



BELLA VISTA

A place to call home

MEETING: **REGULAR CITY COUNCIL MEETING**
DATE AND TIME: **Monday, April 25, 2016 – 6:30 P.M.**
Bella Vista American Legion Post 341
1889 Bella Vista Way (Hwy 71 & Kingsland Rd)
Bella Vista, Arkansas

- I. **CALL TO ORDER:** This meeting has been given public notice in accordance with the Section 25-19-106 of the Freedom of Information Act, in such form that will apprise the general public and news media of subject matter that is intended for consideration and action.
- II. **INVOCATION** – Pastor Liz Wagner, Presbyterian Church of Bella Vista.
*** (See disclaimer below)
- III. **PLEDGE OF ALLEGIANCE:**
- IV. **ROLL CALL:** Mayor Peter Christie, Aldermen Frank Anderson, John Flynn, Allen King, Becky Morgan, James Wozniak and Larry Wilson
- V. **CITIZEN INPUT/PUBLIC APPEARANCES:** *Please be advised that it is the policy of the municipality that there will be a three minute time period, per person, with time extension per the Chief Presiding Officer's discretion; be further advised that there may be limited discussion on the information received, but no response or action will be made under public comment.*
- VI. **APPROVAL OF MINUTES:** March 28, 2016
- VII. **REPORTS:**
 - A. Monthly Financial Report – March, 2016
 - B. Motion to Approve Finance Report-
- VIII. **MOTION TO SUSPEND RULES:** and read all proposed ordinances and resolutions on the agenda by title only.
- IX. **NEW BUSINESS:**
 - A. **ORDINANCE NO-** AN ORDINANCE AMENDING SECTION 18-20(b) OF THE MUNICIPAL CODE REGULATING THE DUMPING OF TREE CUTTINGS AND OTHER MATERIALS, AND FOR OTHER PURPOSES. (Second reading)

- B. ORDINANCE NO-** AMENDING SECTION 2-106 OF THE CODE OF ORDINANCES OF THE CITY OF BELLA VISTA TO LIMIT THE SUBJECTS OF CALLED SPECIAL MEETINGS OF THE CITY COUNCIL. **(Second reading)**
- C. ORDINANCE NO-** AMENDING SECTION 103-48(c) OF THE CODE OF ORDINANCES OF THE CITY OF BELLA VISTA CONCERNING KEY BOX REQUIREMENTS. **(Second reading)**
- D. ORDINANCE NO-** AN ORDINANCE AMENDING MUNICIPAL CODE SECTION 109-166 REGULATING ACCESSORY STRUCTURES AND SECTION 109-248 REGULATING FENCE LOCATION, AND FOR OTHER PURPOSES. **(Second reading)**
- E. ORDINANCE NO-** AMENDING SECTION 109-3 DEFINITIONS OF TERMS AND USES IN CHAPTER 109 ZONING OF THE CODE OF ORDINANCES OF THE CITY OF BELLA VISTA TO EXCLUDE CAPTIVE-BRED MEMBERS OF THE FAMILY COLUMBIDAE (DOVES AND PIGEONS) FROM THE DEFINITION OF LIVESTOCK **(First Reading)**
- F. ORDINANCE NO-** AMENDING THE CODE OF ORDINANCES OF THE CITY OF BELLA VISTA TO ADD RULES AND REGULATIONS FOR THE USAGE OF CITY PUBLIC-USE TRAILS, DECLARING AN EMERGENCY, AND FOR OTHER PURPOSES. **(First Reading)**
- G. ORDINANCE NO-** AUTHORIZING BORROWING FUNDS PURSUANT TO ARKANSAS CONSTITUTIONAL AMENDMENT 78 FOR THE ACQUISITION OF A 2016 KME CUSTOM PUMPER FIRE TRUCK BY ISSUANCE OF A PROMISSORY NOTE; PROVIDING FOR SECURITY FOR THE REPAYMENT OF THE PROMISSORY NOTE; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE NOTE; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES. **(First Reading)**
- H. R2016-RESOLUTION-** GRANTING AN EASEMENT TO CARROLL ELECTRIC ON THE STREET DEPARTMENT SITE, AND FOR OTHER PURPOSES.
- I. R2016- RESOLUTION-**AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO A CONTRACT WITH DECCO PAVING INC. IN AN AMOUNT NOT TO EXCEED \$955,000.00 FOR ASPHALT STREET RESURFACING AND OTHER STREET DEPARTMENT ASPHALT PAVING, AND FURTHER AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO A CONTRACT WITH VANCE BROTHERS INC. IN AN AMOUNT NOT TO EXCEED \$650,000.00 FOR SLURRY STREET RESURFACING.

