

City Council Meeting
10 N. Public Square
September 19, 2019
8:00 A.M. – Work Session
9:00 A.M. – Council Meeting

I. Opening Meeting

Invocation by Council Member Cooley.

Pledge of Allegiance led by Cartersville High School JROTC.

The City Council met in Regular Session with Matt Santini, Mayor presiding and the following present: Jayce Stepp, Council Member Ward Two; Cary Roth, Council Member Ward Three; Calvin Cooley Council Member Ward Four; Gary Fox, Council Member Ward Five; Taff Wren, Council Member Ward Six; Tamara Brock, City Manager; Meredith Ulmer, City Clerk and Keith Lovell, City Attorney.

Absent: Kari Hodge, Council Member Ward One

II. Regular Agenda

A. Swearing in of Civic Youth Day Officials

1. Civic Youth Day Officials

Civic Youth Day officials were sworn in for the day.

B. Commendation/Recognition

1. Recognition of Awards from Georgia Downtown Association

Lillie Read, Downtown Development Manager stated at the 2019 annual conference of the Georgia Downtown Association, downtown Cartersville was given a statewide Award of Excellence in two out of the four competitive award categories. The renovation of the First National Bank building was recognized in the Design category for Best Facade Renovation, and the African American Heritage Trail of Bartow County, 9 of the 19 sites are downtown, was recognized in the Organization category for Premiere Partnership.

C. Council Meeting Minutes

1. September 5, 2019

A motion to approve the September 5, 2019 City Council Meeting Minutes as presented was made by Council Member Wren and seconded by Council Member Stepp. Motion carried unanimously. Vote: 5-0.

D. Public Hearing – 1st Reading of Zoning/Annexation Requests

1. SU19-04: Special Use Permit to Allow Apartments Above Retail in a Mixed-Use Development. Location: Hwy 411 and Hwy 20. Applicant: JB Henderson Properties

Randy Mannino, Planning and Development Department Head stated J.B. Henderson Properties is requesting a Special Use permit to allow apartments and condominiums, above, below, or behind commercial and office uses in the same building. Property is located at the southeast corner of the intersection of Hwy 20 & 411, Tax Parcel C101-0001-001. Said property contains 36.7 +/- acres. Approximately 15.5 of the 36.7 acres will be developed in this phase. 208 apartment units are planned within four mixed-use buildings. The current breakdown is (153) 1-bdrm and (55) 2-bdrm units with options to combine some units to create suites marketable to students at Highlands College. Planning Commission recommends approval 4-0.

Planning Commission approved rezoning (6-0) with the condition to limit future lots in subdivision to three (3) lots for the 9.7 acres (6-0).

The floor was opened for a public hearing:

Barry Henderson, of Cartersville, GA, came forward as the developer of the project and spoke in favor.

With no one else coming forward the public hearing was closed.

This is a first reading and does not require a vote.

2. SU19-06: Special Use Permit to allow a Title Pawn or Pawn Shop. Location: 323 N. Tennessee St. Applicant: Auto Cash- Cartersville LLC

Mr. Mannino stated Auto Cash-Cartersville LLC, is requesting a Special Use permit to allow a pawn and/ or title pawn business in the M-U (Multiple Use) district. The subject property is located at 323 N. Tennessee Street, Tax Parcel C004-0004-006. Said property contains approximately 0.57 acres. Planning Commission recommends approval with a condition that prohibits outdoor storage (4-0).

The floor was opened for a public hearing:

Leslie Simmons, of Cartersville, GA, came forward and stated the applicant did not have any issue with the no outdoor storage requirement, and spoke in favor of the application.

With no one else coming forward the public hearing was closed.

This is a first reading and does not require a vote.

3. Z19-02: Rezone 111 +/-acres from R-20 to MF-14. Location: Center Rd at I-75. Applicant: Etowah Venture Partners II LLC

Mr. Mannino stated Etowah Venture Partners II LLC has made a rezoning request from the R-20 (Single Family Residential) zoning district to MF-14 (Multi-Family residential) zoning district for property identified as Tax Parcel No. C108-0001-001. Said property contains approximately 111 +/- acres. The applicant proposes to construct 300 apartment units- (150) 1 bedroom, (120) 2 bedrooms & (30) 3 bedrooms- on approximately 50 acres. The remaining 60 acres would remain as greenspace. Planning Commission recommendation was to deny (4-0). The backup material for this agenda item is available to view in the Planning and Development office.

The floor was opened for a public hearing:

Mark Feurbach, 45 Galway Drive, Cartersville, GA, City School Superintendent came forward to express his concerns for planning 10 years down the road in regards to capacity for City School System. He spoke against and his comments apply to all apartment complexes.

Howard Hinesley, 17 Hepworth Lane, Cartersville, GA came forward only representing himself to speak against. Mr. Hinesley's concerns were in regards to the school system.

Linda Benton, 144 Cherokee Circle, Cartersville, GA came forward only representing herself to second Mr. Hinesley's comments and express concern for the City School System.

Arthur Smith, 25 Autumn Canyon Path, Cartersville, GA, came forward to speak against. Mr. Smith expressed concerns in regards to water pressure and shared an article for distribution to City Council.

Anne Byrne, 15 Everest Drive, Cartersville, GA came forward to speak against and also distributed materials for City Council to read.

Mark Coppola, 40 Autumn Canyon Path, Cartersville, GA came forward to speak against and express concerns for the burden placed on Public Safety and the hospital if apartments were built.

Terri Rodriguez, 11 Everest Drive, Cartersville, GA came forward and expressed concerns for the school system.

Council Member Wren made a motion to table the item until the December 5th Council meeting and the motion was seconded by Council Member Fox. Motion carried unanimously. Vote: 5-0.

E. Appointments

1. Historic Preservation Commission

This item was removed from the agenda.

F. Contracts/Agreements

1. Lien Release for 48 Pointe North Drive

Mr. Mannino stated the home at 48 Pointe North Drive was purchased as part of the “First Time Homebuyers Program.” The applicant has fulfilled her obligation of five-year ownership as set forth in the program. She is in the process of selling the home and is requesting the Quit Claim Deed release. This is a standard process, and since the applicant has fulfilled her obligation, staff recommends your approval to authorize said release.

A motion to approve Lien Release for 48 Pointe North Drive was made by Council Member Roth and seconded by Council Member Wren. Motion carried unanimously. Vote: 5-0.

G. Second Reading of Ordinances

1. Small Wireless Facility Ordinance

Tamara Brock, City Manager stated this ordinance is required by law in the State of Georgia. Chapter 22. Streets and Sidewalks, in the City of Cartersville Code of Ordinances is being amended by creating a new Article VI. Wireless Facilities and Antennas Ordinance.

A motion to approve the Small Wireless Facility Ordinance was made by Council Member Stepp and seconded by Council Member Roth. Motion carried unanimously. Vote 5-0.

ORDINANCE NO. _____

NOW BE IT AND IT IS HEREBY ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF CARTERSVILLE, THAT THE CITY OF CARTERSVILLE CODE OF ORDINANCES. CHAPTER 22. STREETS AND SIDEWALKS, IS HEREBY AMENDED BY CREATING A NEW ARTICLE VI. WIRELESS FACILITIES AND ANTENNAS ORDINANCE

Sec. 22-141. – Purpose and Compliance.

(a) O.C.G.A. § 32-4-92(a)(10) authorizes the City of Cartersville, Georgia (the “City”) to establish reasonable regulations for the installation, construction, maintenance, renewal, removal, and relocation of pipes, mains, conduits, cables, wires, poles, towers, traffic and other signals, and other equipment, facilities, or appliances in, on, along, over, or under the public roads of the City. Further, 47 U.S.C. § 253(c) provides that the City has authority to manage its public rights of way. Finally, the Georgia Streamlining Wireless Facilities and Antennas Act., O.C.G.A. Title 36, Chapter 66C (the “SWFAA”), addresses the placement of small wireless facilities in the public rights of way of the City.

(b) The City finds it is in the best interest of the City and its residents and businesses to establish requirements, specifications reasonable conditions regarding placement of small wireless facilities, poles in the public rights of way. These requirements, specifications and conditions are adopted in order to protect the public health, safety and welfare of the residents and businesses of the City and to reasonably manage and protect the public rights

of way and its uses in the City.

(c) The objective of this Ordinance is to (i) implement the SWFAA and (ii) ensure use of the public rights of way is consistent with the design, appearance and other features of nearby land uses, protects the integrity of historic, cultural and scenic resources and does not harm residents' quality of life.

Sec. 22-142. - Definitions

(a) Unless defined below, terms used in this Ordinance shall have the meanings given them in O.C.G.A. § 36-66C-2.

Sec. 22-143. – Permits

(a) A permit is required to collocate a small wireless facility in the public right of way or to install, modify, or replace a pole or a decorative pole in the public right of way. A permit is not required to perform the activities described in O.C.G.A. § 36-66C-6(e) or (f).

(b) Any person seeking to collocate a small wireless facility in the public right of way or to install, modify, or replace a pole or a decorative pole in the public right of way shall submit an application to the City of Cartersville Planning and Development Department for a permit. Applications are available from the City of Cartersville Planning and Development Department [The application template is included as Exhibit A to this Ordinance]. Any material change to information contained in an application shall be submitted in writing to the City of Cartersville Planning and Development Department within 30 days after the events necessitating the change.

(c) As part of their application applicants must show that such pole and support structure does not conflict with any other existing underground or buried utilities located within said right of way, or in the area designated for underground utilities pursuant to the City of Cartersville Code of Ordinances.

(d) Each application for a permit shall include the maximum application fees permitted under O.C.G.A. § 36-66C-5(a)(1), (a)(2) and (a)(3). Such maximum application fees shall automatically increase on January 1 of each year beginning January 1, 2021, as provided under O.C.G.A. § 36-66C-5(b).

(e) The City of Cartersville Planning and Development Department shall review applications for permits according to the timelines and using the procedures identified in O.C.G.A. §§ 36-66C-7 and 36-66C-13.

(f) Applications for permits shall be approved except as follows:

(1) In order to receive a permit to install a pole or replace a decorative pole, the applicant must have determined after diligent investigation that it cannot meet the service objectives of the permit by collocating on an existing pole or support structure on which:

- a) the applicant has the right to collocate subject to reasonable terms and conditions; and
- b) such collocation would not impose technical limitations or significant additional costs.

The applicant shall certify that it has made such a determination in good faith, based on the assessment of a licensed engineer, and shall provide a written summary of the basis for such determination.

(2) The City of Cartersville Planning and Development Department may deny an application for a permit upon any of the conditions identified in O.C.G.A. § 36-66C-7(j).

(3) For applications for new poles in the public right of way in areas zoned for residential use, the City of Cartersville Planning and Development Department may propose an alternate location in the public right of way within 100 feet of the location set

forth in the application, and the wireless provider shall use the City of Cartersville Planning and Development Department's proposed alternate location unless the location imposes technical limits or significant additional costs. The wireless provider shall certify that it has made such a determination in good faith, based on the assessment of a licensed engineer, and it shall provide a written summary of the basis for such determination.

(g) A permit issued under this Ordinance shall authorize such person to occupy the public rights of way to: (i) collocate a small wireless facility on or adjacent to a pole or a support structure that does not exceed the limitations set forth in O.C.G.A. § 36-66C-7(h)(3) or on or adjacent to a decorative pole in compliance with O.C.G.A. § 36-66C-12; and (ii) install, modify, or replace a pole or decorative pole for collocation of a small wireless facility that does not exceed the limitations set forth in O.C.G.A. § 36-66C-7(h)(1) and (h)(2).

(h) Upon the issuance of a permit under this Ordinance, and on each anniversary of such issuance, every person issued a permit shall submit to the City the maximum annual payments permitted under O.C.G.A. § 36-66C-5(a)(4) and (a)(5); provided, however, that if such person removes its small wireless facilities from the public rights of way pursuant to O.C.G.A. § 36-66C-5(e), then such person shall be responsible for the pro rata portion of the annual payment based on the number of days of occupation since the last annual payment. Upon making such pro rata payment and removal of the small wireless facilities, the person's annual payment obligations under this section shall cease as of the date of the actual removal. The maximum annual payments shall automatically increase on January 1 of each year beginning January 1, 2021, as provided under O.C.G.A. § 36-66C-5(b).

(i) Any person issued a permit shall pay the fees identified in O.C.G.A. § 36-66C-5(a)(6) and (a)(7), as applicable.

(j) The City may revoke a permit issued pursuant to this Ordinance if the wireless provider or its equipment placed in the public right of way under that permit subsequently is not in compliance with any provision of this Ordinance or the Georgia Streamlining Wireless Facilities and Antennas Act. Upon revocation, the City may proceed according to Section 3.10.

