



CITY OF MILTON, GEORGIA

Joe Lockwood, Mayor

CITY COUNCIL

Karen Thurman
Julie Zahner Bailey
Bill Lusk
Burt Hewitt
Tina D'Aversa
Alan Tart

Monday, July 21, 2008

Regular Council Meeting Agenda

6:00 PM

INVOCATION -

1) **CALL TO ORDER**

2) **ROLL CALL**

3) **PLEDGE OF ALLEGIANCE** *(Led by the Mayor)*

(Agenda Item No. 08-621)

4) **APPROVAL OF MEETING AGENDA** *(Add or remove items from the agenda)*

5) **PUBLIC COMMENT**

6) **CONSENT AGENDA**

(Agenda Item No. 08-622)

1. Approval of the Financial Statements for the period ending June 2008.
(Stacey Inglis, Finance Manager)

(Agenda Item No. 08-623)

2. Approval of the July 3, 2008 Special Called Work Session Minutes.
(Jeanette Marchiafava, City Clerk and Clerk of the Court)

(Agenda Item No. 08-624)

3. Approval of the July 7, 2008 Regular Meeting Minutes.
(Jeanette Marchiafava, City Clerk and Clerk of the Court)

(Agenda Item No. 08-625)

4. Approval to authorize the execution of the Agreement of Mutual & Automatic Aid between the City of Milton and the City of Alpharetta.
(Chris Lagerbloom, Public Safety Director)

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Milton City Hall
City Council Chambers
13000 Deerfield Parkway, Suite E
Milton, GA 30004

Persons needing special accommodations in order to participate in any City meeting should call 678-242-2500.

7) REPORTS AND PRESENTATIONS

1. Ceremonial presentation of the Special Services District (SSD) check by Fulton County Commissioner Lynne Riley.

8) PUBLIC HEARING

1. Approval an Ordinance of the Mayor and Council of the City of Milton, Georgia, to fix the Ad Valorem Tax Rate of the City of Milton for Fiscal Year 2008; and for other purposes.
(Stacey Inglis, Finance Manager)

9) FIRST PRESENTATION**(Agenda Item No. 08-626)**

1. Approval of an Ordinance Amending Chapter 15, Health and Public Safety to reflect the composition of the Milton Department of Public Safety.
(Presented by Chris Lagerbloom, Public Safety Director)

(Agenda Item No. 08-627)

2. Approval of an Ordinance of the Mayor and Council of the City of Milton, Georgia, to fix the Ad Valorem Tax Rate of the City of Milton for Fiscal Year 2008; and for other purposes.
(Stacey Inglis, Finance Manager)

10) ZONING AGENDA**(Agenda Item No. 08-613)**

1. **U08-03** - 2810, 2820, 2830, 2840, 2850, 2860 Bethany Bend Road, Applicant: Church of Jesus Christ of Latter-Day Saints - To request a use permit for a 16,728 square feet church with 352 seats and storage shed, at a density of 2,320.95 square feet per acre on 7.2074 acres.
(Presented by Alice Wakefield, Community Development Director)

11) UNFINISHED BUSINESS *(none)***12) NEW BUSINESS****(Agenda Item No. 08-628)**

1. Authorizing the execution of an Intergovernmental Agreement for the provision of 911 Emergency Communication Services and GCIC Information Services between the City of Alpharetta, Georgia and the City of Milton, Georgia and further authorizing, amongst other things, terminating and superseding the April 16, 2007, Intergovernmental Agreement concerning the Georgia Crime Information Center (GCIC) Criminal Justice Information System Holder of Record Agreement between the City of Alpharetta, Georgia and the City of Milton, Georgia.
(Presented by Chris Lagerbloom, Public Safety Director)

(Agenda Item No. 08-629)

2. Approval of a Resolution Amending Resolution No. 06-11-11 Establishing a 911 Charge on Wired and Wireless Telephone Communications.
(Presented by Chris Lagerbloom, Public Safety Director)

13) MAYOR AND COUNCIL REPORTS**14) STAFF REPORTS****15) EXECUTIVE SESSION** *(if needed)***(Agenda Item No. 08-630)****16) ADJOURNMENT**

The minutes will be
Provided
electronically

STATE OF GEORGIA

CITY OF ALPHARETTA

**AGREEMENT OF MUTUAL & AUTOMATIC AID
FOR FIRE AND EMERGENCY MEDICAL SERVICES**

This Agreement is made and entered into this **1st day of October, 2008** by and between the City of Alpharetta, a political subdivision of the State of Georgia, acting by and through its Public Safety Director with the authority of the duly elected City Council, and the City of Milton, acting by and through its Public Safety Director with the authority of the duly elected City Council.

WITNESSETH:

WHEREAS, the City of Alpharetta and the City of Milton, Georgia are contiguous;

WHEREAS, the City of Alpharetta and the City of Milton each maintain and staff a fire department for the purpose of providing fire suppression, protection, prevention, and emergency medical services;

WHEREAS, the City of Alpharetta and the City of Milton have determined that it is to the mutual advantage and benefit of each of the parties hereto that they render supplemental assistance in providing local emergency, fire suppression, protection, prevention and emergency medical services to the other party in the event of a fire or other local emergency, and to take part in joint training exercise; and

WHEREAS, it is the desire of the signatories hereto to enter into this agreement for mutual aid and first response pursuant to the 1983 Constitution of the State of

Georgia Article IX, Section II, Paragraph 3 and Article IX, Section III, Paragraph 1.

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

ARTICLE 1 - TERM OF AGREEMENT

This agreement shall commence on the date of **October 1, 2008** and shall continue until **October 1, 2009**. This agreement shall automatically be renewed by the parties each year thereafter unless and until such time as written notice of intention not to renew or notice of modification is received by either party within ninety (90) days prior to the expiration of the term of this agreement.

ARTICLE 2 – TERMINATION

Either party to this agreement may terminate the agreement by giving not less than one hundred and eighty (180) days written notice to the other party. Upon the running of one hundred and eighty (180) days from such written notice, this agreement shall be terminated. Notice to the City of Alpharetta should be mailed to:

Public Safety Director
City of Alpharetta Department of Public Safety
2565 Old Milton Parkway
Alpharetta, GA 30004

Notice to the City of Milton should be mailed to:

Public Safety Director
City of Milton Department of Public Safety
13000 Deerfield Parkway
Milton, GA. 30004

ARTICLE 3 - LIABILITY

There shall be no liability imposed on any party or its personnel for failure to respond to requests for aid. Every employee shall be deemed to be the employee and

agent of his/her regular employer, and under no circumstance shall any employee be deemed to be an employee or agent of any entity other than his/her regular employer. All damages or repairs to any equipment or apparatus that occur in the normal operation shall be the responsibility of the owner jurisdiction.

ARTICLE 4 - COMPENSATION

No party under this agreement will be required to pay any compensation to the other party under this agreement for services rendered pursuant to this agreement. The mutual advantage and protection afforded by this agreement is considered adequate compensation to both parties. Each party to this agreement shall comply with workers' compensation laws of the State of Georgia without any cost to the other party. Each party shall pay its own personnel without cost to the other party.

ARTICLE 5 - RELEASE OF CLAIMS

Each of the parties agrees to release the other party from any and all liabilities, claims, judgments, costs or demands for damage to that party's property whether arising directly or indirectly out of the use of any vehicle, equipment or apparatus by the other party during the provision of service pursuant to this agreement.

ARTICLE 6 - INJURIES TO PERSONNEL

Any damage or other compensation which is required to be paid to any employee by reason of an injury occurring while their services are being utilized pursuant to this agreement shall be the sole liability and responsibility of the party regularly employing such person.

ARTICLE 7 – REQUEST FOR MUTUAL AID ASSISTANCE

Each party agrees that the timing of the request for mutual aid is critical to the

effectiveness of the assistance being requested. Each party agrees that in order to expedite the response to the request for mutual aid, field officers or dispatch center personnel may make the request for mutual aid as soon as possible and in the most direct manner and that the requesting party's designee may be the incident commander or the officer (or acting officer) on apparatus responding to the incident.

When either party determines that it is necessary to request mutual aid, the requesting party or its designee is authorized to make the request in these ways:

- Via radio directly from the requesting jurisdiction's unit to the dispatch center, or
- Via telephone directly to the dispatch center.

ARTICLE 8 – AUTOMATIC AID ASSISTANCE

In addition to the agreement for mutual aid assistance, the City of Alpharetta and the City of Milton agree to provide the closest unit to areas within the fire demand zones in which the City of Alpharetta or the City of Milton has the first-in unit regardless of jurisdiction. The closest unit will be dispatched by the dispatch center without any request for mutual aid. "Closest unit" will include fire engine/pumpers, ladders trucks, and rescue trucks and/or fire-rescue supervisor. This closest unit response will be referred to as an automatic aid response.

Areas within the fire demand zones in which the City of Alpharetta has the first in unit will be covered by the closest available the City of Alpharetta unit unless mutual aid is requested for the City of Milton to respond.

Representation from the jurisdiction in which a multiunit incident is taking place will be established on the scene in a timely manner. Command and control in the mitigation of

a multiunit incident within their respective jurisdiction will be accomplished by that jurisdiction in a timely manner. Operational command of an automatic aid response will fall under the following criteria:

1. All units at the scene of an emergency incident will be under the command of an Incident Commander.
2. Command shall be transferred to the jurisdictional fire department in which the incident is occurring on structure fires, multiple unit responses involving more than one jurisdiction or incidents considered significant by the jurisdiction in a timely manner.
3. It shall be the responsibility of the designated Public Information Officer (PIO) and/or Chief of the Fire Department to disseminate information regarding ongoing incidents or incidents which have occurred in their respective jurisdictions.

Fire reports, responding unit reports, and other emergency incident information reporting are the responsibility of the responding agency in the event of single unit responses or multiple unit responses from the same jurisdiction. In the event of multiple unit responses involving both jurisdictions, said data requirements become the responsibility of the jurisdiction within which the incident is located.

The agreement in no way shall impact on the ability to provide a minimal level of fire service for either jurisdiction. The minimum level or resource availability shall be:

1. Each jurisdiction shall maintain both local and regional mutual aid agreements with surrounding jurisdictions so as to facilitate a move-in of resources as may be needed.

ARTICLE 9 – QUALITY ASSURANCE

To ensure the effectiveness of this agreement, a committee with designees from

Alpharetta Department of Public Safety, Milton Department of Public Safety, and the 911 Communications Center will meet on a monthly basis to analyze response distributions, discuss any needed agreement modifications, and share feedback on agreement execution. This committee will be tasked with proactively addressing any issues that might impact this agreement and provide valuable information to its respective departments.

ARTICLE 10 - ADMINISTRATION

It is agreed that for the purpose of liaison and administration, the Director's of Public Safety shall be jointly responsible.

ARTICLE 11 - MISCELLANEOUS

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

This agreement shall constitute the entire agreement between the parties, and no modification shall be binding upon the parties unless evidenced in writing and signed by both parties.

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.

This agreement shall govern in all respects as to the validity, construction, capacity, performance, or otherwise by the laws of the State of Georgia.

IN WITNESS WHEREOF, the parties set their hands and seals this

FOR THE CITY OF ALPHARETTA, GEORGIA:

Gary George, Public Safety Director

Date

FOR CITY OF MILTON, GEORGIA:

Chris Lagerbloom, Public Safety Director

Date

DRAFT



To: Honorable Mayor and City Council Members

From: Stacey R. Inglis, Finance Manager

Date: Submitted July 10 for July 21, 2008 Council Meeting

Agenda Item: Approval of an Ordinance to Set the Millage Rate for the Fiscal Year 2008

CMO (City Manager's Office) Recommendation:

Approval of an ordinance to set the millage rate for fiscal year 2008 at 4.731 mills.

Background:

On September 20, 2007, the City Council adopted the fiscal year 2008 budget. The property tax revenue estimated in this budget was based on a millage rate of 4.731. The estimated property tax collection for fiscal year 2008 included in the approved budget is \$8,600,544.

Discussion:

The fiscal year 2008 millage rate must be approved via ordinance before tax collection can begin. The City received the preliminary consolidation digest from Fulton County on Monday, June 9. In order to meet the advertising requirements and have the millage rate approved prior to August 15, when tax bills are scheduled to be mailed, the public meetings have been scheduled as follows:

- July 21, 2008 on the regular agenda
- August 4, 2008 on the regular agenda
- August 11, 2008 at a special called meeting prior to the work session.

During each meeting, the ordinance will be read and a public hearing will be held. After the third and final public hearing, the ordinance will be presented for approval.

Alternatives:

None identified.

Concurrent Review:

Billy P. Beckett, City Manager

ORDINANCE NO.

**STATE OF GEORGIA
COUNTY OF FULTON**

**AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF
MILTON, GEORGIA, TO FIX THE AD VALOREM TAX RATE OF THE CITY
OF MILTON FOR FISCAL YEAR 2008; AND FOR OTHER PURPOSES.**

WHEREAS, the Charter of the City of Milton, Georgia authorizes the City to levy and provide for the assessment of ad valorem property taxes on all property subject to taxation; and

WHEREAS, the Charter of the City of Milton, Georgia provides that the valuation of all property subject to taxation by the City shall be determined according to the tax digest prepared by the Fulton County Board of Tax Assessors; and

WHEREAS, the City of Milton, Georgia calculated a rollback millage rate as defined within State of Georgia law, resulting in the need to advertise the setting of the millage rate for the City as a tax increase; and

WHEREAS, the City Council has properly given notice, and held three public hearings, in accordance with the law of the State of Georgia, on July 21, 2008, August 4, 2008 and August 11, 2008, for the purpose of receiving relevant evidence, testimony and public comment concerning the proposed millage rate for ad valorem property taxes; and

WHEREAS, the Mayor and City Council, after hearing and after duly considering all such relevant evidence, testimony and public comments, has determined that it is in the best interests of, and necessary to meet the expenses and obligations of, the City of Milton, Georgia to set a levy in the amount of \$4.731 on each \$1,000.00 of taxable value for all property subject to ad valorem taxation by the City; now

BE IT ORDAINED by the Mayor and City Council of the City of Milton, Georgia as follows:

SECTION I: The ad valorem tax rate for the City of Milton, Georgia for the 2008 fiscal year, on property subject to ad valorem taxation by the City is hereby fixed at \$4.731 on forty percent (40%) of each \$1,000.00 of property subject to ad valorem tax by the City.

SECTION II: Said rate of \$4.731 on forty percent (40%) of each \$1,000.00 of taxable property is hereby levied for General Government purposes.

SECTION III: As provided within the Charter of the City of Milton, Georgia, the billing date and due date for ad valorem taxes for the City shall be the same as those for Fulton County.

SECTION IV: All ordinances and parts of ordinances in conflict herewith are hereby repealed.

ORDAINED this the ____ day of _____, 2008.

Joe Lockwood, Mayor

Attest:

Jeanette R. Marchiafava, City Clerk
(Seal)



To: Honorable Mayor and City Council Members

From: ML Marietta, Milton Department of Public Safety

Date: Submitted on July 1, 2008 for the July 21, 2008 Council Meeting

Agenda Item: Amendment of Chapter 15: Health and Public Safety to reflect the composition of the Milton Department of Public Safety

City Manager's Office Recommendation:

Adopt the attached resolution approving the amendment of the ordinance governing composition and structure of the Milton public safety function to reflect the current needs of the department.

Background:

The Milton Department of Public Safety was formed with a blended senior management style, with both the police and fire operations managers reporting to the deputy fire chief. Alternately, the support function was managed by a police major. The department will better reflect the standards of both the police and fire professions if each operational unit was under the direction of senior police and fire personnel. This will allow the respective managers (fire captains and police lieutenants) to report to senior officers who share their professional expertise.

It also allows for changes in the department policy manuals in accordance with professional and accreditation standards without requiring a full council vote. In this vein, the proposed change mandates the policy manual itself, but does not place the actual minutia of police operations under council review. As a consequence, routine changes (such as the color of the name tag on the uniform, or an operational change required by new case law) may be accomplished without the necessity of continuously bringing the manual before council for review and approval.

Funding and Fiscal Impact:

This change is in policy alone and will be revenue neutral.

Alternatives:

Over the past year we have observed numerous difficulties operating under the current system. As a consequence, while the Milton Department of Public Safety can continue to operate under the currently established system, it is not in the best interest of the organization and, by extension, the public in general, to continue to do so. There are therefore no viable alternatives to these proposed changes.