DISCUSSION –

MEETINGS AND ANNOUNCEMENTS:

- The next City Council Work Session will be Monday May 16, 2016 at 5:30PM in the City Hall Conference Room.
- The next Regular meeting of the City Council, Monday May 23, 2016 at 6:30 PM at the Bella Vista American Legion Hall.
- Planning Commission Work Session will be Thursday April 28, 2016 at 4:30PM in the City Hall conference room.
- Planning Commission Regular Meeting will be May 9, 2016 at 6:30PM in the City Hall conference room.
- Public Safety Committee Meeting will be May 11, 2016 at 9:00AM in the City Hall Conference room.

ADJOURNMENT

*** Please note: Upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information or to request this service, please contact the City Clerk at 479-876-1255.

*** Any invocation that may be offered at the start of the Council meeting shall be the voluntary offering of a private citizen, to and for the benefit of the Council. The views or beliefs expressed by the invocation speaker have not been previously reviewed or approved by the Council and do not necessarily represent the religious beliefs or views of the Council in part or as a whole. No member of the community is required to attend or participate in the invocation and such decision will have no impact on their right to actively participate in the business of the Council. Copies of the policy governing invocations and setting forth the procedure to have a person deliver an invocation are available upon request submitted to the Bella Vista City Clerk.

**BUSINESS OF THE CITY COUNCIL
BELLA VISTA, AR**

MEETING DATE: March 28, 2016 – Regular Meeting

AGENDA ITEM:

ITEM TITLE: An Ordinance Amending Section 18-20(b) of the Municipal Code Regulating the Dumping of Tree Cuttings and Other Materials, and For Other Purposes

SUBMITTED BY: Christopher Suneson, PLA

SUMMARY EXPLANATION: Under Ordinance 2008-03, the City adopted several provisions regulating nuisances including allowing the dumping of tree cuttings, tree trunks, fill dirt, and other materials to reclaim gullies and ravines. This ordinance was later codified in section 18-20(b) of the municipal code. The current language of this section reads:

“The dumping of tree cuttings, tree trunks, fill dirt and other appropriate fill material may be permitted to reclaim gullies and ravines upon application to, and approval by, the city planning commission under the following conditions:

- (1) Written certification by the applicant that he is the legal owner of the property or that he has the written permission of the property owner.*
- (2) Access must be completely restricted to the applicant only.*
- (3) All material must be covered by fill dirt and smoothed over at intervals not to exceed two weeks.*
- (4) Compliance with any drainage ordinance passed by the city.*

Failure to comply with the above conditions will be grounds for revocation of the permit and may result in the issuance of a citation pursuant to subsection (a) of this section. Any area currently used as a location for the dumping of stumps, vegetation waste or dirt at the time of the adoption of the ordinance from which this article is derived shall be exempt from the requirements of this subsection.”

The City later adopted Ordinance 2011-14, which regulated land alteration activities including the filling activities that would allow the reclamation of ravines and gullies upon permit issuance from the Department.

The legislation that follows would strike most portions of this section of code to eliminate potential confusion of 1) whether the planning commission or staff issues permits for these activities and 2) methods to obtain a permit to perform these activities.

ATTACHMENT: ORDINANCE RESOLUTION OTHER

RECOMMENDATION: Staff recommends approval of this ordinance.