(k) If a wireless provider occupies the public rights of way without obtaining a permit required by this Ordinance or without complying with the SWFAA, then the City may, at the sole discretion of the City, restore the right of way, to the extent practicable in the reasonable judgment of the City, to its condition prior to the unpermitted collocation or installation and to charge the responsible wireless provider the reasonable, documented cost of the City in doing so, plus a penalty not to exceed \$1,000.00. The City may suspend the ability of the wireless provider to receive any new permits from the City under this Ordinance until the wireless provider has paid the amount assessed for such restoration costs and the penalty assessed, if any; provided, however, that the City may not suspend such ability of any applicant that has deposited the amount in controversy in escrow pending an adjudication of the merits of the dispute by a court of competent jurisdiction.

(l) All accepted applications for permits shall be publically available subject to the limitations identified in O.C.G.A. § 36-66C-6(c).

(m) An applicant may file a consolidated application related to multiple small wireless facilities, poles or decorative poles so long as such consolidated application meets the requirements of O.C.G.A. § 36-66C-13.

(n) Activities authorized under a permit shall be completed within the timelines

provided in O.C.G.A. § 36-66C-7(k)(2).

(o) Issuance of a permit authorizes the applicant to: (i) undertake the collocation, installation, modification or replacement approved by the permit and (ii) operate and maintain the small wireless facilities and any associated pole covered by the permit for a period of ten (10) years.

(p) Permits shall be renewed following the expiration of the term identified in Section 3.14 upon the terms and conditions identified in O.C.G.A. § 36-66C-7(k)(2)(B).

(q) If an application for a permit seeks to collocate small wireless facilities on authority poles in the public rights of way, then the City shall, within 60-days of receipt of the completed application: (i) provide a good faith estimate for any make-ready work necessary to enable the authority pole to support the proposed facility; or (ii) notify the wireless provider that the wireless provider will be required to perform the make-ready work. Any make-ready work performed by the City shall be completed pursuant to and in accordance with the provisions of O.C.G.A. § 36-66C-7(n).

Sec. 22-144. - Removal; Relocation; Reconditioning; Replacement; Abandonment

(a) A person may remove its small wireless facilities from the public rights of according to the procedures of O.C.G.A. § 36-66C-5(e).

(b) In the event of a removal under Section 4.1, the right of way shall be, to the extent practicable in the reasonable judgment of the City, restored to its condition prior to the removal. If a person fails to return the right of way, to the extent practicable in the reasonable judgment of the City, to its condition prior to the removal within 90 days of the removal, the City may, at the sole discretion of the City, restore the right of way to such condition and charge the person the City's reasonable, documented cost of removal and restoration, plus a penalty not to exceed \$500.00. The City may suspend the ability of the person to receive any new permits under Ordinance until the person has paid the amount assessed for such restoration costs and the penalty assessed, if any; provided, however, that the City will not suspend such ability of any person that has deposited the amount in controversy in escrow pending an adjudication of the merits of the dispute by a court of competent jurisdiction.

(c) If, in the reasonable exercise of police powers, the City determines: (i) a pole or support structure unreasonably interferes with the widening, repair, reconstruction, or relocation of a public road or highway, or (ii) relocation of poles, support structures, or small wireless facilities is required as a result of a public project, the wireless provider shall relocate such poles, support structures, or small wireless facilities pursuant to and in accordance with the provisions of O.C.G.A. § 36-66C-7(l). If the wireless provider fails to relocate a pole, support structure or small wireless facility or fails to provide a written good faith estimate of the time needed to relocate the pole, support structure or small wireless within the time period prescribed in O.C.G.A. § 36-66C-7(l), the City make take the actions authorized by O.C.G.A. § 36-66C-7(o), in addition to any other powers under applicable law.

(d) The City shall recondition and replace authority poles consistent with the provisions of O.C.G.A. § 36-66C-7(m). Wireless providers shall accommodate and cooperate with reconditioning and replacement consistent with the provisions of O.C.G.A. § 36-66C-7(m).

(e) A wireless provider must notify the City of its decision to abandon any small

wireless facility, support structure or pole pursuant to and in accordance with the provisions of O.C.G.A. § 36-66C-7(p)(1). The wireless provider shall perform all acts and duties identified in O.C.G.A. § 36-66C-7(p) regarding abandonment. The City may take all actions and exercise all powers authorized under O.C.G.A. § 36-66C-7(p) upon abandonment, in addition to any other powers under applicable law.

Sec. 22-145. – Standards.

(a) Small wireless facilities and new, modified, or replacement poles to be used for collocation of small wireless facilities may be placed in the public right of way as a permitted use: (i) upon a receipt of a permit under Ordinance; (ii) subject to applicable codes; and (iii) so long as such small wireless facilities and new, modified, or replacement poles to be used for collocation of small wireless facilities comply with the appropriate provisions of O.C.G.A. § 36-66C-7(h).

(1) New, modified, or replacement poles installed in the right of way in a historic district and in an area zoned primarily for residential use shall not exceed 50 feet above ground level.

(2) Each new, modified, or replacement pole installed in the right of way that is not in a historic district or in an area zoned primarily for residential use shall not exceed the greater of:

(i) Fifty feet above ground level; or

(ii) Ten feet greater in height above ground level than the tallest existing pole in the same public right of way in place as of January 1, 2019, and located within 500 feet of the new proposed pole;

(3) New small wireless facilities in the public right of way and collocated on an existing pole or support structure shall not exceed more than ten feet above the existing pole or support structure.

(4) New small wireless facilities in the public right of way collocated on a new or replacement pole under Section 22-144(a)(1) or (2) may not extend above the top of such poles.

(b) A decorative pole should only be located where an existing pole can be removed and replaced, or at a new location where the City has identified that a streetlight is necessary.

(c) Unless it is determined that another design is less intrusive, or placement is required under applicable law, small wireless facilities shall be concealed as follows:

(1) Antennas located at the top of poles and support structures shall be incorporated into the pole or support structure, or placed within shrouds of a size such that the antenna appears to be part of the pole or support structure;

(2) Antennas placed elsewhere on a pole or support structure shall be integrated into the pole or support structure, or be designed and placed to minimize visual impacts.

(3) Radio units or equipment cabinets holding radio units and mounted on a pole shall be placed as high as possible, located to avoid interfering with, or creating any hazard to, any other use of the public rights of way, and located on one side of the pole. Unless the radio units or equipment cabinets can be concealed by appropriate traffic signage, radio units or equipment cabinets mounted below the communications space on poles shall be designed so that the largest dimension is vertical, and the width is such that the radio units or equipment cabinets are minimally visible from the opposite side of the pole on which they are placed.

(4) Wiring and cabling shall be neat and concealed within or flush to the pole or support structure, ensuring concealment of these components to the greatest extent possible.

(5) Permittees shall not place or maintain signage on communications facilities, including small cell facilities or utility poles for deployment of small cell facilities, in public rights-of-way, unless otherwise required by federal or state law, provided; however, existing structures that lawfully supported signage before being repurposed may continue to support signage as otherwise permitted by law.

(6) A Small Wireless Facility shall not have any type of lighted signal, lights, or illuminations unless required by applicable codes, local codes or regulations, a permit issued by the City, or state and federal laws and regulations or as permitted by the City.

(7) All proposed new or replaced utility poles for deployment of small cell facilities shall meet the design standards contained in this code section, or the License Agreement and permit, unless waived by the Major and City Council.

(i) A replaced or restructured utility pole to accommodate the deployment of a Small Wireless Facility shall be in the same location as the original utility pole.

(ii) The replaced or restructured utility pole shall be substantially similar in finish, base and pole design, diameter, material and height as the original pole being replaced, unless the City requires a different design, color or composition to be consistent with applicable City standards for new utility poles.

8. New utility poles shall be designed to be substantially similar in design to other utility poles in the same block or vicinity of the public right-of-way. Such design aspects to follow include the material, base, pole diameter and style, location and style of attachments, finish, and cap, as applicable. By way of example, if existing utility poles in the same are of the public rights-of-way are light poles, the new utility pole should be designed substantially similar to such light poles and to the extent consistent with location context regulations, equal distance between existing poles. “Tot the extent not inconsistent with applicable law, any such stealth utility pole for deployment of a Small Wireless Facility shall function in the same manner as the facility it is intended to resemble in compliance with the City Code, at the expense of the permittee. By way of example, if a permittee installs a utility pole for deployment of a Small Wireless Facility to resemble a nearby light pole, the facility should include a light that is operated in the same manner as other light poles, at the applicant’s expense unless and until ownership of such pole is transferred to the City.

9. Notwithstanding this subsection, if the proposed location of a new utility pole for deployment of a Small Wireless Facility is within a public right-of-way that is within a particular special district, zoning district, character area, overlay district, historic district or property, or a homeowners’ association that has design standards applicable to utility poles, such proposed utility pole shall substantially comply with such design standards.

10. This subsection does not authorize the installation of a new utility pole for deployment of a Small Wireless Facility in a location that is otherwise prohibited pursuant to court order or applicable codes.

11. Attachment authorization. Any Small Wireless Facilities that require installing, collocating, modifying or replacing wireless attachments and ancillary equipment to a pole or support structure, or otherwise attaching or using a third party's pole shall require, in addition to obtaining a permit, the applicant to submit evidence that the applicant has authorization allowing the placement of the Small Wireless Facility on the pole or other support structure.

12. Small Wireless Facilities and wireless attachments shall be operated and maintained in a manner that does not interfere with public safety, utility, or public works equipment.

(d) Stealth design for deployment of Small Wireless Facility.

(1) Wires, cables and equipment to be deployed on a utility pole shall be within the utility pole or if not possible to being installed within the utility pole, covered with a shroud. No exposed wires or cables are permitted.

(2) If the utility pole for the proposed deployment of a Small Wireless Facility is a light pole, a street light fixture substantially similar in design to the existing street light fixture shall, to the extent technically feasible, be used to camouflage the Small Wireless Facility such as through replacement of the cobra head with a new cobra head containing the Small Wireless Facility, or a side-mounted light may be replaced with a substantially similarly designed side mounted light containing the Small Wireless Facility. Unless consistent with the design of the utility pole, a Small Wireless Facility shall not be deployed on a mast of a utility pole. Any street light fixture installed by the permittee shall be maintained in good working order by the permittee at its cost unless and until ownership of such pole is transferred to the City.

(e) Wireless Equipment not deployed on utility poles or existing structures.

(1) Ground-mounting Wireless Facility up to 28 cubic feet, in dimension shall be located within a ten (10) foot radius of the existing structure or utility pole for the collocated Small Wireless Facility.

(2) The ground-mounted Wireless Facility shall be architecturally designed consistent with the City's design style. Ground-mounted Wireless Facilities up to 28 cubic feet shall have a non-reflective finish of a neutral color consistent with the predominant background color of the attachment or the surrounding landscape and placed on a concrete base surrounded by appropriate landscaping for the area. Alternatively, the permittee may propose a Small Wireless Facility that would be substantially similar in terms of material, design and color finish to other at-grade City owned infrastructure within 500 feet of the proposed location in the public rights-of-way such as waste receptacles or City rights-of-way infrastructure.

(3) To the extent consistent with applicable codes, at the City's direction the permittee owner of a ground-mounted Small Wireless Facility in the public rights-of-way shall conceal the facility with landscaping and plantings consistent with other landscaping in the area. In areas with landscaped swales, the Small Wireless Facility must be within the swale and concealed with consistent landscaping. Landscaping and plantings pursuant to this subsection shall be subject to the City's approval and be maintained by the permittee at its sole cost and expense consistent with the City Code for so long as the Small Wireless Facility remains in the public rights-of-way.

(f) Undergrounding Provisions.

(1) Applicant shall comply with nondiscriminatory undergrounding requirements that prohibit electric utilities, telecommunications or cable providers from installing structures in the rights-of-way without prior zoning approval in areas zoned for single family residential use, provided such requirements shall not prohibit the replacement of existing structures with structures whose design the City expressly consents to.

(g) Development Standards.

In addition to the requirements detailed elsewhere in this Ordinance, the following development standards shall apply to all Small Wireless Facilities governed by this Ordinance:

(1) Any Small Wireless Facility attached to a pole hosting a street light, traffic light, or other public safety purpose shall only be permissible to the extent it does not interfere with the operation of any public safety function or public safety communications. If in the City's sole discretion it is determined that a particular pole or location cannot support a Small Wireless Facility, without interfering with or otherwise affecting the reliability performance, safety, or other functional aspects of such a pole, the City may deny a permit to install Small Wireless Facility on such a pole, or to construct a new or replacement utility pole or wireless support structure, at such a location, to the extent permissible by law.

(2) All Small Wireless Facilities shall incorporate Concealment Elements to the maximum extent technically and economically feasible and as appropriate to the site and type of facility. Specifically, all small wireless facilities shall employ and maintain camouflage design techniques to minimum visual impacts and provide appropriate screening. Such techniques shall be employed so that the installation, operation, and appearance of the small wireless facilities will be consistent with the character of the surrounding area or the structure to which the small wireless facility is attached.