Concurrent Review:

Chris Lagerbloom, Public Safety Director
Jarrard and Davis, LLP, City Attorneys

STATE OF GEORGIA

COUNTY OF FULTON

ORDINANCE NO.

**AN ORDINANCE TO AMEND THE CODE OF THE CITY OF MILTON, GEORGIA,
HEALTH AND PUBLIC SAFETY ORDINANCE, CHAPTER 15 AS IT PERTAINS TO
THE ORGANIZATIONAL STRUCTURE OF THE MILTON DEPARTMENT OF
PUBLIC SAFETY**

THE COUNCIL OF THE CITY OF MILTON HEREBY ORDAINS while in regular session on the 21st day of July, 2008 at 6:00 p.m. as follows:

SECTION 1, The city council of the City of Milton adopted and approved the amended Health and Public Safety Ordinance (or “Ordinance” hereafter) on June 2, 2008; and

SECTION 2, That said Ordinance, among other things, establishes the form and functions of the Public Safety Department in the City; and

SECTION 3, That this amended Ordinance shall become effective upon adoption by the Mayor and Council of the City of Milton and shall supersede all prior iterations of this ordinance; and

SECTION 4, That the Milton Department of Public Safety’s organization and structures shall be amended to better serve the needs of the Department and the Citizens of Milton;

NOW, THEREFORE, THE COUNCIL OF THE CITY OF MILTON HEREBY ORDAINS that Chapter 15 of the Code of the City of Milton is hereby adopted and approved to read as follows:

Chapter 15: Health and Public Safety

Article 1: Overall Purpose

The purpose of this chapter is to provide for the health and safety of the citizens of the City of Milton.

Article 2: The Office of the Director of Public Safety

The Milton Department of Public Safety shall encompass the primary public safety disciplines, including Police services, Fire-Rescue Services and Emergency Management. To this end, the Office of the Director of Public Safety is hereby created. The Director's duties shall be as follows:

- (a) to serve in a dual role as the executive for public safety services in the City of Milton, incorporating the position of Police Chief, Fire Chief, and Director of Emergency Management.
- (b) to appoint any deputy chiefs or other personnel to serve in a subordinate position to carry out the duties entailed by Police, Fire and Emergency Management Services.
- (c) Hereafter, any reference to these positions shall be deemed a reference to the Director of Public Safety.

Article 3: Emergency Management Services

Section 1: Purpose

The purposes of this section are to:

- (a) Reduce vulnerability of people and the community to damage, injury and loss of life and property resulting from natural or manmade catastrophes, riots or hostile military or paramilitary action,
- (b) Prepare for prompt and efficient rescue, care and treatment of persons victimized or threatened by disaster,
- (c) Provide a setting conducive to the rapid and orderly start of restoration and rehabilitation of persons and property affected by disasters,
- (d) Clarify and strengthen the roles of the mayor, city council, city manager and city departments in prevention of, preparation for, response to and recovery from disasters,

- (e) Authorize and provide for cooperation of activities relating to disaster mitigation, preparedness, response and recovery,
- (f) Authorize and provide for coordination of activities relating to disaster mitigation, preparedness, response and recovery by departments and officers of the City, agencies of the private sector and similar activities in which the federal government, the state and its political subdivisions may participate, and
- (g) Provide a disaster management system embodying all aspects of pre-disaster preparedness and post-disaster response.

Section 2: Emergency Defined.

As used in this Article, “ emergency” shall mean the actual or threatened existence of conditions of disaster or of extreme peril to the safety of persons and property within the city caused by such conditions as air pollution, disease, fire, flood, storm, epidemic, riot, or earthquake, or other conditions, including conditions resulting from war or the imminent threat of war. Such term shall not include conditions resulting from a labor controversy, which conditions are, or are likely to be, beyond the control of the services, personnel, equipment, and facilities of the city, requiring the combined forces of other political subdivisions to combat.

Section 3: Emergency Management Services.

In accordance with Article 2 of this Chapter, the Director of Public Safety shall serve as the Director of Emergency Management for the City of Milton. The duties of the Director shall be as follows:

- (a) To represent the City of Milton on all matters pertaining to emergency management;
- (b) To coordinate the development of community-wide emergency preparedness;
- (c) To develop an emergency and disaster operations plan for effective mobilization of all the resources of the City, both private and public;
- (d) To prepare and recommend for approval by the city council mutual aid programs and agreements between other local governments and the City;
- (e) To prepare and effectuate legal action for continuity of government in the event of emergency;
- (f) To coordinate and advise government departments in development and implementation of the emergency and disaster operations plan and other required agencies or groups;

- (g) During periods of emergency, to obtain vital supplies and equipment lacking, needed for the protection of life and property of people and bind the City for the value thereof and if required immediately, requisition same; and
- (h) To procure federal and state assistance through emergency management channels and through federal assistance programs in such areas as law enforcement, highway safety, ambulance procurement, or emergency medical services and others.

In addition to the above duties, the Director of Emergency Management shall be responsible during an emergency to advise the City Manager in operational situations, public information and privileged information implementation of the emergency plan, to direct and coordinate the activities of the emergency operation center staff, and to assist the mayor in assuring the execution of operations plans and procedures required by the emergency.

Section 4: Disaster Plan.

The Director shall prepare a comprehensive disaster basic plan which shall be adopted and maintained by resolution of the council upon the recommendations of the Director. Incorporated into such plan and expressly made a part thereof, shall be a crisis communications plan. In the preparation of this plan as it pertains to city organization, it is the intent that the services, equipment, facilities and personnel of all existing departments and agencies be used to the fullest extent. The disaster plan shall be considered supplementary to this ordinance and have the effect of law whenever emergencies have been proclaimed.

State Law Reference O.C.G.A. § 49-5-233

Section 5: Emergency; Special Powers.

In the event of man-made or natural disaster, mass electrical failure, rioting, actual enemy attack upon the United States or any other emergency which may affect the lives and property, the mayor may declare that a state of emergency exists by written proclamation setting out the circumstances of the emergency and thereafter the City Manager, or in his/her absence, the Director of Public Safety, shall have and may exercise for any period as this state of emergency exists or continues, the following emergency powers:

- (a) to enforce all rules, laws and regulations relating to emergency management and to assume direct operational control over all emergency management resources;
- (b) to seize, take for temporary use, or condemn any property for the protection of the public;

- (c) to sell, lend, give or distribute all or any property or supplies among the inhabitants of the City; to maintain a strict accounting of property or supplies distributed and for funds received for the property or supplies;
- (d) to declare a limited or general curfew as may be needed to restore public order;
- (e) ordering the closing of any business;
- (f) closing to public access any public building, street or other public place;
- (g) to prohibit or regulate the possession, sale or use of explosives, gasoline or other flammable liquids, or dangerous weapons of any kind, excluding firearms or components of firearms; and
- (h) to perform and exercise any other functions and duties and take any emergency actions as may be necessary to promote and secure the safety, protection and well being of the inhabitants of the City.

Section 6: Mutual Aid.

In periods of local emergency, the City is granted full power to provide mutual aid to any affected area in accordance with local laws, ordinances, resolutions, emergency plans or agreements therefore. The City may request from state agencies mutual aid, including personnel, equipment and other available resources to assist the city during the local emergency plans or at the directions of the governor.

Section 7: Civil Liabilities.

- (a) The City shall not be liable for any claim based upon the exercise or performance, or the failure to exercise or perform, a discretionary function or duty on the part of the city or any employee of the city excepting willful misconduct, gross negligence or bad faith of any such employee, in carrying out emergency services as defined in Article 2 above.
- (b) The immunities from liability, exemptions from laws, ordinances and rules, all pensions, relief, disability workers' compensation and other benefits which apply to the activity of officers, agents or employees of the City when performing their respective functions within the territorial limits of the City shall apply to them to the same degree and extent while engaged in the performance of any of their functions and duties extra territorially under the provisions of this chapter, excepting willful misconduct, gross negligence, or bad faith.
- (c) Volunteers duly enrolled or registered with the City in a local emergency, a state of emergency, or a war emergency, or unregistered persons placed into service during a state of war emergency, in carrying out, complying with, or attempting to comply

with any order or regulation issued pursuant to the provisions of this chapter or performing any of their authorized functions or duties or training for the performance of their authorized functions or duties, shall have the same degree of responsibility for their actions and enjoy the same immunities as officers and employees of the City performing similar work.

Article 3: Fire Code

Section 1: Fire Chief and Fire Marshall

The City Manager shall appoint the Fire Chief and the Fire Marshal.

Section 2: Fire Prevention duties.

- A. The fire prevention code shall be enforced by personnel in the city fire department, which is established and which shall be operated under the supervision of the fire chief.
- B. The fire chief may detail members of the fire department as inspectors. If necessary these inspectors may be reassigned to the fire fighting force at the discretion of the fire chief.

Section 3: Fire limits of city; storage of explosives, flammable liquids and liquefied petroleum gases.

Districts within the city where storage of explosives, flammable liquids or liquefied petroleum gases are restricted or permitted under the fire prevention code shall be legally described in a map entitled City of Milton Fire District.

Maps, which shall be approved by the city council and maintained in the office of the city clerk, for inspection by the public.

Section 4: Modifications

The fire chief or fire marshal shall have power to modify any of the provisions of the fire prevention code upon application in writing by the owner or lessee, or a duly authorized agent, when there are serious difficulties in carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such modification, when granted or allowed, and the decision of the fire chief or fire marshal thereon shall be entered upon the records of the fire department and a signed copy shall be furnished to the applicant.

Section 5: Appeals

- a. Any person aggrieved by an action of the fire chief, the fire marshal or other city official or employee of the City of Milton fire department, including but not limited to disapproval of an application, refusal to grant a permit, a determination that the fire code or city ordinances does not apply or has been misconstrued, but excluding those actions or violations which are within the purview of the state fire marshal or code violations which are subject to the jurisdiction of municipal, state or federal court, may appeal and be heard by the City's construction board of appeals for construction.
- b. All appeals, pursuant to this section, must be filed in writing with the City of Milton public works department within 30 days from the date of the decision or action from which the aggrieved party appeals. All appeals must be filed on forms which can be obtained at the City of Milton public works department.
- c. Any person aggrieved by an action of the city board of appeals for construction may appeal within thirty (30) days to the Superior Court of Fulton County, Georgia by writ of certiorari.

Section 6: New Materials, processes or occupancies which may require permits

The City Manager, the fire chief and the fire marshal shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies, which shall require permits in addition to those now enumerated in the fire prevention code. The fire chief shall post the list, if any, in a conspicuous place in his or her office, and distribute copies thereof to interested persons. The list shall be a rule and regulation of the fire department and shall be adopted by the mayor and city council and become effective upon approval, unless otherwise specified.

Section 7: Penalties

- a. Any person who shall violate any of the provisions of the fire prevention and protection code or fail to comply therewith or who shall violate or fail to comply with any order made thereunder or who shall build in violation of any detailed statements, specifications, plans submitted and approved thereunder or any certificate or permit issued thereunder and from which no appeal has been taken within the time affixed herein may be prosecuted for violations by the City after the person has been issued a citation by a duly authorized officer of the fire department of the City of Milton or an authorized law enforcement officer of the police department of the City of Milton. Upon conviction, the person shall be punished by a fine or imprisonment in accordance with Section 11-4-080 of the City Code, as now or hereafter amended. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue, and all such persons shall be required to correct or remedy the violations or defects within 30 days. Each day's continuing violation shall be treated as a separate offense.

- b. In addition to all other provisions of this section, any violation of this chapter is deemed to be a continuing nuisance and may be abated by an application of injunction in the Superior Court of Fulton County or any other court of competent jurisdiction.

Section 8: Authority at fires.

- a. The fire chief or fire officers under his or her direction shall have full control over all fire apparatus of the fire department in service at any fire. It shall be the duty of the fire chief or his or her designee to superintend the fire department while performing any public duty in fighting a fire; to give general and specific directions as to the manner of fighting fires, the use of hose and apparatus, and the specific duties and assignments of the various members of the fire department in attendance at a fire. The fire chief may immediately suspend any member of the fire department for insubordination at any fire.
- b. Officers of the fire department, when at the scene of a fire, may direct or assist the city police department in directing traffic in the immediate vicinity.

Section 9: Obstruction of or tampering with fire hydrants and apparatus prohibited.

- a. It is unlawful for any person to place ashes, cinders, dirt, rubbish, building material or any other material around or in close proximity to any fire hydrant so as to cause hindrance or delay in access thereto, or prevent the free use thereof by the fire department. No person shall, in any way, interfere with or tamper with any fire hydrant or attempt to take water therefrom without special authority from the fire chief or his or her designee. Any person who violates this section shall upon conviction be punished in accordance with Section 11-4-080 of this Code, as now or hereafter amended.
- b. Without the consent of the fire chief, no person not an active member of the fire department shall at any time ride upon any of the fire apparatus of the fire department, nor shall any person make use of any fire apparatus, hose, or other equipment of the fire department, other than for the purpose for which the equipment was intended, without the consent of the fire chief.

Section 10: Certain acts interfering with firefighting activities.

No person, except an active member of the fire department, shall at any time, enter within the territory or vicinity of any fire, when the area is roped off or access is denied by the city police, or interfere with or attempt to operate any of the apparatus or equipment of the fire department or any fire hydrant, or interfere by giving orders to any individual, unless requested to do so by the fire chief or fire officers under his or her direction. Any police officer or other law enforcement officer; the owner or occupant of the property, and the city manager or any other persons as may be specifically authorized by the fire chief or his or her designate, may enter the restricted areas.

Section 11: Open burning.

Open burning is prohibited, with certain exemptions, in the city, as set forth in the code ordinances. The provisions of Section 391-3-1.02(5) of the regulations promulgated by the Georgia Environmental Protection Department under the Georgia Air Quality Act, as amended from time to time are adopted and incorporated herein by reference. A copy of said regulation shall be kept on file by the city clerk for inspection by the public.

Section 12: Posting of addresses.

- a. All owners and occupants of improved real property lying within the City are required to post the address of such real property owned or occupied by them with the street address assigned to such property by the City of Milton, in such manner that said address is clearly visible and legible from the street on which the improvement on such property fronts. The obligation hereby imposed shall be the joint duty of all owners and occupants of improved real property lying within the City. All owners and occupants of improved real property lying within the City will have a grace period of six (6) months from the effective date of this subsection to come into compliance.
- b. All owners of apartment complexes lying within the City are required to post the building identified for each apartment building within the complex, whether the identifier be a number or letter or a combination thereof, in such manner that said building identifier is clearly visible and legible from the street or private drive on which each building fronts. The identifier for each building within apartment complexes lying within the city will be a minimum of one foot in height, will contrast with the building itself so as to be highly visible, will be reflective so as to be seen easily in darkness and will not be obstructed at any time by natural or man-made objects. All owners of apartment complexes lying within the city will have a grace period of six (6) months from the effective date of this subsection to come into compliance.
- c. All persons who violate this section shall be subject to a fine in an amount set by resolution of the City Council. If the person does not remedy the violation, every thirty (30) days shall be deemed a separate offense.

Section 13: Sprinkler protection required.

- a. As used in this section, the following terms shall have the meanings set forth herein:
 1. “Commercial” refers to a business involved in the exchange of services, productions, or property of any kind; the buying, selling and exchange of articles.
 2. “Multifamily residential structures” refers to a structure with a maximum of four stories in height, except duplex and free standing single family

residences. A story is defined as that portion of a building included between the upper surface of the floor and the upper surface of the floor or roof next above.

3. "New," for the purposes of this section, shall include any additions to existing buildings, whether vertically or horizontally, or any existing building or structure which shall be deemed to be a new building in the event such building or structure is subject to substantial renovation or a fire or other hazard of serious consequence. For purposes of this subsection, the term "substantial renovation" shall mean any construction project involving exits or internal features of such building or structure costing more than the building's or structure's gross assessed value according to county tax records at the time of such renovation.
4. "Approved system-commercial/residential," for commercial buildings over 5,000 square feet, or residential structures, or those structures required to be sprinkled by some other code, means a sprinkler system designed in accordance with National Fire Protection Association Standards and referenced publications.
5. Approved system-commercial areas less than 5,000 square feet, for light hazard areas, i.e. offices and shipping areas, of commercial buildings less than 5,000 square feet a modified sprinkler system may be used. This system may be used upon appeal to the fire marshal's office by the owner of the building.
6. "Modified sprinkler system" is a combination sprinkler system operating off the domestic water supply designed in accordance with specifications on file in the fire marshal's office.

b. All new commercial buildings shall be protected throughout with an approved automatic fire protection system.

