or
909 conditional approval of an application, to the Mayor and Council by filing a
910 written notice of appeal within ten (10) calendar days of the issuance of

911 said decision with the Community Development Director. Failure to file a
912 notice of appeal within ten (10) calendar days of the decision shall
913 constitute a waiver of the Applicant's appeal rights.

- 914
- 915 (g) Appellate Procedure. The Mayor and Council shall hold a public hearing
916 at the next available Council Meeting, but in no circumstance more than
917 thirty (30) calendar days of receipt of the notice of appeal of an application
918 as provided in subsection (f). Official notice of the public hearing shall be
919 given in accordance with the Zoning Procedures Law of the State of
920 Georgia. In addition, said official notice of the public hearing shall include
921 the location of the proposed facility. The Mayor and City Council shall
922 review the appeal on the record and its determination shall be based on
923 the same Substantial Increase in Size factors as the decision of the
924 Community Development Director.
925

926 **Sec. 12-20016. Application for Permits for Modification and/or Co-Location of**
927 **Telecommunication Antennas Which Would Result in a Substantial Increase in**
928 **Size.**

- 929 (a) *Contents of Application.* Applications for permits to erect new
930 telecommunication Antennas, including, but not limited to, Small Cells and
931 Network Infrastructure, excluding any Telecommunication Support
932 Structure or Alternative Telecommunication Support Structure, which as
933 proposed would result in a Substantial Increase in Size, shall contain or
934 have attached thereto the following information:
- 935
- 936 (1) Name, address and telephone number of a principal office and local
937 agent of the Applicant;
938
- 939 (2) An indication of whether the Applicant seeks to Modify existing
940 Telecommunication Facilities or Co-locate Telecommunication
941 Facilities on an existing Telecommunication Support Structure or an
942 Alternative Telecommunication Support Structure as well as an
943 indication that the proposed plans result in a Substantial Increase in
944 Size;
945
- 946 (3) Address of Telecommunication Support Structure or Alternative
947 Telecommunication Support Structure to be modified or upon which
948 the proposed Antenna(s) is to be installed;
949
- 950 (4) Name of the person, firm, corporation or association installing the
951 Antenna(s);
952
- 953 (5) Written consent of the owner of the Telecommunication Support
954 Structure or Alternative Telecommunication Support Structure to be
955 Modified or upon which a proposed Antenna(s) is to be erected,

and any party with an ownership interest therein whose rights and/or use will be impacted through the City's approval of the application;

- (6) Proof of and/or certified copies of any required approval, registration, and/or licensure from the Public Service Commission for any Provider of Telecommunications Service to provide Telecommunication Services in the State of Georgia, where applicable, and any other required FAA, FCC, or otherwise state and federal approval, registration, and/or licensure required to erect or Modify the proposed Telecommunication Facility;
- (7) A certified statement prepared by an engineer licensed in Georgia or other qualified industry professional that the erection and operation of the proposed Antenna(s) on an existing Telecommunication Support Structure or Alternative Telecommunication Support Structure, including reception and transmission functions, will not interfere with public safety communications or the usual and customary transmission or reception of radio, television, or other Telecommunication Service enjoyed by adjacent properties;
- (8) A description of all Telecommunication Services to be provided by and through, or otherwise in connection with, the proposed Telecommunication Facility or Modified, existing Telecommunication Support Structure or Alternative Telecommunication Support Structure;
- (9) A declaration that the Applicant shall comply with all applicable federal, state, and local laws and regulations, including all City ordinances and conditions imposed by the City regarding the erection and maintenance of Telecommunication Facilities;
- (10) Applications shall contain or have attached thereto six (6) sets of accurate scale drawings including a scaled site plan and a scaled elevation view and other supporting drawings, calculations, and other documentation including, but not limited to, the method of construction and attachment to the telecommunication support structure for the proposed Equipment. Plans for Co-location shall be certified by an independent registered structural engineer licensed in the State of Georgia as meeting all current safety and design standards of all applicable federal, state, and City codes; and
- (11) Any other information as the Community Development Director or designee may require to demonstrate full compliance with this

Article, all other ordinances of the City and all applicable requirements of state or federal law.

(b) *Additional requirements for Right-of-Way applications.* Applicants seeking to Modify or Co-locate Telecommunication Facilities on City property and/or in any Public Right-of-Way within the municipal limits of the City, resulting in Substantial Increase in Size, shall provide the following, in addition to the requirements of subsection (a):

(1) Proof of adequate insurance or self-insurance of the Applicant to defend and cover all claims of third parties against the Applicant and/or City personnel related to the use of the Public Rights-of-Way;

(2) A description of the Applicant's service area, where applicable, which shall be sufficiently detailed so as to allow the City to respond to subscriber or end-user inquiries. For the purpose of this paragraph, an Applicant providing Telecommunication Services may, in lieu of or as a supplement to a written description, provide a map on 8 1/2 by 11 inch paper that is clear and legible and that fairly depicts the service area within the municipal limits of the City. If such service area is less than the municipal limits of the City, the map shall describe the boundaries of the geographic area to be served in clear and concise terms;

(3) Proof of the existence of a valid telecommunications franchise to locate utilities in the public Rights-of-Way of the City, as applicable, in accordance with State law.

(c) *Administrative Fee.* All applications for permits governed by this Section shall be accompanied by an administrative fee as provided for in Schedule of Fees adopted by Mayor and City Council.

(d) *Considerations in Approval or Denial of an Application.* Any denial of a request to modify an existing Telecommunication Support Structure or Co-locate an Antenna(s) onto an existing Telecommunication Support Structure that would result in a Substantial Increase in Size shall be issued by the Community Development Director in writing and supported by substantial evidence. The Community Development Director shall consider, but is not limited to, the following factors in acting upon an application under the provisions of this Section:

(1) The nature of uses, as well as the Height of existing structures, on adjacent and nearby properties;

(2) The surrounding topography;

- 1048
- 1049 (3) The surrounding tree coverage and foliage;
- 1050
- 1051 (4) The design of the existing Telecommunication Facility, with
- 1052 particular reference to design characteristics that have the effect of
- 1053 reducing or eliminating visual obtrusiveness, where applicable;
- 1054
- 1055 (5) The availability of suitable existing Telecommunication Support
- 1056 Structures or other Alternative Telecommunication Support
- 1057 Structures for Antenna Co-location that would not need modification
- 1058 that would Substantially Increase in Size as defined in this Chapter;
- 1059
- 1060 (6) The evidence submitted regarding the need for the
- 1061 Telecommunication Facility in the area, including but not limited to,
- 1062 propagation maps and other similar materials, where applicable;
- 1063
- 1064 (7) The effect, if any, on health, safety, and welfare if the proposed
- 1065 Modification or Co-location is permitted;
- 1066
- 1067 (8) Applicable federal, state, and local telecommunications laws,
- 1068 regulations, and policies.
- 1069
- 1070 (e) *Procedure for Issuance of permits.*
- 1071
- 1072 (1) Pre-Application Conference. Prior to submitting any application
- 1073 governed by this section, all Applicants shall be required to attend a
- 1074 pre-application meeting with the Chief Building Official and
- 1075 applicable City staff to discuss the requirements for the application.
- 1076 The Chief Building Official shall have the discretion to waive this
- 1077 requirement.
- 1078
- 1079 (2) Review for Completeness. The Community Development Director
- 1080 shall notify an Applicant submitting an application governed by this
- 1081 section of any identified deficiencies therein within thirty (30)
- 1082 calendar days of receipt of such an application. If the Community
- 1083 Development Director or designee determines an application is not
- 1084 complete, the Director shall notify the Applicant in writing of any
- 1085 information required to complete the application. To the extent
- 1086 additional information is required, the time required for an Applicant
- 1087 to provide such information shall not be counted toward the
- 1088 applicable review period set forth herein. Upon any resubmittal of
- 1089 an application, the Department shall have ten (10) additional
- 1090 calendar days to give notice as to the completeness of the revised
- 1091 submission. If an application is not complete upon resubmission,
- 1092 said incompleteness may serve as reason for immediate denial of
- 1093 the application.

- 1094
- 1095 (3) Period of Review. Within ninety (90) calendar days after receiving
- 1096 a complete application for the Modification, or Co-location of a
- 1097 Telecommunications Facility governed by this Section, the
- 1098 Community Development Director shall issue a written
- 1099 determination granting or denying the application in whole or in
- 1100 part, including imposing any conditions. Any decision by the
- 1101 Community Development Director to deny an application shall be in
- 1102 writing, shall include reasons for denial, and shall be supported by
- 1103 substantial evidence contained in a written record.
- 1104
- 1105 (4) Appellate Rights. The Community Development Director's decision
- 1106 to deny an application under this section may be appealed to the
- 1107 Mayor and Council by filing a written notice of appeal within ten (10)
- 1108 calendar days of the denial. Failure to file a notice of appeal within
- 1109 ten (10) calendar days of such a denial shall constitute a waiver of
- 1110 the Applicant's appeal rights.
- 1111
- 1112 (5) Appellate Procedure. The Mayor and Council shall hold a public hearing at the
- 1113 next available scheduled Council Meeting, but not later than thirty (30) calendar
- 1114 days of receipt of the notice of appeal of an application as provided in subsection
- 1115 (d)(4). Official notice of the public hearing shall be given in accordance with the
- 1116 state Zoning Procedures Law. In addition, said official notice of the public
- 1117 hearing shall include the location of the proposed facility. The Mayor and Council
- 1118 shall make the decision to affirm or reverse the denial on the basis of the same
- 1119 decision factors as utilized by the Community Development Director. The Mayor
- 1120 and Council's decision shall be final.
- 1121

1122 **Sec. 12-20017. Applications for permits to erect new Telecommunication Support**

1123 **Structures and Alternative Telecommunication Support Structures.**

- 1124 (a) Approval of any application for the construction of a new Telecommunication
- 1125 Support Structure or Alternative Telecommunication Support Structure shall be
- 1126 based on consideration of the following factors:
- 1127 1) Demonstrated need for proximity to residential structures and residential
- 1128 district boundaries, if applicable;
- 1129 2) Demonstrated need for the proposed height of the tower;
- 1130 3) Minimal impact on the use of adjacent properties;
- 1131 4) Surrounding topography, tree coverage and foliage that buffer the potential
- 1132 visual impact of the telecommunications facility;
- 1133 5) Design of the facility, with particular reference to design characteristics which
- 1134 have the effect of reducing or eliminating visual obtrusiveness that are
- 1135 characteristic of stealth technology installations;

- 1136 a) Antennas must be enclosed, camouflaged, screened, obscured or
1137 otherwise not readily apparent to a casual observer.
- 1138 b) If the structure is an Alternative Telecommunication Support Structure,
1139 the type of structure must be allowed within the underlying zone
1140 district. Such structures may include, but are not limited to, flagpoles,
1141 bell towers, clock towers, crosses, monuments, smoke stacks,
1142 parapets, and steeples.
- 1143
- 1144 c) Setbacks for the supporting structure shall be governed by the
1145 setback requirements of the underlying zoning district.
- 1146
- 1147 d) In case of placement on the Public Rights-of-Way, the design must be
1148 substantially similar to the nearest utility poles and any deviations
1149 therefrom shall be at the sole discretion of the Mayor and City Council.
- 1150
- 1151 6) Proposed ingress and egress;
- 1152 7) Availability of suitable existing Telecommunication Support Structures or
1153 Alternative Telecommunication Support Structures or alternative/emerging
1154 technologies (microcells).
- 1155 8) Demonstrated need for the telecommunications facility at the specified site,
1156 including, but not limited to, propagation maps and other similar materials,
1157 where applicable.
- 1158 9) With reference to the City of South Fulton Existing Tower Map, as amended.
- 1159 10) The Height of the proposed Telecommunication Support Structure and
1160 appurtenances thereon. In case of placement on the Right-of-Way, the
1161 height of the proposed Telecommunication Support Structure shall not
1162 exceed the height of the nearest existing utility pole.
- 1163 11) The effect, if any, on health, safety, and welfare if the proposed
1164 Telecommunication Support Structure is permitted.
- 1165 12) Applicable Federal, State and local telecommunications laws, regulations
1166 and policies.
- 1167 13) The proposed Telecommunications Support Structure's effect on property
1168 values on any adjacent and nearby residential properties.
- 1169 14) Structural safety concerns associated with the proposed Telecommunication
1170 Support Structure, including design features which minimize risks to the
1171 surrounding areas in the event of major structural failure.
- 1172 15) The public interest in minimizing the cost and disruption of construction within
1173 the Public Rights-of-Way, if applicable.

1174 16) If the Telecommunications Support Structure is proposed in the Public Right-
1175 of-Way, the likelihood, if any, that the proposed Telecommunications Facility
1176 would obstruct free and clear vision from pedestrians or motor vehicle
1177 operators, interfere with the free flow of pedestrian or vehicular traffic or
1178 otherwise pose a risk to pedestrians or motor vehicle operators.

1179 (b) All applications submitted to the Community Development Department shall include
1180 the name, address and telephone number of a principal office or a local Agent of the
1181 Applicant, name of the person, firm, corporation or association erecting a
1182 Telecommunication Support Structure or Alternative Telecommunication Support
1183 Structure, including all parties with a prospective ownership interest in the proposed
1184 Telecommunication Support Structure or Alternative Telecommunication Support
1185 Structure, written consent of all parties with an existing ownership interest, including
1186 all underlying land owners and owners or licensees of any affected, existing
1187 Telecommunication Support Structures or Alternative Telecommunication Support
1188 Structures, a complete inventory of the Applicant's existing wireless
1189 Telecommunications Facilities including Support and Alternative Support Structures
1190 and receivers/transmitters located within the City of South Fulton and a one-half
1191 mile radius surrounding the city limits, including each asset's location (plane
1192 coordinates), height and co-location usage or capabilities, and any special design
1193 features.

1194 (c) At the time of filing the application for construction of a Telecommunication Support
1195 Structure or Alternative Telecommunication Support Structure, the Applicant shall
1196 provide a site plan and information regarding Structure or accessory structure
1197 location, neighboring uses and proposed landscaping as described below.
1198 Additional documentation to be submitted with the site plan and certified by an
1199 experienced radiofrequency engineer shall delineate coverage and propagation
1200 zones, identify type of antenna and mounting location, specify type of band currently
1201 in use, and state co-location capabilities.

1202 1) The scaled site plan shall clearly indicate the location, type and height of the
1203 proposed Structure to be utilized, on-site land uses and zoning, adjacent land
1204 uses and zoning including proximity to historic or scenic view corridors,
1205 adjacent roadways, proposed means of access, setbacks from property lines,
1206 elevation drawings of the proposed tower, accessory structure and any other
1207 structures, topography, existing streams, wetlands and floodplains, parking,
1208 and other information deemed necessary by the Community Development
1209 Director to demonstrate the need for the proposed facility or assess
1210 compliance with this Chapter;

1211 2) Legal description of the parent tract and leased parcel (if applicable);

1212 3) A study including a definition of the area of coverage, capacity and radio
1213 frequency goals to be served by the Telecommunication Support Structure
1214 and Antenna and the extent to which such is needed for coverage and/or
1215 capacity. The study shall include all adjoining planned, proposed, in-service
1216 or existing sites owned by the applicant or others and a color propagation

1217 study demonstrating the existing coverage of all wireless telecommunications
1218 facilities owned and proposed by the Applicant within the GSA. The study
1219 shall also demonstrate that the proposed Height is the minimum necessary to
1220 achieve the required coverage. The study shall bear the signature and
1221 certification of a radiofrequency engineer. If a capacity issue is involved,
1222 include an analysis of the current and projected usage in the service area;

1223 4) The setback distance between the proposed Telecommunications Facility
1224 and the nearest residential unit or residentially used structure;

1225 5) When requesting a permit for construction of a Telecommunication Support
1226 Structure greater than 100 feet in height on property which is located
1227 adjacent to residentially zoned property, written certification and technical
1228 analysis of why a similar structure at a height of less than 100 feet cannot be
1229 used. Documentation shall include a propagation study of the proposed site
1230 with a Telecommunications Support Structure less than 100 feet in height;

1231 6) Certification that the Telecommunication Support Structure, the foundation
1232 and all attachments are designed and will be constructed to meet all
1233 applicable and permissible local codes, ordinances, and regulations,
1234 including any and all applicable City, State and federal laws, rules, and
1235 regulations, including but not limited to the most recent editions of the
1236 National Electrical Safety Code and the National Electrical Code, as well as
1237 accepted and responsible workmanlike industry practices and recommended
1238 practices of the National Association of Tower Erectors. Such certification
1239 and structural integrity analysis shall bear the signature and seal of a
1240 professional engineer licensed in the State of Georgia;

1241 7) Landscaping shall be designed in such a way as to preserve existing mature
1242 growth and to provide a suitable buffer of plant materials that mitigates the
1243 view of the Telecommunications Facility and accessory structures from
1244 surrounding property;

1245 8) Written, documented, detailed analysis of the impact of the proposed
1246 Telecommunications Facility addressing the factors specified in subsection
1247 (a) of this section;

1248 9) Evidence of compliance with applicable FAA requirements under 14 C.F.R. s.
1249 77, as amended, which may be a copy of the FAA notice of proposed
1250 construction or a written statement prepared and signed by a professional
1251 airspace safety consultant; and

1252 10) Copies of the National Environmental Policy Act (NEPA) and the State
1253 Historic Preservation Office (SHPO) reports for the proposed
1254 Telecommunications Facility;

1255 11) Copy of the FCC license applicable for the intended use of the facility and
1256 written certification that all emissions from any Antenna on the
1257 Telecommunication Support Structure will comply with FCC frequency
1258 emissions standards;;

- 1259 12) Documentation establishing whether a stealth technology installation is to be
1260 proposed, and if not, an explanation as to why not;
- 1261 13) A certified statement prepared by an engineer licensed in Georgia or other
1262 qualified industry professional indicating that the erection and operation of
1263 the proposed Telecommunication Support Structure or Alternative
1264 Telecommunication Support Structure, including reception and transmission
1265 functions, will not interfere with public safety communications or the usual
1266 and customary transmission or reception of radio, television, or other
1267 Telecommunication Service enjoyed by adjacent properties;
- 1268 14) Photo-simulated post-construction renderings of the completed proposed
1269 Telecommunication Support Structure, Equipment compound and/or
1270 Equipment cabinets, ancillary structures, and landscaping, if any, from
1271 locations determined at the pre-application conference, if held. The views
1272 shall incorporate before and after scenarios, a scaled color image of the
1273 proposed type of facility, an aerial map with the location of the selected
1274 views, and a description of the technical approach used to create the photo
1275 simulations. The simulations shall include a minimum of four (4) vantage
1276 points (generally north, south, east, and west). Based on the information
1277 provided at the pre-application conference, the Applicant may be required to
1278 provide other pictorial representations from other viewpoints, including, but
1279 not limited to, state highways and other major roads; state and local parks;
1280 other public lands; historic districts; preserves and historic sites normally
1281 open to the public; and from any other location where the site is visible to a
1282 large number of visitors, travelers or residents;
- 1283 15) The Community Development Director may, at his sole discretion, require a
1284 balloon test to be conducted at any time during which an application is
1285 pending before the City for Telecommunication Support Structures on private
1286 property;
- 1287 16) Applicants seeking to erect a Telecommunication Support Structure or
1288 Alternative Telecommunication Support Structure on City property and/or any
1289 Public Right-of-Way within the municipal limits of the City shall provide the
1290 following in addition to all the other requirements herein:
- 1291 a. Proof of adequate insurance or self-insurance of the Applicant to
1292 defend and cover all claims of third parties against the Applicant
1293 and/or City personnel related to the use of the Public Rights-of-Way;
- 1294 b. A description of the Applicant's service area, where applicable, which
1295 shall be sufficiently detailed so as to allow the City to respond to
1296 subscriber or end-user inquiries. For the purpose of this paragraph,
1297 an Applicant providing Telecommunication Services may, in lieu of or
1298 as a supplement to a written description, provide a map on 8 1/2 by 11
1299 inch paper that is clear and legible and that fairly depicts the service
1300 area within the municipal limits of the City. If such service area is less
1301 than the municipal limits of the City, the map shall describe the

1302 boundaries of the geographic area to be served in clear and concise
1303 terms;

1304 c. Proof of the existence of a valid telecommunications franchise to
1305 locate utilities in the public Rights-of-Way of the City, as applicable, in
1306 accordance with State law.

1307 (d) Each application shall be accompanied by a fee in accordance with the fee
1308 schedule published by the City. In addition, applicants shall be responsible for
1309 independent engineering or consulting costs incurred by the City which exceed such
1310 fee up to an additional \$7,500. All fees are subject to change as amended by the
1311 Mayor and City Council by resolution.

1312 (e)

1313 (e) Prior to issuance of a building permit, compliance with Section 106 of the National
1314 Historic Preservation Act, 16 U.S.C. § 461 et seq. shall be demonstrated (see
1315 Appendix 1).

1316 (f) In approving any application, the Mayor and City Council may impose additional
1317 conditions to the extent determined necessary to minimize adverse effects on
1318 adjoining properties.

1319 (g) *Procedures for Issuance.*

1320 (1) Pre-Application Conference. Prior to submitting any application
1321 governed by this section, all Applicants shall be required to attend a
1322 pre-application meeting with the Chief Building Official and
1323 applicable City staff to discuss the requirements for the application.
1324 The Chief Building Official shall have the discretion to waive this
1325 requirement.

1326

1327 (2) Review for Completeness. The Community Development Director
1328 shall notify an Applicant submitting an application governed by this
1329 section of any identified deficiencies therein within thirty (30)
1330 calendar days of receipt of such an application. If the Community
1331 Development Director or designee determines an application is not
1332 complete, the Director or designee shall notify the Applicant in
1333 writing of any information required to complete the application. To
1334 the extent additional information is required, the time required for
1335 an Applicant to provide such information shall not be counted
1336 toward the applicable review period set forth herein. Upon any
1337 resubmittal of an application, the Community Development Director
1338 shall have thirty (30) additional calendar days to give notice as to
1339 the completeness of the revised submission. The Community
1340 Development Director shall not forward the application for a public
1341 hearing to the City Council until the Application is deemed
1342 complete.

1343

(3) Period of Review. Within one hundred and fifty (150) calendar days after receiving a complete application for the erection of a new Telecommunications or Alternative Telecommunications Support Structure, the Mayor and City Council shall issue a written determination granting or denying the application in whole or in part, including imposing any conditions. Any decision to deny an application shall be in writing, shall include reasons for denial, and shall be supported by substantial evidence contained in a written record.

(5) The Mayor and Council shall hold a public hearing at the next available and scheduled Council Meeting, but in no respect later than thirty (30) calendar days following the receipt of a completed application as provided in this section. Official notice of the public hearing shall be given in accordance with the state Zoning Procedures Law. In addition, said official notice of the public hearing shall include the location of the proposed facility. The decision of the Mayor and City Council shall be final.

Sec. 12-20018. Access to the Public Rights-of-Way.

(a) *Franchise Fees.* Pursuant to O.C.G.A § 46-5-1(b) and in accordance with applicable State law, Providers of Telecommunication Services and Applicants for same in the Public Rights-of-Way shall provide the City due compensation for use of, and access to, a Public Right-of-Way. Such compensation shall not be assessed in a discriminatory fashion with respect to the Telecommunication Services to be provided or transmitted by or through a proposed Telecommunication Facility, in accordance with applicable state law. Said compensation for the use of the Public Right-of-Way shall be paid by the Applicant within thirty (30) days after the end of each calendar quarter.

(b) *Restoration of Public Rights-of-Way and City Property.* When a Grantee authorized to construct Telecommunication Facilities in Public Rights-of-Way, or any person acting on behalf of a Grantee, does any work affecting any Public Right-of-Way or City property, it shall, at its own expense, promptly remove any obstructions therefrom and restore such Public Right-of-Way or City property to as good a condition as existed before the work was undertaken, unless otherwise directed by the City Manager or designee. Restoration will be consistent with standards required by the City.

(c) *Indemnification.* Each Applicant shall, upon receiving a permit to erect or Modify Telecommunication Facilities in a Public Right-of-Way, and to the extent permitted by law, as a condition of such access, expressly undertake to defend, indemnify, and hold the City and its officers, appointed officials, agents, employees, and assigns harmless from and

against any and all damages, losses, and expenses, including reasonable attorney's fees and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the negligent, careless, or wrongful acts, omissions, failures to act, or misconduct of the Applicant or its affiliates, officers, employees, agents, contractors, or subcontractors in the construction, operation, maintenance, repair, or removal of any Telecommunication Facilities in Public Rights-of-Way, whether such acts are authorized, allowed, or prohibited by this Chapter.

Sec. 12-20019. Development Requirements for Telecommunication Facilities.

a) Telecommunication Support Structures on private property may be located only in the following zoning districts subject to the restrictions and standards contained herein:

O-I	Office and Institutional District
C-1 or C-2	Commercial District
M-1, M-2 or M-1A	Industrial District
AG-1	Agricultural District
A or AL	Apartment District or Apartments Limited

b) Telecommunication Facilities on private property in residential districts not included in subsection (a) shall only be located on Alternative Telecommunication Support Structures that are subject to the height limitations for structures in the zoning district and must utilize stealth technology to blend-in with its surroundings. Telecommunication Support Structures on the Public Right-of-Way erected to support solely microcell technology may also be permitted subject to the applicable requirements of this ordinance.

c) All applicants seeking to erect a Telecommunication Support Structure or Alternative Telecommunication Support Structure must provide evidence that no alternative location and no existing Structure can accommodate the proposed Antenna(s). Evidence of an engineering nature shall be documented by the submission of a certification by a radiofrequency engineer. Such evidence may consist of the following:

- 1) No existing Structures are located within the geographic area required to meet applicant's engineering requirements.
- 2) No existing Structure is of sufficient height to meet the applicant's engineering requirements.
- 3) No existing Structure has sufficient structural strength to support applicant's proposed Antenna(s) and related equipment.
- 4) Applicant's proposed Antenna(s) would cause electromagnetic interference with the Antenna(s) on the existing Structure.
- 5) All alternative properties in the geographic search area for the construction of a new Telecommunications Support Structure or Alternative Support Structure that are potential alternatives to the proposed location are either unacceptable or infeasible due to technical or topographical reasons.
- 6) Such other limiting factor(s) as may be demonstrated by the applicant and verified by an engineer of the City's choosing.

(d) Setbacks. Setbacks for Telecommunication Support Structures and Alternative Support Structures and above-ground transmission facilities shall be as follows:

- 1) All Telecommunications Support Structures and Alternative Support Structures, including stealth technology installations, except buried portions, shall be set back from all adjoining properties zoned nonresidential a distance equal to the height of the proposed Structure.
- 2) When a Telecommunications Facility Support Structure or Alternative Support Structure or stealth technology installation is adjacent to a residential use or residential zoning, the entire Facility must be set back from the nearest residential property line a distance equal to one and one-half times the height of the Structure.
- 3) Roof and/or building-mounted Telecommunications Facilities are exempt from the setback standards of this subsection but are not exempt from the setbacks for the zoning districts in which they are located.

(e) All new Telecommunication Support Structures or Alternative Telecommunication Support Structures must meet the following maximum heights and be designed and built in a manner that allows other entities to co-locate on the structure using the following guidelines:

MAXIMUM TELECOMMUNICATIONS SUPPORT STRUCTURE OR ALTERNATIVE SUPPORT STRUCTURE HEIGHTS

Zoning District	Two Users	Three Users	Four Users
O-I	120'	150'	150'
C-1/C-2/M-1/M-1A/M-2/A/AL/AG-1	120'	150'	150'
Single Family Residential Districts	Maximum District Height for Accessory Structures	Maximum District Height for Accessory Structures	Maximum District Height for Accessory Structures

1453

- 1454 (f) All Telecommunication Support Structures and related Equipment shall maximize
1455 the use of building materials, colors, textures, screening and landscaping that, in the
1456 opinion of the Community Development Director or designee, effectively blend the
1457 Facilities within the surrounding natural setting and built environment. Where
1458 appropriate, Structures shall be painted so as to reduce their visual obtrusiveness,
1459 subject to any applicable standards of the Federal Aviation Administration (FAA).
- 1460 (g) Roof top antennas and associated structures shall not project more than ten feet
1461 above roof lines.
- 1462 (h) The Structure shall comply with applicable state and local statutes and
1463 ordinances, including, but not limited to, building and safety codes. Structures which
1464 have become unsafe or dilapidated shall be repaired or removed pursuant to
1465 applicable state and local statutes and ordinances.
- 1466 (i) Telecommunications facilities shall not be artificially lighted except to assure
1467 human safety or as required by the Federal Aviation Administration (FAA).
- 1468 (j) Structures shall be designed and constructed to ensure that the structural failure or
1469 collapse of the tower will not create a safety hazard to adjoining properties,
1470 according to applicable federal standards which may be amended from time to time.
- 1471 (k) Telecommunication Support Structures or Alternative Support Structures shall not
1472 be located in 100-year floodplain or delineated wetlands.
- 1473 (l) All guy wires must be anchored on site and outside of right-of-way and outside
1474 minimum building setback.
- 1475 (m) Structures not requiring FAA painting/marketing shall utilize Stealth Technology
1476 Installation to the maximum extent possible, and otherwise shall have either a
1477 galvanized finish or be painted a dull blue, green, gray, or black finish.
- 1478 1)
- 1479 (n) Protection of scenic views. The Mayor and City Council shall determine the likely
1480 visual impact of any proposed Telecommunications Support Structure and Facility.

Based on the information presented, the Mayor and Council may recommend an alternative location for the Facility or may recommend a redesign in order to minimize the visual impact on the scenic character and beauty of the area. In determining whether or not a Telecommunication Support Structure and Facility would have an undue adverse visual impact and when setting conditions in the permit, they shall consider:

- 1) The period of time during which it would be viewed by persons traveling on roads and/or highways;
- 2) The frequency with which persons traveling on roads and/or highways will view the Facility;
- 3) The degree to which it will be screened by existing vegetation, the topography of the land, and existing structures;
- 4) Background features that will either obscure it or make it more conspicuous;
- 5) Its distance from key vantage points and the proportion of it which will be visible above the skyline or tree line;
- 6) The number of members of the traveling public or residents who will be affected by the alteration of the scenic character and beauty of the area;
- 7) The sensitivity or unique value of the particular view affected by it;
- 8) Significant disruption of a view shed that provides context to a historic structure or scenic view; and
- 9) The utilization of stealth technology installations.

Sec. 12-20020. Expiration of Permit.

Approved applications for erection of a Telecommunication Support Structure or Alternative Support Structure shall expire one year from the date of the approval by the Mayor and Council unless the property/Facility owner makes substantial progress toward the completion of on-site construction depicted on the site plan. Substantial progress shall have been demonstrated when, within one year of the date of the issuance of the permit, the Director of Community Development Department determines that continuous, observable progress is being made to completion according to an approved construction schedule.

Sec. 12-20021. Maintenance of Facilities and Structures.

- (a) All Telecommunications Facilities and related landscaping shall be maintained by the facility owner in good condition, order, and repair so that they shall not endanger the life or property of any person, nor shall they be a blight upon the property as determined by the Community Development Director or designee.
- (b) All maintenance or construction on Telecommunications Facilities shall be performed by persons employed by or under contract to the owner between the

hours of 8:30 a.m. and 5:30 p.m. Monday through Friday except in cases of emergency or when an after-hours permit is obtained pursuant to the City of South Fulton Noise Ordinance. Access to facilities on city-owned property shall be determined on a case-by-case basis by the department responsible for such property. The hours of access to City sites shall not exceed those specified above. Persons may not be present on site unless performing construction or maintenance at such site.