(3) Wireless providers may place new poles or wireless support structures in the rights-of-way, but only where there are existing above-ground utility poles and the poles must be removed if other such poles are removed, unless those poles would meet the

requirements of this subsection as permissible new poles. Specifically, and furthermore, a new pole is only permitted if the Applicant can show:

i. Existing utility poles or other support structures cannot be used to support the small wireless facilities, or would require a modification that would make the addition of an additional utility pole or wireless support structures less intrusive or safer;

ii. The pole or support structures to be installed will be similar in size and design to existing poles, and placed approximately to minimize intrusiveness and to avoid creating undue hazard to persons or property; and

iii. The Applicant demonstrates that the denial of the application would prohibit or have the effect of prohibiting the provision of personal wireless services, within the meaning of 47 USC §332(c)(7) as interpreted by precedent binding in the Eleventh Circuit Court of Appeals.

(4) Every new utility pole or wireless support structure shall be a monopole rather than a lattice tower or guy-wire support tower, unless otherwise authorized.

(5) No facility shall be built so as to cause the right-of-way in which the facility is located to fail to comply with the Americans with Disabilities Act or otherwise obstruct access.

(6) All facilities shall be designed so as to be resistant to and minimize the opportunities for unauthorized access, climbing, vandalism, graffiti, and other conditions, which would result in hazardous conditions, visual blight, or attractive nuisances.

(7) Any equipment that is not installed underground shall be screened by structures, topography, or vegetation to the maximum extent technically and economically feasible. Coaxial cables, conduit lines, and electrical boxes for ground-mounted wireless equipment shall be placed underground or within approved structures to the extent feasible.

(8) Wireless providers shall be encouraged to design small wireless facilities to serve as public art, flagpoles, or artificial natural features such as trees or rocks where such designs are appropriate and technically and economically feasible.

(9) Unless otherwise required by city, county, state, or federal rules or regulations, small wireless facilities shall have non-reflective finish and shall be neutral color consistent with the predominant background color.

(10) Signal lights or illumination shall be prohibited unless required by the FCC or Federal Aviation Administration.

(11) The facilities shall not bear any signage, other than certification, warning, information, safety, and directional signage, or other non-commercial signage required by

law, or expressly permitted by the City.

(12) Any facility occupying a City-owned pole is only permissible to the extent the existing function of the pole is not impeded. In particular, street lights and traffic lights' power supplies may not be used by applicants. When attaching to City-owned poles, applicants are responsible for securing separately metered power for their facilities, and are responsible for any and all costs incurred in modifying a pole to support additional power supplies. In all other cases, applicants are responsible for ensuring that their power supply arrangements with electric utilities do not result in any incremental cost increase to the City.

(13) In the event a replacement pole is required, the applicant shall notify the pole owner of the date of the City's action approving the new pole and the old pole shall be removed within ninety (90) days of the placement of the replacement pole.

(h) Notwithstanding any provision of this Ordinance to the contrary, an applicant may collocate a small wireless facility within a historic district, and may place or replace a pole within a historic district, only upon satisfaction of the following: (i) issuance of a permit under Ordinance and (ii) compliance with applicable codes.

(i) Notwithstanding any provision of this Ordinance to the contrary, an applicant may collocate a small wireless facility on a decorative pole, or may replace a decorative pole with a new decorative pole, in the event the existing decorative pole will not structurally support the attachment, only upon satisfaction of the following: (i) issuance of a permit under Ordinance and (ii) compliance with applicable codes.

(j) Whenever possible, each provision of this Ordinance, will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Ordinance is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability will not affect any other provision or any other jurisdiction, but this Ordinance will be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provisions had never been contained herein.

Sec. 22-146. – Effect of Permit.

(a) A permit from the City authorizes an applicant to undertake only certain activities in accordance with this Ordinance, and does not create a property right or grant authority to the applicant to impinge upon the rights of others who may already have an interest in the rights-way.

(b) No permit for construction issued under this Ordinance shall be valid for a period longer than twelve (12) months unless construction has actually begun within that period and is thereafter diligently pursued to completion.

Sec. 22-147. – Waivers.

A request for waiver of the design standards for a proposed small wireless facility that does

not satisfy these design guidelines shall be submitted to the public works department for review and approval prior to the permittee submitting an application. The City Manager or designee reserves the right to submit any application for small wireless facility permit to the City Council with notice to the applicant, to determine if such proposed facility is consistent with the City's objective design standards. The City shall approve or deny the request for a waiver in writing within thirty (30) calendar days. If a decision is not received by the applicant on day 30, the proposed design is deemed approved. After thirty (30) calendar days, the applicant shall submit its application, which the City shall process in accordance with the timelines established by Title 36. Chapter 66C of the Georgia Code.

Sec. 22-148. – Variance and Appeal Process.

(a) Any applicant desiring relief or exemption from any aspect or requirement of this Ordinance may request the Planning and Development Department, in the case of volume of the deployment, or in any other case, provided that the relief or exemption is contained in the original application, or in the case of an existing or previously approved application a request for alteration of its proposed facilities. In determining the variance requested, the Planning and Development Director shall consider the elements established in subsection (b) below. In the event applicant submits an application for a variance, or any appeal of a departmental decision, applicant shall agree to toll the shot clock or application processing deadlines found in federal, state, or local law for a reasonable amount of time for the City to act upon any such request.

(b) In the event the applicant is not satisfied with the decision of the Planning and Development Director, the applicant may take an appeal to the City Council. If such appeal is filed with the City Clerk within fifteen (15) days of the final decision by the Planning and Development Director, which filing shall include all grounds to be asserted for the appeal. Such relief may be temporary or permanent, partial or complete, at the sole discretion of the City Council. In exercising its discretion, the Council may consider the following factors: (1) the number of small wireless facilities on the same street, (2) the number of small wireless facilities within 100 feet of the proposed note, (3) the volume of other small wireless facilities on the same street, (4) the character area of the street on which the new deployment is proposed, (5) the proposed (if any) camouflage efforts to conceal or blend the facility into the surrounding flora and landscape, (6) the need of the note or small wireless facilities in the precise location proposed, and (7) the proposed deployment does not adversely affect the health, safety, and welfare of the citizens and residents of the City. However, the burden of proving the need for the requested relief or exemption is solely on the applicant to prove to the satisfaction of the Council by clear and convincing evidence. The applicant shall bear all costs of the City Council in considering the request and the relief shall not be transferable to a new or different holder of the permit or owner of the facilities without the specific written permission of the Council.

Sec. 22-149. – Effective Date.

The effective date of this Ordinance shall be: October 1, 2019.

2.

It is the intention of the city council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Cartersville, Georgia, and the sections of this ordinance may be renumbered to accomplish such intention.

BE IT AND IT IS HEREBY ORDAINED

FIRST READING: _____

SECOND READING: _____

MATTHEW J. SANTINI, MAYOR

ATTEST: _____
MEREDITH ULMER, CITY CLERK

2. Right of Way Ordinance

Ms. Brock stated this is recommended that the City of Cartersville Code of Ordinances, Chapter 7.5 Development Regulations be amended by creating a new Article XII, Right-of-Way Ordinance. grant is \$2,050,000 with a 5% local match of \$102,500

A motion to approve Right of Way Ordinance was made by Council Member Stepp and seconded by Council Member Roth. Motion carried unanimously. Vote: 5-0.

ORDINANCE NO. _____

NOW BE IT AND IT IS HEREBY ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF CARTERSVILLE, THAT THE CITY OF CARTERSVILLE CODE OF ORDINANCES. CHAPTER 7.5 DEVELOPMENT REGULATIONS, IS HEREBY AMENDED BY CREATING A NEW ARTICLE XII. RIGHT-OF-WAY ORDINANCES

1.

Sec. 7.5-280. - Title.

This article shall be known as the "City of Cartersville Right-of-Way Ordinance."

Sec. 7.5-281. - Purpose.

The purpose of this article is to provide for the regulation of the City of Cartersville street rights-of-way, pursuant to the powers vested in the city by O.C.G.A. § 32-4-42 and § 32-6-1. It is further the purpose of this article to:

(1) Protect the public health, safety and welfare by ensuring that new mailbox supports erected in the right-of-way are constructed so as not to pose a hazard to street users; and

(2) Prevent encroachments into the city rights-of-way and provide for removal of said encroachments, to secure the public health, safety and welfare.

Sec. 7.5-282. - Definitions.

The following words shall have the following meanings in this article. Except as specifically defined herein all words used in this article shall carry their customary meaning as defined by a standard dictionary.

Public Works Director means the official who is the department head of the City of Cartersville Public Works Department, or his or her designee.

Encroachments means any building, structure, or vehicle, or other object or thing (including but not limited to mailboxes, signs, cars, gates, walls, sprinkler systems, trees, posts, etc.) which is located in the right-of-way.

Encroach means to be within the right-of-way.

Materially injure means damaging the pavement or right-of-way to the extent that a repair is or will be required by the Public Works Department in order to bring the pavement or right-of-way back to city standards. It shall also mean causing more than \$50.00 damage to the right-of-way or pavement, considering the labor cost and materials to repair the injury, whether or not such repair is undertaken by the Public Works Department.

Obstruct, includes without limitation, the causing of any buildup of rock, gravel, mud, dirt, chemicals, or other materials by continued ingress or egress of vehicles or of any natural waters dammed or redirected by diversion to an extent which presents a hazard to the traveling public. It shall also include negligently or intentionally dropping objects onto the street that present a hazard to the traveling public, including ladders, trash, debris, branches, cement, etc.

Right-of-way means any right-of-way that has been accepted by The City of Cartersville into the city streets, and such term includes the full width of the right-of-way, and not just width of the pavement. Such term also includes rights-of-way acquired by prescriptive easement, or pursuant to O.C.G.A. § 44-5-163 or O.C.G.A. § 32-3-3, or any other means.

Sec. 7.5-283. - Prohibitions.

(a) It shall be unlawful for any person to obstruct, encroach upon, or injure materially any part of any city right-of-way or city street pavement.

(b) No encroachments are permitted in any right-of-way of the City of Cartersville without permission of the Public Works Director, unless otherwise permitted by this article.

(c) No building, structure, service area, or required off-street parking and loading facilities, except driveways, shall be permitted to encroach on city rights-of-way.

(d) The city shall owe no compensation for removal of illegal encroachments or obstructions.

Sec. 7.5-284. - Permitted encroachments.

(a) **Driveways.** Driveways (including paved, masonry, asphalt, etc) are permitted to encroach on the right-of-way. A driveway permit shall be required and the lot owner shall secure permission for any new driveway from the Public Works Department. Driveways must meet sight distance requirements of Public Works Department, and must be constructed in compliance with city requirements for stormwater drainage/piping.

(b) **Landscaping.** Limited landscaping is permitted in the city right-of-way, including grass, flowers and shrubs not in excess of two feet in height. Trees shall not be planted in the right-of-way. Irrigation systems shall not be installed in the right-of-way.

(c) Mailbox support structures. The city permits limited encroachment of the right-of-way for mailbox support structures, which meet the following standards:

(1) The use of massive mailbox support structures that, when struck, could damage vehicles and cause serious injury to vehicle occupants are prohibited. Heavy metal posts, concrete posts, brick bases, and miscellaneous items such as farm equipment or supports filled with concrete are also prohibited and cannot be used for mailbox supports.

(2) Acceptable mailbox supports include: a) a single four-inch by four-inch or four-inch diameter wooden post; b) a metal post with strength no greater than a two-inch diameter standard strength steel hollow pipe; or c) other support of no greater strength, as approved by the street department, as in accordance with the standards of the AASHTO Streetway Design Guidelines for mailbox structures, which are incorporated herein by reference. In the event the property owner has any question as to whether the proposed mailbox support will be permitted, the Public Works Department should be consulted.

(3) Mailbox supports must be embedded no more than 24 inches into the ground. A metal post shall not be fitted with an anchor plate, but it may have an anti-twist device that extends no more than ten inches below the ground surface.

(4) Mailboxes. The post-to-box attachment details should be of sufficient strength to prevent the box from separating from the post top if a vehicle strikes the installation. The mailbox itself should be of lightweight steel, wood, or plastic/composite construction, and meeting U.S. Postal Service regulations.

(d) Driveways. New driveways for single family residences tying into existing the City of Cartersville streets must receive a driveway permit from the Public Works Department prior to constructing a driveway. The applicant shall submit information on a form issued by the Public Works Department regarding the location, proposed size and construction, and other relevant information. New driveways on commercial or industrial or other non-residential developments shall be approved through the permit process for the engineering department. If a new commercial or industrial or other non-residential development is of a type that does not require engineering department approval, the applicant shall still require a driveway permit prior to construction.

(e) Utility work. The city permits utilities to encroach in the right-of-way subject to the terms of the City of Cartersville Utility Accommodation Ordinance and Wireless Facilities and Antennas Ordinance. Such work shall require issuance of surety to secure performance of the work and a warranty and maintenance period, as stated in that ordinance.