1. For buildings less than 15,000 square feet constructed mainly for the storage of products with limited life loss potential some flexibility may be allowed. The owner may petition to the fire marshal for exception to sprinklers in the storage areas. The fire marshal will give consideration to such things as building construction, products stored, arrangement of storage, number of employees in the area, access to the building, and any other fire protection features provided. This exception will not be allowed for additions to existing sprinkled buildings.

For buildings storing materials that are water reactive or may be damaged by water fighting a fire, than by a fire, the fire marshal's office shall use the same considerations.

2. Additions to existing unprotected buildings where the addition totals less than 1,000 square feet; provided, however, the addition must be separated by fire rated construction in accordance with the City of Milton Building Code and is not required to be protected by some other applicable code.

- c. All new multifamily residential structures shall be protected throughout with an approved automatic fire protection system.
- d. All new one-family and two-family dwellings built closer than 20 feet from another structure or closer than ten feet to the property line must be sprinkled with an approved system.
- e. There shall be early fire detection systems in all sections of multifamily occupancies. Existing buildings may have an approved battery operated smoke detector. The bureau of fire prevention may require a hard-wire detection system if battery operated detectors are not maintained according to manufacturer's recommendation.
- f. The owner is responsible for the inspection and testing of the sprinkler system in accordance with the rules of the Georgia Safety Fire Commissioner.
- g. If this code section in any way conflicts with the provisions in the Standard Building Code, the Fire Prevention Code, or the Life Safety Code, the more restrictive shall apply.

Section 15: Application of building and fire related codes to existing buildings.

- a. O.C.G.A. § 8-2-200 et seq., and all subsequent amendments thereto, is adopted and incorporated by reference and shall be controlling in the corporate limits of the city. A copy will be on file in the office of the city clerk for inspection by the public.
- b. Any other provision(s) of the city Code of Ordinances which does not adopt state law by reference and which is more restrictive than the rules of the Georgia Safety Fire Commissioner shall be controlling over the rules of the Georgia Safety Fire Commissioner.
- c. All amendments, deletions, additions or supplements to O.C.G.A. § 8-2-200 et seq. may be adopted by an ordinance of council, and thereby incorporated herein; provided, that any changes in the standard text shall be made available to the public for inspection in the office of the city clerk.

Section 16: Key lockbox system for commercial, residential and other locations with restricted access through locked gates.

- a. The following structures shall be equipped with a key lock box at or near the main entrance or such other location required by the Fire Marshal:
 - 1. commercial or industrial gated structures that are secured in a manner that restricts access during an emergency;

2. multi-family residential structures that have restricted access through locked gates;
 3. governmental structures and nursing care facilities with gated entrances.
- b. All newly constructed structures, communities, or complexes subject to this section shall have the key lock box installed and operational prior to the issuance of an occupancy permit. All structures, communities, or complexes in existence on the effective date of this section and subject to this section shall have one year from the effective date of this section to have a key lock box installed and operational.
 - c. The Fire Marshal shall designate the type of key lock box system to be implemented within the city and shall have the authority to require all structures to use the designated system.
 - d. The owner or operator of a structure, community, or complex required to have a key lock box shall, at all times, keep a key in the lock box, or maintain the operation of the box at all times.
 - e. The Fire Marshal shall be authorized to implement rules and regulations for the use of the lock box system.
 - f. Any person who owns or operates a structure, community, or complex subject to this section shall be subject to the penalties set forth in all sections of this code for any violation of this section, provided that the maximum fine for a conviction for a violation of this section shall be \$1,000.00.
 - g. All requests for the designated key lock box system shall be coordinated through the Fire Marshal and get approval for the location of the box on each site.
 - h. This Ordinance shall take effect immediately upon its passage.

Section 17: Key lockbox system for certain buildings as designated by the Fire Marshal.

- a. The following structures shall be equipped with a key lock box at or near the main entrance or such other location required by the Fire Marshal:
 1. commercial or industrial structures protected by an automatic alarm system or automatic suppression system, or such structures that are secured in a manner that restricts access during an emergency;

2. multi-family residential structures that have restricted access through locked doors and have a common corridor for access to the living units;
 3. governmental structures and nursing care facilities.
- b. All newly constructed structures subject to this section shall have the key lock box installed and operational prior to the issuance of an occupancy permit. All structures in existence on the effective date of this section and subject to this section shall have one year from the effective date of this section to have a key lock box installed and operational.
 - c. The Fire Marshal shall designate the type of key lock box system to be implemented within the city and shall have the authority to require all structures to use the designated system.
 - d. The owner or operator of a structure required to have a key lock box shall, at all times, keep a key in the lock box that will allow for access to the structure.
 - f. The Fire Marshal shall be authorized to implement rules and regulations for the use of the lock box system.
 - g. Any person who owns or operates a structure subject to this section shall be subject to the penalties set forth in all sections of this code for any violation of this section, provided that the maximum fine for a conviction for a violation of this section shall be \$1,000.00.
 - h. All requests for the designated key lock box system shall be coordinated through the Fire Marshal and get approval for the location of the box on each site.
 - g. This Ordinance shall take effect immediately upon its passage.

Article 4. Fire Lanes

Section 1: Purpose and Scope.

It is the declared purpose of this article to provide for the designation and identification of the lanes; for the manner, method and language for the posting of signs; to establish the penalty for violation of this chapter; to identify and designate the persons who have authority to enforce the chapter and the limits of such authority; to prohibit parking in fire lanes; to provide

for the method of submitting properties to this chapter; to repeal all ordinances in conflict herewith; and for other purposes.

Section 2: Definitions.

The words used in this chapter shall have their normal accepted meanings except as set forth below:

- a. “Authorized emergency vehicle” means a motor vehicle belonging to a public utility corporation and designated as an emergency vehicle by the department of public safety; a motor vehicle belonging to a fire department or a certified private vehicle belonging to a volunteer fireman or a firefighting association, partnership, or corporation; an ambulance; or a motor vehicle belonging to a federal, state, or local law enforcement agency, provided such vehicle is in use as an emergency vehicle by one authorized to use it for that purpose.
- b. “Enforcement officer(s)” shall refer to any duly authorized law enforcement officer employed by the City.
- c. “Fire lane(s)” are areas designated by the fire official providing access for fire department vehicles to buildings, fire department connections and fire hydrants. This includes all alleys, driveways or lanes, devoted to public use, where the parking of motor vehicles or other obstructions can interfere with the ingress or egress of fire department vehicles for the protection of persons and properties including, but not limited to, shopping centers, theaters, hospitals, bowling lanes, churches, multi-family housing, and high-rise buildings.
- d. “Fire official” means the fire officer or other designated authority, or their duly authorized representative, charged with the administration and enforcement of the fire prevention code.
- e. “Master plats” means all original plats drawn in accordance with this chapter; all copies distributed shall be from this original drawing.
- f. “New building(s)” means any commercial structure or public facility whose certificate of occupancy was issued after the effective date of December 1, 2006.
- g. “Plats” shall refer to maps created by the building owner and approved by the fire marshal which depict the location and boundaries of land and all existing fire lanes in accordance with this chapter. Such maps shall be drawn to scale.
- h. “Property owner(s)” shall refer to each person, firm, corporation, or entity possessing any estate, or leasehold right in the property being designated as fire lane(s).
- i. “Ticket” shall mean an order issued out of court by an enforcement officer of the city directing a violator of this chapter to comply with all civil fines as set forth.

Section 3: Identification.

- A. Every existing building and all new buildings shall be accessible to fire department apparatus by way of designated fire lanes with an all-weather driving surface of not less than twenty (20) feet of unobstructed width. There shall be a minimum roadway turning radius of thirty-five (35) feet. There shall be a minimum vertical clearance of thirteen (13) feet, six (6) inches. The minimum hard surface subbase paving specification shall be at least one and one-half (1 ½) inches of asphalted topping on at least six inches of bound crushed stone, or the equivalent, capable of supporting the gross vehicle weight of fire apparatus. During construction, when combustibles are brought onto the site in such quantities as deemed hazardous by the fire official, access roads and a suitable temporary supply of water acceptable to the fire department shall be provided and maintained.
- a. Where fire protection systems approved by the fire official are provided, the above required clearances may be modified by the fire official.
 - b. The fire official shall have the authority to require an increase in the minimum access widths where they are inadequate for fire or rescue operations.
 - c. The creation, deletion, or modification of a fire lane shall be done in the best professional judgment of the fire official.
- B. Any owner of a building aggrieved by the decision of the fire official under this section may appeal from the decision of the fire official to the city manager within thirty (30) days from the date of the fire official's decision. All appeals to the city manager shall be in writing setting forth the reasons for the appeal. The city manager shall issue a written decision to the owner within thirty (30) days from the receipt of the written appeal from the owner.
- C. The areas designated as fire lanes shall have signs posted meeting the following criteria:
1. Signs to read "No Parking Fire Lane."
 2. Letters shall not be less than two inches in height.
 3. One sign shall be posted at the beginning of the fire lane and one at the end of the fire lane; each sign shall be erected not more than fifty (50) feet apart.
 4. Signs posted shall not be more than four feet from the edge of the curb and shall be visible from both direction of the driving surface.
- D. The fire official may order curbs to be painted yellow or other distinctive colors.

Section 4: Approval; subsequent maintenance.

All fire lanes shall be approved by the fire official pursuant to these regulations, and thereafter these fire lanes shall be maintained by the property owner. Designated fire lanes or

roads deemed necessary for fire department access by the fire official shall be maintained in a passable condition.

- A. Private property owners or their representatives shall be responsible for keeping all fire lanes on their property free from obstructions.
- B. Public property owners, the City of Milton, or their representatives shall be responsible for keeping all fire lanes within the city's jurisdiction free of obstructions.

Section 5: Erection of signs.

No person or property owner shall place, erect or maintain any sign for control of parking or traffic which includes the words "Fire Lane" unless such location has been designated a fire lane by the fire official. Any failure to meet the applicable requirements specified in the Milton City Code shall be subject to a fine of one hundred and fifty dollars (\$150.00) for each violation, provided, however, that the fine will be waived if the required specifications are made within fourteen (14) days from the date of citation. If that private or public property owner fails or refuses to meet said requirements on his property within such fourteen (14) days he shall, on the 15th day after receiving the citation, be subject to the one hundred and fifty dollar (\$150.00) fine for each violation and an additional ten dollar (\$10.00) fine for each violation for each day that the owner fails to comply with the provisions of this section until the area is properly designated and constructed. Each additional day shall be construed as an additional violation. All fines assessed under this section shall be paid into the treasury of the City.

Section 6: Violations.

No person shall park any motor vehicle, including a motorcycle, in a fire lane; provided, however, this section shall not apply to the parking of an authorized emergency vehicle on official business.

- A. Enforcement of this section shall be through a civil action in municipal court by the issuance of a ticket which shall be either left with the vehicle or delivered to the person in possession thereof. For purposes of such civil action, it shall be presumed that the registered owner of said vehicle is in control or possession thereof.
 - 1. The first violation of parking in a fire lane within any thirty (30) day period shall be punished by a twenty five dollar (\$25.00) civil fine; provided, however, the second violation within any thirty (30) day period shall be punishable by a civil fine of forty dollars (\$40.00); and a civil fine of fifty dollars (\$50.00) may be levied for each violation thereafter occurring within any thirty (30) day period.
 - 2. The person receiving a ticket for violation of this section may pay the civil fine(s) by return mail to the municipal court of the city or his designated receiver within forty-eight (48) hours of the issuance of the ticket or may

request a hearing within forty-eight (48) hours to contest the issuance of the ticket. In the event the civil fine is not paid within forty-eight (48) hours, the municipal court may issue a citation for contempt requiring the offender to show cause why he failed to pay the fine within the time frame allowed by this section. Upon conviction thereof, the municipal court may impose a fine as provided by law.

- B. Upon any person to whom a ticket has been issued under this section, a uniform traffic citation may be obtained with a hearing date thereon from the police officer or uniformed fire inspector whereupon it shall be returnable to the municipal court.

Violation of this section shall be enforced through a civil action. The burden of proof shall be on the city. The standard of proof shall be by a preponderance of the evidence; provided, however, the aforementioned presumption in subsection (A) of this section shall apply.

Section 7: Enforcement Authority.

A duly authorized law enforcement officer employed by the city and uniformed fire inspectors shall have the authority for enforcement of fire lanes.

Section 8: Emergency Authority

In addition to all powers authorized by state law, as amended, in the event of any fire, explosion, bomb threat, or similar emergency, the fire department in the City shall be authorized to prevent the blocking of any public or private street, road or alley, way or driveway, or emergency lane, during any such emergency or remove any vehicles or obstructions necessary. The officers, members, agents or employees of the fire department of the city shall not be liable at law for any act or acts done while actually fighting a fire or performing duties at the scene of an emergency.

Section 9: Liability for enforcement of article pertaining to maintenance and clearing.

The City of Milton assumes no liability for any damages, injuries, or deaths resulting from enforcement or lack of enforcement of the laws pertaining to maintenance and clearing of the fire lanes. The City has the authority to issue individual tickets or citations for fire lane violations, but the property owner has the ultimate responsibility to clear the fire lanes.

Section 10: Enforceability of properly placed signs.

The disregard or disobedience of the instruction of any sign placed in accordance with the provisions of this chapter by the driver of a vehicle shall be deemed prima facie evidence of a violation of law, without requiring proof by whom and by what authority such sign has been erected.

Section 11: Petition requesting application of chapter to properties.

Properties may become subject to this chapter by submitting a petition from the property owner or fully authorized agent of the property owner requesting this chapter to apply. The petition shall be submitted to the fire official and, upon approval, the property shall become subject to this chapter and its subsequent revisions.

Section 12: Descriptions for fire official.

Property which falls within the jurisdiction of the City of Milton shall have all fire delineations visually depicted on a plat. These plats shall be designed by the owner and submitted to the City of Milton Fire Department and copies shall be maintained with the city clerk. Each visual depiction shall identify all building exterior walls, traffic and parking lanes, and sidewalks. The area(s) to be designated as fire lane(s) shall be delineated in red ink. The plat shall state a scale of measurement and shall be on paper or a series of pages of 8 ½ by 11 inches. The plat identification shall specify the name of the property, a brief legal description of the property, and the length and width of the fire lane(s), as approved by the fire official, with whom all master plats will be filed.

Article 5: Police Department.

Section 1: Composition and Purpose

The police department shall be composed of the chief of police and any police officers or other employees as may be necessary. Its purpose is to enforce City of Milton ordinances, and county, state and federal law within its jurisdiction so as to maintain the peace, good order and tranquility of the city. Enforcement powers shall include the arrest and prosecution for any violation of such laws. The police department may be assisted by others as may be authorized by mayor and council, or as provided in any duly executed intergovernmental contract or mutual aid agreement.

Section 2: Chief of Police; Acting Chief.

Under the general direction of the city manager, the chief of police will direct the administration and operation of all services of the City of Milton police department and shall establish the policies, directives, rules and regulations for the administration and operations of the department. The chief is the executive officer of the department and shall ensure that all laws, both state and federal, ordinances and regulations are enforced and that life and property are protected. The chief shall establish divisions within the department in accordance with the needs of the City of Milton, and shall monitor the daily functions of all such divisions within the department. His/her responsibilities shall include overseeing accreditation and training,

supervising operations, and reviewing decisions related to hiring, disciplining, and evaluation of department personnel.

In the chief's absence from the city or when for any reason the chief of police is unable to attend to the duties of his/her office, he/she shall designate a person to be acting chief and such designated person shall assume the duties of the chief of police for such designated time.

Section 3: Oversight by Public Safety Committee.

The Public Safety Committee shall oversee the operation of the Police Department. The Police Chief shall serve as a liaison to such Committee and make periodic reports as requested.

Section 4: Operations Manual.

The Chief of Police shall prepare and institute any Standard Operating Procedures or other operational guidelines as are consistent with the professional and legal dictates of current law enforcement practice. These procedures and policies shall be the Department Operations Manual and shall be made available to all employees of the police department.

Section 5: Patrol Powers.

