

**IN THE SUPERIOR COURT OF GWINNETT COUNTY
STATE OF GEORGIA**

FRANCES M. COLE,)	
Petitioner)	Civil Action File No.:
)	25-A-02548-3
v.)	
)	
CITY OF LILBURN, GEORGIA)	Municipal Court Case:
Respondent)	Z24008787
)	

SETTLEMENT AGREEMENT

NOW COME, the City of Lilburn, Georgia (“City”), and Frances M. Cole (“Petitioner”), and enter into this Settlement Agreement which shall be a final and complete resolution of the above-referenced cases.

On July 23, 2024, the City filed an Accusation in the Municipal Court of Lilburn containing 38 counts. The counts all alleged that Petitioner had violated either the Lilburn Zoning Ordinance or other provisions of the ordinances of the City and that the violations were occurring on the property identified as 4415 Lilburn Industrial Way, Lilburn, Georgia (Gwinnett Tax Parcel R6133-003) (“Property”). Each count alleged that the violation was occurring on April 19, 2024. The Accusation was served on the Petitioner on July 24, 2024. The Petitioner pled not guilty to all charges, and a trial was held before the Municipal Court of the City of Lilburn on February 20, 2025. The Municipal Court found the Petitioner guilty on 35 of the 38 counts of the Accusation. The Municipal Court placed the Petitioner on probation for twenty-four (24) months and fined the Petitioner Ten Thousand Dollars (\$10,000.00). The fine could be reduced by bringing the Subject Property into compliance with City of Lilburn ordinances within

certain time frames. The Petitioner filed a Petition for Review in the Gwinnett Superior Court within the time provided by law.

On September 10, 2025, the Superior Court entered an Order on Petition for Review that “vacated and set aside” the judgement and sentence of the Lilburn Municipal Court. On October 10, 2025, the City of Lilburn filed a Petition for Discretionary Review with the Georgia Court of Appeals. The Petition was granted on October 31, 2025.

The parties desire to enter into this Settlement Agreement to resolve all issues in the current litigation.

NOW THEREFORE, based on the promises and covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the parties, the City of Lilburn and Frances M. Cole, do hereby agree as follows:

1. The City of Lilburn will dismiss its Appeal within five (5) days of the Effective Date of this Agreement, said date being defined below. The parties will enter into a Consent Order asking the Superior Court to Vacate its Order of September 10, 2025, and to enter an Order vacating and setting aside the decision of the Lilburn Municipal Court in Case No. Z24008787 and Approving this Settlement Agreement as the Final Order of the Superior Court in this action.
2. Frances M. Cole covenants not to sue the City of Lilburn for damages as a result of the City’s actions against her related to this case, both at the Municipal Court as well as in the Superior Court.
3. The parties agree that the Property may be used for the grandfathered use of a “junkyard.” For purposes of this Settlement Agreement, the term junkyard is defined as “Property used for indoor or outdoor storage, keeping or abandonment, whether or not for sale or resale, of junk including scrap metal, rags, paper or other scrap material, used lumber, salvaged house wrecking and structural steel materials and equipment or for the or abandonment of automobiles or other vehicles or machinery or parts thereof.” For purposes of this Settlement Agreement, “junkyard” does not include the selling of automobiles and does not allow for the general public, a customer, or a potential buyer to pick or sort through items on the Property for the purposes of purchasing any item located thereon. The parties agree that this grandfathered use shall end on December 31, 2031, and that thereafter the Property

may not be used as a “junkyard” as defined herein.

4. The parties have come to a mutual agreement as to the lawful and legal uses allowed on the Property under the Zoning and Special Use Permit approved as 262-07 and the current City of Lilburn Zoning Ordinance and agree that the uses set forth below are legal and lawful uses for the Property: any of the following uses which are not allowed under any future properly adopted amendments to the City of Lilburn Zoning Ordinance and which are being conducted on the Property now or prior to the adoption of that amendment shall be considered lawful non-conforming uses and shall be subject to the provisions of Section 903 of the City of Lilburn Zoning Ordinance which reads as follows:

Section 903. Nonconforming use.

A nonconforming use may be continued even though such use does not conform with the use provisions of the zoning district in which said use is located, except as otherwise provided in this section:

1. *Change of use.* A nonconforming use shall not be changed to another nonconforming use. A change in tenancy or ownership shall not be considered a change to another nonconforming use, provided that the use itself remains unchanged.
2. *Discontinuance or abandonment.* A nonconforming use shall not be reestablished after discontinuance or abandonment for one year. Vacancy and/or non-use of the building, regardless of the intent of the owner or tenant, shall constitute discontinuance or abandonment under this subsection. If an occupation certificate is required for said nonconforming use and the occupation certificate has lapsed for more than six months, said lapse of occupation certificate shall constitute discontinuance.
3. *Expansion.* A nonconforming use shall not be expanded, enlarged or extended, in land area or in floor space or volume of space in a building or structure, except for a use which complies with the zoning district in which said use is located.
4. *Repair.* A nonconforming use shall not be rebuilt, altered or repaired after damage exceeding 50 percent of its replacement cost at the time of damage as determined by the Planning Department, except for a use which conforms with the zoning district in which said use is located, and provided such rebuilding, alteration or repair is substantially completed within one year of such damage.