(f) Projects tying into the City of Cartersville rights-of-way. New developments that tie into existing City of Cartersville street rights-of-way are permitted, with the permission of the Public Works Department. Approval is given as a part of the approval process through the engineering department under the development regulations. If any new construction or development requires tying into a city street but does not require a land disturbance permit or any development approval from the engineering department, the applicant must submit plans to the Public Works Department prior to beginning construction and secure a permit. In all cases, surety shall be required as stated in subsection (h) below; no work shall be permitted in a City of Cartersville right-of-way without a surety.

(g) Permitted improvement of existing City of Cartersville streets. In certain circumstances, a developer or other party may be permitted or required to improve City of

Cartersville streets. In such circumstances, the plans typically shall be approved through the engineering department and a surety posted in accordance with the development regulations for work in an existing city right-of-way. The amount of the surety shall be sufficient to pay for the project, including associated utility relocations/installations and stormwater controls. In the event the development does not require approval through the engineering department, a permit shall be secured through the Public Works Department. In all cases where work is performed in a City of Cartersville right-of-way, surety shall be required as stated in subsection (h) below; no work shall be permitted in a City of Cartersville right-of-way without a surety.

(h) Surety to city. Prior to issuance of an approval to work in a City of Cartersville right-of-way, except as otherwise approved under the utility accommodation ordinance, Wireless Facilities and Antennas Ordinance, or Franchise Agreement, the party seeking to perform the work shall cause to be executed in favor of City of Cartersville surety in the form of a performance and maintenance bond, an irrevocable standby letter of credit, or an escrow deposit. The surety must be accepted and approved by the Public Works Department before any permit can issue. In the event the work in the right-of-way is related to a development approved through the engineering department, the surety requirements of the City of Cartersville Development Regulations (which are essentially identical to the requirements below) shall control, and the surety shall be administered by the city engineer. However, if the project is not approved through the engineering department, the surety requirements below shall apply, and the surety shall be administered by the Public Works Department.

(1) Purpose. The purpose of the surety shall be the following: 1) to ensure proper construction of any work performed in existing City of Cartersville rights-of-way (whether street improvement, tying into an existing right-of-way or other purpose); 2) to provide a guaranty for the warranty and maintenance period applicable to any work in any existing city right-of-way.

(2) Approval. The surety shall only be issued in a form approved by the City of Cartersville. The language of the surety and the term of the surety must be approved by the City of Cartersville prior to issuance. The City of Cartersville has forms it prefers that surety companies use, and those can be provided upon request; otherwise, the form of the surety shall be approved by the Public Works Department prior to acceptance of the surety. Any irrevocable standby letter of credit or surety bond shall be issued by a company or financial institution authorized to do business in the State of Georgia. Irrevocable standby letters of credit shall be issued in accordance with the current International Chamber of Commerce (ICC) publications governing such letters of credit, and must be issued by a bank having a physical branch in the City of Cartersville, which shall be the place of tender of the draft on said letter of credit. The City of Cartersville reserves the right to demand a specific form of surety from an applicant that has tendered unsatisfactory surety in the past. The City of Cartersville reserves the right to reject a surety from a financial institution or insurance company that has provided an unsatisfactory surety in the past. Escrow shall mean deposit of good funds in a bank of the City of Cartersville's choosing pursuant to escrow instructions issued by the City of Cartersville.

(3) Scope. In each case, the surety guarantees that all applicable provisions of any City of Cartersville Ordinances are complied with, including but not limited to, the

City of Cartersville Development Regulations, the Utility Accommodation Ordinance, City of Cartersville Standard Street Details, and the regulations promulgated under each of the foregoing.

(4) **Amount and term.** The amount of the surety depends on the project, and shall be set by the Public Works Department relying on experience with similar projects and the applicant, knowledge of material and labor costs, and investigation of additional costs. The amount shall be sufficient to secure performance of the work and compliance with the city ordinances and regulations. For work in existing city rights-of-way (whether improving existing streets, tying into existing streets, or other purposes), the amount of surety shall be sufficient to ensure repair the streets after any planned work, including associated utility relocations/installations and stormwater controls, that are part of the project being approved; the minimum \$25,000.00. The foregoing amount is a minimum and can be increased based on a more complex or expensive project, difficult terrain or other factors that would make the remedial work more expensive. No additional separate amount of surety shall be required for maintenance purposes. The term of any surety shall extend for the period from the issuance of the permit until the project is completed, and additionally beyond that for the duration of the warranty and maintenance period.

(5) **Partial release.** Once a project has been inspected and completed, the city may, at the discretion of the Public Works Department, release a portion of the surety amount; the remainder shall be kept as surety for the maintenance period. Once the applicable maintenance period has passed, the remaining surety amount shall be released.

(6) **Prerequisite; calling surety.** No permit or approval for work in the right-of-way shall be issued by the Public Works Department until the surety has been furnished to the city, in a form acceptable to the city. If the developer does not comply with these regulations, other applicable City of Cartersville Ordinances and regulations, or with the conditions of the permit after issuance, the city may call the surety, or any part thereof, to be forfeited and may use the proceeds to perform the work or hire a contractor to remedy the defects, whether that means installing soil erosion and sedimentation prevention measures, completing paving and street work, or completing other work.

(7) **Waiver.** The Public Works Department shall be authorized, but not required, to reduce or waive the surety requirement for projects undertaken by a municipal government in the city. The surety requirement may also be waived by the Department Head's discretion, for utilities that have demonstrated a history of compliance with this Ordinance, financial responsibility, quality work, and prompt responsiveness.

(i) **Warranty.** Any permit holder working in the right-of-way shall provide a two-year warranty for any work conducted under authority of this article. The two-year warranty shall commence upon the completion of the work. The surety shall remain in effect during the warranty period. During the warranty period, the permit holder shall be responsible to repair any defects in the work or repair, or correct any deficiencies that are not up to the standards and regulations of the city ordinances.

Sec. 7.5-285. - Non-conforming encroachments.

(a) All encroachments pre-existing the date of adoption of this article may remain as non-conforming encroachments, unless and until removal is ordered by the Public Works Director, for utility work, street work or other work necessitating access to the right-of-way. For pre-existing encroachments, the city shall give 30 days' notice of removal (unless the encroachment presents a safety hazard).

(b) Any structure pre-existing the article which is damaged or removed shall not be replaced in kind and must be replaced in accordance with the requirements of the article.

(c) The city shall owe no compensation for removal of non-conforming encroachments.

Sec. 7.5-286. - Administration and enforcement.

(a) **Administration.** This article shall be administered by the Public Works Director. The Public Works Director shall have the authority to issue permits for encroachments in the rights-of-way not specified above, and any question of interpretation or administration shall be determined by that official. The appeal of any decision by the Public Works Director shall be to the Mayor of The City of Cartersville.

(b) **Enforcement powers.** The Public Works Director and the city police, as well as city code enforcement officers, and city attorney, are empowered to enforce this article. The foregoing shall be empowered to issue citations, seek other civil relief, or issue stop work orders for violations of this article. Any person, firm, partnership, corporation or other legal entity who shall do anything prohibited by this article as the same exists or as it may hereafter be amended or which shall fail to do anything required by this article as the same exists or as it may hereafter be amended shall be subject to an enforcement action.

(c) **Right of removal.** The Public Works Department shall have the authority to remove without notice any encroachment or obstruction of the right-of-way. The Public Works Department shall also have the authority to issue a notice of removal to property owners giving them up to 30 days to remove an unpermitted encroachment.

(d) **Criminal prosecution.** The Public Works Director, city police, or designated code enforcement personnel, or other authorized personnel, may issue criminal citations for violations of this article, or violation of any stop-work order.

(1) Criminal prosecutions for violation of this article shall be commenced by the completion, signing, and service of a citation by an authorized city official. No warning need be issued prior to a citation being issued. The original of the citation shall be personally served upon the accused, his or her authorized representative or, if a corporation, an officer of the corporation or its on-site representative or the person or persons in charge of the activity on the property, and a copy shall be promptly filed with the municipal court. A stop-work order may be issued in conjunction with a citation.

(2) Each citation shall state the time and place at which the accused is to appear for trial in municipal court, shall identify the offense with which the accused is charged, shall have an identifying number by which it shall be filed with the court, shall indicate the identity of the accused and the date of service, and shall be signed by the city police or other authorized officer who completes and serves it.

(3) Any defendant who fails to appear for trial shall thereafter be arrested on the warrant of the municipal court judge and be required to post a bond for his or her future appearance.

(4) The city attorney or another attorney designated by the City of Cartersville may act as prosecuting attorney for violations of this article.

(5) Minimum fines for violations of this article shall be \$200.00 for the first violation, and \$400.00 for subsequent violations. The maximum permissible fine shall be \$1,000.00 per offense, and reimbursement costs.

(6) Daily violations. Each day during which the violation or failure or refusal to

comply continues shall constitute a separate violation, subjecting the offender to a new citation, or other civil or criminal proceeding.

(e) Civil fines and proceedings. In addition to or in lieu of any other remedy, the city may seek injunctive, mandamus or other appropriate relief in superior court to enjoin or prevent a violation of any provision of this article. Such action may also seek civil fines at the mandatory rates specified in subsection (d)(6) above for violation of this article, and may additionally seek the costs of restitution, and any other costs associated with the action to enjoin or prevent any violation of any provision of this article. The city shall be entitled to its reasonable attorney's fees and costs for bringing an action in municipal or superior court wherein any relief is granted or fine assessed.

(f) Stop work orders. Upon notice from the Public Works Director, work on any encroachment into the right-of-way that is being done contrary to the provisions of this article, or in a dangerous or unsafe manner, shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed. Where an emergency exists, the Public Works Director shall not be required to give a written notice prior to stopping the work, with a written order to be provided within three working days.

(g) False statements. The Public Works Director may revoke a permit or approval, issued under the provisions of this article, in case there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.

(h) Permit revocation. The Public Works Director may revoke a permit or approval, issued under the provisions of this article, upon determination by the Public Works Director that the structure or encroachment for which the permit or approval was issued is in violation of, or not in conformity with, the provisions of this article.

(i) Notice of removal. Where the Public Works Director determines that an encroachment must be removed from the right-of-way for construction, maintenance or safety purposes, he may (but is not required to unless otherwise specified herein) issue a notice of removal, giving up to 30 days to remove the structure. After the deadline, the structure may be removed by the city with the costs to be charged to the property owner. The owner may also be cited, fined or have other enforcement action taken against him to secure compliance with this article and/or reimbursement.

Sec. 7.5-287 – 299. Reserved.

2.

It is the intention of the city council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Cartersville, Georgia, and the sections of this ordinance may be renumbered to accomplish such intention.

BE IT AND IT IS HEREBY ORDAINED

FIRST READING: _____

SECOND READING: _____

MATTHEW J. SANTINI, MAYOR

ATTEST: _____
MEREDITH ULMER, CITY CLERK

3. Utility Accommodations

Ms. Brock stated it is recommended that the City of Cartersville Code of Ordinances, Chapter 7.5 Development Regulations, be amended by creating a new Article XI, Utility Accommodations.

A motion to approve Utility Accommodations was made by Council Member Wren and seconded by Council Member Roth. Motion carried unanimously. Vote: 5-0.

ORDINANCE NO. _____

NOW BE IT AND IT IS HEREBY ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF CARTERSVILLE, THAT THE CITY OF CARTERSVILLE CODE OF ORDINANCES. CHAPTER 7.5 DEVELOPMENT REGULATIONS, IS HEREBY AMENDED BY CREATING A NEW ARTICLE XI. UTILITY ACCOMMODATIONS.

1.

Sec. 7.5.261 - Utility accommodations in rights-of-way.

(a) 2016 DOT Utility Manual adopted by reference. The 2016 Utility Accommodation Policy and Standards manual, including all references contained therein to codes, rules, regulations, schedules, forms and appendix items, except Appendix B (Permit Forms and Supporting Documents), promulgated by the State of Georgia Department of Transportation, as may be amended from time to time, is adopted by reference and incorporated herein as if fully set forth herein, subject to all amendments and modifications contained in this article. A copy of the manual shall be maintained at the offices of the City of Cartersville Public Works Department and the City Clerk and open for public inspection. The manual and this article shall govern all utility work in City of Cartersville rights-of-way, and all utility work shall comply with same.

(b) Amendments. The 2016 Utility Accommodation Policy and Standards manual promulgated by the State of Georgia Department of Transportation, as may be amended from time to time, adopted in subsection (a) above is amended in order to equate state definitions and provisions with their appropriate and equivalent City counterparts, such that a policy shall be implemented to reflect the intent and effect of the state right-of-way policy as it would logically apply to unincorporated City of Cartersville rights-of-way. Therefore, the following terms as used in the DOT manual shall be replaced as follows:

(1) Commissioner means the department director, City of Cartersville Public Works Department.

(2) Department means the City of Cartersville Public Works Department.

(3) District engineer means the City of Cartersville Public Works Director or his/her designee.

(4) Highway means any road that is part of the City of Cartersville Municipal Street

System.