- (a) The police officers of the city shall have the authority to patrol over any street, alley, path sidewalk, or park in and around any stores, cafes, taverns restaurants, dance halls, service stations or any other establishment in the city.
- (b) An officer while on duty for the city shall have authority to enter any type of business while open to the public and check to see if everything is being carried on in a lawful manner. After business hours and while closed to the public, an officer for the city has authority to check places of business, to see if the doors and windows are safely locked.
- (c) An officer for the city shall have the authority to check and investigate, enter and patrol any park, business, residence or public place within the city limits if the officer has probable cause or sufficient reason to believe some act is being committed which would involve the violation of a law or a city ordinance; a personal injury or damage to property; or if any of the above appear to be imminent.
- (d) No police officer shall enter a private dwelling without a search or arrest warrant unless he has the voluntary consent of the owner or occupant or he is in pursuit of a fugitive who the officer has personal knowledge or probable cause to believe has committed or attempted to commit a felony.

Section 6: Compensation for Testifying.

Any law enforcement officer subpoenaed by the Municipal Court of the City of Milton will be entitled to compensation from the City of Milton for his or her appearance at a court session when such officer attends in an off-duty status.

Section 7: Abuse of Position.

(a) No police officer shall use his official position or official identification cards or badges:

- (1) for personal or financial gain;
- (2) for obtaining privileges not otherwise available to the officer except in the performance of duty; or
- (3) for avoiding consequences of illegal acts.

(b) Police officers may not lend their identification cards or badges to another person, or permit them to be photographed or reproduced without the approval of the chief.

Section 8: Endorsements and Referrals.

Police officers shall not recommend or suggest in any manner, except in the transaction of personal business, the employment or procurement of a particular product, professional service or commercial service such as an attorney, ambulance, towing service, bondsman, mortician or the like. In the case of ambulance or towing service, when such service is necessary and the person needing the services is unable or unwilling to procure it or requests assistance, officers shall proceed in accordance with established departmental procedures.

EFFECTIVE DATE

This ordinance shall become effective upon adoption and approval by the City Council of the City of Milton, Georgia.

SEVERABILITY

Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the ordinance as a whole nor any part thereof other than the part so declared to be invalid or unconstitutional. All ordinances or resolutions, or parts thereof, in conflict with this ordinance are repealed.

ORDAINED by the City Council of the City of Milton, Georgia, this ____day of

_____ 2008.

JOE LOCKWOOD
Mayor & Presiding Officer
City Council
City of Milton, Georgia

Attest:

Jeanette R. Marchiafava, City Clerk

PROJECT NAME

The Church of Jesus Christ of Latter-Day Saints

PROPERTY INFORMATION	
ADDRESS	2810, 2820, 2830, 2840, 2850, 2860 Bethany Bend Road
DISTRICT, LAND LOT	2/2, 832
OVERLAY DISTRICT	State Route 9 Overlay
EXISTING ZONING	AG-1
ACRES	7.2074
EXISTING USE	Undeveloped
PROPOSED USE	Church

OWNER Cogburn and Bethany LLC
ADDRESS 2965 Manor Bridge Dr.
 Alpharetta, Georgia 30004

PETITIONER/REPRESENTATIVE Church of Jesus Christ of Latter-Day Saints

INTENT

To request a use permit for a 16,728 square feet church with 352 seats and storage shed, at a density of 2,320.95 square feet per acre on 7.2074 acres.

COMMUNITY DEVELOPMENT DEPARTMENT RECOMMENDATION

U08-03: WITHDRAWAL

Based on a letter received by the City of Milton Community Development Department on June 17, 2008 requesting withdrawal by the applicant (Attached to this Staff Report).

CITY OF MILTON PLANNING COMMISSION RECOMMENDATION

U08-03: WITHDRAWAL – 6-0

LAW OFFICE
NATHAN V. HENDRICKS III
4085 LANE FOREST DRIVE, SUITE 200
ATLANTA, GEORGIA 30328

June 16, 2008

OFFICE (404) 255-5151
TELECOPIER (404) 255-3889

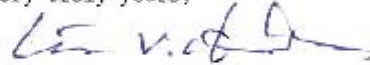
Ms. Alice F. Wakefield
Director of Community Development
City of Milton
13000 Deefrield Parkway, Suite 1070
Milton, Georgia 30004

Re: U08-03

Dear Alice:

As a follow up to our meeting with you on Friday, June 13, 2008, the Applicant has determined to request that the above referenced Application for Use Permit be withdrawn. I would appreciate your recommending withdrawal based upon this request and your presenting the Applicant's request for withdrawal together with your recommendation of same to both the Planning Commission and the City Council.

Very Truly yours,



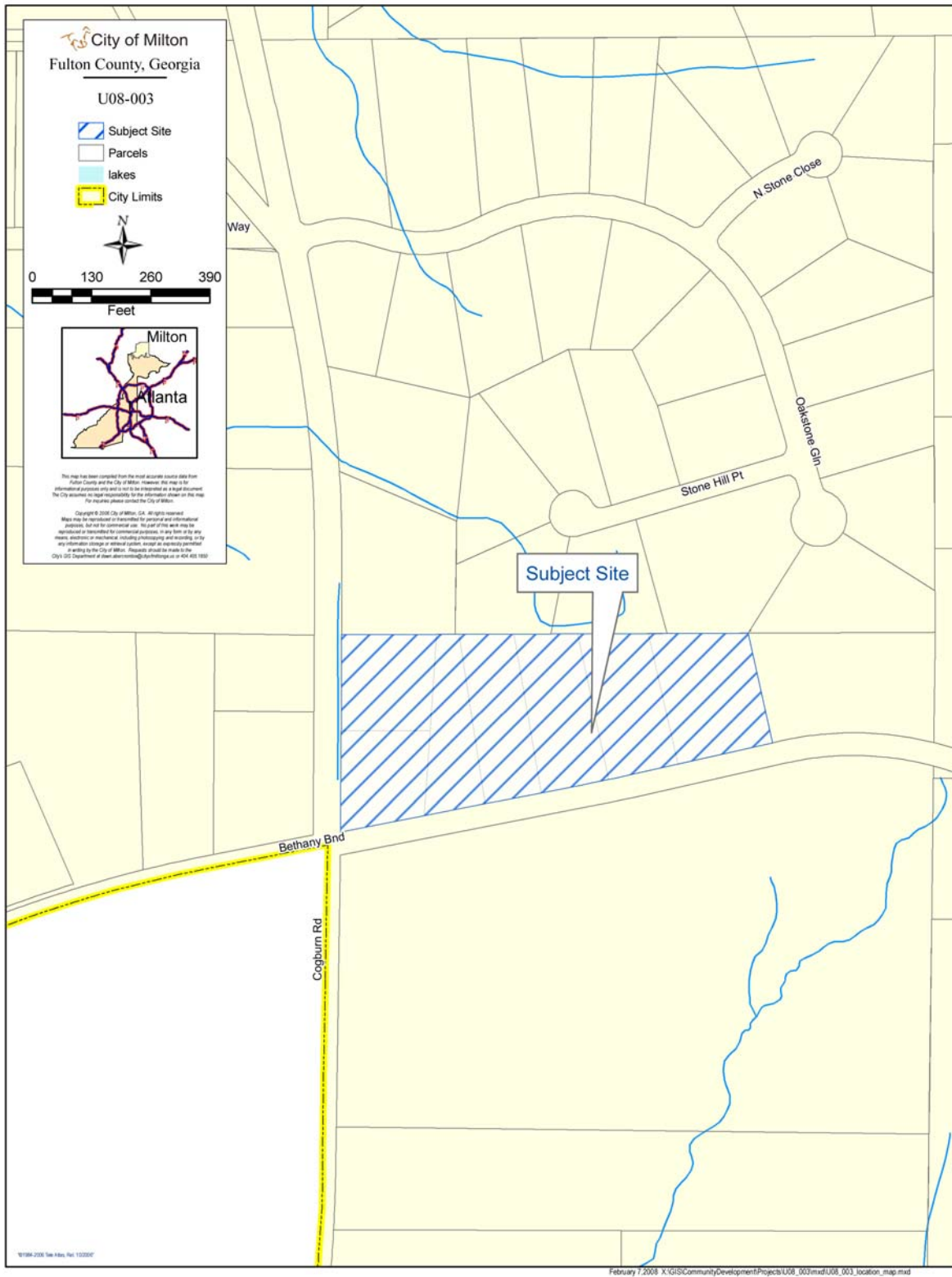
Nathan V. Hendricks III
Attorney for the Applicant

NVH:sks

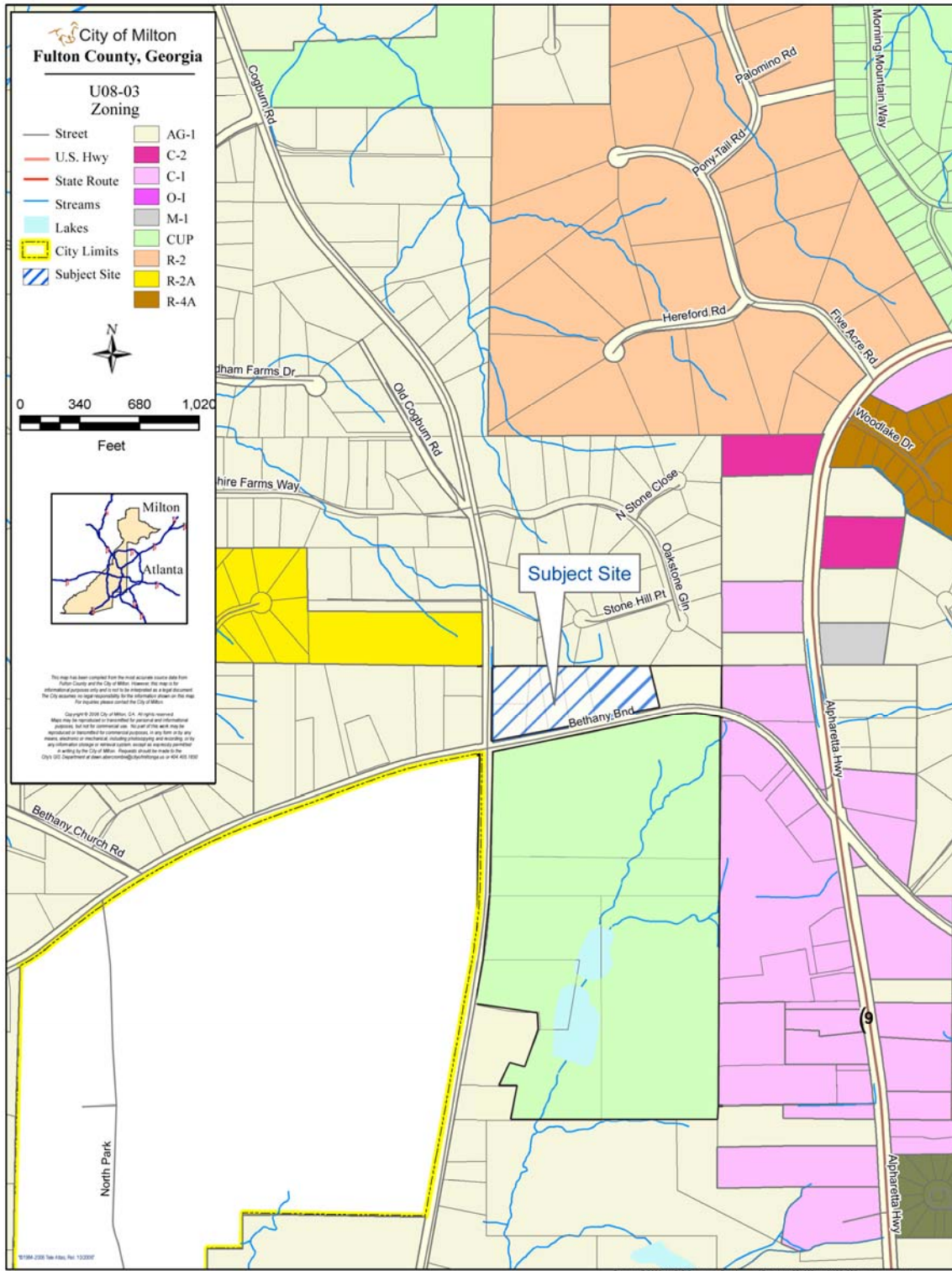
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JUN 17 2008

City of Milton
Community Development

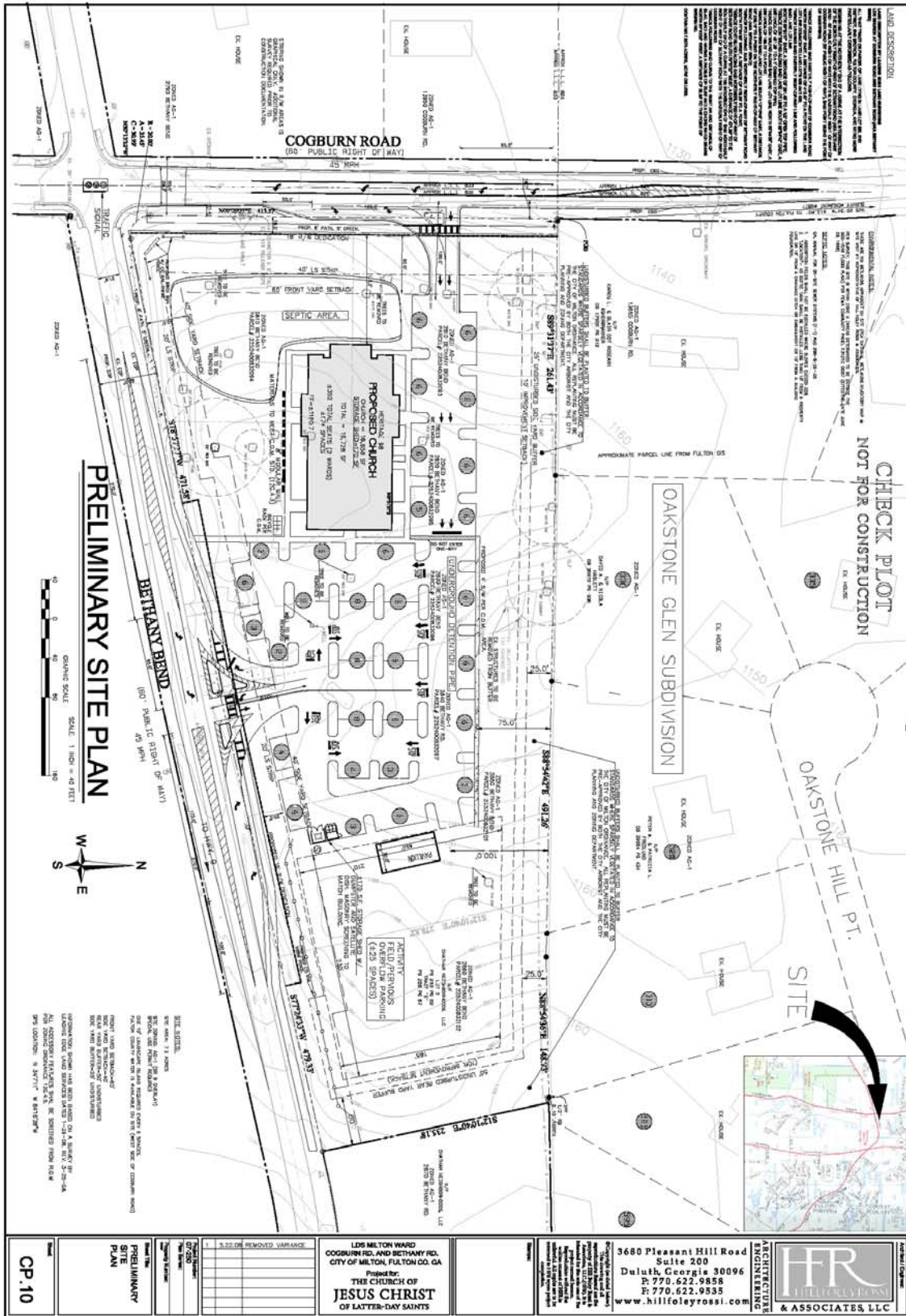


LOCATION MAP



CURRENT ZONING MAP

Prepared by the Community Development Department for the
Mayor & City Council Meeting on July 21, 2008