- (c) The owner or user of any new or existing Telecommunications Facility shall have each such Facility inspected on a yearly basis for compliance with all building and other applicable codes no later than the end of the first quarter of each calendar year. The inspection report shall be submitted to the City no later than the end of the second quarter of each calendar year. Failure to timely submit said report on a yearly basis shall be a violation of this Ordinance and shall subject the owner of the Facility to a fine upon conviction not to exceed \$1,000.00 for each day the report is late and may be a cause for revocation of the Facility permit.

Sec. 12-20022. Revocation of Permit.

- (a) Any authorization to erect or operate Telecommunication Facilities granted by the Community Development Director may be revoked for the following reasons:
- (1) Erection or operation of Telecommunication Facilities at an unauthorized location;
 - (2) Misrepresentation by or on behalf of an Applicant or permit holder in any representation to the City;
 - (3) Abandonment of applicable Telecommunication Facilities as set forth in this in this Chapter;
 - (4) Failure to pay required franchise fees for access and use of Public Rights-of-Way, as applicable;
 - (5) Violation of a material provision of this Chapter, or City, State or Federal laws applicable to erection and maintenance of a Telecommunication Support Structure or Facility; or
 - (6) Violation of a material condition set forth in any permit or authorization to erect and operate a Telecommunication Support Structure or Facility.
- (b) A Notice of Revocation shall be given to the Support Structure and/or Facility owner or assignee in writing by certified mail, return receipt requested, stating the reasons therefor. An appeal of a Notice of Revocation may be made by filing a Notice of Appeal with the Community Development Director within ten (10) business days following the Notice of Revocation. A Notice of Appeal shall be

heard by the Mayor and City Council within thirty (30) days following said Notice of Appeal, and a decision by the Mayor and City Council must be made at, or within ten (10) days of, said hearing, and must be delivered to the appellant in writing, stating the reasons therefor. Said writing shall constitute the final decision of the City concerning said appeal. A Permit to erect a Telecommunication Support or Alternate Telecommunication Support Structure that is granted by Mayor and Council as required in this Chapter may only be revoked by the Mayor and City Council after a hearing advertised in accordance with the Zoning Procedures Act.

Sec. 12-20023. Limitation on Municipal Authority

In regulating the erection and maintenance of Telecommunication Facilities, whether located on private lands or in Public Rights-of-Way, the City shall not:

- (a) Condition the approval of any application for a new Telecommunication Support Structure or Alternative Telecommunication Support Structure on a requirement that a Modification or Co-location to such structure be subject to a review inconsistent with this Chapter;
- (b) Require the removal of an existing Telecommunication Support Structure, Alternative Telecommunication Support Structure, or Telecommunication Facility as a condition of approval of an application for a new Telecommunication Facility unless such existing Telecommunication Support Structure, Alternative Telecommunication Support Structure, or Telecommunication Facility is abandoned and owned by the Applicant;
- (c) Require the Applicant to place an Antenna or other Equipment on publicly owned land or on a publicly or privately owned water tank, building, or electric transmission tower as an alternative to the location proposed by the Applicant.

Sec. 12-10024. Bond Requirement for New Telecommunication Support Structures.

Prior to the issuance of a permit for the erection of a Telecommunication Support Structure or Alternative Telecommunication Support Structure, an Applicant shall procure a bond or an irrevocable letter of credit in an amount not less than twenty-five thousand dollars (\$25,000.00) conditioned upon the removal of the Telecommunication Support Structure or Alternative Telecommunication Support Structure, should it be deemed abandoned under the provisions set forth in this Article. Such bond or letter of credit (a) shall be renewed at least every two (2) years during the life of the Telecommunication Support Structure or Alternative Telecommunication Support Structure, (b) shall not expire unless the City is given sixty (60) calendar days' prior written notice, (c) shall include the name, address, telephone number, and contact for

the provider bond or letter of credit and (d) in the case of a bond, shall include a statement that the provider of the bond is listed in the latest issue of the U.S. Treasury Circular 570.

Sec. 12-20025. Non-Discrimination.

In evaluating any application governed by this Chapter, the City shall not unreasonably discriminate among Providers of functionally equivalent services and technical capabilities and/or deny an application based solely on the financial status of an Applicant, type of Telecommunication Services to be provided should a prospective application be approved, and/or the content of telecommunications to be provided by and/or through proposed Telecommunication Facilities.

Sec. 12-20026. Inspections.

(a) Whenever inspections of the premises used for or in connection with a Telecommunication Support Structure, Alternative Telecommunication Support Structure, or Antenna are provided for or required by ordinance, or are reasonably necessary to ensure compliance with any ordinance provision or to detect violations thereof, it shall be the duty of the Applicant, or the person(s) responsible for the premises to be inspected, to admit thereto for the purpose of making the inspection any officer, agent, or employee of the City who is authorized or directed to make such inspection, at any reasonable time that admission is requested.

(b) In addition to any other penalty which may be provided, the permit granted to any Applicant who refuses to allow any authorized officer, agent or employee of the City to make any inspection provided for in subsection (a) hereinabove, or who interferes with such officer or employee while in the performance of his duty in making such inspection, may be suspended or revoked at the discretion of the City Manager.

Sec. 12-20027. Penalties for Violation.

In addition to the other remedies available to the City for violation of this Chapter set forth herein or in any other applicable provision of the Code of Ordinances, the municipal court of the City, after notice to the Applicant or permittee and hearing, may impose a fine for failure to comply with the provisions of this Chapter or a sentence not to exceed sixty (60) days. Such a fine shall not exceed one thousand dollars (\$1,000.00) per day and may be enforced by the contempt power of the court. In addition, the Applicant or permittee shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

Nothing contained in this section shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation of this Chapter.

Sec. 12-20028. Appeals of Decisions of the Mayor and City Council.

Appeals of decisions of Mayor and Council under this Chapter shall be by writ of certiorari to the Superior Court of Fulton County in accordance with State Law.

Sec. 12-20029. Facilities lease.

The City Council may approve facilities leases for the location of Telecommunications Facilities upon city-owned property. Neither this section, nor any other provision of this chapter shall be construed to create an entitlement or vested right in any person or entity of any type.

Sec. 12-20030. Lease application.

Any person that desires to solicit the City's approval of a Facilities Lease pursuant to this Chapter shall file a lease proposal with the City's Community Development Department which, in addition to the information required by section 54-14 and 54-15, shall include the following:

- 1) A description of the Telecommunications Facilities or other Equipment proposed to be located upon City property;
- 2) A description of the City property upon which the applicant proposes to locate Telecommunications Facilities or other Equipment;
- 3) Preliminary plans and specifications in sufficient detail to identify:
 - a. The location(s) of existing wireless transmission or Telecommunications Facilities or other Equipment upon the City property, whether publicly or privately owned.
 - b. The location and source of electric and other utilities required for the installation and operation of the proposed Facilities.
- 4) Accurate scaled conceptual drawings and diagrams of sufficient specificity to analyze the aesthetic impacts of the proposed Telecommunications Facilities or other Equipment;
- 5) Whether the applicant intends to provide cable service, video dial tone service or other video programming service from the Facility, and sufficient information to determine whether such service is subject to cable franchising;
- 6) An accurate map showing the location of any Wireless Telecommunications Facilities in the City that applicant intends to use or lease;
- 7) A landscaping bond in an amount to be determined by the City Arborist;
- 8) Such other and further information as may be requested by the City; and

1686 9) An application fee for lease negotiation in accordance with the fee schedule
1687 published by the City.

1688 **Sec. 12-20032. - Determination by the City.**

1689 Recognizing that the City is under no obligation to grant a Facilities Lease for the
1690 use of City property, the City shall strive to consider and take action on applications for
1691 Facilities Leases within 60 days after receiving a complete application for such a lease.
1692 When such action is taken, the City shall issue a written determination granting or
1693 denying the lease in whole or in part, applying such criteria as the Mayor and City
1694 Council may choose to apply.

1695 **Sec. 12-20033. Agreement.**

1696 No Facilities Lease shall be deemed to have been granted hereunder until the
1697 applicant and the City have executed a written agreement setting forth the particular
1698 terms and provisions under which the lessee has been granted the right to occupy and
1699 use the City property.

1700 **Sec. 12-20034. Nonexclusive lease.**

1701 No Facilities Lease granted under this Chapter shall confer any exclusive right,
1702 privilege, license, or franchise to occupy or use City property for delivery of
1703 telecommunications services or any other purposes nor shall approval of a lease entitle
1704 the applicant to a permit to construct or place a Wireless Telecommunications Facility.

Sec. 12-20035. Term of Facilities Lease.

Unless otherwise specified in a lease agreement, a Facilities Lease granted hereunder shall be valid for a term of up to five years, with the lessee granted a maximum of three, five-year renewal options which options shall also be subject to approval of Council. The term of any such agreement shall not exceed 20 years.

Sec. 12-20036. Rights granted.

No Facilities Lease granted under this Chapter shall convey any right, title or interest in the City property, but shall be deemed a license only to use and occupy the City property for the limited purposes and term stated in the lease agreement. Further, no Facilities Lease shall be construed as any warranty of title.

Sec. 12-20037. Interference with other users.

No Facilities Lease shall be granted under this Chapter unless it contains a provision which is substantially similar to the following:

“The City has previously entered into leases with other tenants for their equipment and Wireless Telecommunications Facilities. Lessee acknowledges that the City is also leasing the City property for the purposes of transmitting and receiving telecommunication signals from the City property. The City, however, is not in any way responsible or liable for any interference with lessee's use of the City property which may be caused by the use and operation of any other tenant's equipment, even if

caused by new technology. In the event that any other tenant's activities interfere with the lessee's use of the City property, and the lessee cannot work out this interference with the other tenants, the lessee may, upon 60 days' notice to the City, terminate this lease and restore the City property to its original condition, reasonable wear and tear excepted. The lessee shall cooperate with all other tenants to identify the causes of and work towards the resolution of any electronic interference problem. In addition, the lessee agrees to eliminate any radio or television interference caused to City-owned Facilities or surrounding residences at lessee's own expense and without installation of extra filters on City-owned equipment. Lessee further agrees to accept such interference as may be received from City-operated telecommunications or other Facilities located upon the City property subject to this lease."

Sec. 12-20038. Ownership and removal of improvements.

No Facilities Lease shall be granted under this Chapter unless it contains a provision which states that all buildings, landscaping, and all other improvements, except telecommunications equipment, shall become the property of the City upon expiration or termination of the lease. In the event that the City requires removal of such improvements, such removal shall be accomplished at the sole expense of the lessee and completed within 90 days after receiving notice from the City requiring removal of the improvements. In the event that Wireless Telecommunications Facilities or other Equipment are left upon City property after expiration or termination of the lease, they shall become the property of the City if not removed by the lessee upon 30 days' written notice from the City.

Sec. 12-20039. Compensation to the City.

(a) Each Facilities Lease granted under this Chapter is subject to the City's right, which is expressly reserved, to annually fix a fair and reasonable compensation to be paid for the rights granted to the lessee; provided, nothing in these sections shall prohibit the City and a lessee from agreeing to the compensation to be paid. Such compensation shall be payable in advance of the effective date of the lease and on or before January 31 of each calendar year. Any payments received after the due date shall include a late payment penalty of two percent of the annual rental fee for each day or part thereof past the due date. The compensation shall be negotiated by the City Manager or designee, subject to the City Council's final approval, based on the following criteria:

- 1) Comparable lease rates for other public or private property;
- 2) In the case land is leased, an appraisal opinion upon which the land and air space is rented;
- 3) If structure of another user is involved, any amount needed to reimburse that user, in addition to the above;
- 4) A yearly escalator rate commonly used in comparable leases;
- 5) The additional rent such structure may generate if leased to additional users. (the City should be entitled to rent as a result of a sublease);

- 6) Additional fees or charges may be established by the City to cover actual costs of processing the application, including engineering review, inspection and appraisal cost, legal, administration of the agreement, providing on-site services, and/or other direct or indirect costs.

Sec. 512-20040. Amendment of Facilities Lease.

Except as provided within an existing lease agreement, a new lease application and lease agreement shall be required of any telecommunications carrier or other entity that desires to expand, modify, or relocate its Telecommunications Facilities or other equipment located upon City property. If ordered by the City to locate or relocate its Telecommunications Facilities or other equipment on the City property, the City shall grant a lease amendment without further application. Such amendment must be approved by the City Council.

Sec. 12-20041. Renewal application.

A lessee that desires to exercise a renewal option in its Facilities Lease under this Chapter shall, not more than 180 days nor less than 120 days before expiration of the current facilities lease term, file an application with the City for renewal of its facilities lease which shall include the following:

- 1) The information required pursuant to section 54-30 of this Chapter;
- 2) Any information required pursuant to the facilities lease agreement between the City and the lessee;
- 3) A report certified by a radiofrequency engineer that the site is in compliance with current FCC radio emission standards;
- 4) All deposits or charges required pursuant to this Chapter; and
- 5) An application fee which shall be set by the City Council as referenced in this Chapter or as amended from time to time by resolution.

Sec. 12-20042. Renewal determination.

Recognizing that the City is under no obligation to grant a renewal of a Facilities Lease for the use of City property, the City shall strive to consider and take action on applications for renewal of such leases within 60 days after receiving a complete application for such a lease renewal. When such action is taken, the City shall issue a written determination granting or denying the lease renewal in whole or in part, applying such criteria as the City Council may choose to apply.

Sec. 12-20043. Obligation to cure as a condition of renewal.

No Facilities Lease shall be renewed until any ongoing violations or defaults in the lessee's performance of the lease agreement, or of the requirements of these sections, have been cured, or a plan detailing the corrective action to be taken by the lessee has

been approved by the City. In no event shall a Facilities Lease be renewed if lessee fails to cure.

Section 2. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 3. If any section, clause, sentence or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this ordinance

Section 4. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 5. This ordinance shall be codified in a manner consistent with the laws of the State of Georgia and the City.

Section 6. The effective date of the ordinance shall be the date of adoption unless otherwise specified herein.

The foregoing **ORDINANCE No. 2018-040**, 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:

“SECOND READING”

	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 ORDINANCE adopted this _____ day of _____ 2018. CITY OF SOUTH
FULTON, GEORGIA.

“SECOND READING”

WILLIAM “BILL” EDWARDS, MAYOR

ATTEST:

MARK MASSEY, CITY CLERK

APPROVED AS TO FORM:

EMILIA C. WALKER, CITY ATTORNEY



CITY OF SOUTH FULTON

COUNCIL AGENDA ITEM

COUNCIL REGULAR MEETING



SUBJECT: Ord2018-041 Sanitation - Solid Waste Ordinance

DATE OF MEETING: 10/9/2018

DEPARTMENT: Attorney

ATTACHMENTS:

Description	Type	Upload Date
Ord2018-041 Sanitatin - Solid Waste Ordinance	Cover Memo	10/4/2018

1 **STATE OF GEORGIA**
2 **COUNTY OF FULTON**
3 **CITY OF SOUTH FULTON**
4

5
6 **ORDINANCE No. 2018-041**
7

8 **AN ORDINANCE TO AMEND TITLE 6, HEALTH AND SANITATION, OF THE CITY**
9 **CODE, TO ESTABLISH PROCEDURES FOR THE COLLECTION, DISPOSAL, AND**
10 **RECYCLING OF SOLID WASTE AND FOR OTHER LAWFUL PURPOSES**
11

12 **(Sponsored by Councilpersons Gumbs, Willis and Mayor Pro Tem Baker)**
13

14 **WHEREAS**, the city of South Fulton ("City") is a municipal corporation duly
15 organized and existing under the laws of the State of Georgia;
16

17 **WHEREAS**, the duly elected legislative authority of the city is the Mayor and
18 Council thereof ("City Council");

19 **WHEREAS**, pursuant to O.C.G.A. § 36-35-3 and City Charter Section 3.10(b),
20 the City Council is authorized to adopt ordinances it deems necessary, expedient, or
21 helpful for the health, welfare, sanitation, comfort, and well-being of the inhabitants of
22 the city;
23

24 **WHEREAS**, the city finds that the municipal solid waste services provided for
25 herein will serve to promote safety, sanitation, reliable waste collection service,
26 protection of the environment and City streets and roads;
27

28 **WHEREAS**, this ordinance is authorized pursuant to Ordinance IX, Section II,
29 Paragraph I (a) and III (a) (2) of the Georgia Constitution and other applicable laws; and
30

31 **WHEREAS**, the City finds it to be in the public interest and for the health,
32 welfare, sanitation, comfort, and well-being of the City and its inhabitants to adopt the
33 provisions herein regarding the City's provision of solid waste services.
34

35 **THE COUNCIL OF THE CITY OF SOUTH FULTON HEREBY ORDAINS as**
36 **follows. -**
37

38 **Section 1. -** Title 6, Health and Sanitation, Ordinance 2, solid waste, of the City
39 of South Fulton Code of Ordinances is hereby amended to read as follows:
40

41 **ORDINANCE 2. - SOLID WASTE ORDINANCE**
42

43 **Sec. 6-2001. - Short title.**
44

45 This Ordinance shall be known as the city of South Fulton Solid Waste
46 Ordinance.

47
48 **Sec. 6-2002. - Definitions.**

49 The following words, terms, and phrases when used in this ordinance shall have
50 the following meanings ascribed to them, except where the context clearly indicates a
51 different meaning:

52 1) Biomedical Waste shall mean pathological waste, biological waste cultures and
53 stocks of infectious agents and associated biologicals, contaminated animal
54 carcasses (body parts, their bedding, and other wastes from such animals), sharps,
55 chemotherapy waste, discarded medical equipment all parts, not including
56 expendable supplies and materials which have not been decontaminated, as further
57 defined in Georgia Department of Natural Resources, Environmental Protection Rule
58 391-3-4-.15, as amended.

59 2) Bulk Waste shall mean discarded items that are larger than three (3) feet in any
60 dimension, and/or heavier than fifty (50) pounds in weight, and therefore too large to
61 be collected in residential municipal solid waste collection carts, including but not
62 limited to items such as mattresses and box springs, indoor/outdoor furniture, swing
63 sets, plastic swimming pools, large toys, bicycles, fish aquariums, and other similar
64 items.

65 3) Collect or Collection shall mean to remove residential solid waste, residential
66 recovered materials, or commercial solid waste for transport to a disposal or
67 processing facility, or cause such to be removed.

68 4) Collection Services shall mean the collection from a residential unit or from a
69 commercial establishment of municipal solid waste, and residential recovered
70 materials including related transportation, transfer processing and/or disposal.

71 5) Commercial Establishment shall mean any hotel, motel, apartment dwelling
72 consisting of more than four (4) units, business, public or semi-public building or
73 premises of any nature or kind whatsoever other than a residential service unit.

- 74 6) Commercial Container shall mean a dumpster or similar waste receptacle supplied
75 by a commercial service provider.
- 76 7) Commercial Recovered Materials shall mean recovered materials generated at a
77 commercial establishment.
- 78 8) Commercial Service Provider shall mean a company authorized by the city to
79 engage in commercial solid waste collection and disposal within the city.
- 80 9) Commercial Solid Waste shall mean all types of solid waste generated by stores,
81 offices, restaurants, warehouses, and other nonmanufacturing activities, excluding
82 residential, industrial, C&D, and hazardous wastes.
- 83 10) Commercial Solid Waste Collection and Disposal shall mean a company authorized
84 under this ordinance to collect, transport, and dispose and/or process commercial
85 solid waste and commercial recovered materials in accordance with this ordinance
86 and other applicable laws related to commercial solid waste, commercial recovered
87 materials, as well as incidental administrative tasks related to the performance of
88 those requirements.
- 89 11) Composting shall mean the controlled biological decomposition of organic matter
90 into stable, odor-free humus.
- 91 12) Construction and Demolition Waste (C&D Waste) shall mean waste building
92 materials and rubble resulting from construction, remodeling, repair, and demolition
93 operations of pavements, houses, commercial buildings and other structures. Such
94 waste includes, but is not limited to, waste containing asbestos, wood, bricks, metal,
95 concrete, wallboard, paper, cardboard, carpeting, inert waste landfill material, and
96 other non-putrescible waste, which have a low potential for groundwater
97 contamination.
- 98 13) C&D Waste Service Provider shall mean a company authorized under this ordinance
99 to engage in C&D waste collection and disposal within the city.
- 100 14) C&D Waste Collection and Disposal shall mean the performance of collecting,

101 transporting, and disposing of C&D Waste, in accordance with all requirements of
102 this ordinance.

103 15)City shall mean city of South Fulton, Georgia.

104 16)Company means any service provider, organization, firm, person, entity, corporation
105 or other business that contracts with customers to provide for the collection and
106 disposal of solid waste materials as defined in this ordinance, and including but not
107 limited to construction/demolition debris, dead animals, garbage, waste, storm
108 debris, yard trimmings, and recyclable material.

109 17)Customer means any firm, resident, owner, manager, entity, corporation or
110 organization that contracts with a company for the collection and disposal of solid
111 waste materials as defined in this ordinance, and including but not limited to
112 construction/demolition debris, dead animals, garbage, waste, storm debris, yard
113 trimmings, and recyclable material.

114 18)Disabled Person shall mean an owner of a residential service unit who is disabled to
115 the extent that he or she is incapable of placing his or her residential municipal solid
116 waste, storage cart, residential recovered materials, storage bin, white goods, bulk
117 waste and/or yard trimmings at the residential designated collection location for
118 collection by the residential service provider, such that he or she satisfies this
119 ordinance.

120 19)Disposal shall mean dumping or depositing of solid waste into or onto a disposal
121 facility.

122 20)Disposal Facility shall mean a sanitary landfill or other solid waste disposal facility
123 permitted by the Georgia Department of Natural Resources, Environmental
124 Protection Division and/or other applicable regulatory agency with jurisdiction and
125 where the final deposition of solid waste occurs and includes but is not limited to
126 landfilling and solid waste thermal treatment technology facilities.

127
128 21)Duplex shall mean a building designed exclusively for residential occupancy by two
129 (2) families.

130 22)Garbage shall mean food waste, including waste accumulations of animal or
131 vegetable matter used or intended for use as food, or that attends the preparation,
132 use, cooking, dealing in or storing of meat, fish, fowl, fruit or vegetables. Garbage
133 does not include unacceptable waste.

134 23)Gross receipts shall mean the total amount collected by the company from any and
135 all customers for services rendered under authority of this ordinance as a result of
136 charges for service. Gross receipts shall not include the infrastructure maintenance
137 fee identified in this ordinance.

138 24)Hazardous Waste shall mean any solid waste which has been defined as a
139 hazardous waste in regulations promulgated by the United States Environmental
140 Protection Agency or under Georgia Hazardous Waste Management Act, O.C.G.A. §
141 12-8-60 *et seq.*

142 25)Industrial Waste shall mean solid waste generated by manufacturing or industrial
143 processes or operations that is not a hazardous waste. Industrial Waste includes,
144 but is not limited to, waste resulting from the following manufacturing processes. -
145 electric power generations; fertilizer and agriculture chemicals; food-related products
146 and byproducts; inorganic chemicals; iron and steel products; leather and leather
147 products; nonferrous metal and foundry products; organic chemicals, plastics and
148 resins; pulp and paper; rubber and miscellaneous plastic products; stone, glass,
149 clay, and concrete products; textiles; transportation equipment, and water treatment.
150 This term does not include mining waste or oil and gas waste.

151 26)Landfill shall mean an area of land on which or an excavation in which solid waste is
152 placed for permanent disposal and which is not a land application unit, surface
153 impoundment, injection well, or compost pile.

154 27)Mobile Home shall mean a mobile or manufactured home, receiving residential type
155 collection.

156 28)Multi-Family Dwelling shall mean a building designed exclusively for residential
157 occupancy by more than one family, except for duplex, triplex, and quadraplex units.

158 29)Municipal Solid Waste shall mean any solid waste derived from households
159 including garbage, trash, and sanitary waste in septic tanks and means solid waste
160 from, single-family and multifamily residences, hotels and motels, bunkhouses,
161 campgrounds, picnic grounds, and day use recreation areas. The term includes yard
162 trimmings and commercial solid waste, but does not include construction and
163 demolition waste and solid waste from mining, agricultural, or silvicultural operations
164 or industrial processes or operations.

165 30)Municipal Solid Waste Composting shall mean composting of the typical mixed solid
166 waste stream generated by residential, commercial, and/or institutional sources,
167 recycling includes the composting process if the compost material is put to beneficial
168 use.

169 31)Municipal Solid Waste Disposal Facility shall mean any facility or location where the
170 final deposition of any amount of municipal solid waste occurs, whether or not mixed
171 with or including commercial or industrial solid waste, and includes, but is not limited
172 to, municipal solid waste landfills and municipal solid waste thermal treatment
173 technology facilities.

174 32)New Customer shall mean any owner of a newly-constructed residential service unit
175 or newly-constructed commercial establishment.

176 33)Non-Curbside Collection shall mean collection of residential municipal solid waste,
177 residential recovered materials, residential bulk waste, white goods, and/or yard
178 trimmings outside the residential designated collection location.

179 34)Owner shall mean any person, firm, corporation or other entity owning, leasing,
180 renting, occupying, or managing any residential or commercial premises in the city.

181 35)Ownership shall mean ownership, leasing, renting, occupying, or managing any
182 premises by any individual, firm, corporation or other entity in the city.

183 36)Person shall mean the State of Georgia or any other state agency or institution
184 thereof, or municipality, city, political subdivision, public or private corporation, solid

waste authority, special district empowered to engage in solid waste management activities, individual, partnership, association, or other entity in Georgia or any other state. This term also includes any officer or governing or managing body of any municipality, political subdivision, solid waste authority, special district empowered to engage in solid waste activities, or public or private corporation in Georgia or any other state. This term also includes employees, departments, and agencies of the federal government.

37)Plan shall mean the 2005 Comprehensive Solid Waste Management Plan, as amended, developed for Fulton County for the area previously defined as the Special Services District for the areas that is now incorporated as the City of South Fulton. The Plan is hereby adopted by the city through this ordinance, and may be amended by the city from time to time.

38)Processing shall mean any method, system or other treatment designed to change the physical form or chemical content of solid waste, and includes separation from solid waste or other handling of recovered materials for recycling.

39)Processing Facility shall mean a facility whose activities include, but are not limited to, the separation and preparation of solid waste for reuse or disposal or the separation and preparation of recovered materials or yard trimmings to produce a marketable commodity.

40)Putrescible Waste shall mean solid waste that is capable of being decomposed by microorganisms, including but are not necessarily limited to kitchen wastes, animal manure, offal, hatchery and poultry processing plant wastes, dead animals, garbage and wastes which are contaminated by such wastes.

41)Quadraplex shall mean a building designed exclusively for residential occupancy by four (4) families.

42)Recovered Materials shall mean those materials which have known use, reuse, or recycling potential; can be feasibly used, reused, or recycled; and have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling

213 whether or not requiring subsequent separation and processing.

214 43)Recovered Materials Processing Facility (RMPF) shall mean a facility engaged
215 solely in the storage, processing, and resale or reuse of recovered materials. Such
216 term shall not include a solid waste handling facility; provided, however, any solid
217 waste generated by such facility shall be subject to all applicable laws and
218 regulations relating to such solid waste.

219 44)Recycling shall mean any process by which materials which would otherwise
220 become solid waste are collected, separated, or processed and reused or returned
221 to use in the form of raw materials or products, except for mixed municipal solid
222 waste composting.

223 45)Residential Designated Collection Location shall mean within six (6) feet of the curb,
224 paved surface of the public road, closest accessible public right-of-way, or other
225 such location agreed to by the residential service provider for placement of the
226 residential municipal solid waste storage cart, the residential recovered materials
227 storage bin, and/or any yard trimmings, bulk waste, or white goods are placed, that
228 will provide safe and efficient accessibility to the residential service provider's
229 collection crew and vehicle.

230 46)Residential Municipal Solid Waste shall mean Municipal solid waste generated at a
231 residential service unit.

232 47)Residential Municipal Solid Waste Storage Cart shall mean a leak-proof container
233 with attached lid and wheels that allow the automated or semi-automated collection
234 of residential municipal solid waste that meets the specifications established by the
235 city.

236 48)Residential Recovered Materials shall mean recovered materials generated at
237 residential service units that have been diverted or removed from the residential
238 municipal solid waste stream for sale, use, or recycling, whether or not requiring
239 subsequent separation and processing.

240 49)Residential Recovered Materials Storage Bin shall mean a leak-proof plastic
241 recycling bin with attached lid and wheels that will allow collection of residential
242 recovered materials that meets the specifications established by the city.

243 50)Residential Service Provider shall mean a company authorized under this ordinance
244 to perform the physical process of collecting, transporting, and disposing of the
245 residential municipal solid waste, residential recovered materials, and white goods,
246 bulk waste and/or yard trimmings within the city.

247 51)Residential Service Unit shall mean each unit or units within the following categories
248 that use single-family, residential-type waste storage containers and/or residential
249 municipal solid waste storage carts. - single-family dwellings; duplexes; triplexes;
250 quadraplexes; and mobile homes.

251 52)Residential Solid Waste Collection and Disposal shall mean the performance of all
252 requirements of the solid waste collection and disposal ordinance and other
253 applicable laws related to residential solid waste, residential recovered materials,
254 bulk waste, white goods, and/or yard trimmings, as well as incidental administrative
255 tasks related to the performance of those requirements.

256 53)Residential Service Provider shall mean a company operating within the city
257 pursuant to a contract under this ordinance with the city.

258 54)Single-Family Dwelling shall mean a building designed exclusively for residential
259 occupancy by one (1) family.

260 55)Small Bulk Items shall mean discarded whole items such as small appliances, small
261 furniture, and small electronic equipment under three (3) feet in any dimension and
262 not greater than fifty (50) pounds in weight.

263 56)Solid Waste shall mean any garbage or refuse; sludge from a wastewater treatment
264 plant, water supply treatment plant, or air pollution control facility; and other
265 discarded material including solid, liquid, semisolid, or contained gaseous material
266 resulting from industrial, commercial, mining, and agricultural operations and from

community activities, but does not include unacceptable waste; recovered materials; solid or dissolved materials in domestic sewage; solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S.C. Section 1342; or source, special nuclear, or by-product material as defined by the Federal Atomic Energy Act of 1954, as amended.

57) Solid Waste Handling shall mean the storage, collection, transportation, treatment, utilization, processing, or disposal of solid waste or any combination of such activities.

58) Solid Waste Handling Facility shall mean any facility the primary purpose of which is the storage, Collection, transportation, treatment, utilization, processing, or disposal, or any combination thereof, of solid waste.

59) Source Separated shall mean recovered materials that have been segregated from solid waste by or for the generator thereof, on the premises at which they were generated, for handling different from that of solid waste. This does not require that different types of recyclable commodities be separated from each other.

60) Special Services shall mean non-curb-side collection service, elective services, and city-sponsored events such as special neighborhood clean-up days that produce amounts of residential municipal solid waste, residential recovered materials, yard trimmings, bulk waste, and/or white goods.

61) Transfer Station shall mean a facility, permitted by applicable law, used to transfer solid waste from one collection vehicle to another for transportation to a disposal facility or processing facility.

62) Treated Wood shall mean wood that has been treated or preserved with chromated copper arsenate (CCA), pentachlorophenol, or other chemicals which have been classified as known human carcinogens by the United States Environmental Protection Agency.

63) Triplex shall mean a building designed exclusively for residential occupancy by three

294 (3) families.

295 64)Unacceptable Waste shall mean hazardous waste, biomedical waste, tires, paints,
296 paint solvents, treated wood, un-emptied aerosol cans, compressed gas cylinders,
297 large engine parts, small engines containing oils or fuels, chemicals, large glass
298 panes, large tree debris, stumps, ammunition of any type, dead animals larger than
299 ten (10) pounds, firearms, and any and all waste of which the acceptance and
300 handling by a residential service provider or commercial service provider would
301 cause a violation of any permit condition, legal or regulatory requirement, substantial
302 damage to the service providers equipment or facilities, or present a substantial
303 danger to the health or safety of the public or the service provider's employees.