(5) Roadbed means the portion of the highway that includes the pavement structure, shoulder and front slopes.

(6) State means City of Cartersville.

(7) State bridge and structural design engineer means City of Cartersville Public Works Director or his/her designee.

(8) State highway (chief) engineer means community development director or his/her designee.

(9) State utilities engineer means City of Cartersville Public Works Director or his/her designee.

(10) Telephone booth shall include any booth or structure, to be used by the public at large, which houses a communications link for local or long distance communications, including but not limited to data communication ports, terminals, kiosks, structures or jacks for connection with local or long distance communications.

(11) Utility (as defined in the state's policy) shall read: All privately, publicly or cooperatively owned systems for producing, transmitting or distributing communication, data, information, telecommunication, cable television, power, electricity, light, heat, gas, oil, crude products, water/sewer, steam, fire and police signals, traffic control devices, and street lighting systems, and housing or conduit for any of the foregoing, which directly or indirectly serve the public or any part thereof. The term "utility" may also be used to refer to the owner, operator, provider, servicer, or any agent thereof, of any above-described utility or utility facility.

Sec. 7.5-262. - Utility locations in rights-of-way; standards; repair standards.

All utilities locating their facilities in new residential and commercial developments shall locate their facilities pursuant to the City of Cartersville Development Regulations, and the City of Cartersville Development Standards and Specifications, and as those may be amended from time to time and if applicable the City of Cartersville's Wireless Facilities and Antenna Ordinance. All work authorized by any permit issued under this article shall be in accordance with all applicable City of Cartersville specifications and requirements. All utility work in City of Cartersville right-of-ways shall comply with the provisions of this article. In the event that the development regulations or development standards conflict with the Georgia Department of Transportation's Utility Accommodation Policy and Standards, City of Cartersville ordinances will prevail, so long as they are not preempted by state law. Repair work shall be completed in accordance to City of Cartersville Public Works Department specifications, which shall be provided by the department at the time the permit is issued.

Sec. 7.5-263. - Utility permits, written notification, and exempt activities.

(a) Permits; notification. Any work in a City of Cartersville right-of-way shall either require a utility permit, written notification in advance of the work, or shall be exempt, as specified below. Only the utility itself can obtain a permit, and the contractor(s) intended to do the work must be identified on the permit. Work in a City of Cartersville right-of-way without a permit, for any type of work for which a permit is required, shall be a violation of this article. Utility permits provide notice and approval for major projects, new installations, and other similar matters, and should be applied for at least two weeks before the work is scheduled to begin. Written notification provides notice for minor matters and certain repairs. Written notification must be submitted, and acknowledgment of the notice

received, prior to any work beginning that requires notification, as specified below. Proceeding on work that requires a written notification, before notification is submitted, or before acknowledgment of the notice is returned, shall be a violation of this article. Exempt activities, as specified below, require neither a utility permit nor written notification.

(b) **Procedures.** The department has written procedures for applying for a utility permit, and for providing written notification. Such procedures are incorporated herein by reference, and are available from the department, along with necessary forms. The department may require such information as it deems necessary prior to issuance of a utility permit.

(c) **Utility permits.** Utility permits shall be required in the following situations:

(1) **Installation of new utilities, for new commercial, residential or industrial developments, projects or subdivisions.**

(2) **Work involving underground burial of utilities and overhead work, unless specifically covered under written notification procedures or exempted below.**

(3) **Any new utility pole installation; replacements are covered by written notification, and emergency replacements are exempt (see emergency repair regulations).**

(4) **Utility tie-ins that require cutting any roadway more than half of the width.**

(5) **Linear projects involving multiple service connections or roadway crossings that are not perpendicular.**

(d) **Written notification.** Written notification must be submitted, and acknowledgment of the notice received back from the department, prior to any work beginning that requires written notification, as specified below. If a situation arguably falls under both the written notification and the utility permit procedures, the utility permit procedures shall be used, unless otherwise determined by the department. Written notification shall be required in the following situations:

(1) **Maintenance, inspection, and/or testing of utilities (including replacement of parts necessary due to damage, deterioration or obsolescence) that would:**

a. **Require blocking of more than one travel lane;**

b. **Require the blocking of one travel lane for a period of longer than two hours in a 24-hour period; or**

c. **Require cutting, trenching or boring in or under the roadbed.**

(2) **Installation of lateral service connections to serve occupants of adjacent property, if such connections:**

a. **Introduce any new obstructions onto the right-of-way;**

b. **Require blocking of more than one travel lane;**

c. **Require the blocking of one travel lane for a period of longer than two hours in a 24-hour period; or**

d. **Require cutting, trenching or boring in or under the roadbed.**

(3) **Installation of additional appurtenances or attachments to facilities which:**

a. **Affect vertical or horizontal clearances from the traveled way;**

b. **Change the rated capacity or transmittance of the facility for which a permit was issued;**

c. **Require blocking of more than one travel lane;**

d. **Require the blocking of one travel lane for a period of longer than two hours in a 24-hour period; or**

e. **Require cutting, trenching or boring in or under the roadbed.**

- (4) Any work which requires the blocking of more than one traffic lane for any length of time, or requires blocking one traffic lane for more than two hours in a 24-hour period.**
- (5) Any digging in the roadbed with mechanical excavating equipment (i.e., excavating equipment powered by hydraulics, engines or other motors) shall require written notification unless already covered by a utility permit.**
- (6) Installation of any temporary structures that are to remain in the right-of-way longer than 24 hours.**
- (7) Cutting, trimming or spraying of any trees or shrubs, or other vegetation control, within the right-of-way.**
- (8) Any work involving making any pavement cuts, unless specifically exempted below.**
- (9) Utility tie-ins that consist of not cutting any roadway more than half of the width of the roadway.**
- (10) Boring, punching and directional drilling for service tie-in that is not a linear project and instead results in a perpendicular crossing of the roadway (an eight by 11-inch sketch drawing of any boring, punch or directional drilling to ascertain its location will be required); linear projects or crossings that are not perpendicular require utility permits.**
- (e) Exempt activities. The following activities shall not require a utility permit or written notification, provided they do not also include any activity specifically listed as requiring a utility permit or written notification:**
 - (1) Routine or periodic maintenance, inspection, and/or testing of utilities (including replacement of parts necessary due to damage, deterioration or obsolescence) that would not:**
 - a. Require blocking of more than one travel lane;**
 - b. Require the blocking of one travel lane for a period of longer than two hours in a 24-hour period; or**
 - c. Require cutting, trenching or boring in or under the roadbed.**
 - (2) Installation of lateral service connections to serve occupants of adjacent property, if such connections do not:**
 - a. Introduce any new obstructions onto the right-of-way;**
 - b. Require blocking of more than one travel lane;**
 - c. Require the blocking of one travel lane for a period of longer than two hours in a 24-hour period; or**
 - d. Require cutting, trenching or boring in or under the roadbed.**
 - (3) Installation of additional appurtenances or attachments to facilities that would not:**
 - a. Affect vertical or horizontal clearances from the traveled way;**
 - b. Change the rated capacity or transmittance of the facility for which a permit was issued;**
 - c. Require blocking of more than one travel lane;**
 - d. Require the blocking of one travel lane for a period of longer than two hours in a 24-hour period; or**
 - e. Require cutting, trenching or boring in or under the roadbed.**
- (4) Potholing for utility locates, meaning excavating holes no larger than 24 inches' square, which must be filled in at the end of each workday.**
- (5) Utility damage repairs created from construction or routine maintenance performed by the City of Cartersville Public Works Department.**
- (6) Utility work being performed in a new development within the construction limits of**

the new development prior to the development's roads, rights-of-way and easements being deeded to the community development department.

(7) Emergency repairs. See subsection (f) below for applicable requirements for circumstances requiring post-repair notification.

(f) Emergency repairs. Emergency repairs do not require the giving of written notification before the repair is conducted, but repairs that would otherwise require written notification (i.e., would not be exempt repairs anyway) must provide post-repair written notification as soon as possible, no later than the end of the next business day. The sole exception is repairs that would only require notification due to blockage of a lane for more than two hours, or blockage of more than one lane; post-repair notification is not required for such repairs. However, post-repair notification is required for: repairs that require mechanical excavation; repairs that require boring, cutting or trenching the roadway; repairs that affect vertical clearances; repairs that install replacement poles; and so forth. An emergency repair is defined as an emergency replacement of poles, wires, or other facilities damaged by accidents or natural causes such as wind or ice and when immediate repair is required to repair service, or in cases where there is an imminent threat to public health or safety. In the event of an emergency repair requiring the blockage of one or more travel lanes, E-911 should be notified as soon as possible by telephone.

Sec. 7.5-264. - Provisions for the protection of the public.

(a) Safety procedures; securing work site. The use of the right-of-way shall be minimized to the greatest possible extent. No materials or equipment shall be stored on the right-of-way without prior written approval. No work shall restrict the sight distances for motorist exiting adjacent streets or driveways unless a flagman is provided. Minimum distances of lane closures to protect the safety of the work crews and the general public shall be provided by the City of Cartersville Public Works Department. Closure of lanes and traffic flow, and other relevant safety measures, shall be conducted in accordance with the current edition of the Uniform Manual on Traffic Control Devices, latest edition, as well as the DOT Utility Accommodation Policy and Standards manual, latest edition. Debris shall not be placed on the right-of-way, but will be hauled away as the excavation occurs. All trenches opened each day must be backfilled and compacted to 95 percent standard proctor using appropriate tamping or vibratory equipment unless otherwise approved by the department. The department reserves the right to require compaction testing from the utility, at the utility's expense, for any work involving cutting, trenching, or backfilling in the roadbed. Any postings must be properly posted and maintained so they are legible. All work areas must be secured at the end of each workday to protect the general public. Cover plates for gaps in the roadway must be secured at the end of each workday. Plates must be secured so that there is no possibility that the plates can move or shift due to traffic flow. No open cuts shall be allowed after work has stopped.

(b) Indemnification. The utility receiving the permit and the contractor shall indemnify and hold harmless City of Cartersville, the department and all City employees, and agents, from any and all liability resulting from any work performed under the permit or with written notification in a City of Cartersville right-of-way, as provided in the current edition of the state D.O.T.'s Utility Accommodation Policy and Standards. The utility shall also indemnify the City of Cartersville from any claims, suits or causes of action resulting from any work under the permit or pursuant to written notification. These terms shall become

terms of and contained within the permit/permit application and/or special assurances form(s). Such indemnification shall include the costs of attorneys' fees and litigation expenses to enforce this indemnification provision.

(c) **Warranty.** The utility shall provide a one-year warranty for any work conducted under authority of this article including any new installation and any repair work. The one-year warranty shall commence upon the completion of the work. The warranty shall be supported by a surety in the case of a utility permit, or by the utility owner in the case of actions requiring written notification. The utility shall be responsible to repair any defects in the work or repair, or correct any deficiencies that are not up to the standards and regulations of the City of Cartersville ordinances.

(d) **Surety.** Surety shall be required for work under this article, as specified herein, to ensure performance of the repair in compliance with the standards and regulations of the City of Cartersville and specifically to ensure that roads are repaired properly. Surety shall be in the nature of a performance and maintenance bond, an irrevocable standby letter of credit, or an escrow deposit.

(1) **Form.** The surety shall only be issued in a form approved by City of Cartersville. The language of the surety and the term of the surety must be approved by City of Cartersville prior to issuance. City of Cartersville has forms it prefers that surety companies use, and those can be provided upon request; otherwise, the form of the surety shall be approved by the City of Cartersville prior to acceptance of the surety. Any irrevocable standby letter of credit or surety bond shall be issued by a company or financial institution authorized to do business in the State of Georgia. Irrevocable standby letters of credit shall be issued in accordance with the current International Chamber of Commerce (ICC) publications governing such letters of credit, and must be issued by a bank having a physical branch in City of Cartersville, which shall be the place of tender of the draft on said letter of credit. City of Cartersville reserves the right to demand a specific form of surety from a developer that has tendered unsatisfactory surety in the past. City of Cartersville reserves the right to reject a surety from a financial institution or insurance company that has provided an unsatisfactory surety in the past. Escrow shall mean deposit of good funds in a bank of City's choosing pursuant to escrow instructions issued by City of Cartersville.

(2) **Amount.** Surety shall be in an amount determined by the City of Cartersville Public Works Department based on the size of the project. The minimum surety for a utility permit shall be \$25,000.00. The department may use its discretion when setting the amount of the bond and should consider potential damage to public property or facilities and the relationship to the cost of installation, as well as the factors used in determining whether a project is complex.

(3) **Prerequisite; calling surety.** No permit shall be issued by the City of Cartersville Public Works Department until the surety has been furnished to the City, in a form acceptable to the City of Cartersville. If the developer does not comply with these regulations, other applicable City of Cartersville Ordinances and regulations, or with the conditions of the permit after issuance, the City may call the surety, or any part thereof, to be forfeited and may use the proceeds to perform the work or hire a contractor to remedy the defects, whether that means installing soil erosion and sedimentation prevention measures, completing paving and road work, or completing other work.