SITE PLAN—SUBMITTED June 4, 2008

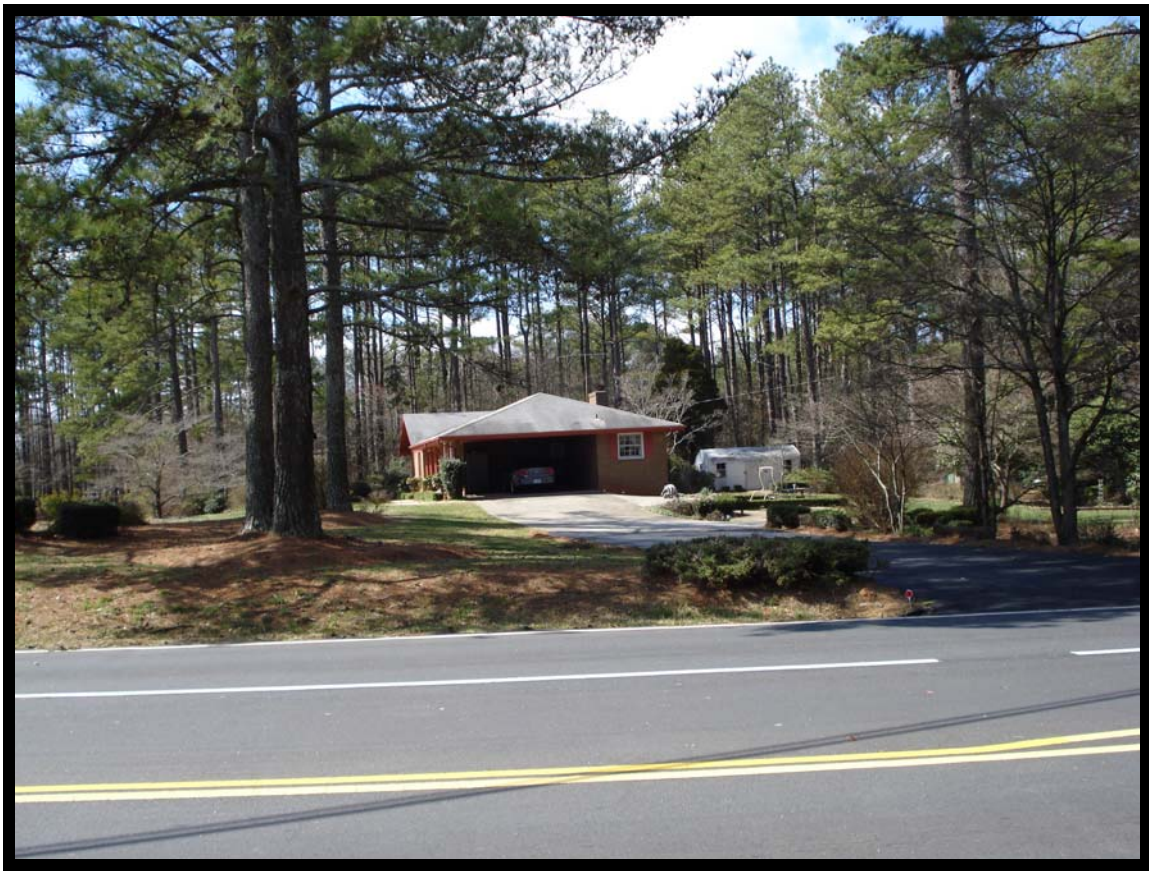
Prepared by the Community Development Department for the Mayor & City Council Meeting on July 21, 2008



LOOKING AT SUBJECT SITE FROM THE SOUTH



LOOKING AT SUBJECT SITE FROM THE SOUTH



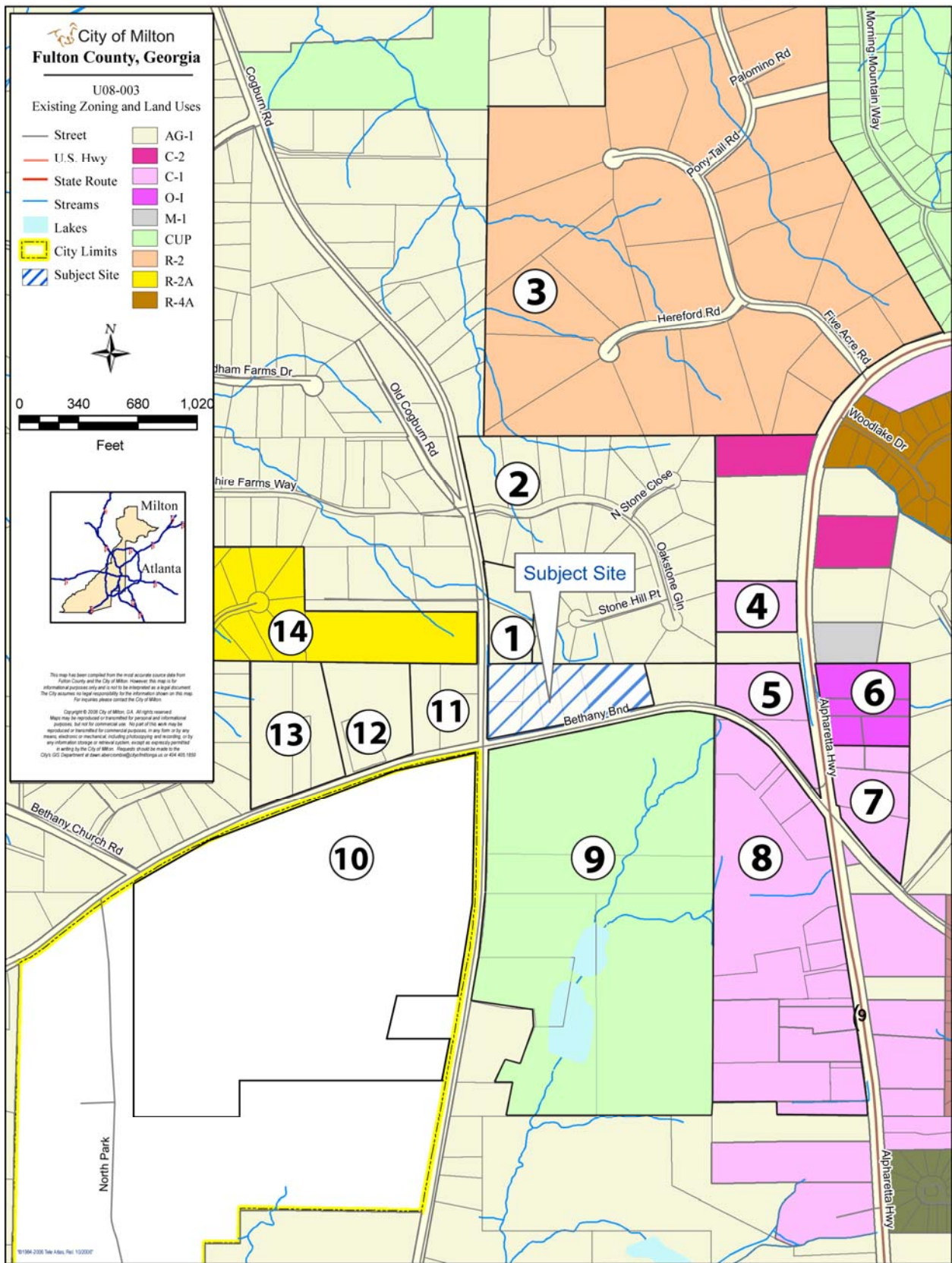
LOOKING WEST FROM SUBJECT SITE

SUBJECT SITE:

The subject site is a 7.2074 acre tract of agriculturally zoned land, located on the northeast side of the intersection of Coburn and Bethany Bend Roads. The subject site is undeveloped and is located within the Agricultural, Forestry and Mining Land Use designation on the Focus Fulton 2025 Comprehensive Land Use Plan.

Existing uses and zoning of nearby property (See Map following table)

Location	Parcel / Zoning Petition	Zoning / Name	Approved Density/Min. Heated Floor Area
North	1 (AG-1)	AG-1 Agricultural Scattered homes	Min. 1 unit/acre
Farther North	2 (AG-1)	AG-1 Agricultural Oakstone Glen Subdivision	Min. 1 unit/acre
Fartherst North	3 (R-2 Cond'l) Z77-106	R-2 Conditional Five Acres Estates	Min. 1 unit/acre
Northeast	4 (C-1 Cond'l) Z00-052	C-1 Conditional Kids "R" Kids Learning Center	4,771.25 square feet/acre Total of 14,600 total square feet with 240 students
East	5 (C-1 Cond'l) Z04-022	C-1 Community Business Retail Shopping Center	7,314.03 square feet/acre
Farther East	6 (O-I) RZ-07-010	O-I Office Institutional Offices and Bank	5,332 square feet/acre
Southeast	7 (C-1) 06Z-096	C-1 Community Business Commercial Retail with Fast Food Restaurant (under development)	5,690.91 square feet/acre
Southeast	8 (C-1 Cond'l) Z99-77	C-1 Conditional Retail Shopping Center	7,846.04 square feet/acre
South	9 (CUP Cond'l) 05Z-115	CUP Conditional Currently undeveloped	2.98 units/acre
Southwest In Alpharetta	10 (AG-1) 05U-002	AG-1 Agricultural Kings Ridge Christian School	4,872.13 square feet per acre Total of 341,000 square feet
West	11 (AG-1)	AG-1 Agricultural Scattered residential	Min. 1 unit/acre
Farther West	12 (AG-1) 97U-21	AG-1 Agricultural Morning Star Church	878 square feet/ acre Total of 7,250 square feet and 120 seats
Farthest West	13 (AG-1)	AG-1 Agricultural Scattered residential	Min. 1 unit/acre
Northwest	14 (R-2A Cond'l) Z72-194	R-2A Conditional Bethany Green Subdivision	None given



EXISTING USES AND ZONING MAP

Prepared by the Community Development Department for the
Mayor & City Council Meeting on July 21, 2008

In the interest of the public health, safety and welfare, the Mayor and City Council may exercise limited discretion in evaluating the site proposed for a use that requires a Use Permit. In exercising such discretion pertaining to the subject use, the Mayor and City Council shall consider each of the following as outlined in Article 19.2.4 of the Zoning Ordinance; Use Permit Considerations. Staff has reviewed said items pertaining to the subject use, and offers the following comments:

A. Whether the proposed use is consistent with the land use or economic development plans adopted by the Mayor and City Council:

Provided the applicant complies with the Recommended Conditions of this petition and the Use Permit requirements of Article 19.4.10. of the Zoning Ordinance, the proposed development is consistent with the intent and following policies of the Comprehensive Plan:

- Encourage compatible institutional uses in neighborhoods and communities.
- Encourage development consistent with the surrounding scale, transition of densities and uses, and Comprehensive Plan policies, where appropriate.

B. Compatibility with land uses and zoning districts in the vicinity of the property for which the use permit is proposed;

If developed in accordance with Staff's Recommended Conditions and the provisions of the Zoning Ordinance, the proposed church is expected to be compatible with other land uses in the surrounding area.

C. Whether the proposed use may violate local, state and/or federal statutes, ordinances or regulations governing land development;

The proposed use does not violate any known local, state and/or federal statutes, ordinances or regulations governing land development.

D. The effect of the proposed use on traffic flow, vehicular and pedestrian, along adjoining streets;

The proposed use may generate an increase in traffic primarily on Sundays, but recommended conditions should mitigate the increase in traffic. The applicant is conditioned to providing a full access from Bethany Bend Road and an entrance-only access from Cogburn Road because of lack of sight distance. In addition, the Milton Trail will be developed along the north side of Bethany Bend Road and the east side of Cogburn Road.

E. The location and number of off-street parking spaces;

Article 18.2.1 requires the applicant to provide a minimum of 101 parking spaces for the proposed development. Article 19.4.10 requires the applicant to locate parking outside of the minimum 60-foot front yard building setback and indicated compliance on the site plan. Staff notes that the applicant's site plan indicates 199 parking spaces which exceeds the minimum parking requirement. The site plan indicated that the parking is 75 feet from the north property line, which is 40 feet farther than the required 25 feet undisturbed buffer and 10-foot improvement setback.

F. The amount and location of open space;

The applicant's site plan indicates that approximately one third of the subject site is undeveloped. Staff is of the opinion that the proposed development will provide adequate open space for the proposed development, but the amount of open space would be greater without the proposed excessive parking.

G. Protective screening;

If developed in accordance with the requirements of the Zoning Ordinance and the State Route 9 Overlay District, the buffer and landscape strip requirements and the existing screening around the structures will provide adequate screening for the proposed development. Staff notes that with the additional 40 feet of setback along the north property line, required recompense trees can be planted in this area to further screen the adjacent residential properties to the north.

H. Hours and manner of operation;

The applicant has stated that the operations for the church will be primarily on Sunday. The applicant specified that this particular church would most likely start off with two (2) services on Sunday, meeting at two separate times and not overlapping, with the potential of a third if later needed. There is potential for up to three (3) overlapping services. The first service would begin around 9:00 a.m. and the overlapping services would last into the afternoon. There will be two congregations or "wards" meeting at the same time for approximately an hour. One ward would be in the sanctuary while the other would be meeting in the classrooms. The facility also has the potential to hold community gatherings during the week, but these are subject to demand. Staff is of the opinion that this use will not negatively impact the adjacent properties if the Staff's Recommended Conditions are implemented to minimize the increased number of trips generated by the use. Typically, this type of use is utilized by residents and employees who are already utilizing the surrounding road system.

I. Outdoor lighting;

At the time of Land Disturbance Permit the site shall be in compliance with Article 12G.4.D of the State Route 9 Overlay District regarding outdoor lighting. Staff notes that the subject site's required buffers, and existing screening, will help mitigate the impact of lights on the adjacent properties.

J. Ingress and egress to the property.

The applicant's site plan indicates one curb cut on Cogburn Road for entrances only and one full access curb cut on Bethany Bend Road. Staff notes that the curb cuts do not currently exist. Staff further notes that the Traffic Engineer estimates 232 trips per day with 116 peak hour trips for one service or ward at a time. Given the limited use of the subject site, Staff is of the opinion that the proposed development will have limited impact upon the community.

Based on the results of the above Use Permit considerations that demonstrate the proposed church an appropriate use for the site, Staff recommends **APPROVAL CONDITIONAL of U08-03.**

SITE PLAN ANALYSIS

Based on the applicant's site plan submitted to the Community Development Department on June 4, 2008, Staff offers the following considerations:

USE PERMIT STANDARDS

The site plan is in compliance with the development standards of Article 19.4.10 for a Church.

BUILDING SETBACKS

Article 5.1.3 AG-1 (Agricultural) states that the following building setbacks are required for the proposed development:

- Front Yard Setback: 60 feet
- Minimum Side Yard: 25 feet adjacent to interior line, 40 feet adjacent to street
- Rear Yard Setback: 50 feet

The site plan indicates compliance with the above stated building setbacks.

BUILDING HEIGHT

Article 5.1.3 limits the building height to 40 feet in AG-1 zoning. The applicant has not specifically indicated the height of the proposed structure, but must meet this standard before obtaining a building permit. Staff notes that the

zoning districts' maximum height limitation for structures does not apply to church spires and belfries (Article 4.3.3.).

State Route 9 Overlay District

LANDSCAPE STRIPS AND BUFFERS

Article 12G.4 Section A.1 of the State Route 9 Overlay District requires a minimum 20-foot wide landscape strip along both Cogburn Road and Bethany Bend Road if the original requirements in Article 4 of the Zoning Ordinance specify a smaller landscape strip. In Article 4.23.1, Bethany Bend Road is considered a "side corner" and is required to have a 20-foot landscape strip, which is in compliance with Article 12G.4 Section A.1 of the State Route 9 Overlay District. Cogburn Road is considered the "front yard" and is required to have a 40-foot landscaping strip, which overrides the 20-foot landscape strip required in Article 12G.4 Section A.1 of the State Route 9 Overlay District.

Article 4.23.1 reads that in AG-1, the following is required:

- Front yard landscape area- 40 feet (Cogburn Road)
- Side Corner yard landscape area- 20 feet (Bethany Bend Road)
- Side yard buffer- 25 feet and 10-foot improvement setback (North property line)
- Rear yard buffer- 50 feet and 10-foot improvement setback (East property line)

The applicant's site plan appears to follow all of these requirements.

Article 12G.4 Section A.3 further states that for every thirty (30) linear feet of landscape strip, a minimum of one 3" caliper hardwood shade tree is required to be planted in the center of the landscape strip or as approved by the Director.

On page 15 of this document is a map with comments made by the City Arborist on the trees in question on the site. Tree #4 is found to be dead, and tree #2 is not a specimen tree as indicated on the applicant's site plan. Because of the amount of grading that is required for the septic field, along with the grading for the driveway and entrance on Cogburn Road, Staff believes that the size of the required 40-foot landscape strip will not cause any hardship to the applicant in regards to the tree save area and septic field.