304 65)White Goods shall mean household appliances such as refrigerators, stoves,
305 washers, dryers, water heaters, and other large enameled appliances, which do not
306 contain polychlorinated biphenyls (PCB) or chlorofluorocarbon refrigerant (CFC) and
307 have been officially certified to that effect, and in the case of refrigerators and
308 freezers, which have had the doors removed.

309 66)Yard Trimmings shall mean leaves, brush, grass clippings, shrub and tree prunings,
310 discarded Christmas trees, nursery and greenhouse vegetative residuals, and
311 vegetative matter resulting from landscaping development and maintenance other
312 than mining, agricultural, and silvicultural operations. The term does not include
313 stumps, roots, shrubs with intact root balls, and specifically excludes all Treated
314 wood.

315 The definitions provided in O.C.G.A. § 12-8-22 and DNR Rule 391-3-4.01, as
316 amended, which are not defined in this section are hereby incorporated into this
317 ordinance. The definitions provided in O.C.G.A. § 12-8-22 shall control to the extent
318 they are in conflict with DNR Rule 391-3-4.01.

319 **Sec. 6-2003. - Exemptions.**

320 a) This ordinance shall not apply to a person, firm, corporation or entity
321 disposing of livestock feeding facility waste from facilities with a total capacity

322 of up to 1,000 cattle or 5,000 swine. If such individual, corporation,
323 partnership, or cooperative shall provide an approved waste disposal system
324 which is capable of properly disposing of the runoff from a ten-year storm,
325 such individual, corporation, partnership or cooperative shall be further
326 exempt regardless of total per head capacity.

327 b) Nothing in this ordinance shall limit the right of any person to use poultry or
328 other animal manure for fertilizer.

329 c) Provisions of this ordinance shall not apply to any person not collecting and
330 disposing of municipal solid waste, commercial solid waste, C&D Waste,
331 scrap tires or industrial waste for a fee, but who is a holder of a valid solid
332 waste handling permit from the Director of the Environmental Protection
333 Division of the Georgia Department of Natural Resources pursuant to Georgia
334 Department of Natural Resources, Environmental Protection Rules 391-3-4-
335 .02 and 391-3-4-.06 for disposal or onsite burial. Such disposal shall be
336 governed by State Environmental Protection Division regulations and by the
337 requirements of the current city development zoning regulations.

338 d) Composting by owners of residential service units is expressly permitted.

339 e) Dead animals, biomedical waste, industrial waste and/or hazardous waste
340 shall be disposed of pursuant to state law.

341 **Sec. 6-2004. - Prohibited acts.**

342 a) No person, company, service provider, firm, corporation or other entity shall:

343 1. Violate the requirements set forth in this ordinance;

344 2. Collect solid waste in a manner which will be conducive to insect and rodent
345 infestation or the harboring and feeding of wild dogs or other animals; impair
346 the air quality; impair the quality of the ground or surface waters; impair the
347 quality of the environment; or likely create other hazards to the public health,
348 safety, or well-being as defined by Georgia Department of Natural Resources,

- 349 Environmental Protection Rule 391-3-4-04; or
- 350 3. Collect solid waste until all requirements contained in this ordinance have
- 351 been complied with.
- 352 b) No solid waste may be disposed of by any person in an open dump, nor may any
- 353 person cause, suffer, allow or permit open dumping on his property as defined by
- 354 Georgia Department of Natural Resources, Environmental Protection Rule 391-3-
- 355 4-04.
- 356 c) It shall be a violation of this ordinance to place or cause to be placed for
- 357 collection by a residential service provider or commercial service provider any
- 358 acid, explosive material, inflammable liquids or dangerous or corrosive material
- 359 of any kind.
- 360 d) No person other than the occupant or owner thereof shall interfere with any
- 361 container placed for the purpose of storing solid waste pending collection, or
- 362 remove or take any of the contents thereof, or remove any container from the
- 363 location where the container has been placed by the owner thereof.
- 364 e) No person shall discard or deposit any solid waste on the land of another without
- 365 first obtaining permission of the owner.
- 366 f) No person shall discard or deposit, or permit the discarding or depositing, of any
- 367 solid waste on any public right-of-way, except in receptacles provided for the
- 368 purpose of holding such solid waste.

369 **Sec. 6-2005. - Penalties.**

370 Any person violating any provision of this ordinance may, upon conviction be

371 punished by a fine not to exceed \$1,000.00 for each offense and/or incarceration or

372 community service not to exceed 30 days. Each day a violation of this ordinance

373 continues shall be considered a separate and distinct offense.

374 **Sec. 6-2006. - Violations and Enforcement.**

a) This ordinance shall be enforced by city code enforcement officials, the city manager or his designee. Enforcement authority shall include the power to determine compliance with this ordinance, to investigate complaints of violations of this ordinance, and to pursue violations in any court of competent jurisdiction.

b) The provisions of this ordinance regarding the disposal or onsite burial of solid waste may be enforced by the Georgia Department of Natural Resources, Environmental Protection Division.

c) Nothing in this ordinance shall affect the ability of the city to pursue any remedies against any person and/or entity under local, state, or federal law.

d) Nothing in this ordinance shall affect the ability of the city to pursue the remedies available to it by virtue of its police powers.

Sec. 6-2007. - Disposal facility fee.

A surcharge fee of \$1.00 per ton of residential municipal solid waste or commercial solid waste received, collected, handled or disposed of at any private municipal solid waste disposal facility located within the city is hereby imposed upon the operator(s) of said facilities in accordance with O.C.G.A. § 12-8-39(d) and shall be paid to the city on or before December 31st of each year.

Sec. 6-2008. - Grant of nonexclusive contract.

(a) The city shall hereby grant to companies a nonexclusive contract, pursuant to the terms set forth herein, to use the public streets, alleys, roads and thoroughfares within the city for the purpose of operating and engaging in the business of collecting and disposing of waste; including, but not limited to, contracting with customers and providing service pursuant to contract therefor, placing and servicing containers, operating trucks, vehicles and trailers, and such other operations and activity as are customary and/or incidental to such business and service.

(b) It is illegal for any company to operate outside the terms of this contract and ordinance. Should companies engage in operations that violate this contract, or

operate without acceptance of this contract as set forth in this ordinance, said company is guilty of an offense.

Sec. 6-2009. - Acceptance by company.

a) Filing of contract. By November 1, 2018, or within 30 days of establishing a business within the corporate city limits, all companies operating a residential or commercial refuse waste service shall complete and file with the city procurement manager its acceptance of the terms and provisions of this ordinance and invitation for contract. No company shall provide waste collection services within the city thereafter, without a filed and approved contract as required herein. Contracts meeting all requirements under this section shall be approved by the City Manager. The request for contract approval shall be in writing on the company's letterhead and provide as follows:

City of South Fulton
Attention. - City Procurement Manager
5440 Fulton Industrial Blvd, S.W.
Atlanta, GA 30336

_____ (the "Company"), acting by and through an officer who is acting within its official capacity and authority, hereby accepts this contract with the City of South Fulton, Georgia, to operate a refuse and solid waste collection and disposal system within the City as set forth under Title 6, Chapter 2, Solid Waste, of the City of South Fulton, Georgia, Code of Ordinances (referred to herein as the "Solid Waste Ordinance"). For consideration herein, and as set for under the Solid Waste Ordinance, company agrees to be bound and governed by each term, provision and condition of the Solid Waste Ordinance, to accept and to give the benefits provided by the Solid Waste Ordinance, and to perform each service and duty set forth and provided for in the Solid Waste Ordinance in a businesslike and reasonable manner and in compliance with the Solid Waste Ordinance.

So agreed, this _____ day of _____, _____.

431 [signature]
432 [printed name]
433 [title]
434 [business address]
435 [contact number]
436 [notary]

437

438 b) Supporting Documentation. The following information shall be attached to the
439 submitted contract:

- 440 1. The company's customer service telephone number;
441 2. A notarized statement certifying that all company drivers have a current
442 commercial driver's license (CDL) and all company trucks are registered with
443 the Georgia Department of Transportation;
444 3. A current solid waste handling permit from the Director of the Environmental
445 Protection Division of the Georgia Department of Natural Resources or any
446 successor agency authorized to issue permits pursuant to O.C.G.A. § 12-8-
447 24; and
448 4. An insurance certificate evidencing the company's maintenance of insurance
449 as required under this ordinance.

450

451 c) Term. The term of the contract is for a period of one year beginning on the date
452 of approval of the contract by the City and terminating on the first anniversary of
453 said date. The company shall begin performance under this contract immediately
454 after approval of the contract.

455 **Sec. 6-2009. - Contract and rental fees.**

456 The streets, rights-of-way, and public easements to be used by the company in the
457 operation of its business within the boundaries of the city, as such boundaries now exist
458 and exist from time to time during the term of this contract, are valuable public
459 properties acquired and maintained by the city at great expense to its taxpayers, and
460 the city will incur costs to regulate and provide garbage services under this ordinance.

461 In consideration of such benefits, costs and expenses, the company shall through the
462 term of its contract collect an infrastructure maintenance fee equal to five percent of the
463 company's gross receipts to customers within the city, exclusive of sales tax.

464 (1) *Fees paid.* The infrastructure maintenance fee is payable quarterly to the city
465 and delivered to the city in function together with a statement indicating the
466 derivation and calculation of such payment. Each such quarterly payment is due
467 on the 15th day of the second month following the end of the quarterly period
468 for which said payment is due. The quarterly payments are due on February 15,
469 May 15, August 15, and November 15 of each year during the term hereof, with
470 the February 15 payment being based upon the company's gross receipts
471 during the calendar quarter ending the prior December 31 and being payment
472 for the rights and privileges granted hereunder for said calendar quarter, the
473 May 15 payment being based upon the company's gross receipts during the
474 calendar quarter ending the prior March 31 and being payment for the rights
475 and privileges granted hereunder for said calendar quarter, the August 15
476 payment being based upon the company's gross receipts during the calendar
477 quarter ending the prior June 30 and being payment for the rights and privileges
478 granted hereunder for said calendar quarter, and the November 15 payment
479 being based upon the company's gross receipts during the calendar quarter
480 ending the prior September 30 and being payment for the rights and privileges
481 granted hereunder for said calendar quarter. All bills generated by companies
482 after November 1, 2018, shall include the infrastructure maintenance fee. The
483 city shall provide material relating to the education and marketing efforts of the
484 infrastructure maintenance fee as well as provide education and training to
485 company employees to ensure a consistent message is conveyed to
486 constituents of the city. For purposes of verifying the amount of such fee, the
487 books of the company shall at all reasonable times be subject to inspection by
488 the duly authorized representatives of the city.

489 (2) *Reporting.* Any company providing service pursuant to this ordinance or a
490 resulting contract shall from time to time provide the city with the necessary

statistics regarding waste collected and disposed which shall allow the city to comply with local, state and federal reporting requirements.

(4) *Dedicated revenue.* The infrastructure maintenance fee collected by the city under this ordinance is substantially dedicated to the following:

a. The City's provision and contracting of solid waste services herein for the health and sanitation of the city and the maintenance and servicing of the city's streets, corridors, alleys, thoroughfares, and transportation routes;

b. City administrative services and costs related to contract compliance between customers and companies where service is received as provided in this ordinance; and

c. Collection of litter and trash within the city.

Sec. 6-20010. Responsibility for customer education.

It is the company's obligation and responsibility to educate all customers on industry trends and best practices relating to solid waste collection, removal, and disposal. Such education programs must consist of the following elements: recycling; holiday schedules; new customer information; and any service-related items. All companies have the obligation to inform customers of any non-collected trash or items placed for collection by the customer but not covered under the agreement between the customer and the company. Further, it is the company's obligation and responsibility to educate customers on days of collection for each specific service provided.

Sec. 6-20011. - Vehicles to be covered and identified.

1) All vehicles used by the company for the collection and transportation of refuse is covered at all times while loaded and in transit to prevent the blowing or scattering of refuse onto the public streets or properties adjacent thereto, and such vehicles is clearly marked with the company's name and telephone number in letters not less than 1½ inches in height.

2) The company must provide a comprehensive and proactive driver safety education program which encourages safety on city streets. Such program must be demonstrated and conveyed to the city. The company must comply with all

other regulatory agencies, both local, state, or otherwise, with respect to commercial vehicle operation within the city. Service calls received by the city as a result of noncompany performance will result in the consideration of revoking a nonexclusive contract or the city's choice to not renew an existing agreement.

3) The company must manage collection services delivered within the city to minimize the number of vehicles on city roads. Coordination between haulers and service providers is strongly encouraged to manage service vehicles on residential streets and neighborhoods. Companies may provide a discounted rate for neighborhood or area collection programs in order to promote the reduction of collection vehicles on city streets.

4) Should the company utilize "scout" trucks to facilitate collection in residential areas where it is not feasible to use standard collection vehicles, such vehicles must be covered at all times while loaded and in transit should they exceed 30 miles per hour or be driven more than 200 yards on a public street.

Sec. 6-20012. - Regulation of containers.

The company may rent, lease, provide or define specifications for containers to any customer within the corporate limits of the city for refuse storage and collection purposes subject to the following requirements:

(1) All containers are in good or better condition and constructed and maintained according to industry practice.

(2) All containers are equipped with stable covers to prevent blowing or scattering of refuse while being transported for disposal of their contents.

(3) All containers, save and except those being used for the purpose of collecting and storing rubble, building and scrap construction materials, are equipped with covers suitable to prevent blowing or scattering refuse and access to the container by animals while the container is at the site designated by customer.

(4) All containers are periodically cleaned, maintained, serviced and kept in a reasonably good state of repair to prevent the unreasonable accumulation of

549 refuse residues, to avoid excessive odor and harborage for rodents and flies
550 resulting from excessive residues remaining after collection of containers.

551 (5) All containers are clearly marked with the company's name and telephone
552 number in letters not less than 1½ inches in height.

553 (6) All containers shall not be on public rights-of-way and are located so as to
554 not interfere, block, obstruct or impede the normal use of any sidewalk, street,
555 alley driveway or fire lane, or to block, obstruct or impede sight distance at
556 street, road or alley intersections.

557 (7) All containers, bins, or other collection instruments must be kept free from
558 graffiti, rust, broken and nonoperational parts and pieces, and litter in and
559 around the area.

560 (8) It is the responsibility of each company to educate their customers on the
561 regulations of containers and maintain industry standards, policies, and
562 procedures, which promote an aesthetically pleasing environment in and
563 around all refuse and waste containers and receptacles.

564 **Sec. 6-20013. - Residential Municipal Solid Waste and Recovered Materials,**
565 **generally.**

566 a) Each owner of an occupied residential service unit shall:

567 1. Dispose of Waste with Company. Each owner of an occupied residential
568 service unit shall dispose of residential municipal waste, residential
569 recovered materials, white goods, bulk waste and/or yard trimmings,
570 weekly, with a company authorized under this ordinance. The owner of the
571 residential service unit shall contract with the company directly for the
572 provision of collection services.

573 2. Bulk Waste and White Goods Collection. It shall be the responsibility of
574 the owner of a residential service unit to ensure that prior to collection
575 and disposal, white goods are empty of all foods and liquids, and that
576 any CFCs and PCBs have been evacuated and captured by a certified

577 technician in accordance with law, and the doors have been removed
578 from freezers and refrigerators.

- 579 3. Yard Trimmings Collection. Yard trimmings shall be placed in reusable
580 non-disposable rigid containers or compostable brown paper bags and
581 deposited at a curbside location adjacent to the originating property, but
582 in no case shall they be placed in such a position as to obstruct the
583 sidewalks, the gutter, or the free movement of traffic. All branches,
584 limbs, and shrubbery shall be cut in lengths of six feet or less, and no
585 single piece shall exceed four inches in diameter and weigh no more
586 than 100 pounds.

587 i. Yard trimmings may be composted by the owner of a residential
588 service unit on the owner's property in accordance with the laws
589 and regulations of the State of Georgia.

590 ii. This ordinance shall not prohibit an owner of a residential service
591 unit from disposing of yard trimmings through a third party that
592 generated the yard trimmings as a result of its activities at the
593 owner's residential service unit.

- 594 4. Collection Hours. Each owner of a residential service unit shall be
595 required to place the residential municipal solid waste storage cart, bulk
596 waste, white goods, and storage bin at the residential designated
597 collection location, for collection by the authorized residential service
598 provider, no earlier than 3:30 p.m. on the day prior to the day scheduled
599 for collection. Each owner of a residential service unit shall remove the
600 residential municipal solid waste storage cart and the residential
601 recovered materials storage bin, if applicable, no later than the day
602 following the collection day.

603 i. At the point in time when the owner of the residential service unit
604 places residential municipal solid waste or residential recovered

605 materials at the residential designated collection location,
606 ownership of the residential municipal solid waste and residential
607 recovered materials transfers from the owner of the residential
608 service unit to the company, except that ownership of
609 unacceptable waste shall not transfer to the company.

610 5. Excessive Accumulation of residential municipal solid waste. Each
611 owner of a residential service unit shall prevent the continued, excessive
612 and unsightly accumulation of residential municipal solid waste,
613 residential recovered materials, white goods, bulk items and/or yard
614 trimmings upon owner's property or the public thoroughfares bounding
615 upon owner's property.

616 b) Disabled Persons

617 1. Any disabled person shall be provided non-curbside collection of
618 residential municipal solid waste, residential recovered materials,
619 residential bulky waste, white goods, and/or yard trimmings provided that
620 the disabled person performs the following. -

621 i. Obtains a physician's certificate certifying such disability; and

622 ii. Provides the physician's certificate to the company serving such
623 person's residential service unit with a copy to the city.

624 2. Non-curbside collection is available only if all adult persons residing in the
625 residential service unit are also disabled and also obtain physician's
626 certificates certifying such disability.

627 3. This section also applies to temporary disability not to exceed ninety (90)
628 days.

629 4. Companies may make reasonable rules for the non-curbside collection of
630 residential municipal solid waste, residential recovered materials,
631 residential bulky waste, white goods, and/or yard trimmings from disabled

persons who qualify under this ordinance for such service.

- c) City Initiated Collection. The city reserves the right to secure residential waste collection services for any occupant or owner who fails, upon request, to provide proof of having secured weekly waste collection services as required under this ordinance. Such city initiated service may be terminated upon the owner or occupant providing the city with proof of obtained collection services. Such service shall be in addition to the city's authority to issue citations or fines for failure to comply with this ordinance. The city may recover the costs for any such city initiated collection services as allowed by law.

Sec. 6-20014. - Residential Service Providers.

- a) All residential municipal solid waste, residential recovered materials, bulk waste, white goods, and/or yard trimmings collected through residential solid waste collection and disposal, shall be collected and disposed or processed by authorized residential service providers. It shall be a violation of this ordinance for any waste service provider, except a company authorized under this ordinance, to provide residential solid waste collection and disposal services to any residential service unit in the city.

1. At a minimum, the company shall provide for the weekly collection of residential municipal solid waste, residential recovered materials, bulk waste, white goods, and/or yard trimmings, oil disposal services and residential recovered materials (i.e. recyclable materials). Residential recovered materials to be collected shall include the residential recovered materials listed in Appendix I to this Ordinance.

2. Collection Hours. Except as otherwise allowed by the city, the company shall perform all collection of solid waste between the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday, or Monday through Saturday during a Holiday week. The company(s) shall not be required to perform collection services or maintain office hours on state Holidays.

- i. At the point in time when the owner of the residential service

unit places residential municipal solid waste or residential recovered materials at the residential designated collection location, ownership of the residential municipal solid waste and residential recovered materials transfers from the owner of the residential service unit to the company, except that ownership of unacceptable waste shall not transfer to the company.

3. Reporting Requirements. The company shall provide the city with a monthly tonnage report that is to be delivered to the city within ten days of the end of the month for which the data was collected. The company shall maintain for a period of five (5) years, copies of weight tickets which are to be made available for city inspection. The company shall also be responsible for maintaining and submitting reports on an ad hoc, monthly, and annual basis.

- i. The company's monthly report to the city shall include the following:
 - a. A cover letter that abstracts the report and highlights any major accomplishments, problems, trends and other pertinent information for the associated month;
 - b. Complaints/resolution summary for the associated month;
 - c. Daily route sheet with attached disposal site weight ticket for the associated month;
 - d. Recycling station participation for the associated month;
 - e. Tonnage figures showing total waste tonnage collected by service type;
 - f. Tonnage figures showing residential recovered materials collected, and proof of recycling in the form of manifest, bills of sale, or records showing adequate proof of movement of the material to a recognized recycling facility.
 - g. If requested by the city, proof of disposal of residential municipal solid waste at state-approved disposal facilities and the name of each such facility. The company(s) shall maintain at its place of

business books and records showing the names and addresses of all owners of residential service units to whom residential municipal solid waste and residential recovered materials services have been provided. The company(s) shall submit, upon reasonable request of the city, to a financial audit by a certified public accountant or auditor employed by the city. Financial information of the company(s) shall be treated as confidential by the city. The city may request other information from the company(s), if necessary, to comply with State solid waste reporting requirements.

ii. An annual report should be submitted to the city no later than thirty (30) days following every twelve (12) month period of the contract. Annual reports shall include the following information for each collection service (refuse, recycling, and yard trimmings).

- a. Complaints/Resolution summary.
- b. Daily route sheet with attached disposal site weight ticket.
- c. Recycling participation.
- d. Route operational data form.
- e. Vehicle identification number.
- f. Daily staffing summary (including substitutions).
- g. Landfill tickets.
- h. Disposed tonnage of refuse and recyclables, itemized on a per-day basis.
- i. Updated list of addresses receiving service.

Sec. 6-20015. - Commercial Solid Waste and Commercial Recovered Materials, generally.

- a) All commercial establishments, businesses, and industries having commercial solid waste, commercial recovered materials, scrap tires and/or yard trimmings must obtain commercial solid waste collection and disposal services from an authorized company contracting with the city under this ordinance.

b) Yard trimmings. All yard trimmings shall be segregated from commercial solid waste and commercial recovered materials and shall be placed in sturdy paper bags suitable for containing yard trimmings, excluding plastic bags, or shall be bundled for collection and disposal or processing. This ordinance shall not prohibit an owner of a commercial establishment from disposing of yard trimmings through a third party that generated the yard trimmings as a result of the third party's activities at the commercial establishment.

c) No owner of a commercial establishment, person, firm, corporation or other entity having solid waste shall violate the requirements applicable to commercial service providers set forth in this ordinance. Violations may be punished pursuant to Sec. 6-2005.

d) This Section shall not displace a contract currently in existence and effect as of the passage of this ordinance between a commercial services provider and a commercial establishment within the city pursuant to O.C.G.A. § 36-80-22 or any other applicable Georgia law.

Sec. 6-20016. - Commercial Service Providers.

a) A commercial service provider company shall maintain at its place of business books and records showing the owners, business name and address of each commercial establishment that the commercial service provider has contracted with, during the period of its contract with the city, for commercial solid waste collection and disposal services, including the street address for each property served. The commercial service provider shall, upon request by the city, make such books and records available for inspection and/or submit to a financial audit by a certified public accountant or auditor employed by the city.

b) Reporting Requirements. Within thirty (30) days following the close of each calendar quarter ending March 31, June 30, September 30, and December 31 of each year of operation, each commercial service provider authorized to

provide solid waste collection and disposal service in the city shall submit to the city reports of commercial solid waste collection and disposal services showing the following:

1. Gross collection revenues and average number of customers during quarter by service type.
2. Tonnage figures showing total waste tonnage collected by service type.
3. Tonnage figures showing total Recovered Materials collected by type, and proof of recycling in the form of manifests, bills of sale, or other records showing adequate proof of delivery of the material to a recognized recycling facility.
4. Proof of disposal of non-recovered materials at state approved disposal facilities and name of each such facility
5. Such other information as required by the city in the city's discretion.

Sec. 6-20017. - Construction and Demolition (C&D) Waste, generally.

- a) C&D Waste shall be segregated from residential municipal solid waste and commercial solid waste.
- b) All residential service units and commercial establishments, businesses, and industries having C&D Waste shall obtain C&D Waste Collection and Disposal services from a company authorized by contract under this ordinance to provide such service in the city.
- c) Neither the city Public Works Department nor the Department of Health and Wellness shall be responsible for collecting, hauling, or disposing of C&D Waste originating from private property preliminary to, during, or prior to the construction of new, remodeled, or renovated structures. The owner, lessee, tenant or occupant of the property shall cause for the removal of such items.

- d) The city, through the city building inspector or his or her designee, shall not issue a certificate of occupancy for multifamily, commercial, or industrial developments until all C&D Waste is removed by the owner or contractor.

Sec. 6-20018. - C&D Waste Service Providers.

- a) A C&D waste service provider shall maintain at its place of business, during the term of its contract with the city, books and records showing the owner, business name, and address of each commercial establishment and/or the owner and address of each residential service unit that the C&D Waste service provider has privately contracted with for C&D waste collection and disposal services, including the street address for each property served. The commercial service provider shall, upon request by the city, make such books and records available to the city for inspection and/or submit to a financial audit by a certified public accountant or auditor employed by the city.

- b) Reporting Requirements. Within thirty (30) days following the close of each calendar quarter ending March 31, June 30, September 30, and December 31 of each year of operation, each C&D Waste Service Provider authorized to provide C&D Waste Collection and Disposal service in the city shall submit to the city reports, showing the following. -

1. Gross collection revenues and average number of customers during quarter by service type.
2. Tonnage figures showing total waste tonnage collected by service type.
3. Such other information as required by the city in the city's discretion.

Sec. 6-20019. - Minimum requirements for all service providers operating in city.

- a) All authorized companies under this ordinance shall at all times maintain a customer service telephone number while conducting business within the city, through which the company during normal business shall, at a minimum:

- 807 a. Coordinate and provide information concerning deposits,
808 payments and accounts to customers and prospective
809 customers;
- 810 b. Respond to customer and prospective customer questions and
811 issues about billings, accounts, deposits and services;
- 812 c. Coordinate with the city with respect to private sector and public
813 works projects and issues related to or affecting the company's
814 operation; and
- 815 d. Provide immediate response, upon request, to police, fire and
816 other emergency situations in which the public health and safety
817 requires action with respect to or assistance regarding
818 company's property.

819 The telephone number must be publicly listed in a phone book and available
820 through directory assistance.

821 b) Each company providing trash receptacles, whether commercial or residential,
822 must mark each receptacle with the company's name and telephone number in
823 letters not less than one and one-half inches in height. Each company must
824 provide a mechanism to accept, investigate, and respond to customer
825 complaints. Companies are strongly encouraged to use multimedia devices
826 including interactive websites, e-mail, fax, and automated telephone systems.
827 Service calls received by the city as a result of noncompany performance will
828 result in the consideration of revocation of a nonexclusive contract or the city's
829 choice to not renew an existing agreement.

830 c) Minimum requirements for invoices. Any invoice, bill, statement, or other device
831 intended to request remittance by the customer to the company of funds for
832 payment of service shall include, at a minimum, the company's telephone
833 number and payment methods available to customers.

834 d) Provide a notarized statement certifying that all drivers have a current
835 commercial driver's license (CDL) and all trucks are registered with the Georgia
836 Department of Transportation.

- 837 e) Apply all usual and customary risk management practices accepted by the waste
838 and garbage industry.
- 839 f) Have a current solid waste handling permit from the Director of the
840 Environmental Protection Division of the Georgia Department of Natural
841 Resources or any successor agency authorized to issue permits pursuant to
842 O.C.G.A. § 12-8-24.
- 843 g) Insurance. Each company shall maintain, at its own expense, throughout the
844 term of its contract with the city, insurance as set forth below with an insurance
845 company authorized and licensed to do business in the state and acceptable to
846 the city, insuring against claims for liability and damages for the benefit of the
847 city. The insurance shall include the city as an additional insured, and shall
848 consist, at a minimum, of the following:
- 849 i. Environmental Liability coverage in the amount of \$5,000,000 limit
850 of liability per occurrence.
- 851 ii. Commercial general liability insurance:
- 852 1. \$5,000,000 limit of liability per occurrence for bodily injury
853 and property damage, which shall include damage liability to
854 persons or damages to property, in any way arising out of or
855 through the acts or omissions of the company, its servants,
856 agents or employees or to which the company's negligence
857 shall in any way contribute.
- 858 2. \$5,000,000 limit of liability per occurrence for personal injury.
- 859 3. Commercial general liability written on an occurrence form,
860 which includes contractual liability, broad form property
861 damage, incidental medical malpractice, severability of
862 interest, and extended bodily injury.
- 863 4. Miscellaneous liability. Arising out of any claim or invasion of
864 the right of privacy, for defamation of any person, or the

865 violation or infringement of any copyright, trademark, trade
866 name, service mark or patent, or of any other right of any
867 person;

868 iii. Auto liability insurance:

869 1. \$3,000,000 limit of liability per occurrence for bodily injury
870 and property damage.

871 2. Comprehensive form covering all owned, non-owned,
872 leased, hired, and borrowed vehicles used in providing
873 Collection Services.

874 3. Coverage for cleanup of pollutants due to an accident,
875 including MCS-90 endorsement for pollution liability
876 coverage.

877 iv. Employer's liability of insurance. If the company is required by state
878 statutes, the company shall maintain throughout the term of the
879 contract resulting from this ordinance the requisite statutory
880 workers' compensation insurance, and a minimum of \$500,000.00
881 employer's liability insurance. The company is required to show
882 compliance to this section by submitting documentation of such
883 coverage from an approved carrier licensed in the state, or
884 documentation explaining the exemption from employer's liability
885 insurance should they not meet the state requirements to carry
886 such coverage.

887 (h) Endorsements. All insurance policies maintained pursuant to this ordinance shall
888 contain the following conditions by endorsement:

889 (1) Additional insured. The city is an additional insured and the terms
890 "owner" and "city" shall include all authorities, boards, bureaus,
891 commissions, divisions, departments and offices of the city and the
892 individual members, officers, officials, representatives, employees and

893 agents thereof in their official capacities and/or while acting on behalf
894 of the city.

895 (2) Other insurance clause. The policy clause "other insurance" shall not
896 apply to the city when the city is an insured on the policy.

897 (3) No recourse. Companies issuing the insurance policies shall not have
898 recourse against the city for payment of any premium or assessment.

899 (i) Increase requirements. The city may amend this ordinance to make reasonable
900 adjustments to the insurance coverage and their limits when deemed necessary
901 and prudent based upon changes in statutory law, court decisions, or the claims
902 history of the industry.

903 **Sec. 6-20020. - Indemnification and hold harmless.**

904 The company agrees to indemnify, defend and save harmless the city, its agents,
905 officers and employees, against and from any and all claims by or on behalf of any
906 person, firm, corporation or other entity arising from any negligent act or omission or
907 willful misconduct of the company, or any of its agents, contractors, servants,
908 employees or contractors, and from and against all costs, counsel fees, expenses and
909 liabilities incurred in or about any such claim or proceeding brought thereon. Promptly
910 after receipt from any third party by the city of a written notice of any demand, claim or
911 circumstance that, immediately or with the lapse of time, would give rise to a claim or
912 the commencement (or threatened commencement) of any action, proceeding or
913 investigation (an "asserted claim") that may result in losses for which indemnification
914 may be sought hereunder, the city shall give written notice thereof (the "claims notice")
915 to the company provided, however, that a failure to give such notice shall not prejudice
916 the city's right to indemnification hereunder except to the extent that the company is
917 actually and materially prejudiced thereby. The claims notice shall describe the asserted
918 claim in reasonable detail, and shall indicate the amount (estimated, if necessary) of the
919 losses that have been or may be suffered by the city when such information is available.
920 The company may elect to compromise or defend, at its own expense and by its own
921 counsel, any asserted claim. If the company elects to compromise or defend such

asserted claim, it shall, within 20 business days following its receipt of the claims notice (or sooner, if the nature of the asserted claim so required), notify the city of its intent to do so, and the city shall cooperate, at the expense of the company, in the compromise of, or defense against, such asserted claim. If the company elects not to compromise or defend the asserted claim, fails to notify the city of its election as herein provided or contests its obligation to provide indemnification under this agreement, the city may pay, compromise or defend such asserted claim with all reasonable costs and expenses borne by the company. Notwithstanding the foregoing, neither the company nor the city shall settle or compromise any claim without the consent of the other party; provided, however, that such consent to settlement or compromise shall not be unreasonably withheld. In any event, the city and the company may participate, at their own expense, in the defense of such asserted claim. If the company chooses to defend any asserted claim, the city shall make available to the company any books, records or other documents within its control that are necessary or appropriate for such defense.