(4) **Waiver.** The City of Cartersville Public Works Department shall be authorized, but

not required, to reduce or waive the surety requirement for projects undertaken by Bartow County in the City. The surety requirement may also be waived by the department head's discretion, for utilities that have demonstrated a history of compliance with this article, financial responsibility, quality work, and prompt responsiveness.

(e) Insurance. All utilities operating in City of Cartersville right-of-ways shall also provide proof of liability insurance in the amount of \$1,000,000.00 in general liability coverage that shall also cover the actions of the contracts and subcontractors. In lieu of the foregoing, the utility may self-insure for the above-referenced coverages. The utility shall present valid proof of self-insurance upon the department's request. The utility shall also require equivalent insurance from their contractors or subcontractors.

Sec. 7.5-265. - Administration and enforcement.

(a) Administration. The City of Cartersville Public Works Director shall have the authority to administer the state department of transportation's Utility Accommodation Policy and Standards, as amended from time to time by the state or City, on City streets in the municipal limits of the City of Cartersville and in accordance with any procedures the City of Cartersville Public Works Department may establish thereunder.

(b) Fees. The City of Cartersville Public Works Director shall be authorized to charge fees in accordance with the state department of transportation's Utility Accommodations Policy and Standards and any other applicable laws that exist now or may be enacted in the future. Fees shall be determined by the Public Works Director and approved by the Mayor and City Council of the City of Cartersville. Any fee schedule shall be posted at the offices of the Planning and Development Department and open for public inspection. Fees may be waived for work conducted on behalf of governmental utilities, only for work being performed by the governments' own employees. For work being performed for a government by a contractor, normal fees shall be charged.

(c) Responsible party. Only the utility itself can obtain a permit. The permit shall identify the contractor responsible for the repair and any subcontractors. The utility and any and all contractors or subcontractors shall be held liable for any violations of this article. The permit shall be posted at the site at all times, and a copy of the permit shall also be kept available at all times on the job site when any work is underway.

(d) Inspection. The department reserves the right to inspect the work during such periods as the department's field inspector(s) deem necessary to check compliance with the terms of the permit, and to require the utility and/or contractor to correct all deviations from the approved permit, or any safety concerns the inspector may have. If the utility and/or contractor do not correct the deviations, the permit can be revoked and a violation cited.

(e) Notice of defect. If a utility installation or road repair is found by the City of Cartersville Public Works Department not to be in compliance with the specifications provided, or otherwise not in compliance with this article or the permit, the City of Cartersville Public Works Department shall notify the utility immediately by written notice of defect. The utility will then have 48 hours to make the necessary repairs or other work, unless longer time is granted by the department. If the necessary work is not completed within the time limit specified, then the City of Cartersville Public Works Department may make the repairs or conduct the necessary work, and charge the utility for the costs of the materials and labor. The utility will also be in violation of this article for failing to abide by the notice of defect. The department in such circumstances would be authorized to issue

citations, stop-work orders, or seek other relief. In the case of emergencies, the department shall give the utility 24-hour contact one hour to respond, and if no action is begun to correct the emergency, shall be authorized to repair the deficiency itself. In such cases, the utility shall be responsible for the costs of labor and materials for the emergency repair. In the event City of Cartersville incurs costs to correct a defect of a utility company, the City shall be authorized to withhold all further permits (or issue a stop-work order) until the costs incurred by the City are paid.

(f) **Violations and penalties.** Violations of this article, or the procedures adopted under this article, shall subject the responsible parties to citation in City of Cartersville Municipal Court. Action may also be taken in superior court to recover fines and also to obtain injunctive relief to cure defects, or for other necessary action. The city attorney or other designated attorney for the department may initiate such actions. Citations shall be served personally on any responsible party at the site of the utility work, and shall be served on the utility through its designated contact in the City, as indicated on the permit. Each day a violation exists shall be a separate violation.

(1) **Responsible parties.** Any violation of this article shall subject all involved parties to citation, including the utility holding the permit, the contractor identified on the permit and any subcontractor or individual actually performing the work. Any or all of the responsible parties may be cited with a violation.

(2) **Minimum fines.** Minimum fines for violations of this article shall be imposed as follows. For subsequent violations within a one-year period, the minimum fine shall increase as shown below. Fines shall be based on a "rolling" one-year period, as follows:

a. **First violation—\$500.00 fine.**

b. **Second violation—\$750.00 fine.**

c. **Third violation—\$1,000.00 fine.**

d. **The one-year period begins the day of the first violation, so that one year after the day of the first violation, it expires and is no longer counted.**

(g) **Stop-work orders.** The department is authorized to issue stop-work orders in the event of a violation of this article. In the case of a threat to the public health, safety or welfare, or other harm to the City's property, such orders may be issued without prior issuance of a notice of defect. In the case of other violations, a notice of defect shall be issued first, and a stop-work order may be issued if the necessary repair or work is not completed by the time limit specified. Stop-work orders shall be issued in writing to any responsible party at the site of the utility work, and shall be served on the utility through its designated contact in the City, as indicated on the permit. Such stop-work orders may be issued only to stop-work at the particular location, or may be broadened to halt all work by that same utility in the City. The stop-work order shall state the reason for the issuance and the work that needs to be performed to remedy the situation.

(h) **Appeals.** Appeals of determinations and interpretations of the department may be taken to the Mayor and City Council by filing a written notice of appeal within 15 days of the department's decision.

(i) **Conflict.** In the event of a conflict between this Ordinance and the Wireless Facilities and Antennas Ordinance, the Wireless Facilities and Antennas Ordinance shall supersede this Ordinance.

2.

It is the intention of the city council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Cartersville, Georgia, and the sections of this ordinance may be renumbered to accomplish such intention.

BE IT AND IT IS HEREBY ORDAINED

FIRST READING: _____

SECOND READING: _____

MATTHEW J. SANTINI, MAYOR

ATTEST: _____
MEREDITH ULMER, CITY CLERK

4. RV Park Capacity Fees

Ed Mullinax, Water Department Engineer stated the City was approached by developers of an RV Park as the supplier of water for their project. This would be the first RV Park on our system. The current ordinance did not anticipate this type of specific development when drafted. When the issue of capacity fees was discussed, the Water Department based the calculation on the hotel/motel language. This produced a large fee based on the language contained in the ordinance which requires a full fee if each unit has a refrigerator and stove.

The ordinance anticipated a static building in which a refrigerator and stove would be permanent fixtures. With an RV, this will change constantly depending on the mix of units in the park at any one time. Additionally, RV's do not exhibit typical water usage patterns like a brick and mortar building. They typically have smaller size appliances and smaller diameter plumbing.

For these reasons, we have drafted capacity fee language specific to RV Parks as a compromise and acknowledgement of their lighter capacity demands on our system. It is recommended for Council approval.

Motion to approve the RV Park Capacity Fees was made by Council Member Wren and seconded by Council Member Roth. Motion carried unanimously. Vote: 5-0.

H. Engineering Services

1. Engineering Services Agreement – Sweitzer Engineering

Mr. Mullinax stated Sweitzer Engineering developed and maintains the hydraulic model of the City's water distribution system. The model is used to evaluate potential improvements, proposed development and other diagnostic functions. Sweitzer also provides support in system planning as well as the design of pipe projects.

This results in multiple assignments for them ranging in cost from \$1,000 to as much as \$80,000. In order to streamline the management of these multiple assignments and pacify liability concerns from Sweitzer's insurance carrier over our small projects, we need to execute

the attached Engineering Services Agreement. This is a typical agreement we have with several other engineering firms which establishes a Task Order system of project management. The overarching ESA defines a base set of terms which apply to each task order. This streamlines smaller projects by allowing us to execute a task order which has project specific work scope and cost information without having to repeat the “typical contract language” every time.

Additionally, the following two Task Orders are already in progress:

Task Order 1: General Consultation

Task Order 2: Etowah River Intake & Pump Station

Task Order 1 will be a standing task order which covers a broad array of consulting services (see Description in attached Task Order 1). It will apply to the small scope model evaluations for various system improvement and development evaluations.

Task Order 2 is a project specific task order which deals with evaluation and preliminary design of a permanent water intake pump on the Etowah River. This work is the first step in converting our emergency river intake structure into a permanent intake system which can be used to expand capacity in the Water Treatment Plant (WTP) when needed. This is a budgeted project for FY19_20.

Council approval of the ESA and Task Orders 1 & 2 is recommended.

A motion to approve Engineering Services Agreement – Sweitzer Engineering was made by Council Member Wren and seconded by Council Member Roth. Motion carried unanimously. Vote: 5-0.

I. Bid Award/Purchases

1. D & C Restock 5 – 0.75in Meters

Mr. Mullinax stated the Distribution and Collection Division (D&C) needs to restock 0.75-inch meters. We typically build stock going into winter by ordering in 70 meter lots. Recent meter orders have had longer than normal lead times. Because of this, we need to make a bulk order which will carry us through the winter. Ordering now will insure we have the stock on hand when freezing weather begins.

The City uses Neptune meters. Delta Municipal is the exclusive distributor of Neptune meters in Georgia. They have provided the attached quote in the amount of \$18,600.00 for 300 standard 0.75-inch T-10 water meters.

Motion to approve the D & C Restock 5 – 0.75 Meters was made by Council Member Wren and seconded by Council Member Fox. Motion carried unanimously. Vote: 5-0.

2. Ford 6640 Tractor Repair

Tommy Sanders, Public Works Department Head stated the Ford 6640 tractor used for mowing and bush hogging needed some engine work and the City Garage recommended that Franklin Tractor do the repairs. Public Works was not sure the extent of the necessary repairs until they took the engine apart and the repair work totaled \$12,157.76. This is a budgeted item and recommended for Council approval.

Motion to approve the Ford 6640 Tractor Repair was made by Council Member Fox and seconded by Council Member Wren. Motion carried unanimously. Vote: 5-0.

J. Resolutions

1. Internet Accommodation Sharing Companies

Keith Lovell, City Attorney stated Internet accommodation sharing companies are acting with local property owners to offer temporary accommodations within the City's jurisdiction, but are failing to collect and remit hotel excise taxes. The City desires assistance to obtain the payment of past and future Hotel Tax Claims as stated in the attached Resolution and Agreement.

Motion to approve the Internet Accommodation Sharing Companies as amended was made by Council Member Wren. Motion was seconded by Council Member Fox. Motion carried unanimously. Vote: 5-0.

Motion to add an item to the agenda was made by Council Member Roth and seconded by Council Member Wren. Motion carried unanimously. Vote: 5-0.

Added Item: Distribution Agreement

Mr. Lovell stated that some Internet accommodation providers were not remitting hotel/motel taxes. Mr. Lovell recommended approval of the continuance of the Distribution Agreement in order to continue to pursue these entities.

Motion to approve the Distribution Agreement was made by Council Member Roth and seconded by Council Member Stepp. Motion carried unanimously. Vote: 5-0.

K. First Reading of Ordinances

1. Cartersville Community Transportation Ordinance

Mr. Lovell stated Chapter 12, Motor Vehicles and Traffic of the Code of Ordinances is amended by deleting Article V - X Reserved and replacing it as follows:

This ordinance is adopted to address the interest of public safety. Motorized carts, personal transportation vehicles, electric personal assistive mobility devices and other similar vehicles are not designed or manufactured to be used on public highways, streets and roads, and the City of Cartersville in no way advocates their operation on the public roads within its

jurisdiction. Adoption of this ordinance is not to be relied upon as a determination by the City of Cartersville that operation of motorized carts, personal transportation vehicles, electric personal assistive mobility devices, low-speed vehicles, and other similar vehicles on public roads is safe or advisable if done in accordance with this Article. By regulating such operation, the city is merely addressing safety issues. All persons who operate or ride in motorized carts, personal transportation vehicles, electric personal assistive mobility devices, low-speed vehicles, and other similar vehicles on public roads do so with their own judgment and at their own risk, and must be observant of, and attentive to the safety of themselves and others, including their passengers, other motorists, bicyclists, and pedestrians. Please see the attached ordinance for additional details.

This is a first reading and does not require a vote.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 12. MOTOR VEHICLES AND TRAFFIC OF THE CODE OF ORDINANCES OF THE CITY OF CARTERSVILLE BY THE MAYOR AND CITY COUNCIL RELATING TO TRAFFIC; TO PROVIDE FOR MOTORIZED CART USE ON CERTAIN DESIGNATED PUBLIC ROADS, RECREATION PATHS, RIGHTS-OF-WAY, AND OTHER PUBLIC PROPERTY; TO PROVIDE FOR USE OF PERSONAL TRANSPORTATION VEHICLE USE ON CERTAIN DESIGNATED PUBLIC ROADS, AND OTHER PUBLIC PROPERTY; TO PROVIDE FOR USE OF OTHER VEHICLES ON DESIGNATED PUBLIC ROADS, RECREATION PATHS, RIGHTS-OF-WAY, AND OTHER PUBLIC PROPERTY; TO DESIGNATE PUBLIC ROADS, RECREATION PATHS, RIGHTS-OF-WAY, AND OTHER PUBLIC PROPERTY TO BE USED BY SUCH MOTOR VEHICLES; TO PROVIDE FOR PLACES OF CROSSING HIGHWAYS AND PUBLIC ROADS; TO PROVIDE FOR REGISTRATION REQUIREMENTS; TO PROVIDE FOR LICENSING REQUIREMENTS; TO PROVIDE FOR RULES OF OPERATION; TO PROVIDE DEFINITIONS; TO PROVIDE FOR SEVERABILITY; TO PROVIDE AN EFFECTIVE DATE; TO REPEAL ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HERewith; AND FOR OTHER PURPOSES.