PEDESTRIAN PATHS

Article 12G.4 Section C.1 of the State Route 9 Overlay District requires a minimum 6-foot wide sidewalk along all public and private road frontages. The Milton Trail requires a 10-foot asphalt multi-use path along both Cogburn Road and

Bethany Bend Road adjacent to the subject property. The 10-foot asphalt multi-use path is reflected in the Recommended Conditions.

PARKING REQUIREMENTS

The following chart illustrates the parking required by Article 18 of the City of Milton Zoning Ordinance for the proposed use:

Proposed Use	Minimum Requirement	Spaces Provided
<ul style="list-style-type: none"> • Church (352 seats) 	<ul style="list-style-type: none"> • 1 space per 3.5 seats (352 seats/3.5) <p style="text-align: center;">101 spaces required</p>	<ul style="list-style-type: none"> • 174 paved spaces • 25 pervious overflow spaces <p style="text-align: center;">199 total spaces</p>

Staff notes that the applicant is providing 199 parking spaces, which exceeds the required 101 parking spaces required per Article 18 of the City of Milton Zoning Ordinance. It also appears that the site plan is in compliance with the landscape and layout requirements of Article 12G.4. Section F. Staff recommends that parking spaces along the eastern portion of the parking lot be constructed of pervious materials.

OTHER CONSIDERATIONS

City Arborist Comments and Map:

The site is completely wooded with lots of undergrowth from center of site towards the northern property line. An additional site visit was made to confirm items on the preliminary plan. There are no specimen trees located on the eastern portion of the property although there is heavy privet and smaller caliper trees in this area. Moving clockwise on the map, starting at the south end of the site, the following trees have been identified:

- Tree #1 is 50" caliper oak shown to be saved
- Tree #2 is shown as 30" caliper, but is actually 25" in good condition, trying to save (See DRB comment)
- Tree #3 is 30" caliper Oak in good condition
- Tree #4 is shown as 38" caliper, but is actually 27" caliper and dead
- Tree #5 is 30" caliper Oak to be saved
- Tree #6 is 30" caliper Oak to be saved
- Tree #7 is 40" caliper Oak to be saved
- Tree #8 is 42" caliper Oak to be saved
- Tree #9 is 28" caliper Hickory to be saved
- Tree #10 is 28" caliper Oak to be removed

LDS Church at Bethany Bend Road & Cogburn Road Specimen Trees on Site



The site plan shows a 170 square foot storage shed with dumpster and satellite dish near Bethany Bend Road. Staff recommends that this be moved away from the road frontage and placed elsewhere on the site. Staff notes that the building will match the church building. Pursuant to Article 12G.4.B.4 the dumpster shall not be placed within 50 feet of an existing residential or AG-1 (Agricultural) property line.

The applicant is also proposing a 1,800 square foot pavilion on the activity field. Staff notes that this will not have walls and will be designed to keep in character with the site.

PUBLIC INVOLVEMENT

On April 23, 2008 the applicant was present at the Community Zoning Information Meeting held at the Milton City Hall. There were approximately forty people in attendance from the community. Common concerns of the proposed development dealt with issues associated with traffic, drainage, buffers, and scheduling of services. The community and the applicant have had continuous discussions since the Community Zoning Information Meeting regarding the development.

Public Comments – Staff has received emails and phone calls from the community with various technical questions regarding the site plan.

City of Milton Design Review Board Meeting – May 6, 2008

The following recommendations were made by the DRB:

- The Board supports reducing the 40-foot landscape strip to 20 feet to allow the applicant to move the septic tank back, and possibly save 3 specimen trees (if healthy) (The City Arborist has determined that one tree is dead and one is not a specimen tree.)
- Remove dumpster from Bethany Bend frontage.
- Possibly flip Scout Building with dumpster.
- Materials of dumpster, pavilion and modular wall shall match building.

Public Notice Requirements

The use permit petition was advertised in the Milton Herald on May 14, 2008 and the sign was installed before the required date of May 7, 2008 along the frontages of Bethany Bend Road and Cogburn Road. The notice of a use permit was sent to adjacent property owners on May 12, 2008. Based on the requested deferral and withdrawal of both part 1 & 2 of the concurrent variance, it was advertised in the Milton Herald on June 18, 2008. The sign was installed before the required date of June 4, 2008 along the frontages of Bethany Bend Road and Cogburn Road. The notice of a use permit was sent on June 9, 2008.

Public Participation Plan and Report

The applicant has met the requirements of the Public Participation Plan. The applicant will be required to submit the public participation report 7 days prior to the Mayor and City Council meeting.

CONCLUSION

The proposed church is consistent with Council and Plan Policies and compatible with the surrounding area, if developed in accordance with the requirements of the Zoning Ordinance and Staff's Recommended Conditions. Based on the applicant's request to withdraw the petition, Staff recommends **WITHDRAWAL** of U08-03.

RECOMMENDED CONDITIONS

If this petition is approved by the Mayor and City Council, it should be approved USE PERMIT for a church (Article 19.4.10) CONDITIONAL subject to the owner's agreement to the following enumerated conditions. Where these conditions conflict with the stipulations and offerings contained in the Letter of Intent, these conditions shall supersede unless specifically stipulated by the Mayor and City Council.

- 1) To the owner's agreement to restrict the use of the subject property as follows:
 - a) Church and accessory uses including the storage/dumpster shed at a maximum density of 2,320.95 square feet of gross floor area per acre zoned or a total gross floor area of 16,728 square feet, whichever is less.
 - b) Pavilion not to exceed 1,800 square feet with no walls.
- 2) To the owner's agreement to abide by the following:
 - a) To the revised site plan received by the Milton Community Development Department on May 2, 2008. Said site plan is conceptual only and must meet or exceed the requirements of the Zoning Ordinance and these conditions prior to the approval of a Land Disturbance Permit. Unless otherwise noted herein, compliance with all conditions shall be in place prior to the issuance of the first Certificate of Occupancy.
- 3) To the owner's agreement to the following site development considerations:
 - a) No more than one (1) exit/entrance on Bethany Bend Road and ingress design on Cogburn Road. Curb cut locations and alignments are subject to the approval of the Milton Traffic Engineer.
 - b) Provide pervious materials for parking for the eastern most row of parking adjacent to activity field.
 - c) All building entrances shall have a direct connection to the sidewalk network.
 - d) The site plan must provide adequate fire truck access to all buildings on site, in alleys and one-way conditions; as acceptable to the Milton Public Works Director and Fire Marshal.

- 4) To the owner's agreement to abide by the following requirements, dedication and improvements:
- a. Dedicate at no cost to the City of Milton prior to the approval of a Land Disturbance Permit or Certificate of Occupancy (whichever comes first), sufficient land as necessary to provide for compliance with the Transportation Master Plan and the adjacent developments, according to the definitions in the Right-of-Way Ordinance or as approved by Milton Public Works Director.
 - i. Dedicate necessary Right-of-Way for future WB left turn lane on Bethany Bend at Cogburn Road and provide all widening on north side of Bethany Bend on subject site.
 - b. Dedicate at no cost to the City of Milton prior to the approval of a Land Disturbance Permit or Certificate of Occupancy (whichever comes first), sufficient land as necessary to provide the Right of Way for the approved final site plan including the following:
 - i. Provide the following road improvements as approved by Milton Public Works Director:
 - 1. EB Left turn lane on Bethany Bend into site driveway
 - 2. WB Right turn lane on Bethany Bend into site driveway
 - 3. SB Left turn lane on Cogburn Road into site driveway
 - 4. NB Right turn lane on Cogburn Road into site driveway
 - 5. Provide overlay and striping for full width of Bethany Bend and Cogburn Road the length of property lines plus any additional taper lengths necessary or as approved by Milton Public Works Director.
 - ii. Provide at least 16 feet of right-of-way from the back of curb/edge of pavement of all abutting road improvements, along the entire property frontage, as well as allow the necessary construction easements while the rights-of-way are being improved.
 - iii. Provide 10-foot wide concrete multi-use path along the entire Bethany Bend frontage of the property located no more than 1 foot off the Right of Way line and no less than 5 feet behind the back of curb or as approved by the Director of Public Works.
 - iv. Provide 10-foot wide asphalt multi-use path along the entire Cogburn Road frontage of the property located no more than 1 foot off the Right of Way line and no less than 5 feet behind the back of curb or as approved by the Director of Public Works.

- v. Provide a black 4-foot high four-board equestrian style fence adjacent to the sidewalk/trail along entire length of Bethany Bend Road and Cogburn Road or as approved by the Director of Community Development.
 - c. Any new required entrances shall meet the Community Service Policies and AASHTO guidelines, or roads be reconstructed to meet such criteria, at the approval of the Milton Public Works Director.
 - i. The Cogburn Road driveway shall be a right/left in entrance only driveway. This one lane section shall extend a minimum of 100 feet of uninterrupted flow or as approved by the Director of Public Works.
 - ii. The Bethany Bend driveway shall be a right/left in, right out, left out driveway. This 3 lane section shall extend a minimum of 40 feet or the 95% queue length of uninterrupted flow, whichever is greater or as approved by the Director of Public Works.
- 5) To the owner's agreement to abide by the following:
 - a. The developer's Professional Engineer shall demonstrate to the City by engineering analysis submitted with the LDP application, that the discharge rate and velocity of the storm water runoff resulting from the development is restricted to seventy-five percent (75%) of the pre-development conditions. Locations shall be as approved by the Stormwater Engineer.
 - b. The water quality and detention facilities shall utilize earthen embankments, where possible. Walled structures are not encouraged. If walled structures are proposed, they must meet the acceptable design standards of the Department of Community Development.
 - i. Detention facility shall have a 6-foot high, five-board equestrian style fence with two inch by four inch welded wire constructed around it as approved by the Stormwater Engineer.
 - c. The Developer shall utilize GASWCC limited application controls. All water quality and detention facilities shall have vegetated surfaces to be regularly maintained by the owner.
 - d. Provide a maximum 75 percent impervious, per drainage basin, at maximum build-out.

- e. Provide for maximum slopes of 3:1 and a maximum disturbed area of sixteen acres open at any time as shown on the LDP phasing plan, as approved by the Stormwater Engineer.
- f. Provide detailed 10% downstream analysis including all existing cross drain pipes and ditches. Provide any necessary improvements to existing ditches and pipes as determined by the Milton's Stormwater Engineer prior to issuance of LDP.

APPENDIX A

Comments on Public Services and Utilities

Note: Various City and/or County departments that may or may not be affected by the proposed development provide the following information. Comments herein are based on the applicant's conceptual site plan and are intended as general non-binding information and in no manner suggest a final finding by the commenter. All projects, if approved are required to complete the City of Milton Plan Review process prior to the commencement of any construction activity.

Transportation:

Trip Generation 232 Sunday Peak Hour

TABLE 12			
FUTURE 2014 INTERSECTION OPERATIONS			
Intersection	Traffic Control	Sun Peak Hour	
		LOS (Delay)	v/c ratio
Cogburn Rd / Bethany Bend	Signalized	D (50.1)	0.50
Cogburn Rd / LDS Church West Site Drwy (Enter only Drwy) -Southbound Left	No Side Street Stop Control Since enter only driveway	A (0.6)	0.02
Bethany Bend / LDS Church South Site Drwy (Full access Drwy) -Eastbound Left -Southbound Approach	Stop Controlled at LDS Church South Site Drwy	A (0.7) B (11.2)	0.02 0.18

Per the ROW Ordinance Article 8 Section 3.2.d "All signalized and all-way stop controlled intersections shall operate at Level of Service "D" or better. Other signalized intersections (including unsignalized private accesses) shall operate at LOS "E" or better for major left turns and Side Street approaches, although LOS "F" may be allowed if the movement has a relatively low volume-to-capacity ratio and there are no known safety problems at the intersection."

Fulton County Health Department:

Comments:

- This department recommends that the applicant be required to connect the proposed development to public water available to the site.
- Due to the inaccessibility of public sewer to serve the proposed development, this department recommends that individual onsite sewage management systems be utilized. However, the "Design Limits for conventional or chamber Septic Tank Systems" for County Health Department as defined by Georgia Department of Natural Resource (DNR) are limited by size and subsurface introduction of effluents. Onsite

sewage management systems having a septic tank capacity of greater than ten thousand (10,000) gallons, or where the total length of absorption trenches required, would exceed three thousand (3000) linear feet, or where the total absorption trench bottom area required, would exceed nine thousand (9000) square feet, will be governed and placed under the statutory authority and jurisdiction of the Department of Natural Resources.

- Due to the inaccessibility of public sanitary sewer to sewer the proposed development, this department recommends that individual onsite sewage management systems be utilized. However, this department will require all necessary percolation and soil data, required layouts, and supportive data be submitted for review and determined acceptable prior to preliminary plat and/or Land Disturbance Permit (LDP) approval.
- Since this proposed development constitutes a premise where people work, live, or congregate, onsite sanitary facilities will be mandatory, prior to use or occupancy.
- Since this development utilizes an onsite sewage management system, the owner must obtain approval from this department prior to issuance of a building permit and before building construction or renovation.
- This facility must comply with the Fulton County Clean Indoor Air Ordinance.
- If this proposed development includes a food service facility, the owner must submit kitchen plans for review and approval by this department before issuance of a building permit and beginning construction. The owner must obtain a food service permit prior to opening.
- This department is requiring that all existing structures to be demolished must be inspected by a certified pest control operator to insure that the premise is rat free. If evidence of rodent infestation is found, the property must be baited prior to demotion.
- If this proposed development includes an existing individual onsite sewage management system(s), and the system(s) will be abandoned, it shall be abandoned in accordance with Fulton County regulations.
- If this proposed development includes an existing individual onsite water supply system(s), and the system(s) will be abandoned, it shall be abandoned in accordance with Fulton County regulations.

Fulton County Tax Assessor:

Property taxes are paid in full through 2007.

Drainage:

Flood Plain: No Flood Plain

City of Milton Fire Marshal:

Comments:

- Increase of traffic in the immediate area of Bethany Bend and Cogburn during hours of operation
- Water demands could also increase for this general area.
- Calls for service for EMS and Fire calls would also increase.
- The roadway may need to be expanded to help minimize the possible congestion for the intersection.

City of Milton Public Safety:

The proposal will have a minimal impact on police services.



To: Honorable Mayor and City Council Members

From: Chris Lagerbloom, Director of Public Safety

Date: July 7, 2008 for submission onto the July 21, 2007 City Council Meeting

Agenda Item: A Resolution authorizing the execution of an Intergovernmental Agreement for the provision of 911 Emergency Communication Services and GCIC Information Services between the City of Alpharetta, Georgia and the City of Milton, Georgia and further authorizing, amongst other things, terminating and superseding the April 16, 2007, Intergovernmental Agreement concerning the Georgia Crime Information Center (GCIC) Criminal Justice Information System Holder of Record Agreement between the City of Alpharetta, Georgia and the City of Milton, Georgia.

CMO (City Manager's Office) Recommendation:

Approve the attached Intergovernmental Agreement for the provision of 911 Emergency Communication Services and GCIC Information Services between the City of Alpharetta, Georgia and the City of Milton, Georgia and further authorizing, amongst other things, terminating and superseding the April 16, 2007, Intergovernmental Agreement concerning the Georgia Crime Information Center (GCIC) Criminal Justice Information System Holder of Record Agreement between the City of Alpharetta, Georgia and the City of Milton, Georgia.

Background:

The City of Milton deployed its police department on May 1, 2007 and fire department on May 17, 2007. Since the initial deployment, the City of Milton received its 911 emergency communications services through Fulton County. Fulton County has continued to collect the wired and wireless 911 revenue in exchange for providing the service. Currently, Fulton County is responsible for both 911 (Public Safety Answering Point) and for dispatching police and fire units. Fulton County is also an inquiry agency for the purposes of GCIC/NCIC checks. Consequently, the City of Milton also presently has an intergovernmental agreement with the City of Alpharetta as its holder of record for GCIC/NCIC purposes; thereby allowing Milton to have entry and removal capabilities; as well as 24 hour access to a GCIC terminal for administrative purposes. Should this agreement pass, that existing agreement will be superseded and terminated as it is included as an exhibit in this agreement.

Discussion:

During our first year planning, the Public Safety Directors of both the City of Milton and the City of Alpharetta conferred on how joining into an intergovernmental agreement between the two cities dealing 911 Emergency Communications and GCIC would be beneficial. The City of Alpharetta is in the final stages of developing a state of the art dispatch center and emergency operations center and could easily accommodate the work load added by the City of Milton.