Sec. 6-20021. - Collection time and company variances.

A company may request a variance from collection times under this ordinance for properties in which normal collection time procedures would cause a clear and present safety hazard. In addition, a residential owner who is able to show a proof of the weekly drop-off of residential waste to a garbage disposal facility outside the City limits may request a variance from the servicer requirements of this ordinance. All requests for such variances must be filed in writing with the city manager and include documentation of the hazard created by the collection operation period. A determination regarding the application shall be made by the city manager or his designee within (30) days from the date of the city's receipt of the request. The city may charge a fee for each variance location requested, based upon costs incurred by the city.

- (a) Appeals. Any person aggrieved by a decision of the city manager or his designee under this section may submit an appeal to the city council within 30 days of the date of the communication of the aggrieved decision. Any person

950 aggrieved by an action of the city council may appeal to the superior court as
951 allowed by law.

952 (b) Complaints. Should a collection operation variance be granted and the city
953 receives complaints about the collection operation, the city shall verify and
954 substantiate the factual basis for the complaint. Should the complaints be
955 substantiated, the collection operation variance will be revoked, and the
956 company is required to operate within the collection times set forth in
957 subsection.

Sec. 6-20022. - Forfeiture and terminating of contract.

(a) Material breach. In addition to all other rights and powers retained by the city under this ordinance or otherwise, the city reserves the right to declare any resulting contract from this ordinance forfeited and to terminate the contract and all rights and privileges of the company hereunder in the event of a material breach of the terms and conditions hereof. A material breach by the company shall include, but not be limited to, the following:

- (1) Fees. Failure to pay the fees required under this ordinance;
- (2) Telephone listings. Failure to keep and maintain a telephone listing and office or answering service that is available by phone;
- (3) Provision of services. Failure to materially provide the services provided for in this ordinance within six months of execution of this contract;
- (4) Misrepresentation. Material misrepresentation of fact in the application for or negotiation of any contract resulting from this ordinance; or
- (5) Conviction. Conviction of any director, officer, employee, or agent of the company of the offense of bribery or fraud connected with or resulting from the award of a contract from this ordinance; and
- (7) Operation information. Material misrepresentation of fact knowingly made to the city with respect to or regarding the company's operations, management, revenues, services or reports required pursuant to this ordinance.

(c) *Economic hardship*. The company shall not be excused by mere economic hardship nor by misfeasance or malfeasance of its directors, officers or employees.

(d) *Forfeiture and proceedings*. Any unwarranted and intentional neglect, failure or refusal of the company to comply with any material provision of this ordinance or resulting contract within 30 days after written notice from city setting forth the specific provision and noncompliance, said notice to be mailed to company at its principal place of business by certified mail, return receipt requested, is deemed a breach of this ordinance, and the city council, upon notice to the company and

986 hearing, may, for good cause, declare a contract forfeited and exclude company
987 from further use of the streets of the city under this ordinance, and the company
988 shall thereupon surrender all rights in and under this ordinance and contract.

989 (1) Proceedings. In order for the city to declare a forfeiture pursuant to this
990 subsection, the city shall make a written demand that the company comply with
991 any such provision, rule, order, or determination under or pursuant to this
992 ordinance. If such violation by the company continues for a period of 30 days
993 following such written demand without written proof that the corrective action
994 has been taken or is being actively and expeditiously pursued, the council may
995 take under consideration the issue of termination of the resulting contract from
996 this ordinance. The city shall cause to be served upon the company, at least 20
997 days prior to the date of such a council meeting, a written notice of intent to
998 request such termination and the time and place of the meeting. Notice is given
999 of the meeting and issue which the council is to consider.

1000 (2) Hearing. The council shall hear and consider the issue, hear any person
1001 interested therein, and shall determine whether or not any violation by the
1002 company has occurred.

1003 (3) Forfeiture. If the council shall determine that the violation by the company was
1004 the fault of the company and within its control, the council may declare the
1005 contract forfeited and terminated, or the council may grant to the company a
1006 period of time for compliance.

1007 **Sec. 6-20023. - Transfer, sale or conveyance by company.**

1008 The company shall not transfer, assign, sell or convey any rights granted under any
1009 resulting contract from this ordinance without the prior approval of the council expressed
1010 by ordinance; provided that this ordinance shall not apply to vehicles, replacements,
1011 maintenance, upgrades or modifications of equipment, machinery, containers and
1012 buildings by company for the purpose of maintaining and continuing its operation within
1013 the city; and provided further that company may, in its sole discretion and upon written
1014 notice to the city, transfer, assign, sell or convey this ordinance to a wholly owned

1015 subsidiary of the company or to an affiliated entity that is under common control with
1016 company (e.g., has a common parent entity).

1017 **Sec. 6-20024. - Foreclosure.**

1018 Upon the foreclosure or other judicial sale of all or a substantial part of the assets
1019 and property of the company used for and dedicated to providing service pursuant to
1020 this ordinance, the company shall notify the city of such fact, and such notification shall
1021 be treated as a notification that a change in control of the company has taken place and
1022 the provisions of this ordinance governing the consent of the council to such change in
1023 control of the company shall apply. Upon the foreclosure or judicial sale, or the leasing
1024 of all or a substantial part of the property and assets of the company dedicated to and
1025 used for the purposes of providing service pursuant to this ordinance, without the prior
1026 approval of the council, the council may, upon hearing and notice, terminate any
1027 contract resulting from this ordinance.

1028 **Sec. 6-20025. - Receivership and bankruptcy.**

1029 The council shall have the right to cancel any contract resulting from this ordinance
1030 120 days after the appointment of a receiver or trustee to take over and conduct the
1031 business of the company, whether in receivership, reorganization, bankruptcy, other
1032 action or preceding, whether voluntary or involuntary, unless such receivership or
1033 trusteeship shall have been vacated prior to the expiration of said 120 days, unless. -

1034 (1) *Trustee compliance.* Within 120 days after his election or appointment, such
1035 receiver trustee shall have fully complied with all the provisions of this
1036 ordinance and remedied all defaults thereunder; or

1037 (2) *Trustee agreement.* Such receiver or trustee, within 120 days, shall have
1038 executed an agreement, duly approved by the court having jurisdiction,
1039 whereby the receiver or trustee assumes and agrees to be bound by each and
1040 every provision of this ordinance granted to the company.

1041 **Sec. 6-20026. - Retention of city police powers.**

1042 The city retains and reserves all of its police powers and the rights, privileges, and
1043 immunities that it now has under the law to regulate, patrol and police the streets and
1044 public ways within the city, and the granting of any contract as a result of this ordinance
1045 shall in no way interfere with the improvements to, or maintenance of, any street, alley
1046 or public way, and the rights of the city to use said streets, alleys and public ways.

1047 **Sec. 6-20027. - Amendments of city ordinances and regulations.**

1048 The city reserves the right and power, pursuant to its police power, after due notice
1049 to the company, to modify, amend, alter, change or eliminate any rules, regulations,
1050 fees, charges and rates of the city, and to impose such additional conditions that are not
1051 inconsistent with the rights granted by this ordinance, upon the company and all
1052 persons, firms or entities of the same class as the company, as may be reasonably
1053 necessary in the discretion council to preserve and protect the public, health, safety and
1054 welfare and/or insure adequate service to the public.

1055 **Sec. 6-20028. - Taxes.**

1056 The company shall promptly pay all lawful ad valorem taxes, levies and
1057 assessments, if any, that are imposed upon the company. Absent an administrative or
1058 judicial challenge, or appeal, the failure to pay any such tax, levy or assessment is a
1059 breach of this ordinance.

1060 **Sec. 6-20029. - Public necessity.**

1061 The council hereby finds and declares that the public welfare, convenience and
1062 necessity require the garbage collection services provided by the city under this
1063 ordinance.

1064 **Sec. 6-20030. - Severability.**

1065 If any section, paragraph, subdivision, clause, part or provision hereof is adjudged
1066 invalid or unconstitutional the same shall not affect the validity hereof as a whole or any
1067 part or provision other than the part or parts held invalid or unconstitutional.

1068 **Sec. 6-20031. - Interpretation.**

The use of captions or headings for the various sections of this ordinance are for convenience of parties only and do not reflect the intent of the parties. The rule of interpretation to solve ambiguities in a contract against the party drafting such contract shall not apply to this ordinance.

Sec. 6-20032. - No suspension of laws.

All provisions of the ordinances of the city as now existing or as may be amended from time to time, and all provisions of the statutes of the state applicable to general law cities is a part of any resulting contract from this ordinance as fully as if the same had been expressly stated herein, and said city retains and may exercise all of the governmental and police powers and all other rights and powers not directly inconsistent with the terms, conditions and provisions of this ordinance.

Sec. 6-20033. - Peaceful employment.

From and after the effective date of the ordinance from which this ordinance is derived, the city and the company is and are hereby authorized and entitled to act in reliance upon the terms, conditions and provisions of this ordinance and any resulting contract and, subject thereto, the company shall collect rates for service, operate and conduct its business and work within the city, and enjoy the benefits and privileges of this ordinance during the term hereof.

Appendix I

Residential Recovered Materials

1. Aluminum
2. Cardboard
3. Glass
4. Junk mail
5. Kraft paper
6. Magazines and shopping catalogues

- 1096 7. Mixed paper
- 1097 8. Newspaper
- 1098 9. Other paper
- 1099 10. Paperboard
- 1100 11. Plastics #1. - Soda and water bottles
- 1101 12. Plastics #2. - Milk jugs, juice bottles, and yogurt tubs
- 1102 13. Plastics #3. - Detergent and household cleaner containers, shampoo, and
- 1103 cooking
- 1104 14. Plastics #4. - Squeezable bottles
- 1105 15. Plastics #5. - Syrup, ketchup, and medicine bottles, plastic caps, straws, and
- 1106 some yogurt containers
- 1107 16. Plastics #6. - Disposable plates and cups, gg cartons, aspirin bottles, and CD
- 1108 cases
- 1109 17. Plastics #7. - Three and five-gallon water bottles, certain food containers
- 1110 18. Steel

1111 *****

1112 **Section 2.** It is hereby declared to be the intention of the Mayor and Council that:

1113 (a) All sections, paragraphs, sentences, clauses and phrases of this ordinance are or

1114 were, upon their enactment, believed by the city Council to be fully valid, enforceable

1115 and constitutional.

1116 (b) To the greatest extent allowed by law, each and every section, paragraph,

1117 sentence, clause or phrase of this ordinance is severable from every other section,

1118 paragraph, sentence, clause or phrase of this Ordinance. No section, paragraph,

1119 sentence, clause or phrase of this ordinance is mutually dependent upon any other

1120 section, paragraph, sentence, clause or phrase of this Ordinance.

1121 (c) In the event that any phrase, clause, sentence, paragraph or section of this

1122 ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or

1123 otherwise unenforceable by the valid judgment or decree of any court of competent

1124 jurisdiction, it is the express intent of the city Council that such invalidity,

1125 unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not

render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance.

Section 3. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

Section 4. The effective date of this ordinance shall be the date of adoption unless provided otherwise by the city Charter or state and/or federal law.

The foregoing **ORDINANCE No. Ord2018-041** was adopted on _____ was offered by _____, who moved its approval. The motion was seconded by _____, and being put to a vote, the result was as follows:

“SECOND READING”

	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 ORDINANCE so adopted this _____ day of _____ 2018, CITY OF
SOUTH FULTON, GEORGIA.

"SECOND READING"

WILLIAM "BILL" EDWARDS, MAYOR

ATTEST:

MARK MASSEY, CITY CLERK

APPROVED AS TO FORM:

EMILIA C. WALKER, CITY ATTORNEY



CITY OF SOUTH FULTON

COUNCIL AGENDA ITEM

COUNCIL REGULAR MEETING



SUBJECT: Ord2018-042 Streets and Right-of-Way

DATE OF MEETING: 10/9/2018

DEPARTMENT: Attorney

ATTACHMENTS:

Description	Type	Upload Date
Ord2018-042 Streets and Rights-of-Way	Cover Memo	10/4/2018

1 STATE OF GERGIA
2 COUNTY OF FULTON
3 CITY OF SOUTH FULTON
4

5 **ORDINANCE No. 2018-042**
6

7 **AN ORDINANCE TO ADOPT REGULATIONS FOR MAINTENANCE AND USE OF**
8 **RIGHTS-OF-WAY; FOR PERMITTING OF SPECIAL EVENTS; FOR PERMITTING OF**
9 **UTILITY ENCROACHMENTS; AND FOR OTHER LAWFUL PURPOSES.**
10

11 **(Sponsored by Councilperson Rowell)**
12

13 **WHEREAS**, the City of South Fulton ("City") is a municipal corporation duly
14 organized and existing under the laws of the State of Georgia; and
15

16 **WHEREAS**, the duly elected governing authority of the City is the Mayor and
17 Council thereof ("City Council");
18

19 **WHEREAS**, Title 32 of the O.C.G.A. and the City Charter grant the City the
20 authority to regulate utilization of the City's rights-of-way, including controlling
21 encroachment and permitting and utilization for assemblies and special events;
22

23 **WHEREAS**, the City wishes to regulate the use of its rights-of-way and
24 construction thereon; and
25

26 **WHEREAS**, the City desires to safeguard and promote the public health, safety,
27 and general welfare of all citizens through the adoption of this Ordinance.
28

29 **THE MAYOR AND COUNCIL OF THE CITY OF SOUTH FULTON HEREBY**
30 **ORDAINS** as follows:
31

32 **Section 1:** The City of South Fulton Code of Ordinances is hereby revised by
33 adoption of new Title 46, Streets, Sidewalks, Rights-of-way, and Other Public Places, to
34 read as follows:
35

36 **TITLE 46. STREETS, SIDEWALKS, RIGTHS OF WAY AND OTHER PUBLIC**
37 **PLACES.**
38

39 **CHAPTER 1. IN GENERAL.**
40

41 **Sec. 46-1001. Adoption of Guidelines.**
42

43 (a) The following regulations shall apply to any construction activity in the City right-
44 of-way:
45

(1) This Title;

- (2) Georgia Department of Transportation (GDOT) details and specifications;
- (3) Manual on Uniform Traffic Control Devices (MUTCD) guidelines; and
- (4) American Association of State Highway and Transportation Officials (AASHTO) guidelines.

- (b) The City Council hereby adopts the Fulton County Utility Accommodations Guidelines and Procedures Manual as the City of South Fulton Utility Accommodations Guidelines and Procedures Manual (the "Manual") and all rules, regulations, procedures, plans and specifications contained therein that are applicable to the City of South Fulton. The Director of Public Works shall be responsible for the promulgation of the Manual and its contents. The manual shall be reviewed, at least annually, and updated as necessary to reflect the most current rules, regulations and practices and shall conform to the 2016 Utility Accommodation Policy Standards Manual promulgated by the Georgia Department of Transportation, as same may be amended from time to time by the state, in order to reflect changes in acceptable design standards and materials, and to reflect current construction costs. The Director of Public Works will ensure that the contents of the Manual are equivalent to, but not more restrictive than, the regulations promulgated by GDOT. In any conflict between this Title and the Manual, the provisions of this Title shall control.

Sec. 46-1002. Obstruction of Right-of-Way.

- (a) No person shall place or cause to place in any street and/or sidewalk debris, rubbish, irrigation water, boxes, displays, signs, poles, goods, merchandise, or any other object so as to impede and/or endanger traffic on streets and/or sidewalks.
- (b) No person or company shall construct or maintain a drive, yard, or lot constructed of gravel, pebbles, or stone in such a manner that vehicles cause loose stones, pebbles or gravel to be thrown on to the adjacent street and/or sidewalk.
- (c) Any personal property placed on the right-of-way following an eviction is removed within 24 hours of physical eviction unless an extension of time is requested on behalf of the evicted tenant. For purposes of this Chapter, such property is deemed abandoned property 24 hours following eviction unless the landlord by contract specifies a shorter time. If the property is not removed within 24 hours, the City may commence removal and cite the property owner.

Sec. 46-1003. Installation of Irrigation Systems in City's Rights-of-Way; Permits Required; Indemnity Agreements; Content and Form of Agreements.

- (a) All persons or entities seeking to install an irrigation system to serve their private interests and to have the components of such irrigation system located within the boundaries of City of South Fulton owned rights-of-way must do so by permit as issued by the City's Public Works Department.

(b) The location of such irrigation system's components is an encroachment upon the City's rights-of-way by private parties, and said private party is to completely indemnify the City and hold it harmless from all damages, injuries, lawsuits, or claims of any character caused by the construction and/or maintenance of this encroachment.

(c) Such irrigation system components' encroachment is to fully satisfy all the terms and conditions of indemnity agreements set forth by the City's Public Works Department, which agreement shall include provisions in substantially the following form:

"The applicant shall reimburse the Public Works Department for any cost incurred as a result of Public Works' Department performing such repairs.

The Public Works Department reserves the right to terminate this indemnification agreement at any time upon ten days' written notice to the applicant. Upon receipt of such notice and as may be specified by the Public Works Department, the applicant, at his/her own expense, shall be responsible for removing any objects from the encroachment and returning the area to its original condition or an acceptable substituted condition.

The term of the indemnity agreement shall be for a period of 50 years, or the maximum period authorized by law, whichever is lower, commencing upon execution hereof by the Public Works Department, subject to any rights of termination as are hereinabove set forth.

The covenants herein contained shall, except as otherwise provided, accrue to the benefit of and be binding upon the successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this agreement, individually or through their authorized officers, agents or attorney-in-fact as the case may be, causing their respective seals to be affixed hereto the day and year first above written.

CITY OF SOUTH FULTON DEPARTMENT OF PUBLIC WORKS	Corporate Seal required for Corporation plus two signatures
BY: _____ Director/Deputy Director	_____ Signature of Property Owner
_____ City Manager	_____ Signature of Owner (if more than one listed)
ATTEST SIG. _____ Clerk	_____ Typed Name of Actual Owner

<i>Recorded</i>		
<i>R/W</i>	<i>ENCROACHMENT</i>	<i>Book No. 1</i>
<i>Page</i> _____		<i>Signature of Applicant</i>
<i>Date</i> _____ / _____ / _____	<i>County</i> _____	<i>Typed Name of Applicant</i>
		<i>Notary Public</i> <i>Commission Expiration:</i> <i>(NOTARIAL SEAL)"</i>

Sec. 46-1004. Adoption of State Construction Standards.

The Georgia Department of Transportation Construction Specifications are hereby adopted and approved as if fully set forth herein, and as amended hereafter.

Sec. 46-1005 – 46-10035. Reserved.

CHAPTER 2. UNIFORM ROADWAY ADDRESSING SYSTEM.

Sec. 46-2001. Title.

This Chapter may be cited and referred to as "The City of South Fulton Uniform Roadway Addressing, Street Naming and Project Identification Ordinance".

Sec. 46-2002. Purpose and Intent.

The Mayor and City Council hereby finds that the efficient and prompt provision of emergency services is essential to the health, safety and welfare of the citizens of the City. The Mayor and City Council further finds that inadequate, duplicative and or incorrect address numbers and street names pose a real and substantial threat to the provision of such emergency services. In order to improve the provision of emergency services, the Mayor and City Council hereby creates the following system for uniformly assigning roadway names and property addresses within the geographic boundaries of the City.

Sec. 46-2003. Definitions.

For purposes of this Chapter, the following definitions shall apply:

"Access" shall mean point of or means of entry.

148 *"Department"* shall mean the City of South Fulton Department of Community
149 Development, or any successor to that department.

150 *"Building"* shall mean the dominant building or buildings on a parcel of land. "Principal
151 building" shall not include accessory structures such as sheds, cabanas or garages
152 (provided that any such garage is not used, in whole or in part, for residential,
153 commercial, office or institutional purposes).

154 *"Corner lots"* (AKA lot, corner) shall mean a multiple frontage lot adjoining two streets at
155 their intersection.

156 *"Cul-de-sac"* shall mean a street having only one connection to another street, and is
157 terminated by a vehicular turn around. The maximum depth of a cul-de-sac shall be 600
158 feet, as measured from the intersection of the center line with the center line of the
159 intersecting street to the back of curb of the cul-de-sac.

160 *"Driveway"* shall mean a roadway owned and maintained by a private entity and used
161 for access and circulation internal to a property.

162 *"Entrance way"* shall mean the main access to the building or structure.

163 *"Entrance roadway"* shall mean the roadway from which access to a property or
164 principle structure located upon said property is obtained.

165 *"Gated communities"* shall mean an enclave of homes with a unique identity,
166 surrounded by walls, often with security guards, containing privately owned and
167 maintained roadways under the management and responsibility of an established
168 homeowner's association.

169 *"Lot frontage"* shall mean the shortest of any property line adjoining a street or, for lots
170 requiring no street frontages, oriented toward a street. A property line adjoining a stub
171 street shall not be considered as frontage unless it is proposed for access or is the only
172 street frontage. Front yard requirements shall be measured from this property line. In
173 situations where a multiple frontage lot has equal distance on street frontages, the
174 Community Development Director shall determine the legal lot frontage.

175 *"Private street"* shall mean a roadway constructed to City of South Fulton Standards but
176 owned and maintained by a private entity. Necessary easements for ingress and egress
177 for police, fire, emergency vehicles and all operating utilities shall be provided.

178 *"Public street"* shall mean a roadway owned and maintained by the federal, state, or
179 local government.

180 *"Privately owned communities"*. See gated communities.

181 *"Project"* shall mean an organized undertaking to develop a property pursuant to a
182 permit from the City of South Fulton, issued pursuant to an approved plan found to be
183 consistent with the rules, regulations and standards of State, Federal and local
184 regulatory agencies.

185 *"Roadway"* shall mean and include, but not be limited to, any and all roads, drives,
186 streets, highways, or routes (regardless of designation) for vehicular traffic in the City of
187 South Fulton, whether public or private, accepted or unaccepted. "Roadway" shall not
188 include private driveways that serve only one principal building.

189
190 **Sec. 46-2004. Address Numbers.**
191

192 All tracts of land in the City of South Fulton on which a principal building is or will be
193 located are required to be issued an address by the Department. Each such address
194 shall be posted by the owner on or about the tract in accordance with the following
195 guidelines:

196 (1) Except as permitted in herein, all addresses shall contain (in addition to the
197 roadway name) numbers only. Alphanumeric or lettered addresses shall not
198 be permitted. Each address shall conform to the following rules:

199 a. Multi-tenant or multi-occupant commercial, office or institutional
200 developments shall have only one address and shall be assigned a
201 building address for each principal building and individual suite or
202 unit numbers by the City. Once a systematic pattern of address has
203 been established, it shall be maintained for the entire project.
204 Alternatively, such commercial, office or institutional developments
205 shall seek approval of names of internal streets within the
206 development, in which case the City shall assign addresses on
207 such internal streets. Multi-family residential developments
208 (including apartments, townhouses and condominiums) shall have
209 building addresses and/or letter for each principal building and
210 numbers for each individual unit as approved by the Department.
211 Condominiums and/or town homes to be occupied by independent
212 owners may be assigned individual addresses for each separate
213 unit as long as said units are not stacked one over the other.

214 b. For non-single family residential properties, all principal buildings
215 which are 50 feet or less from the edge of the roadway shall have
216 affixed to the building the address number(s) directly over or on the
217 main entrance door(s). Such address numbers shall be at least six
218 (6) inches and not more than 12 inches in height and shall be of a
219 color which contrasts with the surrounding surface so as to be
220 readily identifiable without obstruction from the edge of the
221 roadway. Each building number shall be prominently displayed on
222 each side of said building that is visible from the main access or
223 parking area serving the project or complex in which the building is
224 located. Such building number shall be at least 12 inches in height
225 and shall be of a color which contrasts with the surrounding surface
226 so as to be readily identifiable without obstruction from the edge of
227 the roadway.

228 c. For non-single family residential properties, all principal buildings
229 which are more than 50 feet from the edge of the roadway shall
230 have affixed to the building or structure the address number(s)
231 directly over or on the main entrance door(s). Such address
232 numbers shall be at least eight (8) inches and no more than 16
233 inches in height and shall be of a color that contrasts with the

234 surrounding surface so as to be readily identifiable without
235 obstruction from the edge of the roadway. Each building number
236 shall be prominently displayed on each side of said building that is
237 visible from the main access or parking area serving the project or
238 complex in which the building is located. Such building number
239 shall be at least 12 inches in height and shall be of a color which
240 contrasts with the surrounding surface so as to be readily
241 identifiable without obstruction from the edge of the roadway.

242 d. For all commercial, office, industrial or multi-family residential
243 developments that contain multiple addresses and/or building
244 numbers, the range of addresses and/or building numbers shall
245 also be posted on the main sign or identification monument at the
246 main entrance and shall be readily identifiable from the edge of the
247 roadway. Directions to other buildings within such a development
248 shall be clearly posted at each internal roadway intersection. For
249 multi-family residential developments, directional signs indicating
250 the location of individual units shall be placed on each floor at the
251 primary point of ingress and egress (e.g., at the elevator or main
252 stairwell).

253 e. For all commercial, office, industrial or multi-family residential
254 developments any entrance way or principal building that is not
255 readily visible from the roadway, address numbers shall also be
256 posted at the main entrance or driveway to the principal building.
257 Such address numbers shall be at least six (6) inches and not more
258 than 12 inches in height and shall be of a color which contrasts with
259 the surrounding surface so as to be readily identifiable without
260 obstruction from the edge of the roadway.

261 f. For properties whose primary access is different from their lot
262 frontage, address number shall be assigned and posted from the
263 access point.

264 g. Each residential one- or two-family dwelling shall have its address
265 number posted on a mailbox or addressing post located at or near
266 the main entrance or vehicle access point to the property. Such
267 address numbers shall have a minimum stroke height of three
268 inches and shall be of a color that contrasts with the surrounding
269 surface so as to be readily identifiable without obstruction from the
270 edge of the roadway.

271 h. Notwithstanding any other provisions in this Chapter, all properties
272 shall be identified by a property number of a minimum size as
273 identified in this section. All signs, including temporary signs and
274 identification monuments on properties which have been assigned
275 a property number (street number) shall display the numbers and/or
276 letters with characters that are at least four (4) inches tall for signs

located along limited access, arterial and major collector streets, and three (3) inches tall along minor collector and local streets.

- i. If access to any principal building is by way of a roadway different from the principal building's address roadway, the address number shall be posted on the address roadway. In such cases, the address roadway and address number shall also be posted on each entrance roadway at the intersection of the access point and the entrance roadway.
- j. Each roadway, including state and federal highways, shall contain address numbers that are consistently sequenced throughout its length.
- k. Address numbers shall be assigned such that, traveling from lower address numbers to higher address numbers, odd-numbered addresses are on the right side of the roadway and even-numbered addresses are on the left side of the roadway.
- l. Each property owner shall keep all address numbers in good repair and shall not allow such numbers to be obscured as viewed from the roadway.
- m. To the extent not in conflict with the provisions of this Chapter, the City shall follow the guidelines set forth in the Proposed Property Numbering System for Metropolitan Atlanta promulgated by the Atlanta Region Metropolitan Planning Commission (1963), except for culs-de-sac. Cul-de-sac shall be addressed in three digits numbers (100, 110, etc). Cul-de-sac shall comply with the remaining provisions of this section and this Chapter
- n. The property owner shall have the responsibility of ensuring compliance with the requirements of this section, regardless of whether the premises are leased or owner-occupied.

Sec. 46-2005. Subdivisions and Other New Developments.

- (a) All project names for and roadway names and addresses within subdivisions and other new developments shall be reviewed and approved by the Department during the minor subdivision plat or land disturbance permit (LDP) approval process. Prior to the release of an LDP, all street names must be approved for use within the subdivision. Once a project name has been approved, it shall not be changed without written permission by the Community Development Director. For continuity, the LDP number assigned to the project, regardless of the project name used at the time of submittal, must appear on the face of all referenced documents, including, but not limited to, all LDP drawings, studies, plans and plats.
- (b) A temporary sign bearing the name of the project and the approved LDP number shall be installed within 24-hours of the beginning of any activity on the subject

property, clearly visible in both directions from the main thoroughfare serving as access to the project. This sign must be updated within 24-hours should there be any change of the name approved by the Community Development Director and shall be maintained until a permanent identification sign or monument is installed.

- (c) Each application for a land disturbance permit for a multi-family development shall include a concept plan identifying all proposed roadways with the proposed names for said roadways. Any subsequent request for roadway name or address changes by the subdivider or developer will require submission of a new preliminary plat (or concept plan, as applicable) for review by the Department.
- (d) Once an LDP is approved, no lot number, street name or address shall be changed by the re-recording of a plat without the prior expressed written consent of the Department. No application for a permit on said lot thus affected will be considered until approved by the Department. Each request submitted for the re-recording of a plat shall be charged a processing fee as established by the Mayor and City Council.

Sec. 46-2006. Exceptions.

When the Community Development Director finds that adherence to the address numbering standards, set forth in this Chapter would pose a threat to public safety, deviations from the standard address numbering policies and procedures may be allowed.

Sec. 46-2007. Project Names.

No new project names may be recorded, used or posted unless and until approved by the Community Development Department. Duplication of project names is prohibited. The use of a project name that is a homonym, sounds like or may otherwise be confused with a project name that is already in use within the City of South Fulton is prohibited.

Sec. 46-2008. Roadway Names.

No new roadway name may be posted or used in an address unless and until approved by the Community Development Department.

- (1) Roadway names must be reserved for use prior to the release of the land disturbance permit or minor plat.
- (2) Roadway names, once approved, shall be held in reservation for use by the owner/developer for a period not to exceed 36-months.

Sec. 46-2009. Standards for Roadway Names.

- (a) Duplication of roadway names is prohibited. No roadway name shall contain a number (e.g., 5th Street), and, except for suffixes, there shall be no punctuation or abbreviation allowed in any roadway name.

- (b) The use of the same roadway name that is already in use within the City of South Fulton is prohibited.
- (c) Except to the extent that the Community Development Department assigns a quadrant designation for inclusion in an address (e.g., "S.W."), the use of directions or compass points in roadway names is prohibited.
- (d) The use of a roadway name that is a homonym, sounds like or may otherwise be confused with a roadway name that is already in use within the City of South Fulton is prohibited. Duplicate names with different suffixes should be limited within the same project whenever possible, subject to the review and approval of the Community Development Director.
- (e) Each roadway, regardless of length, shall have only one name designation throughout its length. Each new roadway that is in alignment with an existing roadway shall bear the same name as said existing roadway.
- (f) No roadway shall be assigned the proper name, including first and last, of any person, living or dead, and/or assigned honorary names in such a way as to expressly violate standards of the City of South Fulton Ethics Code without the consent and approval of the Mayor and City Council.
- (g) No roadway name, including spaces between words and suffix, may be more than 12 letters in length, unless approved by the City's Public Works Department.
- (h) To the greatest extent feasible, roadways that cross into other jurisdictions shall be named and addressed consistently with the names and addresses assigned by such other jurisdictions.
- (i) Street signs, including street name signs, must be installed before any building permits are issued within a development, except that a bond may be offered to cover the costs of the signage, with an additional ten percent for administrative fees, and temporary signs erected to release building permits. Permanent signs must be installed prior to the release of any certificate of occupancy within the development.