SECTION ONE

Chapter 12. Motor Vehicles and Traffic of the Code of Ordinances of the City of Cartersville is amended by deleting Article V--X Reserved in its entirety and replacing it as follows:

1

Article V

Sec. 12-136. Short Title.

This Article shall be known as the “Cartersville Community Transportation Vehicle Ordinance.”

Sec. 12-137. Findings and Intent.

This ordinance is adopted to address the interest of public safety. Motorized carts, personal transportation vehicles, electric personal assistive mobility devices and other similar vehicles are not designed or manufactured to be used on public highways, streets and roads, (hereafter “public roads”) and the City of Cartersville in no way advocates their operation on the public roads within its jurisdiction. Adoption of this ordinance is not to be relied upon as a determination by the City of Cartersville that operation of motorized carts, personal transportation vehicles, electric personal assistive mobility devices, low-speed vehicles, and other similar vehicles on public roads is safe or advisable if done in accordance with this Article. By regulating such operation the city is merely addressing safety issues. All persons who operate or ride in motorized carts, personal transportation vehicles, electric personal assistive mobility devices, low-speed vehicles, and other similar vehicles on public roads do so with their own judgment and at their own risk, and must be observant of, and attentive to the safety of themselves and others, including their passengers, other motorists, bicyclists, and pedestrians. Notwithstanding any law to the contrary, the City of Cartersville has no liability in negligence, nuisance or under any other cause of action for losses resulting from the use of motorized carts, personal transportation vehicles, electric personal assistive mobility devices, low-speed vehicles, and other similar vehicles on roads, sidewalks, recreation paths, rights-of-way or other public property under this Article. Any person who operates motorized carts, personal transportation vehicles, electric personal assistive mobility devices, low-speed vehicles, and other similar vehicles is responsible for procuring appropriate insurance as may be required by any State of Georgia law or this Chapter as a condition of operating motorized carts, personal transportation vehicles, electric personal assistive mobility devices, low-speed vehicles, and other similar vehicles on the roads of the City of Cartersville.

Sec. 12-138. Definitions.

The following words and phrases when used in this Article shall have the definitions respectively ascribed to them in this Article.

***All-Terrain Vehicle* shall have the same definition as set forth in O.C.G.A. § 40-1-1(3).**

***Bicycle* shall have the same definition as set forth in O.C.G.A. § 40-1-1(6).**

***Dealer* shall have the same definition as set forth in O.C.G.A. § 40-1-1(11).**

***Electric personal assistive mobility device (EPAMD)* shall have the same definition as set forth in O.C.G.A. § 40-1-1(15.6).**

***Gross Weight* means the unladen weight of the vehicle plus the weight of any load thereon.**

Low-Speed Vehicle (LSV) shall have the same definition as set forth in O.C.G.A. § 40-1-1(25.1).

Moped shall have the same definition as set forth in O.C.G.A. § 40-1-1(28).

Motorized Cart shall have the same definition as set forth in O.C.G.A. § 40-1-1(32).

Motor Vehicle shall have the same definition as set forth in O.C.G.A. § 40-1-1(33).

Pedestrian shall have the same definition as set forth in O.C.G.A. § 40-1-1(42).

Personal Transportation Vehicle shall have the same definition as set forth in O.C.G.A. § 40-1-1(43.1).

Public Road means the entire width between the boundary lines of every right-of-way or place open to the use of the public for purposes of vehicular travel within the boundaries of the City of Cartersville, including streets and alleys.

Sidewalk means that portion of public property of a street between the curb lines, or the lateral lines of a railway, and the adjacent property lines, intended for use only by pedestrians.

Recreation Path means a right-of-way adjacent to motor vehicle travel lanes or other portion of public property of a street between the curb lines, or the later lines of a railway, and the adjacent property lines, or in any other designated public right-of-way or public property designated by signs for shared use by motorized carts, personal transportation vehicles, EPAMD vehicles, bicycles, and pedestrians. Such paths may be designated by resolution of the City Council.

Unladen Weight means the weight of a vehicle without load as per the manufacturer's specifications for such vehicle.

Valid Motor Vehicle Driver's License means any current and valid certificate issued by the state, other state of the United States of America, or international agency which permits persons to operate motor vehicles on the public roads of the state.

Vehicle shall have the same definition as set forth in O.C.G.A. § 40-1-1(75).

Sec. 12-139. Nomenclature.

Any personal transportation vehicle, as defined by this Article, which also qualifies as a motorized cart, as defined by this Article, shall only be considered a motorized cart under this Article and be subject only to the requirements, including registration, equipment, and inspections for motorized carts under this Article.

Sec. 12-140. Motorized Cart Registration.

- (a) A fee of \$15.00 to register each and every motorized cart for use on public roads will be charged by the City of Cartersville to cover the costs of implementing and maintaining this Article. It shall be the duty of every owner of a motorized cart that is operated on public roads, recreation paths, rights-of-way or other public property in the jurisdiction of the City of Cartersville to register the motorized cart with the city within ten (10) business days of the date of purchase. Registration is valid for one (1) year from date of issue and is required to be renewed annually.**
- (b) Registration with the City of Cartersville shall include a record of the model, make, any vehicle identification number or serial number on such motorized cart, the name and address of the owner, a contact phone number, and any other such information as the city shall require, all of which shall be maintained by the Police Department of the city.**
- (c) Upon registration with the City of Cartersville each motorized cart shall be issued a license decal from the city signifying such registration. The decals must be affixed to the driver's side of the motorized cart in such a manner as to be visible at all times and shall remain permanently with such motorized cart unless the motorized cart is sold or the license is destroyed.**
- (d) The failure to have a current registration license decal affixed to a motorized cart for use on public roads, recreation paths, rights-of-way or other public property in the City of Cartersville shall be a violation of this Article and subject the owner of such motorized cart to the penalties set forth in Section 12-152.**
- (e) If the motorized cart for use on public roads, recreation paths, rights-of-way or other public property is not registered with the city within ten (10) business days of purchase it shall be considered and unregistered motorized cart and subject the owner of such motorized cart to penalties set forth in Section 12-152. Furthermore, any motorized cart for use on public roads not registered within ten (10) business days of purchase shall be assessed a late registration fee of \$15.00.**
- (f) The decal issued by the city shall be non-transferrable from the motorized cart for which it was obtained.**
- (g) Upon transfer of the motorized cart to the ownership of another person, the registration must be transferred to the new owner within ten (10) business days of the change in ownership at a cost of \$15.00. If the registration is not transferred within ten (10) business days it shall be considered and unregistered motorized cart and subject the owner of such motorized cart to penalties set forth in Section 12-152. Furthermore, any motorized cart for use on public roads not registered within ten (10) business days of purchase shall be assessed a late registration fee of \$15.00.**

- (h) Motorized cart dealers and distributors, along with other commercial establishments, may rent motorized carts to the public for use on designated public roads, recreation paths, rights-of-way or other public property. Each such establishment renting motorized carts shall be required to register each such motorized cart in accordance with this section and shall maintain a written record of each person who rents each cart. Renters shall be required to furnish positive identification, shall be provided a copy of this Article to read, and must be at least sixteen (16) years of age. The registration fee and transfer fees and regulations, along with all licensing and operation regulations shall be consistent with the provisions of this Article as pertains to motorized carts.**
- (i) Only those persons sixteen (16) years of age and older may register a motorized cart. Motorized cart registration may be in one person's name only, and the registration form must be signed by that person.**
- (j) Any owner or operator registering a motorized cart with the city agrees to abide by all of the requirements of state law and this code. By registering a motorized cart with the city the owner or operator verifies that the vehicle qualifies to be classified as such under state law and this code.**
- (k) The City Council may, at its discretion, and by resolution, waive registration requirements for special events of a limited duration to which out-of-city residents may bring motorized carts as participants. Such special events shall last no longer than seven calendar days.**

Sec. 12-141. Personal Transportation Vehicle Equipment and Inspections.

- (a) All personal transportation vehicles which do not also qualify as motorized carts shall comply with all applicable provisions of 40-6-330.1, specifically and in general Chapter 8, Title 40 of the Official Code of Georgia Annotated.**

Sec. 12-142. Personal Transportation and Low-Speed Vehicle Registration.

- (a) Any personal transportation vehicle which does not also qualify as a motorized cart, low-speed vehicle, or other motor vehicle required to be registered by Georgia law shall register such motor vehicle with the State of Georgia, as required by law, before being allowed to operate within the boundaries of the City of Cartersville.**
- (b) Only registered personal transportation vehicles and low-speed vehicles may be operated on designated public property within the boundaries of the city, subject to limitations provided in this Article.**

Sec. 12-143. Motorized Cart Operation Regulations.

- (a) Motorized carts may only be driven on designated public roads, recreation paths, rights-of-way or other public property of the city.**

 - (1) The designated public roads shall include all public roads within the jurisdiction of the city which have a speed limit of twenty-five (25 miles per hour or less or on other public roads as the Mayor and City Council shall approve, except for (list areas which are not meant to be used for motorized carts) and as the Mayor and City Council shall deem inappropriate for use a designated public road for use by motorized carts.**
 - (2) Designated recreation paths only includes recreation paths which are designed to accommodate motorized carts where a sign has been posted advising that motorized carts are allowed.**
 - (3) Designated rights-of-way or other public property includes all public rights-of-way and public property of the city except public property excluded by this Article, by this subsection, or by state law, and does not include the following: (list areas which are not meant to be used for motorized carts).**
- (b) Motorized carts shall not be operated on sidewalks at any time.**
- (c) No person shall operate a motorized cart on a public road of the City of Cartersville unless that road is designated for motorized cart use by this Article and appropriate signs giving notice are posted along the public road. The city shall post appropriate signs directing motorized carts and other explicitly allowed vehicles to cross only at designated crossings.**
- (d) No motorized cart may cross any street, road or highway which is part of the state highway system unless such crossing is made at a crossing or intersection designated for that purpose by the Department of Transportation.**
- (e) Motorized carts may cross streets, roads and highways which are part of the City of Cartersville street system and used by other types of vehicles only at crossings or intersections designated for that purpose by the city.**

The city council may designate such crossings or intersections from time to time by resolution.
- (f) Motorized carts may only be operated on public roads, recreational paths, rights-of-way or other public property which are part of the City of Cartersville street system during daylight hours unless the motorized cart complies with equipment regulations which may be promulgated by the Commissioner of Public Safety of the State of Georgia.**

- (g) Motorized cart owners shall maintain their motorized carts in a manner which ensures that an unobstructed view from the driver's seat to the rear is maintained at all times the motorized cart is in operation on public roads.
- (h) The maximum occupancy of a motorized cart traveling on public roads, sidewalks, paths, rights-of-way or other public property shall be one person per designated seat.
- (i) All operators of motorized carts shall abide by all traffic regulations applicable to vehicular traffic when using the designated public roads, recreation paths, rights-of-way or other public property of the city. Where recreation paths exist for motorized carts they must be used in preference to parallel roads with the exclusion of privately held paths.

Sec. 12-144. Personal Transportation Vehicle, Low- Speed Vehicle and All-Terrain Vehicle Operation Regulations.

- (a) Personal transportation vehicles which are not also motorized carts may only be driven on designated recreation paths, rights-of-way or other public property of the city.
 - (1) Designated recreation paths only includes recreation paths which are designed to accommodate personal transportation vehicles where a sign has been posted advising that personal transportation vehicles are allowed.
 - (3) Designated rights-of-way or other public property includes all public rights-of-way and public property of the city except public property excluded by this Article, by this subsection, or by state law, and does not include the following: (list areas which are not meant to be used for personal transportation vehicles).
- (b) Only personal transportation vehicles which also qualify as a motorized cart may be operated on the public roads within the territorial boundaries of the city. Such personal transportation vehicles must comply with all of the requirements for motorized carts under state law and this Article.
- (c) Personal transportation vehicles and low-speed vehicles shall not be operated on sidewalks at any time.
- (d) Personal transportation vehicles which do not also qualify as motorized carts may only be operated on designated recreation paths, rights-of-way within the boundaries of the city and may only cross public roads which are part of the City of Cartersville street system at Department of Transportation designated crossings of the state highway system.