Presently our dispatch center is located in downtown Atlanta at the Fulton County Government Center. It would be preferable for our service provider to be closer to Milton. Alpharetta also already provides the GCIC component which Fulton County is not capable of because of their status as an inquiry entity only. Entering into this intergovernmental agreement realizes



efficiencies related to GCIC access and immediate cost savings of over sixteen thousand dollars annually.

If approved, the City of Milton will have access to the center and other operational components of the center dealing with emergency management. In the event of a disaster or other natural or man-made event requiring long term operational oversight, the City of Milton could choose to run its incident command from the center. Today, when Milton has been faced with needing a command center, City Hall has been the location chosen. Being that City Hall is not a public safety facility, it is exceptionally vulnerable from a security standpoint and not ideal.

Additionally, both cities have the vision to provide a drop down boundary automatic aid agreement with their fire departments. For that to become a reality, we must have our fire units dispatched on the same frequency as the Alpharetta units.

The City of Milton, jointly with the City of Alpharetta proposes an October 1, 2008 start date for this agreement. As such, notice of termination must be given to Fulton County on August 1, 2008. Should this Resolution pass, I would respectfully ask the motion contain wording authorizing that termination notice to be sent.

This intergovernmental agreement addresses performance and accountability, as well as consideration. According to the agreement, Alpharetta is entitled to retain Milton's monthly 911 charge upon each wired and wireless telephone subscriber served by the Alpharetta Emergency Dispatch Center, as provided by O.C.G.A. §46-5-134, very similarly to what exists today with our agreement with Fulton County. Nothing in the Agreement shall preclude Milton's right to collect such fees for 911 access and services performed during the term as relates to calls originating from within Milton and remitting those fees to Alpharetta. Both Milton and Alpharetta agree that beginning one hundred eighty (180) days after October 1, 2008, the parties will begin discussions as to the actual cost to Alpharetta related to its provision of services to Milton under this Agreement. At least thirty (30) days prior to October 1, 2009, Alpharetta will provide to Milton a written report indicating its average monthly costs in performing its obligations under this Agreement for the first ten (10) months of this Agreement (the "Average Monthly Cost"). In the event that the average monthly fees from Milton's 911 charges for that period exceed the Average Monthly Costs, the difference shall be considered the Average Monthly Difference, and for the next twelve month term of this Agreement, Milton shall retain each month 911 fees in an amount equal to the Average Monthly Difference. The Average Monthly Difference shall be recalculated each year of this Agreement by the parties at least thirty (30) days prior to each anniversary date of the commencement date of this Agreement, and the Average Monthly Difference modified accordingly for the subsequent twelve month period of this Agreement.

Estimating the value of the wired and wireless 911 revenues, having never collected them internally is a challenge. Fulton County could not provide any answers either because they collect revenues from both northwest Fulton (now Milton) and northeast Fulton (now Johns Creek) without any method of separating where the revenues originated. Early on in this process, representatives from Milton attempted to better identify exactly what revenue was anticipated. This surcharge revenue would be generated by any resident of the city that used telephone services of any provider.



Our first attempts to obtain this information were directed toward BellSouth (now AT&T). From our contact there, we learned that there were 4,425 land-line customers within the city limits. This number was determined by use of the then available land maps of the city. BellSouth could not determine the number of cell phone customers or other service providers.

We then began contacting any cell phone service provider that was included on the list of registered companies in the state of Georgia, and indicated that it serviced customers in Fulton County. Our list included Cingular, Metro PCS, Nextel, Southern Linc, Sprint PCS, T Mobile and Verizon Wireless. We requested that these providers research their databases and determine for which of their customers were they sending 911 surcharge revenue to Fulton County. We then asked them to include only revenue numbers for those customers whose ZIP Code was 30004. In this way, we eliminated all Fulton County residents, except those residing in the City of Milton.

Based on this study, we estimate that there are 31,680 telephone accounts in the City of Milton generating \$570,240 per year (\$1.50 per telephone account per month), which is currently being paid to Fulton County. These numbers may or may not include some residents in the Arnold Mill Road area that were annexed by either Roswell or Milton, and do not include Milton residents in the northeast corner of the city that have a Duluth ZIP Code. However, we believe that those anomalies would not significantly change our estimate.

The Public Safety staffs from both cities have worked together on this endeavor, Mayor Lockwood met with Mayor Letchas and discussed this partnership and this intergovernmental agreement concept has been presented at two different work sessions in the City of Milton with positive feedback. Attorney Paul Higbee of Jarrard and Davis, LLP is the point of contact for the agreement itself and authored it for the City of Milton.

Gary George, the Public Safety Director for the City of Alpharetta will be present during the Council Meeting and will be prepared to answer any questions pertaining to the intricacies of the center; including but not being limited to how 911 calls are processed and can detail how and why police and fire are dispatched. This intergovernmental agreement will be presented to both the City of Milton and the City of Alpharetta during their regularly scheduled Council Meetings on July 21, 2008.

Subsequent to this intergovernmental agreement, if it passes, I will ask each of you to also pass a Resolution amending Resolution 06-11-11 relating to the collection of the 911 wired and wireless revenues.

This is a sound fiscal and operational choice for the City of Milton. I look forward to our transition and the benefits that transition brings to both cities. Please forward any questions or comments to me and I can expand on any portion of the recommended Intergovernmental Agreement.

Alternatives:

The alternative to entering into this intergovernmental agreement with the City of Alpharetta is to either:

- 1) Enter into an intergovernmental agreement with a different agency, or



City of Milton

13000 Deerfield Parkway, Building 100 Milton, Georgia 30004

- 2) Maintain 911 and dispatch services with Fulton County for the term of our existing agreement, or
- 3) Design and deploy a City of Milton dispatch center.

The staff recommendation is that this intergovernmental agreement is a sound fiscal and operational choice.

Concurrent Review: Billy Beckett, City Manager
Paul Higbee, City Attorney

**INTERGOVERNMENTAL AGREEMENT
FOR THE PROVISION OF
911 EMERGENCY COMMUNICATIONS SERVICES
AND GCIC INFORMATION SERVICES**

**between
THE CITY OF ALPHARETTA, GEORGIA and
THE CITY OF MILTON, GEORGIA**

THIS INTERGOVERNMENTAL AGREEMENT (“Agreement”), by and between the City of Alpharetta, Georgia (“Alpharetta”) and the City of Milton, Georgia (“Milton”) entered into this _____ day of _____, 2008.

WHEREAS, Alpharetta and Milton desire to enter into this Agreement for Alpharetta to provide a public safety answering point within the boundaries of Milton for a period of ten (10) years beginning October 1, 2008; and

WHEREAS, this Agreement establishes the cost of Emergency 911 System and public safety radio dispatch services to be provided by Alpharetta to Milton pursuant to this Agreement; and

WHEREAS, Alpharetta and Milton desire to maintain a mutually beneficial, efficient and cooperative relationship that will promote the interests of the citizens of both jurisdictions; and

WHEREAS, both Alpharetta and Milton have authorized the execution of this Agreement through appropriate Resolutions adopted by their respective governing bodies.

NOW THEREFORE, in consideration of the following mutual obligations, Alpharetta and Milton agree as follows:

ARTICLE 1

PURPOSE AND INTENT

1.1 The purpose of this Agreement is to provide the vital and necessary communications link between Milton’s citizens and Alpharetta’s Emergency Dispatch Center for a period of ten (10) years, commencing October 1, 2008 at 0000 hours and concluding at 2400 hours on September 30, 2018.

1.2 Alpharetta therefore agrees to provide Milton with courteous, efficient, and accessible Emergency Communications Service in response to requests for assistance from within the corporate boundaries of Milton involving emergencies, non-emergencies, and responses to natural and man-made disasters, for the term prescribed in this Agreement, consistent with the overall quality of services provided throughout Alpharetta. Alpharetta also

agrees to provide Milton with Georgia Crime Information Center (GCIC) services as described in Exhibit "A" to this Agreement, and upon execution of this Agreement, that existing agreement for GCIC services between Milton and Alpharetta dated April 16, 2007 shall be terminated and entirely superseded by this Agreement.

ARTICLE 2

DEFINITIONS

For the purposes of this Agreement, the following terms shall be defined as:

2.1 ***Call-For-Service*** means a request received from any person through Alpharetta's Emergency Dispatch Center, Emergency 911 System, requiring emergency or non-emergency Police Department, Fire Department, or ambulance/medical ("EMS") pre-hospital care response or assistance in response to natural and man-made incidents.

2.2 ***Communications Officer*** means any employee of the Alpharetta Department of Public Safety, who has successfully completed the basic training course required by O.C.G.A. § 35-8-23, to receive, process, or transmit public safety information and dispatch law enforcement officers, firefighters, EMS personnel, or emergency management personnel.

2.3 ***Emergency Communications Services*** means the receipt and processing of incoming calls-for-service through the Emergency 911 System for emergency and non-emergency requests for EMS, police, fire and other public safety services, and initiation of the appropriate response action. The service also includes the coordination of requests for support and auxiliary services from Milton field units and refers crimes and incidents not requiring an on-scene investigation by a field unit to the appropriate police precinct or agency. This is considered the vital and necessary communications link between citizens and the Alpharetta Emergency Dispatch Center through consolidated, Enhanced 911 call reception and radio dispatching of requests for public safety services. The Countywide 800 MHz trunked radio system) is the primary method of dispatching calls for service to Milton field units and any contracted private EMS services dispatched through the Emergency Dispatch Center. This public safety answering point provides oversight of any private contracted EMS services which deliver pre-hospital emergency medical care to citizens.

2.4 ***Emergency Dispatch Center*** means that unit of Alpharetta government, including the PSAP and Emergency Medical Priority Dispatch System, responsible for emergency communications services, including answering all Calls-For-Services for emergency service and dispatching police, fire and EMS vehicles to the proper locations.

2.5 ***Emergency Medical Priority Dispatch System*** means that system employed by Alpharetta to process EMS Calls-For-Service and provide callers with pre-arrival instructions.

2.6 ***Emergency 911 System*** means that system, as contemplated by Title 46, Chapter 5, Part 4 of the O.C.G.A., which provides Alpharetta Emergency Communications Officers the telephone number, name and address of the telephone subscriber, and other pertinent 911 and wireless enhanced 911 information on any Call-For-Service.

2.7 *Fire Department* means the Milton Fire Department.

2.8 *Police Department* means the Milton Police Department.

2.9 *Public Safety Answering Point (“PSAP”)* means an emergency communications dispatch operation, responsible for answering all telephone Calls-For-Services, and employing technologies such as trunked radio, Wireless Enhanced 911, Computer Aided Dispatch (“CAD”) and Mobile Data to provide appropriate responses to Calls-For-Service.

ARTICLE 3

TERM OF AGREEMENT

The term of this Agreement is for ten (10) years, commencing October 1, 2008 at 0000 hours and concluding at 2400 hours on September 30, 2018. At the conclusion of this term, each party will be solely responsible for providing all public safety answering point services within its respective boundaries, unless this Agreement is extended by mutual Agreement approved by the governing bodies of both parties. Additionally, either party may terminate this Agreement upon the provision to the other party of at least eighteen (18) months prior written notice of termination.

ARTICLE 4

COMPENSATION AND CONSIDERATION

4.1 For the emergency communication services to be rendered pursuant to this Agreement, based upon the call volume described herein below in sub-paragraph 5.4, Alpharetta is entitled to retain Milton’s monthly 911 charge upon each wired and wireless telephone subscriber served by the Alpharetta Emergency Dispatch Center, as provided by O.C.G.A. §46-5-134. Nothing in this Agreement shall preclude Milton’s right to collect such fees for 911 access and services performed during the term hereof as relates to calls originating from within Milton and remitting those fees to Alpharetta. The parties agree that beginning one hundred eighty (180) days after the above referenced commencement date of this Agreement, the parties will begin discussions as to the actual cost to Alpharetta related to its provision of services to Milton under this Agreement. At least thirty (30) days prior to October 1, 2009, Alpharetta will provide to Milton a written report indicating its average monthly costs in performing its obligations under this Agreement for the first ten (10) months of this Agreement (the “Average Monthly Cost”). In the event that the average monthly fees from Milton’s 911 charges for that period exceed the Average Monthly Costs, the difference shall be considered the Average Monthly Difference, and for the next twelve month term of this Agreement, Milton shall retain each month 911 fees in an amount equal to the Average Monthly Difference. The Average Monthly Difference shall be recalculated each year of this Agreement by the parties at least thirty (30) days prior to each anniversary date of the commencement date of this Agreement, and the Average Monthly Difference modified accordingly for the subsequent twelve month period of this Agreement.

ARTICLE 5

EMERGENCY COMMUNICATIONS SERVICES

5.1 Alpharetta operates a consolidated public safety answering point in its Emergency Dispatch Center on a 24-hour basis, 365 days per year, staffed in four 12-hour alternating shifts. The Communications Officers receive citizens' requests for service, process those requests, dispatch emergency units as appropriate, and monitor Police, Fire and EMS activities. The Emergency Medical Priority Dispatch System is employed to process medical calls and provide callers with pre-arrival instructions. The resources of the Emergency Dispatch Center shall be made available to receive and process Calls-For-Service from within Milton, and to otherwise provide Emergency Communications Services for Milton, consistent with the overall quality of services provided throughout Alpharetta.

5.2 The wide-ranging (both emergency and non-emergency), continuous and multitudinous nature of the calls received by a large metropolitan PSAP like Alpharetta's Emergency Dispatch Center, makes it difficult to assign an "average call answer time." In order to establish a reasonable customer service standard, it is hereby declared to be the objective of the Alpharetta Emergency Dispatch Center to respond on average to 6,000 Calls-For-Services per month emanating from the City of Milton, with an average 10 second call answer time for emergency calls-for-service 90% of the time. Services on life threatening calls-for-service will be dispatched within 90 seconds of receipt 90% of the time. Exceptions would be unpredictable system overload, declared disaster, or disruption in voice or data transmission.

ARTICLE 6

EMPLOYMENT STATUS

6.1 All emergency communications officers, as well as any other Alpharetta personnel assigned under this Agreement, are and will continue to be employees of the City of Alpharetta for all purposes, including but not limited to: duties and responsibilities, employee benefits, grievance, payroll, pension, promotion, annual or sick leave, standards of performance, training, workers compensation and disciplinary functions. All emergency communications employees will continue to report under the management structure established in the Alpharetta Department of Public Safety.

6.2 In the event the Milton Public Safety Director becomes dissatisfied with the performance of any sworn or civilian personnel performing emergency communications services on behalf of Milton, the Milton Public Safety Director shall discuss the concerns with the Alpharetta Public Safety Director.

ARTICLE 7

RECORDKEEPING AND REPORTING

7.1 The Alpharetta Department of Public Safety Records Section is the central repository for all records pertaining to emergency dispatch and shall make 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.

7.2 The Alpharetta Public Safety Director, or his/her designee, shall prepare and deliver monthly written reports to the Milton Public Safety Director. The reports shall describe, regarding the prior month, the volume of Calls-For--Service, identification of police, fire or EMS response, and answer speed for calls originating from within the City of Milton.

7.3 Except as limited by any provision of state or federal law, Milton may request, review and access data and Alpharetta records, at a mutually agreed upon time, to ensure compliance with this Agreement.

ARTICLE 8

ANCILLARY SERVICES

8.1 Alpharetta must provide a variety of ancillary services incumbent on a large metropolitan public safety answering point. These services will be provided to Milton pursuant to this Agreement, the consideration for which has been calculated as part of the payment provided in Article 4, and shall include technical operations, administration, quality assurance and training, cost allocation, facilities maintenance, fiscal management, general operating supplies, human resources, information systems, maintenance, public information, purchasing, utilities and other critical services attendant to the operation of a public safety answering point.

ARTICLE 9

ALPHARETTA-MILTON RELATIONS

9.1 The Alpharetta Public Safety Director, or his designee, will notify the Milton Public Safety Director in the event of a significant emergency communications or emergency management situation within Alpharetta. The Alpharetta and Milton Public Safety Directors shall designate the kinds of incidents that are to be considered “significant” by a joint memorandum and shall also designate priorities for services to be provided under this Agreement. In the event no memorandum is executed, the Milton Public Safety Director shall be notified of significant emergency communications or emergency management situations consistent with the notification provided by the Alpharetta Emergency Dispatch Center to the Alpharetta Public Safety Director.

9.2 Alpharetta shall be the sole provider of public safety answering point services during the operation of this Agreement.