Sec. 46-2009. Private Roadway Naming.

The following procedures and regulations are established for the mandatory and voluntary naming of private roadways, easements and drives.

- (1) A private roadway, easement or drive serving residential properties shall be required to be named and addressed if there are more than two principal buildings that are not part of a single tract of land which derive access from such private roadway, easement or drive.
- (2) If a private roadway, easement or drive requires naming pursuant to subsection (a), above, a petition, containing the signatures of at least 90 percent of the owners of all real property along such private roadway, easement or drive, must be submitted to the Community Development Director. In addition to a request for approval, the petition shall include the proposed name for the private roadway, easement or drive that is

acceptable to the petitioners. The proposed name shall conform to the other requirements of this Chapter. The petition shall be accompanied by a general location map and the land lot(s), district, and section within which such private roadway, easement or drive is located.

- (3) Upon approval of a name for the private roadway, easement or drive, and prior to the issuance of any building permits or additional permits the petitioners, shall cause a roadway sign conforming to Fulton County Guidelines from the Sign Installation Policy in New Subdivision approved by the Fulton County Board of Commissioners on August 12, 2004, or, if adopted, the South Fulton Sign Installation Policy, to be erected and maintained at each intersection of such private roadway, easement or drive and any adjacent City, County or State right-of-way. Maintenance of such roadway signs and private roadways, easements or drives shall be the responsibility of the owners of the real property situated along such private roadways, easements or drives; the City of South Fulton shall have no responsibility for the erection and/or maintenance of these items.
- (4) In the event that the owners of the real property situated along a private roadway, easement or drive that requires a name, as set forth above, fail to initiate, respond to or participate in the naming procedure set forth above, the Community Development Director, after due notice and a minimum 30-day grace period, shall recommend to the City Council a name and address numbers for the private roadway, easement or drive and all real property located thereon. The property owners along such private roadway, easement or drive shall be responsible for the erection and maintenance of roadway signs, as set forth in subsection (3), above.

Sec. 46-2010. Changing of Existing Roadway Names and Addresses.

- (a) In any instance where the Mayor and City Council, upon recommendation of the Community Development Director, determines that an existing road name may pose a threat to the public health, safety or welfare, the Mayor and City Council may change such roadway name after notice is given and a public hearing is held.
 - (1) Notice of the proposed change and hearing date shall be given at least 25 days, but no more than 45 days, prior to the scheduled date of the Mayor and City Council hearing on the proposed change.
 - (2) The Community Development Director shall post a sign at approximately one mile intervals throughout the length of the roadway for which a name change is proposed and shall give notice by regular mail to the owners (according to the tax records of Fulton County) of each property which bears an address on the roadway for which a name change is proposed, as well as the applicable branch(es) of the United States Postal Service.
 - (3) Such signs and notices shall contain the time, date, place and purpose of the hearing, as well as a statement of the beginning and ending points of

the segment of the roadway for which the name change is proposed.
Notice shall not be considered inadequate if the signs are removed or mail
is not delivered.

(b) Where the Mayor and City Council, upon recommendation from the Community Development Director, determines that the existing address numbering on a particular roadway poses a threat to the public health, safety or welfare, the Mayor and City Council may change such address numbering after notice.

(1) Notice of the change shall be given by regular mail to the owners (according to the tax records of Fulton County) of each property that bears an address on the roadway for which an address numbering change will occur, as well as the applicable branch(es) of the United States Postal Service.

(2) Such notice shall contain the existing full address, the new address, the reason for the change, and the effective date of the change.

(3) The effective date shall be no less than 30 or no more than 60 days following the date on which the matter is scheduled for decision by the Mayor and City Council. Notice shall not be considered inadequate if mail is not delivered.

(c) When no more than ten percent of the existing addresses along a public or private roadway are deemed to pose a threat to the public health, safety or welfare, the Community Development Director may approve the change of such address numbering after notice is given by regular mail to the owners (according to the tax records of Fulton County) of each property that bears an address on the roadway for which an address numbering change will occur and to the applicable branch(es) of the United States Postal Service.

(1) Such notice shall contain the existing full address, the new address, the reason for the change, and the effective date of the change.

(2) These changes shall be considered effective at the time of the approval by the Community Development Director, and shall be presented for ratification to the Mayor and City Council at the next regularly scheduled meeting.

(3) The effective date shall be no less than 30 or no more than 60 days following the date on which the matter is scheduled for decision by the Mayor and City Council. Notice shall not be considered inadequate if mail is not delivered.

(d) No name of any commercial, office, industrial or residential development or subdivision shall be changed unless a request for such a change is first submitted to and approved by the Community Development Department. In determining the acceptability of such a name change, the Department shall seek to avoid confusion from similarly named developments.

Sec. 46-2011. Roadway and Thoroughfare Designation Suffixes.

Any suffix accepted within the standards of the United States Postal Service, reflected in part in the lists provided by the National Emergency Number Association (NENA), shall be acceptable for naming roadways and thoroughfares within the City of South Fulton. The following are examples of the most commonly used permitted suffixes in the naming of private and public roadways:

- (1) Avenue (to be abbreviated "Ave")
- (2) Bend (to be abbreviated "Bnd")
- (3) Boulevard (to be abbreviated "Blvd")
- (4) Circle (to be abbreviated "Cir")
- (5) Court (to be abbreviated "Ct")
- (6) Cove (to be abbreviated "Cv")
- (7) Drive (to be abbreviated "Dr")
- (8) Grove (to be abbreviated "Grv")
- (9) Hall (no abbreviation)
- (10) Highway (to be abbreviated "Hwy")
- (11) Hill (to be abbreviated "Hl")
- (12) Lane (to be abbreviated "Ln")
- (13) Loop (no abbreviation)
- (14) Parkway (to be abbreviated ("Pkwy"))
- (15) Pass (no abbreviation)
- (16) Place (to be abbreviated ("Pl"))
- (17) Point (to be abbreviated "Pt")
- (18) Ridge (to be abbreviated "Rdg")
- (19) Road (to be abbreviated "Rd")
- (20) Square (to be abbreviated "Sq")
- (21) Street (to be abbreviated "St")
- (22) Terrace (to be abbreviated "Ter")
- (23) Trace (to be abbreviated "Trce")
- (24) Trail (to be abbreviated "Trl")
- (25) View (to be abbreviated "Vw")
- (26) Walk (no abbreviation)
- (27) Way (no abbreviation)

Sec. 46-2012. Street Signs.

- 530 (a) Each roadway intersection shall have a minimum of one street sign indicating the
531 names of each roadway.
- 532 (b) At each intersection of an arterial or major collector roadway and another
533 roadway, the required sign(s) may also include numbering indicating addresses
534 on the arterial or major collector roadway in the vicinity of the intersection.
- 535 (c) Public streets shall be identified by a sign bearing white retro-reflective letters
536 and a green retro-reflective background.
- 537 (d) Private streets shall be identified by a sign bearing white retro-reflective letters
538 and a blue retro-reflective background.
- 539 (e) Private signage on a public street shall be allowed in accordance with the
540 standards as established by the Public Works Department pursuant to the
541 completion and approval of an application entitled "Permit to Erect and Maintain
542 Custom Street Signs on City of South Fulton's Right-of-Way," provided such
543 signs do not otherwise violate the provisions of the City's Sign Ordinance.
544

545 **Sec. 46-2013. Administration and Enforcement.**
546

- 547 (a) This Chapter shall be administered and enforced by the City's Community
548 Development Department and Public Works Department, as applicable.
- 549 (b) The Community Development Director or designee shall have the right to
550 periodically inspect property within the City for compliance with this Chapter. If,
551 through inspection, it is determined that a particular property is not in compliance
552 with any provision of this Chapter, the Community Development Director shall
553 notify the owner (according to the tax records of Fulton County) of the property
554 by regular mail of such violation and shall further give the owner a reasonable
555 time (not less than 120 days) within which to cause the property to be brought
556 into compliance with this Chapter. In the event that such compliance is not
557 effected within the time period set forth in the above notice, the owner shall be
558 deemed in violation of this Chapter. If any person other than the owner removes
559 or damages an address number that is otherwise in compliance with this Chapter
560 without the permission of the property owner, or if any person removes or
561 damages any street sign, said person shall be deemed to have violated this
562 Chapter.
- 563 (c) Only the Public Works Director shall have the right to require that signs are
564 installed and maintained on public roadways. Individuals or entities seeking to
565 erect a sign for a private roadway shall obtain a custom sign permit from the
566 Community Development Department.
- 567 (d) The Community Development Director and Public Works Director, or
568 designee(s), shall have the power to conduct such investigations as they may
569 deem reasonably necessary to carry out duties as prescribed in this Chapter, and
570 for this purpose shall have the power to enter at reasonable times upon any
571 property, public or private, for the purposes of investigation and inspection of
572 such property for compliance with any or all provisions of this Chapter.

(e) No person shall refuse entry or access to any authorized representative or agent of the City who requests entry for the purposes of investigation and inspection and who presents appropriate credentials, nor shall any person obstruct, hamper, or interfere with such representative or agent while he or she is in the process of carrying out his or her official duties.

(f) Notwithstanding the contents of this Chapter, the Community Development Director may establish additional procedures or requirements as may be deemed necessary when to do so is determined to be in the best interest of the community and the provision of the general safety and welfare of the public.

Sec. 46-2014. Appeals.

Unless otherwise stated, all appeals to the standards as established herein and requests for waivers shall be subject to the review and approval of the Community Development Director. The Director may confer with the Public Works Director for consideration of the ramification such a waiver may have upon public safety.

Sec. 46-2015. Penalties.

(a) *Stop work orders.* Upon notice from the Community Development Director or designee, work that is being done on any subdivision, new development or other project (1) contrary to the provisions of this Chapter, (2) without having first obtained approved roadway names and addresses from the City, or (3) not in compliance with such approved roadways or addresses shall be immediately stopped. Such notice shall (1) be in writing, (2) shall be given to the owner of the property, his or her authorized agent, or the person or persons in charge of the activity on the property, and (3) shall state the conditions under which work may be resumed.

(b) *Violations.* For purposes of enforcing the provisions of this Chapter, the South Fulton Municipal Court shall be authorized to impose penalties or fines not to exceed \$1,000.00 for each violation. Each day during which a violation exists shall constitute a separate violation.

(c) *Lien power.* In the event a property owner fails or refuses to correct a violation of this Chapter within the time set forth in the written notice provided for in subsection 46-2013(b) of this Chapter, the City shall be entitled to take such remedial action as it deems necessary to ensure compliance, whereupon the property owner shall reimburse the City for any cost or expense associated with such compliance efforts. In the event that the property owner fails or refuses to make such reimbursement, the City shall be entitled to place a lien on the property to secure payment and reimbursement for such costs and expenses.

(d) *Citation power.* Persons designated by the Community Development Director are hereby authorized to issue citations or summons or both, charging violations under this Chapter, returnable to the South Fulton Municipal Court.

Sec. 46-2016 – Sec. 46-2030. Reserved.

CHAPTER 3. CURB CUTS.

Sec. 46-3001. Violations of Chapter.

- (a) Any person found to be violating any provision of this Chapter shall be served written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in the notice, take all necessary action to correct the violation and shall permanently cease such violations.
- (b) Any person who intentionally violates any provision of this Chapter and who shall continue any violation beyond the time limit provided for the satisfactory correction thereof, and any person who fails to cease all work after a stop work order has been issued on a project, shall be guilty of an ordinance violation. Each day in which a violation shall continue shall constitute a separate offense.
- (c) Any person convicted of violating the provisions of this Chapter shall be punished in the manner prescribed by Section 1-1006 of this Code, and shall further reimburse the City for any expenses, loss, or damage occasioned the City by reason of such violation.
- (d) Persons designated by the Public Works Director are hereby authorized to issue citations or summonses, or both, charging violations under this Chapter, returnable to the South Fulton Municipal Court for trial.

Sec. 46-3002. Inclusiveness of Chapter Regulations.

This Chapter shall cover the location, width, frequency, and type of commercial and residential driveway entrances to City roadways.

Sec. 46-3003. Variances.

Whenever a property owner or developer can show that in every case strict application of this Chapter would cause unnecessary or unreasonable hardship due to some unique requirement of the structure or activity made accessible by the proposed curb cuts, exceptions to this Chapter may be granted by the Public Works Department, provided:

- (1) The public interest, and particularly public safety, will not be violated; and
- (2) The rights of adjacent property owners or tenants will not be adversely affected.

Sec. 46-3004. Permit Required.

No curb shall be cut, removed, or altered in any way for the purpose of constructing a driveway, nor may any driveway be constructed to the curblane, without first obtaining a

permit to do so from the Public Works Department. The permit shall be issued only to the owner of the premises or his authorized agent. In all cases where the driveway is to be used by the public as in a business or commercial establishment, a plat or plan showing the proposed driveway shall be submitted to the Public Works Department for examination and approval prior to issuing the permit. The plat shall be accurately drawn to scale, with all principal dimensions shown. The plat shall show the location of all existing curbs, sidewalks, storm drain inlets and pipes, sewer lines, streetlights, and all other public service and utility equipment, and trees and shrubs, in the right-of-way abutting the property. It shall also show the proposed location of all buildings, tanks, pump islands, and all other structures the applicant proposes to construct on the property, their dimensions, and their location relative to the street and property lines. The Public Works Department may require any changes in the plan as may be necessary to conform with City specifications.

Sec. 46-3005. Frequency, Size and Location.

(a) *Business and commercial.*

- (1) The frequency and location of driveways for business and commercial establishments shall conform to the standards set forth in the City of South Fulton's modifications to the GDOT Driveway Manual. If not already adopted, the City hereby adopts Fulton County's modifications to the GDOT Driveway Manual.
- (2) Curb cuts shall be not less than ten (10) feet nor more than 30 feet in width at the right-of-way line. The curb cut for any one driveway shall not exceed 40 feet at the curbline.
- (3) The near side of a driveway shall in no case be less than five (5) feet from the side property line at the right-of-way line.

(b) *Residential.* Curb cuts in residential areas shall be installed according to the following guidelines for frequency, size, and location:

- (1) Not more than two private curb cuts may be located on any one street frontage for any one dwelling. Not more than one private curb cut may be located on any one street frontage for any one dwelling where the street is classified as a collector or higher order street.
- (2) If a lot has access to more than one frontage, it may not have any private curb cuts on a street that is classified as a collector or higher order street. If both frontages are classified as collector or higher order streets, then the curb cut may be on the frontage with the lowest classification, or as otherwise designated by the Public Works Department.
- (3) Private curb cuts shall measure not less than 14 feet for single driveways and not more than 18 feet for driveways measured at the right-of-way line. When there are two curb cuts on any one street frontage, there shall be a safety zone between the cuts not less than ten feet, as measured along the curbline. In no case shall the curb cut be less than five feet from the

side property line as measured along the right-of-way line. The curb cut shall not encroach upon the radius of the curb at a street corner.

Sec. 46-3006. Construction Specifications.

- (a) For the construction of curb cuts, all types of curbs shall be cut to the edge of the pavement. No driveways shall be constructed over any type of curb. In no case shall any obstruction or material be placed in the gutter for use as a ramp, whether the cut be of a permanent or temporary type.
- (b) The angle of intersection of the axis of the driveway and the street shall not be less than 30 degrees.
- (c) Curb cuts shall be constructed with a five-foot flare as measured along the curbline of the street. The elevation of the pavement of the curb cut at the right-of-way line shall be four (4) inches higher than the top of the curb, and the stub shall be on a uniform grade to the gutter line. If there is a paved sidewalk in place, the walkway shall be adjusted to meet the grade of the curb cut. The curb cut flares at the curbline shall be raised and contoured to blend smoothly into the street curb. All curb cut stubs shall be paved back at least as far as the right-of-way line to protect the street pavement. The pavement shall be of a rough or grainy surface for the safety of pedestrians.
- (d) The curb cut stub from the street pavement to the right-of-way line shall be either:
 - (1) A minimum of six (6) inches in depth of 3,000 psi concrete;
 - (2) Six (6) inches of crusher run base and one (1) inch of plant mix asphalt topping; and
 - (3) Six (6) inches of black base and one (1) inch of plant mix asphalt topping.
- (e) Whenever there is a public sidewalk adjacent to property upon which there is a proposed business establishment that will provide parking or drive-in service of any type, there shall be installed upon the property a curb not less than six (6) inches high and six (6) inches wide, located so as to prevent driving or stopping on the sidewalk by vehicles, and such that no part of a parked vehicle shall extend beyond the right-of-way line.
- (f) Equipment and construction shall be set back a minimum of 15 feet from the right-of-way line. All equipment and construction shall be located so that no vehicle will be parked on the sidewalk or street at any time while being serviced.

Sec. 46-3007. Repair of Improvements.

The owner of the property being improved or the applicant for the permit shall be responsible for the repair of and restoration of any City installation damaged during the process of the construction.

Sec. 46-3008 – 46-3020. Reserved.

748
749
750 **CHAPTER 4. RIGHTS-OF-WAY UTILIZATION AND ACCOMODATION.**

751
752 **Sec. 46-4000. Enactment Authority.**

753
754 This Chapter is enacted under the authority of Article 9, Section 2, Paragraph II (Home
755 Rule for Municipalities) and Article 9, Section 2, Paragraph III (Supplementary Powers)
756 of the 1983 Constitution of the State of Georgia, as amended; O.C.G.A. § 32-4-90 et
757 seq.; O.C.G.A. § 32-6-170 et seq.; and O.C.G.A. § 32-9-2.

758
759 **Sec. 46-4001. Purpose.**

760
761 The City of South Fulton desires to protect the health, safety and welfare of its citizens
762 by ensuring that digging activities within City rights-of-way and public roads are
763 conducted in the safest possible manner, and that utility contractors performing
764 excavation or construction activities on behalf of utility facility operators or owners, or on
765 behalf of any other entity: (1) Have sufficient bonding and insurance in place to fully
766 cover all damages to City properties and other utilities, (2) provide conspicuous signage
767 at the site of the individuals to contact in case of problems, (3) return the roads and
768 rights-of-way to the equivalent pre-digging conditions, (4) encourage the coordination of
769 digging activities with other utility contractors to minimize the number of excavation
770 activities at the same location, (5) reimburse the City for any extraordinary inspection
771 costs, and (6) provide other assurances.

772
773 **Sec. 46-4002. Non-Application of this Chapter; Exceptions.**

774
775 Nothing in this Chapter is intended to repeal or affect the validity of the City's
776 Telecommunication Ordinance as it relates to activity in the City's right-of-way, or any
777 other franchise regulations. However, where the provisions of the Telecommunication
778 Ordinance require compliance with the provisions of this Chapter, the provisions of this
779 Chapter shall control to the extent they do not conflict with said Telecommunication
780 Ordinance.

781
782 **Sec. 46-4003. Definitions.**

783
784 As used in this Chapter, unless the context clearly requires otherwise, the
785 following words or phrases shall have the following meanings:

786 *Authorized contractor* means a person fully registered with the Public Works
787 Department as meeting all requirements to conduct excavation or construction activity
788 within the public right-of-way or public road.

789 *Applicant* means a person submitting all required information necessary for the
790 Public Works Department to consider issuance of a permit to conduct excavation or
791 construction activity within the public right-of-way or public road.

792 *Business days* means Monday through Friday, excluding the following holidays:
793 New Year's Day, Birthday of Dr. Martin Luther King, Jr., Memorial Day, Independence
794 Day, Labor Day, Thanksgiving Day and the following Friday, Christmas Eve, and
795 Christmas Day. Any such holiday that falls on a Saturday shall be observed on the
796 preceding Friday. Any such holiday that falls on a Sunday shall be observed on the
797 following Monday.

798 *Business hours* means the time from 8:30 a.m. to 5:00 p.m. local time on
799 business days.

800 *Construction* means the planning, location, surveying, designing, supervising,
801 inspecting, paving, striping, modifying, grading, relocating, fixing, and the actual
802 installation of a utility facility within the public road or public right-of-way.

803 *City* means the geographic boundaries of the City of South Fulton, and any
804 division, department, agency, authority, instrumentality, or branch thereof, or the Mayor
805 and City Council, Councilmember, City Manager, Public Works Director or other City
806 officers in charge of the roads, bridges, and revenues of the City.

807 *Damage* means any impact or exposure that results in the need to repair a utility
808 facility due to the weakening or the partial or complete destruction of the facility
809 including, but not limited to, the protective coating, lateral support, cathodic protection,
810 or the housing for the line, device, or facility.

811 *Director of Public Works, or Public Works Director*, means the City's Public
812 Work's Director or designee or authorized representative, and the Public Works
813 Department.

814 *Emergency* means a sudden or unforeseen occurrence involving a clear and
815 imminent danger to life, health, or property; the interruption of utility services; or repairs
816 to transportation facilities that require immediate action.

817 *Emergency notice* means a communication to the utilities protection center to
818 alert the involved facility owners or operators of the need to excavate due to an
819 emergency that requires immediate excavation.

820 *Excavating* means any operation by which the level or grade of land is changed
821 or earth, rock, or other material below existing grade is moved and includes, without
822 limitation, grading, trenching, digging, ditching, augering, scraping, directional boring,
823 and pile driving. Such term, however, does not include routine road surface scraping
824 maintenance. "Excavating" shall not mean routine roadway maintenance activities
825 carried out by employees of the Georgia Department of Transportation and the City
826 Public Works Department, acting within the scope of their employment, provided such
827 activities occur entirely within the right-of-way of a public road, street, or highway of the
828 State are carried out with reasonable care so as to protect any utility facilities placed in
829 the right-of-way by permit are carried out within the limits of any original excavation on
830 the traveled way, shoulders, or drainage features of a public road, street, or highway,
831 and do not exceed 18 inches in depth below the grade existing prior to such activities
832 and, if involving the replacement of existing structures, replace such structures in their
833 previous locations and at their previous depth.

834 *Excavator* means any person engaged in excavating as defined in this section.

835 *Extraordinary circumstances* means circumstances other than normal operating
836 conditions which exist and make it impractical or impossible for a facility owner or
837 operator to comply with the provisions of this Title. Such extraordinary circumstances
838 may include, but shall not be limited to, hurricanes, tornadoes, floods, ice and snow,
839 and acts of God.

840 *Governing authority* means the City of South Fulton, its Mayor and City Council,
841 and where delegated by the Mayor and City Council, the Chief of Police and Public
842 Works Director.

843 *Permit* means an authorization which grants permission to conduct specific
844 regulated activities on, in, over, under or within the public right-of-way, and which is
845 subject to the conditions set forth in this Chapter and the permit document.

846 *Permittee* means any person who is issued a valid permit by the Public Works
847 Director or designee.

848 *Person* means an individual, firm, joint venture, partnership, association,
849 municipality, political subdivision, state, or other governmental unit, authority,
850 department, agency, or a corporation and shall include any trustee, receiver, assignee,
851 employee, agent, or personal representative thereof.

852 *Private road* means a privately owned road or way, including any bridge thereon,
853 which is only open for the benefit of one or more individuals and not for the general
854 public. This term also means a road which lies on privately owned land.

855 *Protective devices* means cones, flashing light signals, and similar devices or
856 combinations thereof, together with necessary appurtenances, to be placed or in
857 operation at a work site and which comply with the safety standards determined by the
858 Public Works Department as being adequate at that time for the protection of traffic.

859 *Public road* means a highway, road, street, avenue, toll road, tollway, drive,
860 detour, or other way open to the public and intended or used for its enjoyment and for
861 the passage of vehicles in the City, including but not limited to the following public
862 rights, structures, sidewalks, facilities, and appurtenances incidental to the construction,
863 maintenance, and enjoyment of such rights-of-way: (a) Surface, shoulders, and sides;
864 (b) bridges; (c) causeways; (d) viaducts; (e) overpasses; (f) underpasses; (g) railroad
865 grade crossings; (h) tunnels; (i) signs, signals, markings, or other traffic control devices;
866 (j) wayside parks; (k) parking facilities; (l) drainage ditches; (m) canals and culverts; and
867 (n) scenic easements and easements of light, air, view, and access.

868 *Public or private property* means the right-of-way of any road or highway.

869 *Public right-of-way* means generally property or any interest therein, whether or
870 not in the form of a strip, which is acquired for or devoted to a public road.

871 *Residential area* means adjacent property along a public road or public right-of-
872 way that is being used primarily for residential purposes.

873 *Scenic easement* means a servitude devised to permit land to remain in private
874 ownership for its normal agricultural, residential, or other use consistent with public road
875 purposes, but at the same time placing a control over the future uses of the area to

maintain its scenic landscape, sight, or safety values for the public road which the land adjoins.

Sidewalk means that portion of a street between the curb lines, or the lateral lines of a railway, and the adjacent property lines, intended for use by pedestrians.

Utility means any publicly, privately, or cooperatively owned line, facility, or system for producing, transmitting, or distributing communications, power, electricity, light, heat, gas, oil products, water, steam, clay, waste, stormwater not connected with highway drainage, and other similar services and commodities, including publicly owned fire and police traffic signals and street lighting systems, which directly or indirectly serve the public. This term also means a person, municipal corporation, county, state agency, or public authority which owns, manages or operate a utility as defined in this paragraph.

Utility facility owner or operator means any person or entity who owns, operates, or controls the operation of a utility facility, as defined in this Chapter.

Utilities protection center or center means the corporation or other organization formed by facility owners or operators to provide a joint telephone number notification service for the purpose of receiving advance notification from persons planning to blast or excavate and distributing such notifications to its affected facility owner or operator members.

Utility facility means an underground or submerged conductor, pipe, or structure used in providing electric or communications service, or an underground or submerged pipe used in carrying, providing, or gathering gas, oil or oil products, sewage, wastewater, storm drainage, water or other liquids, and appurtenances thereto. This does not include utility facilities owned by a homeowner for service at the homeowner's residence.

Sec. 46-4004. Utility Accommodations Guidelines and Procedures Manual.

The "Fulton County Utility Accommodations Guidelines and Procedures Manual", (the "Manual") and all rules, regulations, procedures, plans and specifications contained therein is hereby adopted as the "City of South Fulton Utility Accommodations Guidelines and Procedures Manual." The Public Works Director shall be responsible for the promulgation of the manual and its contents, and any applicable revisions of said Manual to adapt it specifically to the City of South Fulton. The Manual shall be reviewed, at least annually, and updated as necessary to reflect the most current rules, regulations and practices and shall conform to the State's 1988 Utility Accommodation Policy Standards Manual, promulgated by the State Department of Transportation, as same may be amended from time to time by the State, in order to reflect changes in acceptable design standards and materials, and to reflect current construction costs. The Public Works Director will ensure that the contents of the manual are equivalent to, but not more restrictive than, the regulations promulgated by Georgia Department of Transportation Utility Accommodation Policy and Standards, 1988 edition, as same may be amended from time to time.

Sec. 46-4005. Permits Required for Installation or Excavation in Rights-of-Way and Roads; No Property Interest in Location of Utility Facility.

Before installing or relocating any utility facility which may occupy or encroach on the right-of-way acquired for City projects, or which is part of the South Fulton Municipal Street System, the utility owner and/or contractor must obtain authorization from the Public Works Director. For all initial installations, a written permit shall be required. Also, for relocation or adjustment of utility facilities for which a written permit has not previously been issued, and which are not covered by an indemnity agreement, a permit shall be required. Except as may be provided by State or Federal laws, placement of a utility facility within the public rights-of-way or public roads shall not be deemed to give any person a property or other interest in any particular location within the public rights-of-way or public roads, or any preference over any other person issued a permit to utilize the public rights-of-way or public roads. The City reserves the right to designate where a particular utility facility may be located for the purposes of protecting current or future use of its public roads to promote the public health, safety or welfare.

Sec. 46-4006. Permittee's Adherence to Other Applicable Laws.

The provisions of this Chapter are in addition to those set forth in O.C.G.A. § 25-9-1 et seq., as same may be amended from time to time.

Sec. 46-4007. Authority to Issue and Regulate Permits Delegated to the Public Works Director.

The authority to issue and regulate permits for installation or excavation activities within public rights-of-way and public roads are hereby delegated to the Public Works Director or designee.

Sec. 46-4008. Permits for installation or excavation in rights-of-way and roads; exception for state projects.

Permit required. All utility owners shall apply for and obtain a written permit from the Public Works Department before installing or making substantial changes to any utility facility located within the public right-of-way or within a public road or sidewalk. Such utility owner shall make application for a permit with the Public Works Director. The Public Works Director or designee shall have the authority to impose such permit terms and conditions necessary to protect the public health and safety, and the permittee shall comply with all terms and conditions imposed by the Public Works Director or designee including the right to maintain a register of authorized contractors. Only authorized contractors shall engage in permitted activities in the rights-of-way. However, where the Georgia Department of Transportation has primary permitting authority over a particular installation or construction activity, the permittee may show a copy of the GDOT permit and shall not be required to obtain a permit from the City.

Sec. 46-4009. Issuance of Permit; Allocation of Costs; Time Limits.

966
967 (a) *Issuance.* All applications for all permits for installation, or excavation pursuant to
968 this Chapter shall be reviewed by the Public Works Department, and if the
969 application is complete and the permittee is in compliance with all requirements
970 of this Chapter, to the extent practicable, the City shall issue a permit within 20
971 days of receipt of the completed application and notice to all parties; provided
972 that all joint application permits for installation or excavation by two or more
973 persons shall be expedited, and if in compliance with all requirements of this
974 Chapter, shall if practicable, be approved by the Public Works Director or
975 designee within ten (10) days of receipt of such applications. No permit shall
976 issue unless sufficient space is available so that the free flow and safety of
977 roadway traffic is not unduly impaired and the utility installation does not prevent
978 the City from reasonably maintaining the roads, structures, traffic control devices
979 and other appurtenant facilities, and do not jeopardize the traffic or roadway
980 structure or the maintenance thereof.

981 (b) *Denial of a permit; option to require cash bond or letter of credit.*

982 (1) Person conducting work. The Public Works Director shall grant no permit
983 where the applicant has failed to comply with the terms of a prior permit or
984 conducted prior work without a permit, and where such failure was
985 previously documented in writing and delivered to the violator. It shall be
986 within the reasonable discretion of the Public Works Director to decline a
987 permit to any person who shall have failed to carry out any prior order or
988 instruction of the Public Works Director in connection with the opening of a
989 public road or sidewalk at any time. It shall be within the Director's
990 reasonable discretion to consider mitigation factors submitted by the
991 applicant pertaining to past conduct or omission. In exercising his
992 discretion whether to grant a permit to a company which had conducted
993 prior construction activity without a permit or a company that violated the
994 terms of a prior permit, the Director may require cash deposit or an
995 irrevocable letter of credit from a qualified financial institution, securing the
996 compliance of the terms of this Chapter and the faithful performance of the
997 obligations of the party conducting construction or excavation activities
998 within the public right-of-way or public road. The amount of irrevocable
999 letter of credit or cash deposit shall be determined by the Director in an
1000 amount deemed best protect the public safety and welfare. The letter of
1001 credit or cash deposit is in addition to the performance bond and
1002 insurance required by this Chapter. The Public Works Director may
1003 demand payment from the institution that issued the letter of credit for a
1004 violating party or make deductions from the cash deposit, as applicable to
1005 offset the costs of, among other things, the repair, excavations or work
1006 performed by the Public Works Department, or to pay any assessed
1007 penalties or costs associated with violations of this Chapter. Where
1008 practicable, the City shall provide the permittee with ten (10) days
1009 advance written notice of a deduction from the deposit. The letter of credit
1010 or cash deposit shall be maintained until satisfactory completion of
1011 permitted activity.