- (e) All operators shall abide by all traffic regulations applicable to vehicular traffic when using the designated public roads, sidewalks, paths, rights-of-way or other property accessible to the public in the city. Where paths exist for personal transportation vehicles they must be used in preference to parallel roads with the exclusion of privately held paths.**
- (f) Any low-speed vehicle being operated on the highways of the state, including city roads and rights of way, shall display an amber strobe light which shall be visible under normal atmospheric conditions from a distance of 500 feet from the front and rear of such vehicle**
- (g) No low-speed vehicle shall be permitted to operate on any public road within the territorial boundaries of the city where the posted speed limit exceeds 35 miles per hour. Except as prohibited by law, low-speed vehicles shall be permitted to cross over streets of which the posted speed limit exceeds 35 miles per hour as long as the low-speed vehicle is traveling from one street with a posted speed limit of 35 miles per hour or less to another street with a posted speed limit of 35 miles per hour or less.**
- (h) No all-terrain vehicle shall be permitted to operate on any public roads, sidewalks, recreation paths, rights-of-way or other public property of the city. Violations will be prosecuted under the Code of Georgia, Title 40, Chapter 7, pertaining to “off-road vehicles”.**
- (i) Personal transportation vehicles which are not also motorized carts may operate on recreational paths, rights-of-way and other public property at night only when utilizing head lamps and tail lamps.**

Sec. 12-145. Gasoline-Powered Motorized Carts and Personal Transportation Vehicles.

- (a) Every gasoline-powered motorized cart and personal transportation vehicle shall at all times be equipped with an exhaust system in good working order and in constant operation, meeting the following specifications:**

 - (1) The exhaust system shall include the piping leading from the flange of the exhaust manifold to and including the muffler and exhaust pipes or include any and all parts specified by the manufacturer.**
 - (2) The exhaust system in its own shall be securely fastened, including the consideration of missing or broken brackets or hangers.**

- (3) The engine and power mechanism of every gasoline-powered motorized cart or personal transportation vehicle shall be so equipped, adjusted, and tuned, as to prevent the escape of excessive smoke or fumes.
- (b) It shall be unlawful for the owner of any gasoline-powered motorized cart or personal transportation vehicle to operate or permit the operation of such gasoline-powered motorized cart or personal transportation vehicle on which any device controlling or abating atmospheric conditions, which is placed on the gasoline-powered motorized cart or personal transportation vehicle by the manufacturer, to render the device unserviceable by removal, alteration, or other interference with its operation.
- (c) All gasoline-powered motorized carts or personal transportation vehicles shall be maintained in working order and kept in good condition and shall be subject to inspection by city officials at reasonable times and intervals.
- (d) All gasoline-powered motorized carts or personal transportation vehicles shall be maintained in such condition so that they are incapable of "backfiring", or otherwise operating so as to make loud noises; or create noise as a result of an operators equipping the gasoline-powered motorized cart or personal transportation vehicle with a certain device.

Sec. 12-146. Motorized Cart Operator Licensing Regulations.

- (a) Those persons possessing a valid motor vehicle driver's license issued by the state, other state of the United States of America, or international agency which permits such person to operate a motor vehicle on the highways of the state may operate and drive a motorized cart on designated public roads, recreation paths, rights-of-way or other permitted public property of the city.
- (b) Those persons who are sixteen (16) years of age or older but do not hold a valid motor vehicle driver's license may drive a motorized cart on the on designated public roads, recreation paths, rights-of-way or other public property of the city if they are accompanied by a person at least eighteen (18) years of age who holds a valid motor vehicle driver's license.
- (c) No person under the age of sixteen (16) years shall be permitted to operate a motorized cart on designated public roads, recreation paths, rights-of-way or other public property of the city.
- (d) Those persons who are eighteen (18) years of age and older, possessing a valid photo identification card indicating their age may drive a motorized cart on designated public roads, recreation paths, rights-of-way or other public property of the city without possessing a valid motor vehicle driver's license.

Sec. 12-147. Personal Transportation and Low-Speed Vehicle Operator Licensing Regulations.

Only those persons possessing a valid motor vehicle driver's license issued by the state, other state of the United States of America, or international agency which permits such person to operate a motor vehicle on the public roads of the state may operate a personal transportation vehicle which does not also qualify as a motorized cart or low-speed vehicle on the public roads within the territorial boundaries of the city.

Sec. 12-148. Recreation Path Users – Authorized.

Authorized users of recreation paths are as follows:

- (a) Pedestrians;**
- (b) Non-motorized vehicles;**
- (c) Roller skates, roller blades, non-powered scooters and skateboarders (daylight only);**
- (d) Registered motorized carts provided that the vehicle is operated at a speed not to exceed twenty-five (25) miles per hour and only on designated recreation paths;**
- (e) Emergency and authorized maintenance vehicles;**
- (f) Bicycles;**
- (g) Wheelchairs;**
- (h) Registered low-speed vehicles provided that the vehicle is operated at a speed not to exceed twenty-five (25) miles per hour and only on designated recreation paths; and**
- (i) Registered personal transportation vehicles provided that the vehicle is operated at a speed not to exceed twenty-five (25) miles per hour and only on designated recreation paths;**

Sec. 12-149. Recreation Path Users – Prohibited.

- (a) Automobiles and trucks (except authorized emergency and maintenance vehicles);**
- (b) Motorcycles;**
- (c) Motorized Bicycles;**

- (d) Mopeds;**
- (e) Horses;**
- (f) Go-carts;**
- (g) Un-registered motorized carts;**
- (h) Un-registered personal transportation vehicles;**
- (i) Motorized scooters;**
- (j) Un-registered low-speed vehicles; and**
- (k) All-terrain vehicles.**

Sec. 12-150. Insurance.

- (a) The owner or operator of a motorized cart is liable for his or her own actions. Any person who operates or owns a motorized cart is responsible for procuring liability insurance and verifying coverage in terms enough to cover risk involved in using such motorized cart on designated public roads, recreation paths, rights-of-way or other public property of the city.**
- (b) The owner or operator of a personal transportation vehicle which does not also qualify as a motorized cart shall keep proof or evidence of required minimum insurance coverage in the personal transportation vehicle at all times during the operation of the motor vehicle as required by state law.**
- (c) The owner or operator of a low speed vehicle shall keep proof or evidence of required minimum insurance coverage in the low speed vehicle at all times during the operation of the motor vehicle as required by state law.**

Sec. 12-151. Hazardous Activities and Special Rules.

- (a) Blocking of public access to any public roads, sidewalks, recreation paths, rights-of-way or other public property of the city shall be prohibited, except for permitted events.**
- (b) Persons using recreation paths should always give due consideration and reasonable right of way to other users of the recreation path to ensure safe passage for all parties.**

- (c) A warning or announcement shall be given by persons using recreation paths when approaching slower moving parties from the rear. The warning or announcement may be verbal, but it is recommended that users operating vehicles utilize an audible warning device, such as a horn or bell.
- (d) All operators and passengers of motorized carts, low-speed vehicles, personal transportation vehicles, and other motor vehicles shall remain seated at all times during the operation of motor vehicle.

Sec. 12-152. Penalties.

- (a) Any person who violates the terms of this Article shall be cited to appear before the municipal court or other court of appropriate jurisdiction and, upon conviction, punished as provided in the Code of Ordinance of the City of Cartersville, Georgia.
- (b) In addition to enforcing sanctions against the operator, any violation of this Article shall be charged against the registered owner of the vehicle, and all fines and penalties shall be levied against the registered owner of the vehicle as follows:
 - (1) For the first offense, a fine of not to exceed \$100.00;
 - (2) For the second offense committed within one year of conviction for a first offense, a fine of not to exceed \$250.00; and
 - (3) For a third offense committed within one year of conviction for a second offense for a vehicle, a fine of not to exceed \$1,000.00, and if a motorized cart the registered owner's motorized cart city registration shall be revoked. The registered owner cannot thereafter register a motorized cart for use in the city for a period of two years following the third conviction. Additionally, such person shall be prohibited from operating a motorized cart or personal transportation vehicle on the public roads, recreation paths, rights-of-way, or other public property for a period of two years.
- (c) Any violation by an operator of a low-speed vehicle shall be charged against the operator according to the provisions of Title 40 of the Official Code of Georgia and this Code. Any violation by an owner of a low-speed vehicle shall be charged against the owner according to the provisions of Title 40 of the Official Code of Georgia and this Code.
- (d) Any violation by and operator of a personal transportation vehicle, EPAMD, or other motor vehicle may be charged against the operator according to this Code or according to the provisions of Title 40 of the Official Code of Georgia.

2.

Article VI---X. Reserved

SECTION TWO

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION THREE

If any section, clause, sentence or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this ordinance.

SECTION FOUR

This ordinance shall become effective immediately upon its adoption by the City Council.

First Reading:_____

Second Reading:_____

BE IT AND IT IS HEREBY ORDAINED

MATTHEW J. SANTINI, MAYOR

ATTEST: _____
MEREDITH ULMER, CITY CLERK

L. Contracts/Agreements

1. Itron MV-90 Annual Maintenance

Derek Hampton, Electric Department Head stated the Electric Department is seeking approval of the renewal of our annual maintenance contract with Itron. The Electric Department must use Itron's MV-90 software to program our larger customers' meters and to download the interval data necessary to prepare the monthly billing. This software analyzes the customers' demands, their consumption and provides the totalization necessary for customers with multiple meters to be treated like a single meter. This is a sole-sourced item and a budgeted expense. The Electric Department is requesting Council approval to renew the annual MV-90 maintenance agreement with Itron for \$11,663.94.

Motion to approve the Itron MV-90 Annual Maintenance was made by Council Member Wren and seconded by Council Member Roth. Motion carried unanimously. Vote: 5-0.

2. Containment Systems

Tom Gilliam, Parks and Recreation Department Head stated the Parks & Recreation Department issued an RFP for Netting & Posts on Fields 3 & 4 at the Sports Complex on June 24, 2019. Proposals were due on August 14, 2019. We received 8 proposals & chose Containment Systems out of Birmingham, AL for this project. The Parks & Rec Dept is requesting approval for Containment Systems to add netting & posts to Fields 3 & 4 at the Sports Complex with the total cost of this project being \$63,000.00. This is a budgeted item & the last of the GO Bond money.

Council Member Stepp made a motion to approve the Containment Systems and the motion was seconded by Council Member Fox. Motion carried unanimously. Vote: 5-0.

M. Other

1. Facility Rental Fees Update

Mr. Gilliam stated the Parks & Recreation Dept is requesting an update to existing rental fees from January 1, 2014. This includes a small increase in some rental fees as well as providing more consistent fees for some of the facility rentals. We are recommending the updated facility rental fee schedule to Mayor & Council for approval.

Motion to approve the Facility Rental Fees Update was made by Council Member Stepp and seconded by Council Member Fox. Motion carried unanimously. Vote: 5-0.

2. Floyd County Taxes

Michael Hill, Gas Department Head stated the tax bill is in the amount of \$5,774.09 for our facilities in Floyd County. It is recommended for Council approval.

Motion to approve payment of Floyd County Taxes was made by Council Member Stepp and seconded by Council Member Fox. Motion carried unanimously. Vote: 5-0.

N. Bid Award Purchases

1. Comcast Cable Damage

Mr. Lovell stated the City crew damaged five cables belonging to Comcast Cable on July 24, 2019. Our crew took reasonable and adequate care to avoid damaging Comcast's cables. The utility marks placed by their contract locator were inadequate to determine that additional buried cables were below. We uncovered eight cables, but missed five others which we damaged with only five cable marks indicated.

We worked to reduce the requested repair fee. The City also worked with the Public Service Commission (PSC) Office of Pipeline Safety and the Utilities Protection Center GA-811

representatives, but the PSC's group did not feel our case was strong enough to prevent Comcast from collecting the \$6,398.00 for the repairs in Civil Litigation.

The City has scheduled safe excavation practice training to lessen chances of future damages.

Motion to approve payment of Comcast Cable Damage was made by Council Member Wren and seconded by Council Member Fox. Motion carried unanimously. Vote: 5-0.

O. Engineering Services

1. Williams Transco Expansion Silt and Erosion Control Design

Mr. Hill stated Stephenson Engineering, Inc. has provided a proposal to design the silt and erosion control for the 6" expansion for the Williams/Transco Delivery Point to the Brown Farm Road Regulating Station. They have satisfactorily performed these duties for the City of Cartersville in the past. It is recommended for Council approval for the total proposed amount of \$9,800.00.

Motion to approve the Williams Transco Expansion Silt and Erosion Control Design was made by Council Member Wren and seconded by Council Member Fox. Motion carried unanimously. Vote: 5-0.

After announcements a motion to adjourn the meeting was made by Council Member Stepp and needing no second. Motion carried unanimously. Vote: 5-0.

Meeting Adjourned

/s/ _____
Matthew J. Santini
Mayor

ATTEST:

/s/ _____
Meredith Ulmer
City Clerk