ARTICLE 10

TRANSITION

10.1 In the event of the termination or expiration of this Agreement, Alpharetta and Milton shall cooperate in good faith in order to effectuate a smooth and harmonious transition and maintain the same high quality of Emergency Communications Services provided by

Alpharetta pursuant to this Agreement for the residents, businesses and visitors of Alpharetta and Milton.

10.2 The Alpharetta Public Safety Director or his/her designee shall present a summary report to the Milton City Council within 60 days of the conclusion of this Agreement to facilitate the transition to Milton's new PSAP.

10.3 Alpharetta and Milton agree that 90 days prior to expiration of this Agreement, the Alpharetta Public Safety Director and the Milton Public Safety Director will meet and confer to effect a smooth transition.

ARTICLE 11

INDEMNIFICATION

11.1 It is the intent of the parties to be covered under the auspices of the immunity granted by O.C.G.A. §46-5-131. Only to the extent permitted by law and in the event O.C.G.A. §46-5-131 is deemed inapplicable, shall Milton defend, indemnify and hold harmless Alpharetta and its officers, employees, or agents from any and all liability, losses or damages, including attorneys' fees and costs of defense, which Alpharetta 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 Milton, its employees, officers and agents. Alpharetta shall promptly notify Milton of each claim, assert all statutory defenses, cooperate with Milton in the defense and resolution of each claim and not settle or otherwise dispose of the claim without Milton's participation.

11.2 It is the intent of the parties to be covered under the auspices of the immunity granted by O.C.G.A. §46-5-131. Only to the extent permitted by law and in the event O.C.G.A. §46-5-131 is deemed inapplicable, shall Alpharetta defend, indemnify and hold harmless Milton and its officers, employees, or agents from any and all liability, losses or damages, including attorneys' fees and costs of defense, which Milton 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 Alpharetta, its employees, officers, and agents. Milton shall promptly notify Alpharetta of each claim, assert all statutory defenses, cooperate with Alpharetta in the defense and resolution of each claim and not settle or otherwise dispose of the claim without Alpharetta's participation.

11.3 The immunity and indemnification provisions of this Agreement shall survive termination of this Agreement for any claims that may be filed after the termination date of the Agreement provided the claims are based upon actions that occurred during the performance of this Agreement.

ARTICLE 12

EVENT OF DEFAULT

12.1 An event of default shall mean a material breach of this Agreement by Alpharetta as follows:

12.1.1 Alpharetta repeatedly disregards local priorities established in the memorandum contemplated in Section 9.1.

12.1.2 Alpharetta does not maintain sufficient personnel in the Emergency Dispatch Center to properly service the volume of Milton Calls-For-Services as required by and in conformance with Article 5.

12.1.3 Alpharetta consistently fails to meet the levels of service outlined in Article 5, which failure has been communicated in writing by action of the Milton City Council to the Alpharetta City Council on more than one occasion.

ARTICLE 13

TERMINATION AND REMEDIES

13.1 Alpharetta or Milton may terminate this Agreement for an event of default, or as outlined in Article 3, Term of Agreement, unless the default is cured as provided in this article.

13.2 If an event of default occurs, in the determination of Milton, Milton shall notify Alpharetta in writing, specify the basis for the default and advise Alpharetta that the default must be cured to Milton's reasonable satisfaction within a 60-day period. Milton may grant additional time to cure the default, as Milton may deem appropriate, without waiver of any of Milton's rights, so long as Alpharetta has commenced curing the default and is effectuating a cure with diligence and continuity during the 60-day period, or any longer period which Milton prescribes.

13.3 In the event that either party breaches a material term or condition of this Agreement, other than an event of default, the party in breach, upon receipt of a written request from the non-breaching party, shall remedy the breach within 30 days of receipt of the request. If the breach is not cured within the specified time period, the non-breaching party may utilize the remedies of declaratory judgment, specific performance, mandamus or injunctive relief to compel the breaching party to remedy the breach.

13.4 The parties reserve all available remedies afforded by law to enforce any term or condition of this Agreement.

ARTICLE 14

AMENDMENTS

This Agreement may be modified at any time during the term by mutual written consent of both parties.

ARTICLE 15

NOTICES

All required notices shall be given by first class mail, except that 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 the City of Alpharetta:

Robert J. Regus, City Administrator

2 South Main Street

Alpharetta, Georgia 30004

678-297-6000

With a copy to: C. Sam Thomas, City Attorney

2 South Main Street

Alpharetta, Georgia 30004

678-297-6000

If to the City of Milton:

Billy Beckett, City Manager

13000 Deerfield Parkway, Suite 107A

Milton, Georgia 30004

678-242-2500

With a copy to: Jarrard and Davis, LLP

Attention: Ken E. Jarrard and Angela E. Davis, City Attorneys

105 Pilgrim Village Drive, Suite 200

Cumming, Georgia 30040

678-455-7150

ARTICLE 16

NON-ASSIGNABILITY

Neither party shall assign any of the obligations or benefits of this Agreement.

ARTICLE 17

ENTIRE AGREEMENT

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 the Agreement.

ARTICLE 18

SEVERABILITY

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.

ARTICLE 19

BINDING EFFECT

This Agreement shall insure to the benefit of, and be binding upon, the respective parties' successors.

ARTICLE 20

COUNTERPARTS

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.

IN WITNESS WHEREOF, the Alpharetta and Milton have executed this Amendment through their duly authorized officers on the day and year first above written.

SIGNATURES APPEAR ON THE FOLLOWING PAGE

ALPHARETTA, GEORGIA

ATTEST:

Arthur Letchas
Mayor

Sue Rainwater
City Clerk **SEAL**

Approved as to Form:

C. Sam Thomas, Esq.
City Attorney

Robert J. Regus
City Administrator

MILTON, GEORGIA

Joe Lockwood
Mayor

Jeanette Marchiafava
City Clerk **(SEAL)**

Approved as to Form:

Ken E. Jarrard, Esq.
City Attorney

Billy Beckett
City Manager

EXHIBIT "A"

GCIC SERVICES

Requesting Criminal History Record Information

In accordance with federal regulations, NCIC policy and the **Alpharetta Department of Public Safety** User's Agreement, all requests for CHRI are made using a criminal justice agency Originating Agency Identifier (ORI). When Milton requests CHRI for the administration of criminal justice (PUR/ C), Milton shall provide a warrant number, case number, citation number, "EF" number, arrest/booking number, system record number, docket number or other significant number leading to the case file or investigation. Failure to provide such a required number shall result in denial of the request and notification to the GCIC Chief of Staff of a potential violation of O.C.G.A. §16-9-90. When Milton requests CHRI for criminal justice employment (PUR/J) or other authorized purposes (PUR/E, M, N, W), Milton shall provide a copy of the fingerprint card or the signed consent form. Failure to provide either document shall result in the denial of the request and notification to the GCIC Chief of Staff of a potential violation of O.C.G.A. §16-9-90.

Requesting Vehicle Registration/Title, Driver History and Other Information via the CJIS Network, NLETS or NCIC

All requests for information received over the law enforcement radio network(s) monitored by **Alpharetta** shall be honored and the requested information shall be provided as soon as possible. If the requesting officer, prior to the end of the shift on which it was requested, does not claim hard copies of the terminal printouts, the printouts shall be shredded. Telephonic requests shall be honored if the operator can identify the person making the request. If the operator is unsure of the requester, the operator shall ask the requester to provide their agency's ORI then telephone that agency to ensure the requester is authorized to receive said information. If the person is authorized to receive the information, the operator shall make the request using the ORI of **Alpharetta**.

If the person is not authorized to receive the information, the operator will not request the information and will notify his or her supervisor. The supervisor shall be responsible for notifying the GCIC Chief of Staff of a potential security violation.

Making Record Entries, Modifications and Supplemental Record Entries

The ORI of **Alpharetta** shall be used to make all requested record entries when it receives a warrant or a complete incident report from **Milton**. The only exception to this requirement is when **Milton** requests the entry of a missing juvenile, a fleeing felon, felony vehicle or a missing ALZHEIMER'S afflicted adult. Requests for these types of entries shall be accepted telephonically. Supporting documentation shall be faxed or delivered as soon as it is available. If the supporting documentation is not received within 48 hours, the record entry(s) shall be canceled.

Alpharetta shall use the warrant or complete incident report to code the GCIC/NCIC worksheet prior to entering the record. **Alpharetta** for wanted and missing person record entries shall inquire against the GCIC and NCIC criminal history files (using the ORI of **Milton**). **Milton**

shall indicate the limits of extradition on the face of the warrant. All additional personal descriptors shall be added to the GCIC/NCIC worksheet and included in the record entry or added to the record entry using the Supplemental Record Entry format. When all available information has been added to the record entry, an inquiry shall be made against the record entry. Another person in **Alpharetta** shall check the inquiry response for completeness and accuracy. Copies of the GCIC/NCIC worksheet and all terminal printouts shall be returned to **Milton**. The worksheets and printouts are to be placed in the case files and are subject to review by GCIC and NCIC Auditors.

Requests for Modifying, Clearing and Canceling Record Entries

When **Milton** requests that a record entry be modified, cleared or canceled it must provide a supplemental report to **Alpharetta**. The record will only be modified, cleared or canceled when the supplemental report has been received. Copies of all terminal printouts shall be given to **Milton** when the requested function has been completed. The originals shall be retained in the files maintained by **Alpharetta**.

Requesting “HIT” Confirmation

When **Alpharetta** receives a “HIT” on a record inquired upon as the result of a request from **Milton**, a request for “HIT” confirmation message (YQ format) shall be sent. **Milton** must inform **Alpharetta** if the request is PRIORITY (10 minute response) or ROUTINE (one hour response). As soon as this information is received, the request for “HIT” confirmation shall be transmitted using the ORI of **Alpharetta**.

As soon as the response to the request for “HIT” confirmation is received, it shall be transmitted to the officer.

Responding to Requests for “HIT” Confirmation

When **Alpharetta** receives a request for “HIT” confirmation, the on-duty operator shall locate the active file and compare all data elements against the data in the YQ message. If all data elements match, **Alpharetta** shall respond to the YQ message using a YR message entered using the ORI of **Alpharetta** and confirm that the record inquired on is a valid record entry based upon the records maintained by **Alpharetta**. **Milton** shall be notified that **Alpharetta** has confirmed a “HIT” on one of its record entries. If a Locate Message is received, **Alpharetta** shall clear the record entry using its ORI in the clear transaction. If no Locate Message is received within one hour **Alpharetta** shall send a Failure to Locate Message to GCIC’s ICDC and the agency that failed to “Locate” the record entry after it was confirmed. **Alpharetta** using its ORI, shall “Clear” the record entry. Copies of all terminal printouts shall be given to **Milton**. The original terminal printouts shall be retained in the files of **Alpharetta**.

Validation of Record Entries

All record entries are to be validated 90 days after entry; and, then every 12 months in accordance with the file retention schedule established by NCIC. It is the exclusive

responsibility of **Milton** to validate all record entries made on its behalf by **Alpharetta**, in accordance with the validation steps established by GCIC and NCIC.

Alpharetta shall assist **Milton** in inquiring against the state and national criminal history files, using the ORI of **Milton** and name of the **Milton** Terminal Agency Coordinator in the Attention [ATN] field. The System Record Number (SRN) from the record entry being validated shall be used in the Agency Reference Number (ARN) field. **Alpharetta** shall further assist in the validation process by participating in the On-Line Validation program for records entered for **Milton**, by acknowledging receipt of the monthly validation package and affirming the validity of the record entries listed on the monthly validation printout when **Milton** affirms, in writing, the validity of all record entries listed on the monthly printout. This affirmation shall be on the official letterhead of **Milton's** Department of Public Safety, and signed by the agency head. If this written affirmation is not received by **Alpharetta** within the required time limit, the record entries listed on the validation printout shall be purged.

Regarding requests for criminal history record information (CHRI) and other information available via Georgia's Criminal Justice Information System network (CJIS), the National Law Enforcement Telecommunications System (NLETS), or the National Crime Information System (NCIC) pursuant to this agreement, **Alpharetta** will be available pursuant to this Agreement to provide service to **Milton** twenty four hours a day, seven days a week, every day of the year. Additionally, **Milton** shall provide to **Alpharetta** the equipment needed to access the CHRI system on its behalf and storage cabinets for all **Milton** records.



To: Honorable Mayor and City Council Members

From: Chris Lagerbloom, Director of Public Safety

Date: July 7, 2008 for submission onto the July 21, 2007 City Council Meeting

Agenda Item: A Resolution amending Resolution No. 06-11-11 Establishing a 911 Charge on Wired and Wireless Telephone Communications

CMO (City Manager's Office) Recommendation:

Approve the attached Resolution amending Resolution No. 06-11-11 Establishing a 911 Charge on Wired and Wireless Telephone Communications

Background:

The City of Milton deployed its police department on May 1, 2007 and fire department on May 17, 2007. Since the initial deployment, the City of Milton received its 911 emergency communications services through Fulton County. Fulton County has continued to collect the wired and wireless 911 revenue in exchange for providing the service pursuant to Resolution 06-11-11.

Discussion:

Should the Resolution authorizing the execution of an Intergovernmental Agreement for the provision of 911 Emergency Communication Services and GCIC Information Services between the City of Alpharetta, Georgia and the City of Milton, Georgia and further authorizing, amongst other things, terminating and superseding the April 16, 2007, Intergovernmental Agreement concerning the Georgia Crime Information Center (GCIC) Criminal Justice Information System Holder of Record Agreement between the City of Alpharetta, Georgia and the City of Milton, Georgia pass, it is appropriate to amend Resolution 06-11-11. This Resolution will clarify who in fact is to receive Milton's 911 wired and wireless revenue and this Resolution will serve the City's needs to move forward with the transition.

Alternatives:

Should the Resolution authorizing the execution of an Intergovernmental Agreement for the provision of 911 Emergency Communication Services and GCIC Information Services between the City of Alpharetta, Georgia and the City of Milton, Georgia and further authorizing, amongst other things, terminating and superseding the April 16, 2007, Intergovernmental Agreement concerning the Georgia Crime Information Center (GCIC) Criminal Justice Information System Holder of Record Agreement between the City of Alpharetta, Georgia and the City of Milton, Georgia pass, there are no alternatives.

Concurrent Review: Billy Beckett, City Manager
Paul Higbee, City Attorney

A RESOLUTION CONTINUING A WIRELESS ENHANCED 911 CHARGE ON WIRELESS COMMUNICATIONS WITHIN THE CITY OF MILTON

The Council of the City of Milton hereby resolves while in its regular meeting on the 21st day of July, 2008:

WHEREAS, the City currently contracts through an intergovernmental agreement dated November 14, 2006 with Fulton County for the operation of an Emergency 911 System for Milton, and

WHEREAS, the City on November 21, 2006 adopted a Resolution Continuing a Wireless Enhanced 911 Charge on Wireless Communications within the City of Milton, and

WHEREAS, on or about October 1, 2008, the City will contract through an intergovernmental agreement with the City of Alpharetta for the operation of an Emergency 911 System for Milton, and

WHEREAS, O.C.G.A. 46-5-134, authorizes local governments to impose a wireless enhanced 911 charge upon each wireless telecommunications connection subscribed to by subscribers whose billing address is within the jurisdiction of the local government, and

WHEREAS, such charges may be imposed at a rate of up to \$1.50 per month per wireless connection, and

WHEREAS, such charges may be imposed by any local government which operates or contracts for the operation of an emergency 911 system which is capable of providing or provides automatic number identification and automatic location identification of wireless telecommunications connections, and

WHEREAS, the City of Alpharetta operates an emergency 911 system which is capable of providing automatic number identification and automatic location identification of wireless telecommunication connections, and

WHEREAS, a wireless enhanced 911 charge is currently imposed upon each wireless telecommunications connection subscribed to by lay subscribers whose billing address is within the corporate limits of the City of Milton, Georgia at the rate of \$1.50 per month per wireless connections provided to each telephone subscriber, and

WHEREAS, the City of Milton City Council desires to continue collection of such monthly 911 service charges upon implementation of the contemplated Intergovernmental Agreement with the City of Alpharetta.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the City of Milton, Georgia that the proceeds of the enhanced wireless 911 charge shall be deposited based upon the terms of the Intergovernmental Agreement with the City of Alpharetta for such services beginning on the effective date of such Intergovernmental Agreement.

Joe Lockwood, Mayor

Attest:

Jeanette R. Marchiafava, City Clerk
(Seal)