- 1012 (2) Person on whose behalf work is being conducted. The Public Works
1013 Director may, in the Director's discretion, decline to grant a permit if the
1014 Director or designee determines that the permit will not be in the public
1015 interest, with such factor to be considered to include, but not limited to,
1016 whether space is available for the utility. The responsibility shall be upon
1017 the Public Works Director to see that no permit is granted to any person to
1018 open any public road or sidewalk where the results to be accomplished
1019 under the permit will unreasonably interfere with the use of the public road
1020 or sidewalk.
- 1021 (3) Reason for denial must be provided. If the permit is denied, the reason for
1022 the denial shall be furnished in writing to the applicant, as soon as
1023 possible, but no later than 20 days from submittal of the completed
1024 application.
- 1025 (c) *Appeals from denial of permit issuance; judicial review.* A person may appeal the
1026 denial of a permit to the City Manager. The person shall be afforded an
1027 opportunity to be heard and to offer evidence in support of the appeal. The City
1028 Manager shall act on the appeal and issue a final decision within 30 days of
1029 receipt of the written appeal. The decision of the City Manager shall be final. Any
1030 person aggrieved by the decision of the City Manager's denial of a permit, after
1031 having pursued the appeal process of this subsection, shall have the right to
1032 appeal by Petition for Writ of Certiorari with the Fulton County Superior Court.
- 1033 (d) *No permit fee; reimbursement costs only.* There shall be no charge for the
1034 issuance of the permit. The applicant shall reimburse the City for any reasonable
1035 and necessary expense, including, but not limited to, extraordinary inspection
1036 services incurred by the City in connection with the utility or work authorized by
1037 the permit. The reimbursement to the City shall be made by the applicant within
1038 30 days after receiving an invoice or statement from the Director. The applicant,
1039 upon notification in writing by the Director, shall pay a reasonable market price
1040 for any material removed from the right-of-way or public road or destroyed as a
1041 result of the work authorized by the permit. Such payment shall be within 30 days
1042 of receipt of the statement from the Director.
- 1043 (e) *Cost of permitted work.* The entire cost of installing, maintaining, repairing,
1044 operating, using the utility, or any other expense whatsoever incidental to the
1045 work authorized by the permit, shall be borne by the applicant. All costs
1046 associated with conducting excavation or construction activities within the public
1047 right-of-way or public road, including the making and refilling any opening or
1048 replacing any permanent improvement shall be borne by the utility facility
1049 operator or owner at whose request such opening is made. If work is performed
1050 by the City on behalf of or at the request of a utility facility owner or operator, all
1051 charges therefore shall be in such amounts as may be fixed by the Public Works
1052 Director, subject to the approval of the Mayor and City Council, except in
1053 emergency or unusual circumstances in order to protect the health and safety of
1054 the public or City or other public facilities, and with such cost to be fully
1055 reimbursed to the City. The Public Works Director shall, likewise in each case,
1056 estimate the cost of replacing permanent improvements and shall have authority

to replace or require the replacement of all of a sidewalk or public road when it is necessary to put the sidewalk or public road in as good condition using materials of equal or better quality as before the excavation or opening. All such cost, whether computed from a schedule fixed by the Public Works Director or embodied in an estimate made under this Chapter by the Public Works Director, shall be paid before the work is done by the City or the permit is granted, except in emergency circumstances.

(f) *Permit maintained on-site.* The permit granted by the Public Works Director to conduct activities within the public rights-of-way or public road or sidewalk, shall be maintained on the work site and displayed to any official of the Public Works Department, police, or other City official upon request.

(g) *Signage.* In order to identify the work during installation, the permittee shall place a card, or sign, on the public road near the work before beginning the work authorized by the permit. The sign shall be visible from the traveled way and shall be placed not less than six (6) feet above the ground and at least one per mile. The sign or signs will be furnished to the applicant by the Public Works Department along with the approved permit.

(h) *Effective period of permit.* If work begins within 12 months after issuance, and unless otherwise provided in the Manual, the permit shall be in effect for an indefinite period of time from and after the date issued, unless sooner revoked by mutual consent or by the Director for failure of the applicant to abide by the terms and conditions of the permit or by operation of law. A permit is automatically revoked when the activity for which the permit is issued ceases or is abandoned.

(i) *Notice of Commencement of Work.* Permittee shall notify the Public Works Department in writing at least 24 hours before starting any work under the permit. Permittee must present its work schedule and plan for traffic control for approval of the Director or designee.

(j) *Notice of work completion.* Permittee shall notify the Public Works Department when the work authorized by the permit is completed so that an inspection can be made by the Department to ensure that the provisions of the permit have been met and that all areas within the right-of-way or public road have been adequately restored.

(k) *Time limit on beginning work.* If the applicant fails to commence installation of the utility facility or other miscellaneous activity covered by the permit within 12 months from the date the permit is issued, said permit shall be deemed null and void and all privileges thereunder forfeited, unless a written extension is obtained from the Director.

(l) *Working without a permit.* It shall be unlawful and a violation of this Chapter to perform any of the activities relegated by this Chapter within the public rights-of-way or public roads, without complying with the permit requirements promulgated by the Public Works Department or of this Chapter. If any person commences any excavation or construction work, excluding emergencies as defined in this Chapter, within the public rights-of-way or public roads without a permit, the

1100 person shall be in violation of this Chapter and subject to all remedies available
1101 to the City, including, but not limited to, the immediate cessation of all activities
1102 and removal of all equipment for the public road or right-of-way.

1103 (m) *Signed application/indemnification agreement required.* The Public Works
1104 Director shall not grant any permit to conduct construction or installation activities
1105 within the public right-of-way or for an excavation underneath sidewalks or public
1106 roads for any purpose, unless the application for that use in each instance is
1107 signed by the utility facility operator or owner of the proposed utility facility, who
1108 shall enter into an indemnification agreement with the City binding the utility
1109 facility operator or owner and the operator or owner's successor in title. The utility
1110 facility operator or owner shall agree to indemnify the City, its officers, employees
1111 and agents from any and all claims, litigation or damages to either persons or
1112 property, both public and private, caused by the installation, construction or
1113 maintenance of the excavation or opening and shall agree that the Public Works
1114 Director shall have the right to have said excavation closed and filled at any time
1115 the Public Works Director determines and the owner and/or its excavator/agent
1116 shall vacate the area beneath the public right-of-way, public road, or sidewalk
1117 when requested to do so by the City without cost to the City.

1118 (n) *Supervision of work.* All such excavations or openings, except as provided in this
1119 Chapter for emergency work, shall be made and refilled and permanent
1120 improvements shall be replaced by or under the supervision of the Public Works
1121 Director or designee. The work in each instance shall be done under the
1122 supervision and to the satisfaction of the Director. Any person violating this
1123 section shall be required to close the excavation or opening and remove any
1124 obstructions upon the direction of the Director. If such notice is not complied with,
1125 such encroachment shall be removed by the Director at the utility facility
1126 operator's or owner's expense.

1127 (o) *Conditions of maintaining a permit.*

1128 (1) The Public Works Director is authorized to establish and publish a list of
1129 conditions and requirements for all construction, repair, maintenance, and
1130 other activities within the public right-of-way and public road, including,
1131 among other things, the power to establish, from time-to-time the
1132 reasonable cost of reimbursable fees not inconsistent with this Chapter.
1133 Said conditions shall contain, but shall not be limited to:

1134 a. Utility operator's or owner's providing a notice of any other known
1135 utility facilities at the described location which may be impacted by
1136 the work proposed under the permit and the date of the proposed
1137 work;

1138 b. Traffic protection plan;

1139 c. Emergency plan;

1140 d. Clear identification of all construction and maintenance sites,
1141 vehicles, metal plates and other obstacles with the name and

- 1142 phone number of the utility owner and the person performing the
1143 work;
- 1144 e. Construction plans to show length of cut, construction activity to
1145 install the equipment, size, type and location of utilities in the rights-
1146 of-way and technical specifications for road rehabilitation;
- 1147 f. Placement of warning signs identifying construction and
1148 excavation-site;
- 1149 g. Replacement of decorative sidewalk style and material;
- 1150 h. Coordination of excavation and paving activities between and
1151 among any persons;
- 1152 i. Placement and removal of paint markings for utility locations;
- 1153 j. Bonds, insurance and other financial protection for the City;
- 1154 k. As-built plans and drawings in a form specified by the Public Works
1155 Department. Permittee shall not be required to supply proprietary or
1156 trade secret information. No person shall artificially underestimate
1157 the size of their proposed system to evade the purpose of this
1158 Chapter;
- 1159 l. Permittee shall provide to the Public Works Department a list
1160 identifying all subcontractors used by a permittee on a construction
1161 or excavation project. The list shall include the name and telephone
1162 number of the subcontractors; and
- 1163 m. Any other requirements, limitations, or conditions that the Public
1164 Works Director may deem necessarily and proper.
- 1165 (p) *Maintenance work.* Permittee shall at all times keep utility facilities authorized by
1166 the permit in a good state of repair from the standpoint of both structure and
1167 appearance. The Director may revoke the permit and order removal of any utility
1168 facilities which become a hazard to the public or the roadway due to improper
1169 maintenance. The utility shall give 24-hours advance notice to the Public Works
1170 Department before undertaking any of the following maintenance activities within
1171 the City's right-of-way or public road:
- 1172 (1) Any work which requires the blocking of one or more traffic lanes for a
1173 period of time in excess of two hours.
- 1174 (2) Installation of any temporary structures which are to remain on the right-
1175 of-way.
- 1176 (3) The cutting, trimming or spraying of any trees or shrubs within the right-of-
1177 way.
- 1178 (4) Making any pavement cut except in an emergency.
- 1179 (5) Making any excavation within the roadbed which may remain open
1180 overnight.

- 1181 (q) *Restoration of the right-of-way and public road.* Upon the determination by the
1182 Public Works Director that all construction and excavation activity in the right-of-
1183 way or public road has ceased, within 48 hours of such determination, the utility
1184 facility operator or owner or their agent shall begin to restore the right-of-way or
1185 public road to its pre-construction condition, or to the condition determined by the
1186 Public Works Director to meet City specification. The restoration of the right-of-
1187 way or public road shall include: The repaving of all roads and sidewalks,
1188 removal of temporary utility markings, the removal of all barricades, metal plates,
1189 temporary devices, obstructions, surplus excavation material and the restoration
1190 of the appropriate vegetation. However, trees and shrubs should be planted
1191 during the appropriate season, and reasonable accommodations shall be made
1192 for such, including payment to the City in an amount sufficient to replace the
1193 trees and shrubs. All restoration shall be completed within 15 business days after
1194 the end of construction or excavation activity. Failure to comply with this section
1195 will subject all persons to the maximum penalties as set forth in this Chapter.
- 1196 (r) *Safety barriers; notice.* It shall be the duty of all persons doing any kind of non-
1197 emergency work in the public roads of the City, such as paving, laying sewers,
1198 sidewalks and curbing, moving buildings or any other work that in any way
1199 obstructs free passage thereon to notify the Public Works Director at least 24
1200 hours before the work is commenced and on its completion. It shall be the duty of
1201 the Director to see that this section is enforced, both as to the erection of barriers
1202 or enclosures and as to travel on the street by vehicles or otherwise during the
1203 time prohibited.
- 1204 (s) *Performance bond.* Persons performing construction or excavation work in the
1205 public right-of-way or public road shall, prior to initiating the construction or
1206 excavation work, provide to the City a performance and completion bond in the
1207 amount determined by Public Works Director, to be adequate to either complete
1208 the proposed work impacting the public right-of-way or public road in its entirety
1209 or to restore the public right-of-way or public road to its preconstruction condition
1210 if the person fails to complete the work to the satisfaction of the Director. No work
1211 shall commence under the permit until the bond has been submitted to and
1212 approved by the Director or designee.
- 1213 (t) *Insurance.* The Public Works Director shall require the person conducting
1214 construction activities or excavation work within the public rights-of-way or public
1215 roads to obtain a policy of public liability and property damage insurance and
1216 affording coverage of not less than \$200,000.00 for property damage resulting
1217 from a single occurrence, and \$1,000,000.00 for the death or injury of any
1218 person, subject to a limit of \$2,000,000.00 for injuries or death resulting from any
1219 single occurrence. The insurance policy or policies shall be with an insurance
1220 company authorized and licensed to do business in the State of Georgia, to
1221 protect the City from liability claims arising out of the permitted construction or
1222 excavation activities. These insurance requirements may be met by evidence of
1223 self-insurance, or any bona fide captive insurance or self-insurance program
1224 acceptable to the City. A copy of the policy or policies, or certificate evidencing

same, shall be submitted to the Director, and must be approved by the Director or designee, before any work is commenced under the permit.

- (u) *Guarding of temporary excavations.* All persons conducting construction or excavation in any public road, sidewalk or public right-of-way for any purpose shall erect around the construction of excavation work, a fence or barrier adequate to protect the public from the excavation or construction work. When the excavation or construction is being performed across the sidewalk or at a place used by pedestrians, a bridge shall be erected over the excavation or construction work sufficient for the safe passage of the public. All construction or excavation activity shall be properly lighted at night as determined by the Public Works Director. The guarding and protection of excavations or construction work shall be in accordance with State law and with specifications promulgated by the Director and as set forth in the City's utility accommodations guidelines and procedures manual, on file in the office of the Public Works Director.

Sec. 46-4010. Revocation of Permit; Administrative Appeal.

A permit may be suspended, revoked, or modified by the Public Works Director, upon a finding that the permittee is not in compliance with the permit conditions or any provision of this Chapter. Where possible, the violator will be afforded a reasonable opportunity to cure the violation before such revocation, suspension, or modification becomes effective. The permittee may pursue an appeal to the City Manager in the manner provided in subsection 46-4009(c).

Sec. 46-4011. Utility Markings.

- (a) *Temporary markings.* Prior to any utility construction, excavation or repair that may damage other utilities located in the public right-of-way, persons performing construction or excavation activities shall perform such work in compliance with O.C.G.A. § 25-9-1 et seq., or any other applicable laws or regulations, and shall, to the extent authorized by law, locate and mark the location of all existing utilities, or ensure that such location and marking has taken place prior to commencing the work. Upon the completion of all construction activities, all temporary utility location markings that are not water soluble shall be removed by the permittee or its agents.
- (b) *Permanent pavement marker.* All permanent utility markers in the public right-of-way or public road shall: Identify the owner of such utility facility, be no larger than three inches in diameter, installed flush with the pavement, and constructed with such material that in the event of failure, will not create a public safety hazard.

Sec. 46-4012. Time Limitations for Construction or Excavation in Residential Areas or Major Connectors or Arterials.

The Public Works Director shall restrict all construction or excavation activity within the public right-of-way or public roads located within residential areas, except for work performed from dawn until dusk or during the hours of 7:30 a.m. to 5:00 p.m, whichever will best ensure the safety and welfare of the public. The Director shall ensure that all permits issued for work in residential areas shall contain the above restrictions. The Director also has the discretion to limit the hours of construction or other activities within a major connector or arterial in order to ensure the public welfare.

Sec. 46-4013. Pedestrian Access.

- (a) Where it is necessary to close a portion of the pedestrian public right-of-way, only the minimum necessary width of the right-of-way shall be obstructed so as to leave a safe, passable thoroughfare not less than four (4) feet in width, and providing appropriate access at and between intersections in accordance with the Americans With Disabilities Act (the "ADA") standards, and separated from the construction area by adequate safety barriers as approved by the Public Works Director.
- (b) Where it is not possible to provide access via method (a) above, a temporary pedestrian route shall be erected utilizing a combination of the existing sidewalk, the adjacent parking lane, and/or the adjacent vehicular traffic lane at the discretion of the Public Works Director. Where a traffic or parking lane is used, appropriate barricades and signage shall be utilized to separate the pedestrian lane from the vehicular lane and the route shall be accessible as per the guidelines of the ADA.
- (c) Where the party seeking the permit has shown due diligence to perform either (a) or (b) of this section and are unable to do so due to the structural necessities of the work to be completed, proper signage must be provided at each pedestrian-accessible intersection, between which lies the permitted closure or obstruction, directing pedestrian traffic to cross to the other side of the street. Signage must be visible to pedestrian traffic both on the side of the street with the obstruction and to pedestrian traffic at intersections with access to the segment of the sidewalk containing the permitted obstruction.
- (d) The Public Works Director is prohibited from accepting, as reason for an inability to comply with items (a), (b), or (c) of this section, that the pedestrian right-of-way must be closed due to a need for vehicular parking on the site of the work being performed necessitating the closure.
- (e) All walkways mandated by this section shall be maintained by the permittee, and any damage or obstructions to this temporary right-of-way shall be repaired and cleared immediately by that party. Permittee is required to display the permit in a conspicuous place so that the public and inspectors can visibly see it.

Sec. 46-4014. Scheduling and Coordination of Excavation.

- (a) *Twelve month plans; proprietary information.* In order to facilitate an interactive planning process, persons desiring to excavate or make an opening, in the public

right-of-way or public road, as part of the compliance requirement for any permit issued, shall submit a quarterly plan in a format acceptable to the Public Works Director that show all major excavation work anticipated to be done in the public right-of-way or public road for the next 12 months. The plan shall include a method of excavation designed to protect, to the maximum extent possible, the existing infrastructure and minimize the interference with pedestrian and vehicular traffic. Plans may be revised and updated from time to time by such person. The person submitting the plans shall mark such plans as proprietary, or trade secrets, and the plans will be protected from disclosure by the City, to the extent permitted by law. Should any third party seek access to the information submitted, the City shall notify the entity submitting the quarterly plan of the request and afford such submitting entity the ability to seek intervention of the courts to prevent disclosure. This requirement shall not impose any requirement on any person desiring to cut a street to disclose confidential business information. This 12-month plan shall not require persons to disclose information on lateral construction marked protected. In addition, this information is only an estimate and will only be used for general location of construction or excavation activities of the person and no liability shall be incurred due to or on account of the submission of such projection.

(b) *Coordination of 12-month plans.* The Public Works Director shall review all 12-month plans on file in order to identify conflicts and opportunities for coordination of activities. The Director shall notify persons with a 12-month plan on file of such conflicts to the extent possible to maximize coordination of major excavation work and to avoid unnecessary and repeated excavations in a public road or public right-of-way. All persons shall coordinate, to the extent possible, major excavation with other potentially affected persons to minimize disruption of the City's public rights-of-way and public roads. The Public Works Department may schedule monthly meetings with persons who desire to work in the rights-of-way or public roads for the purpose of reviewing submitted as-built plans as required in section 46-4009. Persons who seek to perform excavation activities in the right-of-way or public road shall be required to attend such meetings. Failure to attend such meetings shall subject all persons to revocation or suspension of permits or the issuance of a stop work order.

(c) *Persons participating in joint excavation.* The permit holder shall be deemed the lead person on the joint excavation. In addition, the permit shall list the names of all persons participating in the joint excavation.

(d) *Repaving schedule.* In March of every year, the Public Works Director shall prepare for public inspection, a preliminary 12-month repaving plan showing anticipated and proposed resurfacing and repaving of the public right-of-way or public road. Upon completion, such 12-month repaving plan shall be provided to every person with a 12-month plan on file with the Public Works Department. The Director will update such plan as appropriate and provide a copy to the persons referenced in the preceding sentence.

(e) *Industry meetings.* The persons subject to this Chapter will use their best efforts to conduct industry meetings on a regular basis to try and better coordinate

excavation activities. The Public Works Department may participate in these industry meetings and endeavor to coordinate major excavation work of the City and the industry.

- (f) *Good faith efforts.* Persons subject to this Chapter will use good faith efforts to conduct joint excavation activities subject to technical, economic and competitive considerations. Joint applications shall be approved in an expedited manner and be given high priority. Any joint application shall identify the lead person responsible for the requested permitted activity. The lead person will coordinate the activities of the other persons participating in the joint project. As an incentive, to encourage joint excavation activities, the City shall implement expedited permit procedures.

Sec. 46-4015. Rehabilitation and Restoration of the Pavement.

Whenever any person desires to excavate or make an opening in any public road or public right-of-way, such person shall repair and restore the public street or public right-of-way, including milling and resurfacing, to the specifications of the Public Works Department.

Sec. 46-4016. Availability of Material and Equipment Before Starting Work.

- (a) It shall be unlawful for a person to tear up or interfere with the pavement upon a public road, public right-of-way, or sidewalk unless, immediately prior to the time the person commences the work, the person has sufficient material and equipment immediately available with which to carry out the paving proposed and the Public Works Director is satisfied that this section has been complied with. If the Director determines that the person has not complied with this section, the Director shall refuse to allow the public road, public right-of-way, or sidewalk to be torn up or interfered with, nor shall work be allowed until the person complies with this section.
- (b) Responsibility for damages. Any and all damages to a public road or public right-of-way, on either level, or damage to bridge, viaduct or tunnel structures caused by a person working within the public right-of-way or public road, must be repaired immediately at no cost to the City and to the satisfaction of the Public Works Director.

Sec. 46-4017. Emergency Excavations.

Nothing contained in this Chapter shall be construed to prevent any person from taking any action reasonably necessary for the preservation of life or property or for the restoration of interrupted service provided by a utility facility operator or owner when such necessity arises during days or times when the Public Works Department is closed. In the event that any person takes any action to excavate or cause to excavate the public right-of-way pursuant to this section, such person shall notify the Department as soon as possible or within an hour of becoming aware of the need for emergency

action, whichever is less. If the emergency takes place during non-business hours, the person shall notify the Department within one hour of the time City offices are first opened. The person shall submit a written statement of the basis of the emergency action and described excavation performed and any work remaining to be performed. Persons determined by the Public Works Director to have conducted work where an emergency situation did not exist shall be deemed to be in violation of this Chapter and subject to enforcement action authorized by this Chapter. Persons conducting emergency excavations pursuant to this section shall prominently display a notice of such emergency activity.

Sec. 46-4018. Relocation of Utility Facility.

The City shall have superior rights to the use of its public roads and public right-of-way. The City reserves the right to perform any public works or public improvement necessary to maintain its public roads and public right-of-way. The City may therefore, upon written request to a permittee, require the relocation of a utility facility which is physically within the public right-of-way or public road and in conflict with proposed construction improvements by the City or its agents. Such relocation shall be at the permittee's sole expense when the relocation is necessary to improve or maintain the public road or public right-of-way for transportation uses, or where in the Public Works Director's sound discretion, the utility facility constitutes an obstruction or interference with the safe use or safe operation of such public road or public right-of-way by the traveling public.

- (1) *Notification; failure to remove.* Whenever the Public Works Department determines, in its sound discretion, that it is necessary to have a utility facility removed and relocated, the Department shall give the utility facility's owner or operator 60 days written notice directing the removal and relocation of such utility obstruction. Upon receiving written notice from the City to remove, or relocate facilities which are using or occupying a public right-of-way which the City has to improve, the permittee shall, within 60 days thereafter, begin arrangements for said removal or relocation in accordance with said written notice from the City. Should the utility facility's owner or operator fail to comply with such notice within a reasonable time sufficient to allow for procedures reasonably necessary for the removal and relocation of the facilities, the City may give the permittee a final notice directing that such removal begin not later than ten (10) days from the receipt of such final notice.

- (2) *Removal or relocation of facilities by the City.* If the utility facility's owner or operator refuses or neglects to relocate said facilities existing in the public right-of-way within ten (10) days of receipt of such final notice, or if an emergency affecting public safety or health exists requiring immediate relocation of the utility facilities, to the extent not inconsistent with State and Federal law, the City may relocate such facilities by its own forces or by contract with any entity and the utility facility's owner or operator shall pay to the City the reasonable costs incurred in connection with such relocation.

- (3) *Payment for relocation by City.* Should the City incur any expense in the relocation of any utility facility under this section, a statement of such expenses shall be submitted to the utility facility's owner or operator, which shall make payment to the City. In the event the utility facility's owner or operator does not make payment or arrange to make payment to the City within 60 days after receipt of such statement, the Department shall certify the amount for collection by the City attorney.
- (4) *Removal or relocation of facilities for aesthetic purposes.* If the relocation of facilities in the right-of-way or public road is for aesthetic purposes or purposes not related to improving the public right-of-way for transportation purposes or to maintain the public right-of-way for health or safety reasons, then the cost of such relocation shall be borne by the requesting third party and not by the City or the utility facility's owner or operator.
- (5) *Removal or relocation of facilities by an act of God.* If an act of God necessitates the relocation of a utility facility located in the public rights-of-way or public road, the cost of such relocation shall not be borne by the utility facility's owner or operator.

Sec. 46-4018. Stop Work Order.

Upon written notice from the Public Works Director, or his or her designees or employees and all police and code enforcement personnel—who shall have such powers as are reasonably necessary to monitor, enforce and give effect to this Chapter—that construction or excavation work within the public right-of-way or public road, or any work that impacts these public areas, are being performed contrary to, or are in violation of the provisions of this Chapter, or is being done in a dangerous or unsafe manner, said construction or excavation shall be immediately stopped. The notice shall be in writing and delivered to the on-site authorized representative or designee of the person performing the excavation or construction work. The notice shall state the conditions pursuant to which the work can resume. Upon receipt of a stop work order, the person conducting the work shall utilize appropriate measures to secure and safeguard the site and equipment and to protect the health and safety of public.

Sec. 46-4019. Emergency Stop Work Order.

Nothing in this Chapter shall prevent the Public Works Director or designee to order the stoppage of all work within the public right-of-way or public road where the Director or designee determines that an emergency exists. Emergencies include, but are not limited to, factors that pose a danger to the public health, safety, and well-being of persons or property, including the public right-of-way. In such instances, no written stop work order shall be required. Only work necessary to secure and safeguard the site and equipment is permissible subsequent to the emergency stop work order. Within a reasonable time of the emergency stop work order, the Director or designee shall provide a written basis for the emergency work stoppage and include therein, the conditions under which the work may resume.

Sec. 46-4020. Enforcement.

Unless otherwise provided, the enforcement of this Chapter shall be within the jurisdiction of the City's enforcement personnel, including the Public Works Director or designees or employees and all police and code enforcement personnel who shall have such powers as are reasonably necessary to monitor, enforce and give effect to this Chapter. Specifically, but not by way of limitation, any violation of this Chapter may be tried upon citations issued by enforcement personnel pursuant to O.C.G.A. § 36-32-10.2 and any successor statute. Persons designated by the Director or as otherwise designated by the City manager, are hereby authorized to issue citations or summons or both, charging violations under this Chapter, returnable to City of South Fulton Municipal Court for a hearing. For purposes of enforcing the provisions of this Chapter, the South Fulton Municipal Court shall be entitled to take action to ensure compliance.

Sec. 46-4021. Violation of Chapter; Civil Remedies; Criminal Penalties; Restitution.

Upon a determination that a person is in violation of this Chapter the violator shall be subject to one or more of the penalties:

- (1) *Civil action.* In addition to the criminal penalties set forth in subsection (2), the City shall have the right to enjoin any act or omission in violation of this Chapter that is punishable as an ordinance violation or misdemeanor.
- (2) *Criminal penalties.* The South Fulton Municipal Court is authorized to find the violations of this Chapter for which a specific penalty is not provided, to be an ordinance violation, and any person found guilty thereof shall be punished for said violation as provided by law and Article 1 of this Code.
- (3) *Restitution.* In addition to the penalties imposed in subsections (1) and (2), a person violating any provision of this Chapter, shall be responsible for the cost incurred by the City to repair any damage to any City facilities resulting from the violation.
- (4) *Additional penalties.* The imposition of any of the foregoing penalties shall not prevent revocation or suspension of a permit by other administrative sanctions or any other relief that may be granted under law.
- (5) *Continuous and repeated violations.*
 - a. Violations of this Chapter that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief and by such other means as are provided by law. The imposition of a penalty does not prevent equitable relief.
 - b. With respect to violations of this Chapter that are continuous, with respect to time, each day the violation continues, it is a separate offense.

Sec. 46-4022. Enforcement of Other Laws, Rules or Regulations Not Limited.

Nothing in this Chapter shall limit the authority of any state, local agency, or Departments of the City to enforce any other laws, rules, regulations, or ordinances relating to the provision of water or sewer services.

Sec. 46-4023. Effect on Duly Enacted Ordinances, Rules and Resolutions.

Nothing in this Chapter is intended to repeal any other duly enacted ordinance, resolution, or parts of ordinances or resolutions of the City, except where such ordinance, resolution, or parts of ordinances or resolutions are in direct conflict with this Chapter. Any such repeal under this section shall be to the extent of such conflict only and no further.

Sec. 46-4023. Inclusion in Code of Ordinances.

The provisions of this Chapter shall be included and incorporated within the Code of Laws of the City of South Fulton, and may hereafter be numbered and re-lettered to accommodate this inclusion.

Sec. 46-4024. Severability.

In the event any section, subsection, sentence, clause, or phrase of this Chapter is declared or adjudged to be unconstitutional, or otherwise contrary to law, such adjudication shall in no manner affect any other section, subsection, sentence, clause, or phrase, which shall remain in full force and effect as if the section, subsection, sentence, clause, or phrase so declared or adjudged invalid or unconstitutional were not originally a part hereof.

CHAPTER 5. MOVING BUILDINGS AND OTHER OVERSIZE LOADS.

Sec. 46-5001. Purpose.

The purpose of this Chapter is to establish uniform permitting regulations and procedures for the moving of houses and other oversize loads on city roads, streets and bridges, thereby protecting private property and lives against loss and damage, protecting the public investment in rights-of-way, roadbeds, traffic signs and signalizations and other structures, controlling and regulating the flow of traffic and ensuring the safety of the public.

Sec. 46-5002. Variances.

The Public Works Department shall be authorized to grant a variance from the requirements of this Chapter, but only where, by reason of the exceptional historical, architectural or social uniqueness or significance of the structure, the strict application of the provisions of this Chapter would work an undue hardship upon the owner of the

structure, and provided that the grant of any variance shall not substantially impair the intent and purpose of this Chapter, and further provided that the provisions of this Chapter shall be complied with to the maximum extent possible.

Sec. 46-5003. Permits Required.

No person shall move a house or other oversize load on any city road, street or bridge without a permit to do so issued by the City Community Development Department.

Sec. 46-5004. Application.

- (a) All persons desiring to obtain a permit under the provisions of this Chapter shall make application on the form prescribed by the City.
- (b) The application shall include, but shall not be limited to, the following:
 - (1) Name, address and phone number of the mover/applicant;
 - (2) Name, address and phone number of the owner of the structure;
 - (3) Address of the present location of the structure;
 - (4) Destination of the structure;
 - (5) Name and address of insurance company;
 - (6) Total height, outside width and length of vehicle and load;
 - (7) Certification that the person making application on behalf of the mover has lawful authority to execute such application and that all requirements under this section and sections within this Chapter titled **Scope Limited** and **Conditions to Issuance** have been met;
 - (8) The proposed date and time of the move;
 - (9) A statement that the mover/applicant agrees to hold the City harmless from all claims or causes of action arising out of any damage to a public road or bridge, to persons, to public or private property caused by a permitted load or vehicle, or its private escort vehicle, and to recompense the City for any expenditures made by the City to repair such damages caused by the permitted vehicle or load.
- (c) As a condition to the issuance of a permit, the City, when deemed necessary in the interest of public safety, may require the use of a front or rear escort, or both, either or both of which may be a public safety vehicle.
- (d) All permit applications must be filed at least five (5) days prior to the date of the proposed move and shall be accompanied by a fee in the amount established by action of the City Council, a copy of which is on file in the office of the City Clerk. If the application is not approved, the fee will be refunded to the applicant, less an administrative processing charge in the amount established by action of the City Council, a copy of which is on file in the office of the City Clerk.

Sec. 46-5005. Scope Limited.