LEGAL USES

- A. Tow Service, which is defined as an establishment that dispatches towing vehicles and which provides for the temporary storage of vehicles but does not include disposal, disassembly, salvage, or accessory storage of inoperable vehicles. This use does not include a salvage yard or junkyard as that term is defined herein.
- B. Wrecked Motor Vehicle Compound, which is defined as an area used to store

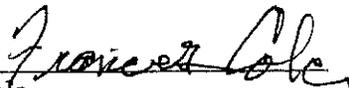
disabled or impounded vehicles until such time as their disposition (either by junk, salvage, repair, etc.) has been determined by the insurance company, the owner of the vehicle, or his legal representative. The area where the vehicles are stored must be surrounded by an eight foot fence and the vehicles may not be visible from the public right of way. This use does not include a salvage yard or junkyard as that term is defined herein.

- C. Baking Plants
 - D. Building Material or Other Outdoor Storage Yards including the storage of operable vehicles such as, but not limited to, automobiles, recreational vehicles, boats, work trailers and commercial trucks.
 - E. Cold Storage Plants
 - F. Soft Drink Bottling and Disturbing Plants
 - G. Truck Terminals
 - H. Wholesaling and Warehousing
 - I. Newspaper and Printing Plants
 - J. Office or Office Parks
 - K. Taxidermists
 - L. All industrial uses that:
 - a. Are not public nuisances
 - b. Are not dangerous to the public health, safety or general welfare
 - c. Meet all applicable state and federal environmental regulations.
 - M. All uses permitted as a right in the I-A (Industrial Area) under Article 6 of the of Lilburn Zoning Ordinance as of the date of this Agreement, which is attached hereto as Exhibit A.
5. Petitioner agrees to install a six-foot chain-link fence across the entire frontage of the Property at the location of the current fence line and to install a locked or automated gate on the fence to restrict vehicular access to the Property. The general public, customers, and potential buyers will not be allowed access to the areas of the Property where wrecked or damaged vehicles are stored, and Petitioner will provide for at least three (3) identified parking spaces for any

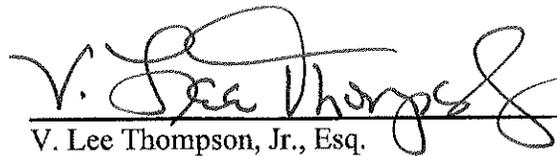
customers. Petitioner further agrees to install a landscape buffer of Green Giant Arborvita trees within the ten feet in front of the fence at appropriate spacing to create a visual screen. The trees will be approximately six feet in height at the time of planting and shall be spaced so that at the time of planting, there shall be a visual screen. The driveway located on the Property and all areas where vehicles will be driven or parked will be covered with a layer of #57 stone and topped with asphalt millings to reduce dust and create a clean appearance.

6. The City shall provide Petitioner a 2025 Occupation Tax Certificate/ Business license for the business of towing and recovery within three business days of the Effective Date of this Agreement.
7. The Effective Date of this Agreement shall be the date that the Agreement is signed by the last part signing the Agreement.
8. The parties acknowledge that a portion of the Property is being legally used for a cell tower in accordance with a recorded Perpetual Easement Agreement. The parties agree that this use is lawful and the use shall be allowed to continue and shall not be affected by the terms of this Settlement Agreement.
9. This Settlement Agreement shall be binding on the parties, their successors and assigns and shall be recorded on the public deed records of Gwinnett County, Georgia to place the public on notice of the lawful uses of the Property.

Agreed to this 2 day of December, 2025.



Frances M. Cole



V. Lee Thompson, Jr., Esq.
Georgia Bar No. 710050
Attorney for Petitioner Frances M. Cole
Pereira, Kirby, Kinsinger & Nguyen, LLP.
P.O. Box 1250
Lawrenceville, Georgia 30046

770-963-2997 (Phone)
lthompson@pkknlaw.com

Agreed to this ____ day of _____, 2025.

City of Lilburn

By: _____

Title: _____

Attest: _____

Title: _____

(CITY SEAL)

Angela Couch
Georgia Bar Number: 190005
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[Signature Page for Settlement Agreement between Frances M. Cole and the City of Lilburn]