

**AN ORDINANCE AMENDING THE CHARTER
FOR THE CITY OF MILTON, GEORGIA**

WHEREAS, Article IX, Section II, Paragraph II of the Constitution of the State of Georgia, entitled *Home Rule for Municipalities*, allows the General Assembly of the State of Georgia to provide by law for the self-government of municipalities, which the General Assembly has done with The Municipal Home Rule Act of 1965, O.C.G.A. § 36-35-1, *et seq.*; and

WHEREAS, O.C.G.A. § 36-35-3 provides that the governing authority of each municipal corporation shall have legislative power to adopt clearly reasonable ordinances, resolutions and regulations relating to its property, affairs, and local government for which no provision has been made by general law and which are not inconsistent with the Constitution or any charter provision applicable thereto; and

WHEREAS, O.C.G.A. § 36-35-3 provides that a municipal corporation may, as an incident of its home rule power, amend its charter, except where prohibited pursuant to O.C.G.A. § 36-35-6; and

WHEREAS, the Council desires to amend the Charter of the City of Milton so as to reconcile and clarify subparagraph (b)(40)(A) of Section 1.12 and paragraph (b) of Section 6.11 with respect to the maximum millage rate limitations applicable to ad valorem taxes on real property for operating budget and general obligation bond purposes; and

WHEREAS, the modifications provided for in this Resolution and Ordinance may be lawfully completed by home rule; and

WHEREAS, O.C.G.A. § 36-35-3 provides that, in order to amend its charter, a municipal corporation must duly adopt ordinances at two regular consecutive meetings of the municipal governing authority, not less than seven (7) nor more than sixty (60) days apart;

WHEREAS, pursuant to O.C.G.A. § 36-35-3, a notice, containing a synopsis of the proposed amendment and stating that a copy of the proposed amendment is on file in the office of the clerk or the recording officer of the municipal governing authority and in the Office of the Clerk of the Superior Court of Fulton County for the purpose of examination and inspection by the public, shall be published in the official organ of the county of the legal situs of the municipal corporation or in a newspaper of general circulation in the municipal corporation once a week for three weeks within a period of 60 days immediately preceding its final adoption; and

WHEREAS, those requirements applicable to amendments to the charter of a municipal corporation by a resolution or ordinance duly adopted by the municipality's governing authority as set forth in O.C.G.A. § 36-35-3 have been met and satisfied, and, specifically, notice of the consideration of this Resolution and Ordinance has been advertised and this Resolution and Ordinance has been duly adopted by the governing authority at two regularly consecutive meetings in compliance with O.C.G.A. § 36-35-3; and

WHEREAS, a majority of the Council deems it to be in the best interests of the citizens of the City of Milton that the Act be further amended.

NOW THEREFORE, the Council of the City of Milton hereby ordains and resolves that the Charter of the City of Milton shall be amended as follows:

Section 1.12. *Section 1.12 – Municipal powers* is amended by inserting the following underlined and bolded text into subparagraph (b)(40)(A) of Section 1.12 as follows:

(b) [*Specific, particular powers.*] The powers of this city shall be construed liberally in favor of the city. The specific mention or failure to mention particular powers shall not be construed as limiting in any way the powers of this city. Said powers shall include, but are not limited to, the following:

(40) *Taxes (ad valorem).* To levy and provide for the assessment, valuation, revaluation, and collection of taxes on all property subject to taxation; provided, however, that:

(A) For all years, the millage rate imposed for ad valorem taxes on real property for operating budget purposes **(not general obligation bond purposes)** shall not exceed 4.731 unless a higher limit is recommended by resolution of the city council and approved by a majority of the qualified voters of the city voting in a referendum; provided, however, that for the purposes of compliance with O.C.G.A. § 48-8-91, the millage rate may be adjusted upward for the sole purpose of complying with the millage rate rollback provisions set forth therein. For the purposes of this subparagraph, the term 'qualified voters' means those voters of the city who are qualified to vote in city elections and cast a vote for or against such measure in such referendum. The question to be presented to the voters in the referendum on increasing the millage rate shall be 'Do you approve increasing taxes on residential and nonresidential property for City of Milton property owners by raising from [current millage rate] to [proposed millage rate] the operating budget millage rate, which was capped in the original charter for the city?' If such millage rate increase is approved by the qualified voters of the City of Milton voting in the referendum, the new rate shall become the maximum limit until changed again by resolution of the city council and approval by a majority of the qualified voters of the City of Milton voting in a referendum;

Section 6.11. *Section 6.11 - Millage [rate]* is amended by inserting the following underlined and bolded text into paragraph (b) of Section 6.11 as follows:

(b) For all years, the millage rate imposed for ad valorem taxes on real property **for operating budget purposes (not general obligation bond purposes)** shall not exceed 4.731 unless a higher millage rate is recommended by resolution of the city council and subsequently approved by a majority of the qualified voters of the city voting in a referendum. For the purposes of this subsection, the term 'qualified voters' means those voters of the city who are qualified to vote in city elections and cast a vote for or against

such measure in such referendum. This millage rate limit shall apply to the millage rate actually levied and shall not apply to the hypothetical millage rate computed under subsection (a) of O.C.G.A. § 48-8-91, relating to conditions on imposition of the joint county and municipal sales tax.

SEVERABILITY

If any portion of this Resolution and Ordinance or the application thereof shall be held invalid or unconstitutional, the other provisions of this Resolution and Ordinance shall not be affected, and thus, the provisions of this Resolution and Ordinance are declared severable.

REPEALER

Any other Ordinance, Resolution, or local law, or portion thereof, now in effect, that is in conflict with any of the provisions of this Resolution and Ordinance is hereby repealed.

EFFECTIVE DATE

This Resolution and Ordinance shall become effective when all required documents have been filed with the Secretary of State and in the Office of the Clerk of Superior Court of Fulton County as required by O.C.G.A. § 36-35-5.

ADOPTION AT TWO CONSECUTIVE MEETINGS

This Resolution and Ordinance was adopted at two (2) regular consecutive meetings of the Council of the City of Milton held on November 21, 2016 and December 5, 2016 as required by O.C.G.A. § 36-35-3.

BE IT SO RESOLVED AND ORDAINED, the public's health, safety, and welfare demanding it, this 5th day of December, 2016, by the Council of the City of Milton, Georgia.

Approved:

Joe Lockwood, Mayor

Attest:

Sudie Gordon, City Clerk