- (a) Except as authorized herein, a permit under this Chapter shall not authorize the operation of a vehicle or load with:
- (1) Total load length exceeding 75 feet;
 - (2) Total load width exceeding 14 feet, including mirrors and accessories attached thereto; or
 - (3) Total height exceeding 13 feet, six inches.
- (b) Notwithstanding any provision of this Chapter to the contrary, no vehicle or load shall be operated over any bridge with a posted weight limit which is less than the total gross weight of the vehicle and its load or less than the total gross weight permitted under this Chapter.

Sec. 46-5006. Conditions to Issuance.

In addition to compliance with other conditions imposed under the provisions of this Chapter, any person receiving a permit under this Chapter thereby certifies that such person will comply or has complied (as applicable herein) with the following conditions governing the operation of the permitted vehicle or load:

- (1) The permittee shall comply with federal and state laws and regulations.
- (2) The movement of the permitted vehicle or load will take place only on Monday through Thursday, and between 9:00 a.m. and 3:00 p.m.
- (3) The permitted load or vehicle will not be operated over any city street or road other than those described or allowed in the permit.
- (4) The operator of a permitted vehicle and load shall maintain 50-foot intervals between each vehicle load. In addition, when the normal flow of traffic becomes impeded, such vehicle or load shall move off the traveled portion of the public road until such traffic congestion has been cleared. Normal movement may then be resumed until another traffic congestion occurs.
- (5) The permittee shall maintain, during the existence of the permit, public liability and property damage insurance in at least the following amounts, provided that nothing herein shall prevent the City from requiring any additional undertaking or security as may be deemed necessary to compensate the City for any injury to any public property therein, including a bridge.

Public Liability	\$500,000.00 each accident
	\$500,000.00 each person injured
Total Property Damage	\$500,000.00

- 1663 (6) Proof of such liability insurance and other security shall accompany the
1664 permit application.
- 1665 (7) The permittee shall ensure that the operator of a leased vehicle carries on
1666 such operator's person written proof of the identity of the lessee.
- 1667 (8) The permittee shall not allow the permit to be used other than for the
1668 movement by the particular vehicle for which the permit was issued.
- 1669 (9) The minimum equipment which shall be used for moving a house is: a
1670 tandem truck, one set of tandem dollies in good condition, and one extra
1671 skidder or wrecker in good condition and capable of moving the whole
1672 load in case of a breakdown.
- 1673 (10) The permittee shall measure the house and, prior to applying for a permit,
1674 check the route stated in the permit application to ensure obstacle
1675 clearance and necessary places periodically to pull off the road for the
1676 purpose of preventing unnecessary traffic congestion.
- 1677 (11) Before moving a house, all masonry shall be removed from a masonry-
1678 veneered house.
- 1679 (12) All mailboxes, highway signs and other movable obstacles to the move of
1680 the house shall be removed as the house approaches such an obstacle
1681 and re-erected immediately after the house passes such obstacle in equal
1682 or better condition than prior to removal.
- 1683 (13) The movement shall be confined to the route stated in the application,
1684 and in no case shall exceed any straight line distance of 50 miles.
1685

1686 **Sec. 46-5007. Route Approval.**
1687

1688 Prior to the issuance of a moving permit under this Chapter, the transport route
1689 proposed by the mover/applicant must be reviewed and approved by the Public Works
1690 Department and Police Department. Unless no other reasonable alternative route
1691 exists, only those sections of city streets and roads designated as truck routes by the
1692 City shall be used for the moving of such structures.
1693

1694 **Sec. 46-5008. Revocation, Suspension or Denial.**
1695

- 1696 (a) The Public Works Director shall be authorized to deny, suspend or revoke a
1697 permit under this Chapter requested by an applicant or issued to a permittee.
1698 Permits may be denied, suspended or revoked for cause, including, but not
1699 limited to, any of the following reasons:

- 1700 (1) Failure to comply with the provisions of this Chapter;
- 1701 (2) Repeated past violations by the applicant or permittee, of a relatively
1702 minor nature;

- (3) A single but aggravated violation;
- (4) A material misrepresentation made by the applicant for a permit;
- (5) Any other facts indicating that the applicant or permittee is a poor risk with regard to the safety of the traveling public and/or damage to public property.
- (b) The City shall provide the applicant or permittee written notice of the decision to deny, revoke or suspend the application or permit. Such notice shall set forth in reasonable detail the reasons for such action and shall include notice of the right to appeal under the provisions of this Chapter.

Sec. 46-5009. Appeals.

An applicant or permittee under this Chapter shall be entitled to appeal a decision of the Public Works Director denying, suspending or revoking a permit, to the City Council or its designated hearing officer, by filing a notice of appeal with the Public Works Director within ten (10) days of the decision appealed from. The City Council or its designated hearing officer shall schedule a hearing on the appeal to be held within 30 days of the date the appeal is filed and shall provide the appellant notice of the date of such hearing. At the hearing, the permittee or applicant shall have the right to present evidence and cross-examine the City's witnesses and the City shall have the burden to show that the denial, suspension or revocation was appropriate by a preponderance of the evidence. At the conclusion of the hearing, but not later than five (5) days after the hearing, the City Council or hearing officer shall issue a decision in writing, affirming, denying or modifying the decision of the Public Works Director, which decision shall explain reasons therefor and be final. Any aggrieved applicant or permittee may appeal the decision of the City Council or designated hearing officer by filing a Petition for Writ of Certiorari with the Fulton County Superior Court in accordance with State Law.

CHAPTER 6. SIDEWALK DISTRICTS.

Sec. 46-6000. Program Established.

There is established a residential Sidewalk District program whereby eligible residential areas may petition the City to install sidewalks within their neighborhood.

Sec. 46-6001. Sidewalk District Requirements.

- (a) A Sidewalk District can only be established in residentially zoned districts where the streets or roads within the proposed Sidewalk District have been accepted by the City for perpetual maintenance.
- (b) Sidewalk construction must begin and end at existing sidewalks or public road intersections, or immediately across from public road intersections, but may extend past a public road intersection to complete the frontage adjoining the proposed sidewalk construction.

1748
1749 **Sec. 46-6002. Application and Petition.**
1750

1751 (a) *Application.* Anyone who desires to have a Sidewalk District created shall submit
1752 an application to the Public Works Director or designee. Said application shall be
1753 made on forms made available by the Director and shall at a minimum contain a
1754 plat showing the area of the proposed Sidewalk District and the location of the
1755 proposed sidewalks.

1756 (b) *Estimate of costs.*

1757 (1) Based upon the plat submitted with the application, the Director or
1758 designee shall prepare an estimate of the total project cost and pro rata
1759 cost per property owner for the creation of the proposed Sidewalk District,
1760 including the costs for the design, contracting, acquisition of rights-of-way,
1761 and inspection for sidewalk construction funded by the Sidewalk District.
1762 The Director's estimate may not establish a limit on the amount of the
1763 project costs and may not limit the amount that may be assessed against
1764 the property owners.

1765 (2) If the application is incomplete or does not contain information sufficient
1766 for the Director to prepare the estimate, then the Director shall return the
1767 application to the applicant within 30 days of receipt, indicating the
1768 additional information required. Otherwise, the Director shall prepare the
1769 estimate of costs and send the estimate to the applicant within 90 days of
1770 receipt of a complete application.

1771 (c) *Petition.*

1772 (1) *Circulation.* The applicant shall be responsible for gaining the required
1773 signatures on a Sidewalk District petition from property owners within the
1774 proposed Sidewalk District.

1775 (2) *Contents.* The petition shall contain the name, property address within the
1776 proposed Sidewalk District, mailing address, and phone number of all
1777 property owners who sign the petition. If the property owner does not
1778 reside at the property within the Sidewalk District, then the petition shall
1779 contain both the property address within the district and the property
1780 owner's actual address outside the district.

1781 (3) *Plat.* The petition shall have attached to it a copy of the plat submitted to
1782 the Director showing the boundaries of the proposed Sidewalk District and
1783 a copy of the Director's estimate of the total project cost and the pro rata
1784 cost per property owner.
1785

1786 **Sec. 46-6003. Procedure.**
1787

1788 (a) *Return of petition.* The petition for creation of the proposed Sidewalk District must
1789 be returned to the Public Works Director within 90 days after the Director notifies
1790 the applicant that the preparation of the estimate of costs and pro rata costs for

the project is complete; however, the Director has the discretion, for good cause shown, to extend the time for the return of the petition an additional 30 days, for a total of 120 days, when a request for such extension is made by the applicant to the Director before the expiration of the original 90-day period.

(b) *Signatures.* No assessment shall be made against abutting property unless the same is consented to in writing by the owners of 51 percent of the property abutting such improvements. Said consent shall be deemed to have been given if the requisite number of signatures of such abutting property owners is included in the petition requesting the proposed sidewalks and the creation of the assessment district.

(c) *Notice.* Upon the timely receipt of a petition containing the required number of signatures, the Director shall cause the matter to be placed upon the City Council's public hearing agenda for a hearing on the creation of the proposed Sidewalk District. The Director or designee shall cause a notice to be published in the City's legal organ or a newspaper of general circulation in which the County sheriff's advertisements are published at least once ten (10) days prior to the date of said hearing, which notice shall give a brief description of the subdivision in which the work is to be done, the nature of the improvements to be made and the beginning and terminus of the road or street upon which such improvements are to be made, and such notice shall set forth the time and place of the hearing.

(d) *Notification of decision.* Within 60 days of a final decision on the petition by the City Council, the Director or designee shall notify by certified mail, return receipt requested, each affected property owner of the decision of the City Council. If the final decision is an approval of the petition, then the Director shall notify each affected property owner by certified mail, return receipt requested, of a good faith estimate of the individual assessment. A final decision means the approval or denial of the petition by the City Council.

Sec. 46-6004. Funding.

(a) *Assessment.* Each owner of property abutting the sidewalks shall be assessed a share of the cost to be funded by the District, which cost shall be added to the ad valorem property taxes for each owner as provided in this section. No assessment shall be made against abutting property, unless the same is consented to in writing by the owners of 51 percent of the property abutting such improvements. Abutting shall mean adjacent to, contiguous with, or adjoining.

(b) *Pro rata costs.* Each property owner's share of the cost shall be determined as follows: the total cost of the project shall be calculated by the City, and the figure so derived shall be known as the total project cost. The City shall next determine the linear feet of sidewalk that was constructed. The total cost shall then be divided by the total linear feet of sidewalk to derive the cost per foot. Each property owner abutting the sidewalks shall then be assessed an amount that equals the linear feet of street frontage the property owner has, multiplied by the cost per foot.

- (c) *Payment.* The sidewalk tax assessment shall be paid by one of two options, as follows:
- (1) *Option one.* The assessment may be paid in cash by the property owner within 90 days of the mailing of the assessment by the City. If paid under this option, the assessment will not bear an administrative fee, and no lien shall be recorded against the property. Payment shall be made to the City of South Fulton and delivered to the Public Works Department. If payment is not made in full within 90 days of the City's initial billing of the assessment, then payment option two shall automatically take effect. Once option two is in effect, the payment via option two shall be the property owner's sole option until all assessment payments are satisfied.
- (2) *Option two.* The assessment shall be paid in five equal annual installments. Payment of each such assessment shall be due and payable within 60 days from the mailing by regular mail of a bill from the City's Finance Director. In the event option two is selected, the cost of processing, administration, recording the lien, and satisfaction of such lien shall be added to the assessment.
- (d) *Proration.* The property owner shall advise any purchaser of its property within the Sidewalk District of the assessment. The property owner may conduct a proration of the assessment with the purchaser. The City shall not be responsible for the proration of the assessments between sellers and purchasers, nor shall the City be under any duty to notify any purchaser of the existence or liability for the assessment.
- (e) *Delinquent assessment payment.* If the assessment is not paid when due, the assessment shall be collected in the same manner as delinquent ad valorem taxes and shall be subject to the same interest and penalties.
- (f) *Assessment constituting lien against property.* The assessment shall constitute a lien against the property and shall be recorded by the City Manager or designee in the lien records of the clerk of the Fulton County Superior Court.
- (g) *Processing and administration fee established.* The fee for processing and administration of this option shall be established by the Finance Director and approved by the City Council.

CHAPTER 7. ADOPT-A-SPOT PROGRAM.

Sec. 46-7000. Program Established.

There is established an Adopt-a-Spot Program whereby eligible citizens, businesses, and civic and community groups may apply to the City to adopt a section of the right-of-way of the City roads to plant and maintain landscaping and to provide for litter pickup, and to be recognized for their efforts. The Public Works Department shall create and maintain a policy for the Adopt-a-Spot Program.

Sec. 46-7001. Fees.

The City Council shall approve by resolution the establishment of any fees required to implement the policy created by the Public Works Department.

CHAPTER 8. ASSEMBLAGES IN PUBLIC PLACES.

DIVISION 1. GENERALLY.

Sec. 46-8000. Definitions.

The following words, terms, and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

City manager means the city manager of the City of South Fulton, Georgia. The City Manager may delegate his authority or be assisted by other employees as required.

Event means any march, meeting, demonstration, picket line, procession, motorcade, rally, or gathering for a common purpose, consisting of persons, animals, or vehicles or a combination thereof upon or in the streets, parks, or other public grounds within the City that interferes with or has a tendency to interfere with the normal flow or regulation of pedestrian or vehicular traffic or that endangers or has the possibility of endangering the public's health, safety, or welfare.

Organization or group of private persons means a group of three or more persons, or their representatives, acting as a unit.

Private purpose means any purpose not commanded or directed by law, statute, ordinance, or regulation to be performed.

Sec. 46-8001. Violations and Penalties.

Any person who violates, or fails to comply with, any provision of this Chapter may be punished as provided in Title 1 of this Code.

Sec. 46-8002. Exceptions.

This Chapter shall specifically not apply to funeral processions; neighborhood parades, provided activities remain solely within the boundaries of such neighborhood; sporting events; school students going to or from classes or participating in properly supervised and sponsored activities; governmental entities acting within the scope of their functions; and other activities as provided for by law or regulation.

Sec. 46-8003. Duties of City Manager.

The City Manager shall have the following duties:

- 1921 (1) To prepare and provide the necessary forms for the application of a permit
1922 and for the submission of any required information needed to review an
1923 application, administer, and enforce this Chapter.
- 1924 (2) To review an application submitted for completeness and to collect a
1925 permit licensing fee in the amount to be determined by resolution of the
1926 Council which is equal to the administrative costs of processing the
1927 application plus the costs for the use of city services or property, unless
1928 the activity is conducted for the sole purpose of public issue speech
1929 protected under the First Amendment for which no costs are assessed for
1930 city services and property.
- 1931 (3) To designate or coordinate sites and set time schedules; to coordinate
1932 with county authorities; and, where appropriate, to receive the approval of
1933 the State Department of Transportation, the County Sheriff, or other
1934 necessary public officials.
- 1935 (4) To issue a permit within ten (10) days of receipt of an acceptable and
1936 complete application.
- 1937 (5) To deny a permit within ten (10) days of receipt of an application if the
1938 application is not complete or for any reasons explicitly designated by this
1939 Chapter.
1940

1941 **Sec. 46-8004. – 46-8010. Reserved.**
1942

1943 **DIVISION 2. PERMIT.**
1944

1945 **Sec. 46-8011. Required.**
1946

1947 Every person, organization, or group of private persons wishing to use public property
1948 or public roads in the City for an event as defined in this Chapter is required to obtain a
1949 permit from the City for the privilege of engaging in the event within the City, unless
1950 such permit requirement is prohibited under State Law or the event is otherwise
1951 protected from this requirement by Federal or State Law.
1952

1953 **Sec. 46-8012. Application.**
1954

1955 Every person, organization, or group of private persons required to procure a
1956 permit under the provisions of this Chapter shall submit an application for the permit to
1957 the City Manager, which application shall conform to the requirements of this Chapter in
1958 addition to the following:

- 1959 (1) Unless otherwise provided herein, each application shall be filed upon
1960 forms provided by the City and submitted to the City Manager within a
1961 reasonable time prior to the planned event for security purposes,
1962 verifications, and arrangements. A reasonable time shall in this instance
1963 be construed to mean a time of at least 15 days but no more than 60 days
1964 prior to the planned event. The City Manager shall act upon the

1965 application within ten (10) days of the receipt of a completed application. A
 1966 person may make an emergency application to the City Manager if an
 1967 unforeseen circumstance arises requiring a response within less than ten
 1968 (10) days. The City Manager shall exercise reasonable discretion to
 1969 determine if an emergency exists and, subject to this Chapter, grant or
 1970 deny such permit.

1971 (2) Each application shall set forth the following information:

1972 a. The name, address, and telephone number of the person, if the
 1973 applicant is an individual, or the name, address, and telephone
 1974 number of an applicant corporation, partnership, organization, or
 1975 group;

1976 b. Date, time, and location where the proposed event is to take place,
 1977 including proposed routes of travel on public streets to be used for
 1978 the event;

1979 c. Description of activity involved with the event;

1980 d. An approximate number of persons, animals, and vehicles which
 1981 will be involved with the event;

1982 e. Names, home addresses, and telephone numbers of individuals
 1983 involved with the applicant, if not an individual, who have oversight
 1984 responsibility for the organization and conduct of the event on
 1985 behalf of applicant;

1986 f. A description of any recording equipment, sound amplification
 1987 equipment, signs, or other attention getting devices proposed to be
 1988 used during the event;

1989 g. Plans for disposal of trash and cleanup of the event area; first aid
 1990 provisions; vehicle and trailer storage provisions; and toilet facilities
 1991 available to event participants; and

1992 h. Any additional information which the City Manager may find
 1993 reasonably necessary to the fair administration of this Chapter
 1994 which may include a complete record of all arrests and convictions
 1995 against the applicant and every partner, officer or director of the
 1996 applicant for violations of any and all laws and ordinances of the
 1997 City, County, State, or Federal government, other than minor traffic
 1998 violations.

1999 (3) The application is signed and sworn to by the applicant if an individual, or
 2000 by a partner, if a partnership, or by an officer, if a corporation.

2001 (4) All information furnished or secured under the authority of this Chapter is
 2002 kept and maintained by the City and is utilized only by the officials of the
 2003 City responsible for administering these provisions.

2004 (5) Any false statement in an application for a permit may be grounds for
 2005 revocation or denial of the permit application.

Sec. 46-8013. Procedure for Application Review.

- (a) Upon receipt of a complete application for permit, the City Manager shall have it reviewed by all applicable city departments, the services of which may be impacted by the event.
- (b) Upon receiving reports from the city departments, which reports shall be received no later than eight (8) days after submission of a completed application, the City Manager shall consider the impact of the event as to whether it will unreasonably disrupt and obstruct the necessary flow of pedestrian or vehicular traffic or endanger the public's health, safety, or welfare.
- (c) As part of the City Manager's review, conditions may be made for alternate routes and locations of the event to ameliorate issues of traffic flow and public safety, which conditions shall attach to the permit, if issued.
- (d) The City Manager shall also review an applicant's plans for:
 - (1) Trash clean up and disposal provisions;
 - (2) First aid provisions;
 - (3) Vehicle and trailer storage provisions; and
 - (4) Toilet facilities available to participants.Should the City Manager determine an applicant's plans presented for these services to be inadequate, the application may be denied for said reason(s).
- (e) Upon completion of the review of the application, the City Manager shall issue a permit for the event, including its proposed routes of travel, if the City Manager finds the event can occur without unreasonably impacting upon the use of the public streets, public property, and resources of the City and without endangering the public's health, safety, and welfare.
- (f) Any person whose application under this Chapter is denied by the City Manager may appeal such denial within three (3) business days after the denial to the Mayor and City Council by filing a notice of said appeal in writing with the City Manager. The Mayor and City Council shall consider such appeal at the next regularly scheduled meeting following the filing of the appeal.
- (g) The Mayor and City Council, in considering the appeal, shall determine if good cause exists for denial of the permit and, after hearing and receiving all evidence, shall either uphold the decision of the City Manager or reverse the decision and grant a permit. In reversing, the Mayor and City Council may attach any requirements deemed necessary to the permit, as conditions to its issuance for protection of the public health and safety.

CHAPTER 9. SPECIAL EVENTS.

2047 **Sec. 46-9000. Definitions.**

2048
2049 The following words, terms and phrases, when used in this Chapter, shall have
2050 the meanings ascribed to them in this section, except where the context clearly
2051 indicates a different meaning:

2052 *Film production* includes motion picture, television, video, educational film, and
2053 photography.

2054 *Producer* means any person responsible for planning, producing and conducting
2055 a special event.

2056 *Special event* means any organized for-profit or nonprofit activity having as its
2057 purpose entertainment, recreation and/or education which (i) takes place on public
2058 property or (ii) takes place on private property, but requires special public services and
2059 which is permitted by the City under this Chapter. Gatherings or activities that take
2060 place on private property and that make no use of city streets, other than for lawful
2061 parking, are not subject to the provisions of this Chapter, but shall comply with all other
2062 requirements specified by ordinance as to the use of residential property. No special
2063 event other than film production, as defined above, shall be allowed to exceed six (6)
2064 days in any 30-day consecutive period of time.

2065 By way of example, special events include, but are not limited to; fairs, tours,
2066 grand opening celebrations, races, rallies, festivals, concerts, holiday celebrations,
2067 bicycle runs, and block parties. Private social gatherings which will make no use of city
2068 streets other than for lawful parking are not included. Garage sales, lawn sales,
2069 rummage sales, flea market sales, or any similar casual sale of tangible personal
2070 property are not included.

2071 *Special event permit*, when used hereafter, shall mean and include film
2072 production special event permit unless specifically stated otherwise.

2073 *Vendor* means any person or persons or entity who engages in the sale to the
2074 public of any food or food products, goods, services, or merchandise of whatever nature
2075 from any location, either mobile or stationary, on a temporary itinerant basis on any
2076 public street, sidewalk, or right-of-way as an authorized participant of the special event.
2077

2078 **Sec. 46-9001. Penalties for Violation.**

2079
2080 Any person who violates, or fails to comply with, any provision of this Chapter may be
2081 punished as provided in Title 1 of this Code.
2082

2083 **Sec. 46-9002. Permit Conditions.**

- 2084
2085 (a) It shall be unlawful for a Special Event to occur in the City without having first
2086 obtained a permit for such Special Event.
2087 (b) All permits issued pursuant to this Chapter shall be temporary and shall not vest
2088 in the holder any permanent property rights in a permit.

2089 (c) The location of a Special Event must comply with all existing zoning
2090 requirements of the City, and there must be sufficient lawful parking available. An
2091 application for a permit shall be subject to review by the Community
2092 Development Director to determine compliance with zoning requirements.
2093 Administrative exceptions are subject to the approval of the City Manager.

2094 (e) Unless specifically provided otherwise, a Special Event is subject to and must
2095 comply with any and all other applicable ordinances of the City.
2096

2097 **Sec. 46-9003. Application.**
2098

2099 (a) The Producer of a Special Event shall make application for a permit for the
2100 Special Event on a form prescribed by the City.

2101 (b) An application for a Special Event permit, other than a film production Special
2102 Event permit, shall be filed at least 60 days prior to the date the Special Event is
2103 scheduled to take place; provided, however, no application shall be accepted
2104 earlier than one (1) year prior to the date of the special event.

2105 (c) An application for a film production Special Event permit shall be filed at least five
2106 (5) days prior to the date the filming is scheduled to take place; provided,
2107 however, no application shall be accepted earlier than one (1) year prior to the
2108 date of the filming and provided further no more than one such permit shall be
2109 issued quarterly for any one residential location and of no more than 14
2110 consecutive days in duration, unless previously requested and approved by the
2111 City Manager.

2112 (d) Each application for a Special Event permit shall be accompanied by a
2113 nonrefundable application fee in such amount as may be set from time to time by
2114 resolution of the City Council.

2115 (e) All Producers of a Special Event shall be properly identified on the application;
2116 provided, however, a special event permit shall be issued only to an individual
2117 person. Therefore, if a group, organization, association, or other entity is
2118 producing the special event, a designated agent of the Producer shall be named
2119 for purposes of the permit, and this individual shall be solely and fully responsible
2120 for compliance with all provisions, including all financial requirements of this
2121 Chapter and other applicable laws.

2122 (f) The application for a Special Event permit, other than a film production Special
2123 Event permit, shall include the following information:

2124 (1) Purpose of the Special Event;
2125 (2) Name, address, e-mail address, and telephone number of the sponsoring
2126 entity or person in addition to the person named in subsection (d) of this
2127 section;

2128 (3) Proposed date, location, and hours of operation, but in no event earlier
2129 than 8:00 a.m. nor later than 11:00 p.m. in residential zoned locations and
2130 in no event earlier than 8:00 a.m. nor later than 12:00 midnight in
2131 commercial zoned locations;

- 2132 (4) Schedule of proposed activities;
2133 (5) Projected attendance at the special event;
2134 (6) Plans for parking, restroom facilities, and sanitation concerns;
2135 (7) Plan for crowd and traffic control.
- 2136 In addition, the City or any of its departments may require any other information
2137 deemed reasonably necessary to determine that the permit meets the
2138 requirements of this Chapter.
- 2139 (g) All Film Productions shall comply with Chapter 10 of this Title in addition to any
2140 applicable provisions of this Chapter 9. Wherever the provisions of this Chapter
2141 9 conflict with Chapter 10 concerning permits for Film Production, the provisions
2142 of Chapter 10 shall control for those purposes.
- 2143 (h) Two copies of a to-scale survey of the proposed location for the Special Event
2144 shall accompany the application and shall accurately depict the proposed
2145 location of the Special Event, all buildings, structures, parking, and curb cuts
2146 permanently located on the site. The survey shall further show the proposed
2147 temporary location of any and all buildings, structures, and parking to be
2148 associated with the proposed Special Event. Moreover, the entire location shall
2149 comply with the City's standards for setbacks.
- 2150 (i) Each City department and/or agency whose services would be impacted by the
2151 Special Event shall review the application and recommend in writing any
2152 conditions or restrictions deemed necessary. Special conditions or restrictions
2153 recommended by the City Manager or designee shall become a condition of the
2154 permit.
- 2155 (j) The following standards shall be considered in reviewing the application:
- 2156 (1) A Special Event permit may be issued only after an adequate plan for
2157 crowd and traffic control, as well as security, has been presented, and,
2158 when deemed necessary, employment of off-duty, uniformed South Fulton
2159 Police Officer(s) shall be utilized. If South Fulton Police Officer(s) are not
2160 available, then a P.O.S.T. certified police officer(s) may be utilized after
2161 they have been verified by the City and obtained by the Producer.
- 2162 (2) A Special Event permit may be issued only after an adequate plan for fire
2163 inspection/prevention and/or fire code enforcement and, when deemed
2164 necessary, employment of off-duty, uniformed fire personnel has been
2165 verified by the City and obtained by the Producer.
- 2166 (3) A Special Event permit may be issued only after an adequate EMS plan
2167 and, when deemed necessary, employment of off-duty medics who are
2168 state-certified EMT or paramedics has been verified by the City and
2169 obtained by the Producer.
- 2170 (4) A Special Event permit may be issued only after adequate waste disposal
2171 facilities have been determined by the City and obtained by the Producer.
2172 The Producer shall be required to clean the right-of-way or public property

2173 of rubbish and debris, returning it to its pre-special event condition, within
2174 24 hours of the conclusion of the Special Event. If the Producer fails to
2175 clean up such refuse, cleanup shall be arranged by the City, and the costs
2176 incurred for this service shall be charged to the applicant.

2177 (5) A Special Event permit granted by the City may provide for the City to
2178 close designated streets and intersections to allow use of the public right-
2179 of-way for the Special Event during designated hours and days.

2180 (6) The sound level of any special event must comply with the City Noise
2181 Ordinance, as applicable.

2182 (k) After all of the requested information pertaining to the Special Event has been
2183 submitted, reviewed, and approved, a permit may be issued upon payment of all
2184 applicable fees and costs. The Special Event Permit, as well as any other
2185 permits required in conjunction with the Special Event, shall be posted on site
2186 during the Special Event.

2187 (l) Should a permit be denied, the Producer shall be notified in writing of the denial.
2188

2189 **Sec. 46-9004. Permit Fees.**
2190

2191 (a) Each City department and/or agency whose services would be impacted by the
2192 Special Event shall itemize the departmental activity required for the Special
2193 Event, showing the hourly rate and the actual and reasonable total cost. The
2194 "total costs to the City" shall be the sum of each department's costs. The City
2195 Manager shall determine and calculate a reasonable fee to reimburse the City for
2196 its services.

2197 (b) A cash bond may be determined to be appropriate by the City, and in this event
2198 the City shall advise the Producer of the amount, and this bond shall be remitted
2199 to the City before the Special Event Permit is issued.

2200 (c) The initial permit fee shall be paid in full prior to the issuance of the permit and in
2201 any event no later than 72 hours prior to the date of the event.

2202 (d) The fees required in this Chapter shall be in addition to any other fees which may
2203 be required by any other applicable ordinances or regulations.

2204 (e) No Producer of any Special Event, except as may otherwise be provided herein,
2205 shall be exempt from the payment of the appropriate fees and charges required
2206 under this Chapter.

2207 (f) Should a Producer desire to have use of any equipment owned by the City, such
2208 as barriers, traffic cones, and the like, an additional fee, as may be established
2209 from time to time by resolution of the City Council, shall be paid so as to cover
2210 the reasonable cost for use of the equipment, as well as the delivery and return
2211 of the items by city employees.

2212 (g) Notwithstanding any provision to the contrary, the Producer of any Special Event
2213 associated with and benefiting the cause of a charitable organization, recognized
2214 as such by the Internal Revenue Service under section 501(c)(3) of the Internal

Revenue Code, shall be excused by the City Manager from the permit fee requirement, but may be required to post the bond described in subsection (b) of this section. Criterion to be considered in determining the appropriateness of requiring a bond shall include the impact of the event on the cost of services to be provided by the City and on the general public health, welfare, or safety of the City.

Sec. 46-9005. Liability.

- (a) At the discretion of the City, prior to issuance of a permit, the Producer shall provide to the City proof of comprehensive liability insurance naming the City as an additional insured. The insurance requirement is a minimum of \$300,000.00 personal injury per person, \$1,000,000.00 maximum, and \$100,000.00 property damage against all claims arising from permits issued pursuant to this Chapter.
- (b) The Producer of any special event shall provide a written agreement in a form satisfactory to the City providing the Producer shall defend, indemnify, and save harmless the City, its officers, employees, and agents from liability of all personal injury or property damages arising from any acts or omissions emanating from a Special Event and from any and all claims, attorney fees or lawsuits for personal injury or property damage arising from or in any way connected to the Special Event. The agreement shall be filed with, and made a part of, the application form.
- (c) The City, its officials, employees, or agents shall not incur any liability or responsibility for any injury or damage to any person in any way connected to the use for which the permit has been issued. The City, its officials, employees, or agents shall not be deemed to have assumed any liability or responsibility by reasons of inspections performed, the issuance of any permit, or the approval of any use of the right-of-way or other public property.

Sec. 46-9006. Vendors of Food and Merchandise.

- (a) The sale of food and/or merchandise by vendors shall be allowed as a component of a Special Event provided each vendor is authorized to participate in writing by the Producer of the event and provided further each vendor shall be subject to all conditions and limitations as shall be imposed in writing by the Producer and submitted as part of the application for a permit.
- (b) The Producer of a Special Event shall have sole responsibility and control of all food and merchandise vendors as a component of a Special Event and to designate the location and activities of such vendors.
- (c) Authorized vendors of the Producer providing food and/or merchandise shall not be required to obtain a separate vendor permit to operate during the Special Event.

- (d) Notwithstanding the provisions of subsection (c) of this section, food vendors authorized by the Producer shall be required to comply with rules and regulations of the County Health Department as to the preparation and service of food.

Sec. 46-9007. Vendors of Alcoholic Beverages.

The dispensing of alcoholic beverages, by sale or otherwise, shall be allowed as a component of a Special Event provided each vendor is authorized to participate by the Producer and provided further each vendor dispensing alcoholic beverages shall have been duly licensed by the State and the City and shall further have complied with all provisions of this Code relating to the sale of alcoholic beverages off-premises at an authorized function or event.

Sec. 46-9008. Miscellaneous Provisions Regarding Vendors.

- (a) Each vendor authorized by the Producer of the Special Event shall prominently display on his or her person a badge provided by the Producer and identifying the vendor as an authorized participant in the Special Event which shall bear the signature of the Producer or designated agent.
- (b) It shall be unlawful for any vendor not authorized by the Producer as provided herein to engage in any business within a distance of 100 yards of the Special Event from one hour before the start of the special event, and until one hour after the conclusion of the Special Event.
- (c) A Special Event permit granted by the City may provide for the City to close designated streets and intersections to allow use of the public right-of-way for the Special Event during designated hours and days. The Producer shall bear all responsibility for having all vendors remove any structures and all trash and debris from the designated area by not later than the time stated under the permit for re-opening of all streets.

Sec. 46-9009. Other Permits.

- (a) The purpose of this Chapter is to allow the City's departments and staffs to review an application for a Special Event Permit outside the regular ordinance standards in order to determine how disruptive a Special Event may be to the ordinary use of parks, public streets, rights-of-way, or sidewalks and to make recommendations and allowances. Administrative guidelines issued by the Community Development Department shall be followed by the City in allowing specified signage and advertising may deviate from the requirements of the City Zoning and Sign Ordinances upon approval of a Special Exception by the City Manager or designee. Recommendations, allowances and Special Exceptions made by the City Manager or designee shall become conditions of the permit to be followed and carried out by the Producer.
- (b) Notwithstanding subsection (a) of this section the holder of a resident or nonresident license to sell and dispense alcoholic beverages shall obtain an off-

premises license and event permit for pouring alcoholic beverages for an authorized function or event as provided in this Code if said licensee is authorized to participate by the Producer.

Sec. 46-9010. Denial or Revocation of a Special Event Permit.

- (a) Reasons for denial of a Special Event Permit include, but are not limited to:
- (1) The Special Event will unnecessarily disrupt traffic within the City beyond practical solution;
 - (2) The Special Event will interfere with access to fire stations and fire hydrants;
 - (3) The location of the Special Event will cause undue hardship to adjacent businesses or residents;
 - (4) The Special Event will cause unnecessary disruption of public services which would unreasonably impact the remainder of the City;
 - (5) The application contains incomplete or false information; and
 - (6) The producer fails to comply with any terms required by this Chapter.
- (b) Reasons for revocation of a Special Event Permit include, but are not limited to:
- (1) False or incomplete information on the application;
 - (2) Failure to comply with all terms and conditions of the permit;
 - (3) Failure to arrange for or adequately remit all fees, deposits, insurance or bonds to the City; and
 - (4) Existence of disaster, public calamity, riot or other emergency as the City determines, in its sole discretion, to be an impact upon the public health, safety and welfare.
- (c) A special event permit may be denied, suspended, or revoked by the City, if the Chief of the Police Department, the Chief of the Fire Department, or their designees, determines that the health, welfare, or safety of the public may be endangered.

Sec. 46-9011. Appeals.

- (a) Any Producer whose Special Event Permit application has been denied or revoked may request in writing a review of this decision by the Mayor and City Council. This request must be in writing and received by the City Manager within five (5) days of the permit denial or revocation.
- (b) The Mayor and City Council shall hold a hearing to review the application and reasons for the denial or revocation of the Special Event Permit at the next regularly-scheduled public meeting and shall issue a decision at the end of the hearing whether to uphold or reverse the previous decision and grant or reinstate

the permit with such additional conditions as the Mayor and City Council may deem justified by the evidence. At the hearing, evidence may be submitted by the Producer addressing why the permit should have been granted or not revoked and by the City manager addressing why the permit was denied or revoked

- (c) Should the Producer be dissatisfied with the decision of the Mayor and City Council, the Producer may appeal said decision by filing a Petition for Writ of Certiorari with the Fulton County Superior Court.

CHAPTER 10. MEDIA PRODUCTIONS AND PERMITS.

Sec. 46-10000. Definitions.

- A. "Film", "Filming" or "Film Activity" shall mean creating motion picture or still photographic images, and include all activity attendant to staging or shooting commercial motion pictures, television shows or programs, commercials and student films produced to satisfy a post-secondary school course requirement at an educational institution in any medium including film, tape or digital format, including, but not limited to, motion pictures, television or commercial still photography.
- B. "Charitable Films" shall mean commercials, motion pictures, television, videotapes, digital recording or still photography produced by a nonprofit organization which qualifies under Section 501(C)(3) of the Internal Revenue Code as a charitable organization. No person, directly or indirectly, shall receive a profit from the marketing and production of the film or from showing films, tapes or photos.
- C. "News Media" shall mean the photographing, filming or videotaping for the purpose of spontaneous, unplanned television news broadcast or reporting for print media by reporters, photographers or camerapersons.
- D. "Student Film" shall mean a film where the Producer is a student enrolled in an accredited educational institution and who is enrolled in a filmmaking or television class at such accredited educational institution, either on the undergraduate or graduate level and where the primary purpose of such film is a learning experience in which the Producer fulfills whatever educational requirements such project is produced for. The Producer and/or corresponding educational institution must own the film, which may only be used for non-profit purposes.
- E. "Studio" shall mean a fixed place of business where filming activities (motion or still photography) are regularly conducted upon the premises.

- F. "Facility" shall mean any structure or building, regardless of the presence of active utilities, located on public or private property.
- G. "Residence" shall mean any single family home, mobile home, trailer, multi-family housing unit or units, apartments, condominiums, dormitory or any other structure wherein persons are legally permitted to reside.
- H. "Exigent Circumstances" shall mean conditions of property, weather, lighting, scheduling, or Filming equipment that are necessary for the scheduled Filming Activity which, if forced to wait at least five business days, would make them unavailable for use by the production through no fault of any agent of the production responsible for same, and which was not known or could have reasonably been ascertained at least five business days prior to the scheduled Filming Activity.
- I. "Expedited Review" shall mean a permit application submitted for review pursuant to this Article less than five (5) business days prior to the scheduled Film Activity, but at least eighteen (18) hours prior to the scheduled Film Activity, as a result of Exigent Circumstances.
- J. "Film Liaison" shall mean the City Manager or designee appointed to oversee all permitting activity under this Chapter, to review and approve or deny permit applications. The Film Liaison shall guide applicants through the process of review, assist in coordinating needed City services – such as police, fire, sanitation, etc. – and coordinate any other licenses and permits that may be necessary to stage the Filming Activity.
- K. "Private Property" shall mean real property owned or leased by an individual or non-governmental entity, including, for example, residential homes and commercial developments.
- L. "Public Property" shall mean real property owned, leased or controlled by the City, including, without limitation, parks, streets, sidewalks, other rights of way and buildings.
- M. "Producer" shall mean an individual, organization, corporation or other entity that is ultimately responsible for the Filming Activity that is the subject of the application and permit.
- N. "Impact," with regards to public property, shall mean (1) Use of intellectual property belonging to the City; (2) Closure of a City, County or state street, lane and/or sidewalk; (3) Use of pyrotechnics or other explosives; (4) Smoke effects, water effects or flame effects; (5) Display of real or artificial fire arms, grenades or other weapons that would cause the public to fear violence; (6) Vehicle chases and/or vehicle crashes; (7) Use of large or any other equipment that has a reasonable likelihood of causing damage

to public property; (8) Use of wild animals controlled under federal or state law or county and/or municipal ordinances; (9) Use of City or State streets and/or lanes for the parking of trailers or vehicles associated with the Filming Activity that are likely to restrict the flow of traffic; (10) If another permit and/or license or any type of inspection is required by the ordinances of the City for the Filming Activity; or (11) any combination of the above.

- O. “Disturbing the Peace” shall mean (1) real or simulated fighting visible from public property or right-of-way; (2) using offensive words in public that are likely to incite violence; (3) shouting in a public place that could be heard from a radius of 100 yards and that could have the effect of disturbing the health, safety and/or welfare of the surrounding public; (4) use of non-domestic animals or domestic animals that will be loud and audible to a reasonable person in a radius of two hundred (200) feet that is inside a structure with the windows and doors closed; (5) playing of music or other noise loud enough to be heard by a reasonable person within a radius of five hundred (500) feet or two hundred (200) feet if inside a structure with the windows and doors closed; (6) presence of public nudity or what would be considered indecent exposure under the City Code; (7) simulated (or real) drug use; and (8) what would otherwise be considered disorderly conduct under the City Code.

Sec. 46-10002. Permit and Exemptions.

- A. Permit required. No person shall use any Public Property or Facility, or Private Property, Facility or Residence where such use will have an Impact on public property for the purpose of Filming without first applying for and obtaining a permit pursuant to this Chapter.
- B. Exemptions.
1. News Media. The provisions of this Chapter shall not apply to Film Activities for the purpose of News Media.
 2. Personal/Family Video. The recording of visual images (motion or still photography) solely for private use and not for commercial use.
 3. Studio Filming. Film Activities (motion or still photography) conducted at or within a properly-licensed studio.
 4. Small Business. The owner of any Small Business, as defined by the size standards of the Small Business Administration (SBA), may film a commercial for said business at their properly licensed business location without a permit, so long as the filming takes place wholly inside the private premises of the business location or

2479 immediately outside the premises so long as the filming does not
2480 substantially interfere with any vehicular or pedestrian traffic on the
2481 public right of way.
2482

2483 **Sec. 46-10003. Administration.**
2484

- 2485 A. The City Manager may designate a City employee to serve as the Film
2486 Liaison. Said employee shall be responsible for administering the
2487 provisions of this Chapter. If no Film Liaison is designated then the City
2488 Manager shall serve as the Film Liaison.
2489
- 2490 B. Issuance of permits and other decisions rendered pursuant to the terms of
2491 this Chapter shall be based upon the following:
2492
- 2493 1. The health and safety of all persons, including citizenry and
2494 customers of any businesses located within the City; and
2495
 - 2496 2. Mitigation of disruption to all persons and businesses within the
2497 affected area; and
2498
 - 2499 3. The safety of all public and private property within the City; and
2500
 - 2501 4. Traffic congestion at particular locations within the City; and
2502
 - 2503 5. Ability of the applicant to organize the Filming Activity and comply
2504 with all applicable laws, ordinances and regulations, and/or the City
2505 to coordinate the necessary services within the period of time
2506 between submittal of application and scheduled date of Filming
2507 Activity; and
2508
 - 2509 6. Whether any other legal and/or permitted activity is taking place at
2510 the location of the scheduled Film Activity at the same time.
2511

2512 **Sec. 46-10004. Applications and Issuance of Permits.**
2513

- 2514 A. Applications shall be made on a form prescribed by the Film Liaison and
2515 shall include the following information:
2516
- 2517 1. The representative of the property, the address, e-mail address and
2518 any available telephone number of the place at which the activity is
2519 to be conducted;
2520
 - 2521 2. A written description of the specific location at such address or
2522 place including a description of any facilities on the location where
2523 Filming will take place;
2524

- 2525 3. The inclusive hours and dates Film Activities will occur;
2526
2527 4. A general statement of the character or nature of the proposed Film
2528 Activity;
2529
2530 5. The name, address, e-mail address and telephone number of the
2531 person or persons in charge of such Film Activity;
2532
2533 6. The exact number of personnel to be involved with such Film
2534 Activities;
2535
2536 7. A detailed description of any Film Activity that may cause public
2537 alarm such as the use of any animals, gunfire or pyrotechnics and
2538 low flying aircraft; and
2539
2540 8. The exact amount and type of vehicles and equipment to be
2541 employed along with a parking plan.
2542
- 2543 B. Deadline for applications. Subject to the Expedited Review exception,
2544 applications must be submitted a minimum of five (5) business days in
2545 advance to the office of the Film Liaison. If the Film Activity interferes with
2546 traffic or involves potential public safety hazards, the application shall be
2547 submitted a minimum of seven (7) business days in advance.
2548
- 2549 C. All applications shall be reviewed and issued by the Film Liaison. The
2550 Film Liaison shall review and act on the application no later than seven (7)
2551 calendar days following the submittal of the completed application. For
2552 those applications submitted less than eight (8) days prior to the Filming
2553 Activity, but more than three-days prior to the Filming Activity, the Film
2554 Liaison shall review and act on the application no later than three (3) days
2555 after the filing of the application. The applicant may appeal any denial of
2556 the application by the Film Liaison to the Mayor and City Council by filing
2557 an appeal within five (5) days of the decision, and which will be placed on
2558 the next Regular City Council meeting which is at least 24 hours after the
2559 filing of the appeal.
2560
- 2561 D. An application submitted for Expedited Review shall be assessed
2562 administratively by the Film Liaison who, based on the criteria above, shall
2563 approve or deny the permit. The decision of the Film Liaison must be
2564 communicated to the applicant in writing in the most expeditious method
2565 available and requested by the applicant at the applicant's expense. In
2566 case of a denial, and only if the applicant so directs, the Film Liaison shall
2567 forward the application for de novo review by the Mayor and City Council
2568 at the next regularly scheduled council meeting, but no later than thirty
2569 (30) days after the issuance of the denial. The written letter of denial shall
2570 serve as the Film Liaison's recommendation to the Mayor and Council.

- 2571
- 2572 E. Change of Date. Upon the request of the permittee, the Film Liaison shall
- 2573 have the power, upon a showing of good cause, to change the date for
- 2574 which a film permit has been issued, provided the date change does not
- 2575 extend the length of the permitted Film Activity originally approved or
- 2576 substantially change any required filming regulation factor detailed in this
- 2577 Chapter or any condition placed on the permit when originally approved.
- 2578
- 2579 G. The issuance of a permit shall not grant the Producer a constitutionally
- 2580 protected property interest.
- 2581
- 2582

2583 **Sec. 46-10005. Application Fee; Reimbursement for Cost, Waiver.**

2584

- 2585 A. Application Fee. With the exception of Student Films and Charitable
- 2586 Films, which shall be exempted, the application fee for any filming permit
- 2587 must be submitted together with the application required in this Chapter.
- 2588 The fee shall be based on how far in advance of the scheduled Film
- 2589 Activity the completed application is filed as established by Resolution of
- 2590 Mayor and Council. Presentation of proof to the City that the final film
- 2591 product contains end-credit attribution to the City of South Fulton and the
- 2592 City Logo shall result in reimbursement of 40% of the Application Fee.
- 2593
- 2594 B. Reimbursement for Personnel. The production company shall reimburse
- 2595 the City for any employees provided to the company (e.g. police, fire,
- 2596 traffic) for the purpose of assisting the production, whether at the request
- 2597 of the applicant or as a condition of the permit. The rate for an employee
- 2598 and minimum hours of hire for employees shall be established by
- 2599 resolution of Mayor and Council in consultation with the Chief of Police or
- 2600 Fire Chief, if applicable. Such payment shall be made directly to the
- 2601 employee(s) at least twenty-four (24) hours prior to the use of the
- 2602 employee(s) and is non-refundable.
- 2603
- 2604

2605 **Sec. 46-10006. Filming Regulations.**

2606

- 2607 A. Residential Locations. Filming in residential neighborhoods shall be
- 2608 limited to the hours between 7:00 a.m. and 10:00 p.m. Eastern Standard
- 2609 Time or 11:00 p.m. Eastern Daylight Time.
- 2610
- 2611 B. Notification. Permittees must provide all residents, businesses and
- 2612 merchants within a 200-foot radius of the Film Location written notice of
- 2613 the dates, times, location addresses and production company contact at
- 2614 least seventy-two (72) hours prior to the first Film Activity, or twelve (12)
- 2615 hours in case of Expedited Review applications. If a permittee requires
- 2616 on-street parking for production vehicles, residents, businesses and

merchants impacted by the parking requirements must receive written notice at least 24 hours prior to the arrival of the vehicles.

- C. Clean up. The permittee shall conduct operations in an orderly fashion with continuous attention to the storage of equipment not in use and the cleanup of trash and debris. The Filming Activity area, Facilities and Residences used shall be cleaned of trash and debris upon completion of shooting at the scene and restored to the area's, Residence's or Facility's original condition before leaving the site.
- D. Filming on private property. A permittee must obtain permission, consent and/or secure a lease for any use of property not owned or controlled by the City.
- E. Traffic control.
 - 1. In the event any filming impairs traffic flow, permittees may be required to use City of South Fulton Police Department employees for traffic purposes and comply with other traffic control requirements as deemed necessary by the City's Film Liaison. Permittees shall pay for the use of such personnel.
 - 2. Permittees shall furnish and install advance warning signs and any other traffic control devices in conformance with the National Manual on Uniform Traffic Control Devices ("MUTCD"). All appropriate safety precautions must be taken.
 - 3. For any lane closure or intermittent traffic control, the period of time that traffic may be restricted will be determined by the Chief of Police, based on traffic volumes for location and time of day. Requests for such closures must be submitted as part of the application and applicant must diligently assist the Chief of Police, or designee, in developing a traffic control plan if so requested.
 - 4. Traffic shall not be detoured across a double line without prior authorization of the Chief of Police.
 - 5. Cars with cameras mounted or held by a passenger and/or driver must still be driven in the direction of traffic and observe all traffic laws while filming, unless otherwise authorized by the Film Liaison, after consultation with the Chief of Police.
 - 6. Any emergency roadwork by City employees and/or private contractors under permit or contract to the City shall have priority over filming activities.

- 2663 F. Municipal parking lots. Permittees shall not be required to pay any fee for
2664 parking in any municipal parking lot.
2665
- 2666 G. Fireworks, explosives, etc. No film activity which involves the use of
2667 explosives, pyrotechnics, fire, smoke-making machines or other special
2668 effects may be undertaken unless specifically approved by the City of
2669 South Fulton Fire Department. Indication of the use of such devices shall
2670 be included on the permit form submitted to the City, and such form must
2671 be reviewed and signed by the Chief of the Fire Department or his or her
2672 designee before such devices can be used.
2673

2674
2675 **Sec. 46-10007. Liability.**
2676

- 2677 A. Liability Insurance. Before a permit is issued, a certificate of insurance will
2678 be required in the amount of at least \$1,000,000 naming the City as an
2679 additional insured for protection against claims of third persons, including
2680 but not limited to, personal injury, wrongful death, and property damage.
2681 The certificate shall not be subject to cancellation or modification until after
2682 thirty days' written notice to the City. A copy of the certificate shall remain
2683 on file in the City Clerk's office. A copy of the certificate shall be attached
2684 to the permit for Filming filed with the City.
2685
- 2686 B. Worker's Compensation Insurance. A permittee shall conform to all
2687 applicable Federal and State requirement for Worker's Compensation
2688 Insurance for all persons operating under a permit. Proof of Workers
2689 Compensation Insurance shall be attached to the permit for Filming filed
2690 with the City.
2691
- 2692 C. Hold Harmless Agreement. A permittee shall execute a hold harmless
2693 agreement on a form created by the City prior to the issuance of a permit.
2694
- 2695 D. Security Deposit. To ensure cleanup and restoration of the site, a
2696 permittee may be required to submit a refundable deposit. Such deposit
2697 shall be paid at the time a Filming permit is filed with the City. Upon
2698 completion of the Filming and inspection of the site by the City, if no
2699 verifiable damage has occurred, the security deposit should be returned to
2700 the permittee.
2701

2702
2703 **Sec. 46-10008. Violations; Revocation.**
2704

- 2705 A. Any Producer that performs Filming Activity requiring a permit under this
2706 Chapter without such a permit, shall be in violation of this ordinance and
2707 subject to a \$1,000 fine for each day of non-permitted Filming Activity.
2708

- B. In addition to revocation of a Filming permit, a permittee violating any provisions of this Chapter shall be subject to a one thousand dollar (\$1,000.00) fine for each violation. In the event of any such violation, the Film Liaison or other City official shall provide the permittee with verbal or written notice of such violation. If the permittee fails to correct the violation within a reasonable time as specified by the Film Liaison or other City official, the Filming Liaison shall direct all Filming Activity to cease immediately. Permitted Filming Activity shall not resume until the violation is corrected.
- C. If the violation is not corrected within the following forty-eight (48) hours, the Film Liaison may revoke the permit by giving written notice to the Producer or designated representative on site. The Producer may appeal such revocation to the Mayor and City Council by submitting a written appeal within five (5) days of the revocation notice to the Film Liaison, who shall place said appeal on the next regularly scheduled City Council Meeting for de novo review by the Mayor and City Council, but not later than thirty (30) days following the receipt of the appeal notice. At the appeal hearing, the revocation may not be reversed unless the Producer convinces the Mayor and City Council, by preponderance of the evidence, that no violation occurred or that said violation was corrected prior to receipt of the revocation notice. The decision of the Mayor and City Council shall be final.

Sec. 46-10009. Appeals.

Appeals of any decisions of the Mayor and City Council under this Chapter shall be by Petition for Writ of Certiorari in the Fulton County Superior Court in accordance with state law.

Section 2. It is hereby declared to be the intention of the Mayor and Council that:

(a) All sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the City Council to be fully valid, enforceable and constitutional.

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

(c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or

2753 otherwise unenforceable by the valid judgment or decree of any court of competent
2754 jurisdiction, it is the express intent of the City Council that such invalidity,
2755 unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not
2756 render invalid, unconstitutional or otherwise unenforceable any of the remaining
2757 phrases, clauses, sentences, paragraphs or sections of the Ordinance.

2758 **Section 3.** All Ordinances and parts of Ordinances in conflict herewith are hereby
2759 expressly repealed.

2760 **Section 4.** The effective date of this Ordinance shall be the date of adoption unless
2761 provided otherwise by the City Charter or state and/or federal law.

2762 The foregoing **ORDINANCE No. 2018-042**, adopted on _____
2763 was offered by Councilmember _____, who moved its approval. The motion
2764 was seconded by Councilmember _____, and being put to a vote, the
2765 result was as follows:
2766

2767

2768 **“FIRST READING”**

2769
2770

2771

AYE

NAY

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2773

William “Bill” Edwards, Mayor

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Mark Baker, Mayor Pro Tem

2775

Catherine Foster Rowell

2776

Carmalitha Lizandra Gumbs

2777

Helen Zenobia Willis

2778

Gertrude Naeema Gilyard

2779

Rosie Jackson

2780

khalid kamau

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2783

THIS ORDINANCE adopted this _____ day of _____ 2018. **CITY OF SOUTH
FULTON, GEORGIA.**

“FIRST READING”

WILLIAM “BILL” EDWARDS, MAYOR

ATTEST:

MARK MASSEY, CITY CLERK

APPROVED AS TO FORM:

EMILIA C. WALKER, CITY ATTORNEY



CITY OF SOUTH FULTON



COUNCIL AGENDA ITEM

COUNCIL REGULAR MEETING

SUBJECT: Request final approval of IGA between COSF and City of Peachtree Corners

DATE OF MEETING: 10/9/2018

DEPARTMENT: City Manager

ATTACHMENTS:

Description	Type	Upload Date
Final approval of IGA with City of Peachtree Corners	Cover Memo	10/3/2018

**INTERGOVERNMENTAL AGREEMENT
BY AND BETWEEN THE CITY OF SOUTH FULTON,
GEORGIA AND THE CITY OF PEACHTREE CORNERS,
GEORGIA
FOR PROVISION OF PUBLIC WORKS SERVICES**

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement") is entered into this ____ day of _____, 2018 by and between the City of South Fulton, Georgia (South Fulton) and the City of Peachtree Corners, Georgia ("Peachtree Corners").

WHEREAS, South Fulton and Peachtree Corners are dutifully constituted Georgia municipal corporations;

WHEREAS, South Fulton and Peachtree Corners are contiguous;

WHEREAS, Article IX, Section III, Paragraph I(a) of the Georgia Constitution authorizes, among other things, any municipality to contract, for a period not exceeding fifty years, with another municipality for joint services, for the provision of services, or for the provision or separate use of facilities or equipment, provided that such contract deals with activities, services or facilities which the contracting parties are authorized by law to undertake or to provide;

WHEREAS, pursuant to the South Fulton Charter Section 1.12(b)(7), South Fulton is authorized "[t]o enter into contracts and agreements with other governments and entities and with private persons, firms, and corporations;"

WHEREAS, pursuant to the Peachtree Corners Charter Section 1.12(a)(4), Peachtree Corners is authorized "[t]o enter into contracts and agreements with other governments and entities and with private persons, firms, and corporations;"

WHEREAS, South Fulton desires to enter into this Agreement with Peachtree Corners for the provision of public works services;

WHEREAS, Peachtree Corners has contracted with CH2M Hill Engineers, Inc. ("Contractor") for the provisions of public works services; and

WHEREAS, Peachtree Corners is willing to amend its contract with Contractor in order to provide public works services to South Fulton pursuant to the terms of this Agreement.

NOW THEREFORE, in consideration of the foregoing recitals, the sums hereinafter set forth and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, it is hereby agreed as follows:

ARTICLE I - OBLIGATIONS OF PEACHTREE CORNERS

1.1 Peachtree Corners shall, through Contractor, provide personnel and equipment to carry out and complete in a good, firm, substantial, and workmanlike manner the public works services needed by South Fulton.

1.2 The general scope of work provided by Contractor will include but not be limited to the following public works services for the needs and safety of the citizens of South Fulton in accordance with the Contract Agreement for the Provision of Public Works Services between Peachtree Corners and Contractor: grounds maintenance; roads, sidewalk and street maintenance; clean-up of litter and illegal dumping in the City's right-of-ways; solid waste management program; facilities maintenance; fleet maintenance; street sign and lighting administration and maintenance; stormwater management; call center/customer service; and management of capital improvement program projects. The specific scope of work and key performance indicators (KPIs) will be further defined by Task Orders between South Fulton and Contractor.

1.3 Throughout the term of this Agreement, Peachtree Corners shall make Contractor's personnel and equipment available to South Fulton for the maintenance of its public works projects and services, unless otherwise agreed to by Peachtree Corners and South Fulton in writing.

ARTICLE II - OBLIGATIONS OF SOUTH FULTON

2.1 With respect to all public works services performed by Contractor for South Fulton, Contractor shall invoice South Fulton directly and South Fulton shall pay all base monthly fees and any additional fees directly to Contractor.

2.2 South Fulton shall account for all revenue and expenses for the public works services performed by Contractor for South Fulton.

ARTICLE III - TERM OF AGREEMENT

3.1 The term of this Agreement is for a period commencing on _____ at 12:00 A.M. and ending on _____. The Agreement may be extended upon mutual Agreement of the Parties herein.

3.2 Either party may terminate this Agreement for any reason upon six (6) months written notice to the other party.

ARTICLE IV - INDEPENDENT PERSONNEL

4.1 Contractor's employees providing services to South Fulton pursuant to this Agreement continue to be sole employees of Contractor and shall not be considered employees or agents of Peachtree Corners or South Fulton for the purposes of any liability and/or salary and benefits for any period of time when personnel are provided for public works services pursuant to this Agreement.

ARTICLE V - NOTICES

5.1 All required notices shall be given by certified or registered mail, postage and fees prepaid, addressed to the party to whom such notice is to be given at the address set forth below or at such other addresses as has been previously furnished in writing, to the other party or parties.

Such notice shall be deemed to have been given when deposited in the United States mail. Any notice of termination shall be mailed via U.S. Mail, return receipt requested. Notices shall be addressed to the parties at the following addresses:

If to South Fulton: City Manager
 City of South Fulton
 5440 Fulton Industrial Blvd.
 Atlanta, GA 30336
 Office number: 470-809-7700
 Facsimile number:

With a copy to: City Attorney
 City of South Fulton

 South Fulton, GA 30336
 Office number: _____
 Facsimile number: _____

If to Peachtree Corners: City Manager
 City of Peachtree Corners
 147 Technology Pkwy, Suite 200
 Peachtree Corners, Georgia 30092
 Office number: 678-691-1200
 Facsimile number: 678-961-1201

With a copy to: City Attorney
 City of Peachtree Corners
 315 Washington Avenue
 Marietta, GA 30060

ARTICLE VI - ASSIGNMENT

6.1 Neither party shall assign any of the obligations or benefits of this Agreement without prior written consent signed by both parties.

ARTICLE VII -INDEMNIFICATION

7.1 It is the intent of the parties to be covered under the auspices of any applicable immunity granted by law. To the extent permitted by law, and only to the extent permitted by law, both Parties shall defend, indemnify and hold harmless one another and its officers, employees, or agents from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the Party or its officers, employees, or agents may incur as a result of any claim, demand, suit, or cause of action or proceeding of any kind or nature arising out of, relating to, or resulting from the negligent performance of this Agreement by South Fulton or Peachtree Corners, its employees, officers and agents. Each Party shall promptly notify the other Party of each claim, cooperate with the other Party in the defense and resolution of each claim and not settle or otherwise dispose of the claim without the other Party's participation.

ARTICLE VIII - MISCELLANEOUS PROVISIONS

8.1 The parties acknowledge, one to the other, that the terms of this Agreement constitute the entire understanding and agreement of the parties regarding the subject matter of this Agreement. This Agreement supersedes all prior oral or written agreements or understandings. No representation oral or written not incorporated in this Agreement shall be binding upon South Fulton or Peachtree Corners. Any modification of this Agreement shall be in writing signed by the parties.

8.2 If a court of competent jurisdiction renders any provision of this Agreement (or portion of a provision) to be invalid or otherwise unenforceable, that provision or portion of the provision will be severed, and the remainder of this Agreement will continue in full force and effect as if the invalid provision or portion of the provision were not part of this Agreement. No action taken pursuant to this Agreement should be deemed to constitute a waiver of compliance with any representation, warranty, covenant or agreement contained in this Agreement and will not operate or be construed as a waiver of any subsequent breach, whether of a similar or dissimilar nature. This Agreement is governed by the laws of the state of Georgia without regard to conflicts of law principles thereof. Should any party institute suit concerning this Agreement, venue shall be in the Superior Court of Gwinnett, Georgia. Should any provision of this Agreement require judicial interpretation, it is agreed that the court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the party who itself or through its agent prepared the same, it being agreed that the agents of all parties have participated in the preparation hereof.

8.3 This Agreement shall inure to the benefit of, and be binding upon, the respective parties' successors and assigns.

8.4 The indemnification provisions of this Agreement shall survive termination of this Agreement for any claims that may be filed after the termination date of this Agreement provided the claims are based upon action that occurred during the term of this Agreement.

8.5 This Agreement may be executed in several counterparts, each of which shall be an original, and all of which shall constitute but one and the same instrument.

[SIGNATURES ON FOLLOWING PAGE]

DRAFT

IN WITNESS WHEREOF, the City of South Fulton, Georgia, and the City of Peachtree Corners Georgia, have executed this Agreement through their duly authorized officers on the day and year first above written.

CITY OF SOUTH FULTON, GEORGIA

William Edwards, Mayor

ATTEST:

Mark Massey
City Clerk
(SEAL)

CITY OF PEACHTREE CORNERS, GEORGIA

Mike Mason, Mayor

ATTEST:

Kym Chereck
City Clerk
(SEAL)



CITY OF SOUTH FULTON

COUNCIL AGENDA ITEM

COUNCIL REGULAR MEETING



SUBJECT: Transportation (Campbellton Rd at Jones Rd at Stonewall Tell

**DATE OF
MEETING:** 10/9/2018

DEPARTMENT: City Manager



CITY OF SOUTH FULTON

COUNCIL AGENDA ITEM

COUNCIL REGULAR MEETING



SUBJECT: Financial update regarding TAN

**DATE OF
MEETING:** 10/9/2018

DEPARTMENT: Finance