ACTION REQUESTED:
Motion to adopt

ORDINANCE NO. 2016- __

City of Bella Vista, Arkansas

AN ORDINANCE AMENDING SECTION 18-20(b) OF THE MUNICIPAL CODE REGULATING THE DUMPING OF TREE CUTTINGS AND OTHER MATERIALS, AND FOR OTHER PURPOSES

WHEREAS, the City Council adopted Ordinance 2008-03, regulating the dumping of tree cuttings, trunks, dirt, and other materials, which was latter codified to Section 18-20(b) of the municipal code; and

WHEREAS, the section provides for residents to apply for a permit to reclaim gullies and ravines upon approval by the Planning Commission; and

WHEREAS, the City Council subsequently adopted legislation under Ordinance 2011-14, which similarly and more completely regulates filling activities, which was later codified to Sections 107-373 through 107-388; and

WHEREAS, there is a conflict between the two referenced sections with regard to permitting authority regulating land alteration activities.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLA VISTA, ARKANSAS:

Section 1: That Section 18-20(b) of the municipal code shall be amended to read as follows:

“(b) The dumping of tree cuttings, tree trunks, fill dirt and other appropriate fill material may be allowed to reclaim gullies and ravines upon obtaining a permit pursuant Sections 107-373 through 107-388 of the municipal code. Failure to comply with the above conditions will be grounds for revocation of the permit and may result in the issuance of a citation pursuant to subsection (a) of this section. Any area currently used as a location for the dumping of stumps, vegetation waste or dirt at the time of the adoption of the ordinance from which this article is derived shall be exempt from the requirements of this subsection.”

PASSED THIS ___ DAY OF _____, 2016.

Motion to adopt made by:

Ayes:

Nays:

Motion:

APPROVED:

Mayor Peter Christie

ATTEST:

Wayne Jertson
City Clerk

APPROVED AS TO FORM:

Jason B. Kelley, Staff Attorney

Prepared by: Christopher Suneson, PLA, Director of Community Development Services

ORDINANCE NO. _____

CITY OF BELLA VISTA, ARKANSAS

AMENDING SECTION 2-106 OF THE CODE OF ORDINANCES OF THE CITY OF BELLA VISTA TO LIMIT THE SUBJECTS OF CALLED SPECIAL MEETINGS OF THE CITY COUNCIL

WHEREAS, it is important for both the Mayor and Aldermen to have the ability to call special meetings of the City Council to conduct business that cannot be timely handled by waiting until a regularly scheduled meeting without risk to the public or additional financial expense to the City; and

WHEREAS, Ark. Code Ann. § 14-43-502 provides that the Mayor or any three (3) aldermen of any city may call special meetings of the City Council in a manner as may be provided by ordinance; and

WHEREAS, a special meeting of the City Council should not be used to conduct business of the City Council which may wait until the next regularly scheduled meeting without placing the public at risk or causing additional financial expense to the City;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLA VISTA, ARKANSAS:

SECTION 1: Section 2-106 of the Code of Ordinances of the City of Bella Vista, Arkansas is hereby amended so that after amendment, the Section shall read as follows:

“Sec. 2-106. Special meetings.

- (a) *Call.* When in the best interests of the City, the Mayor may call a special meeting of the City Council. In addition, any three (3) aldermen may call a special meeting of the City Council by signing and providing a notice to the City Clerk announcing a special meeting, and stating in the notice the agenda, date, time and location of the meeting. Notification of special meetings, including the agenda, shall be made at least two (2) hours prior to the meeting. Such notification shall be made by personal service or by telephone to each member specifying the time, place and agenda of the meeting.
- (b) *Purpose.* No special meeting shall be called for agenda items which may be considered at the next regularly scheduled meeting of the City Council without placing risk to the public or additional financial expense to the City. At any special meeting, no business other than that stated in the agenda for the special meeting shall be considered.
- (c) *Cancellation.* Only the Mayor, or the three (3) alderman calling a special meeting, may cancel a special meeting.

PASSED THIS _____ DAY OF _____, 2016.

APPROVED:

PETER CHRISTIE
MAYOR

ATTEST:

WAYNE JERTSON
CITY CLERK

Requested by: Alderman Anderson
Prepared by: Jason Kelley, Staff Attorney

**BUSINESS OF THE CITY COUNCIL
BELLA VISTA, AR**

MEETING DATE: March 28, 2016

AGENDA ITEM: Resolution-2016-_____

ITEM TITLE: Revising Municipal Code §103-48(c): Key Box Required

SUBMITTED BY: Jennifer Bonner, Senior Planner

SUMMARY: To replace and codify language in order to standardize references to the type of key box required in the supplemental provisions of the fire code located in Municipal Code §103-48(c)

ATTACHMENT: Ordinance Resolution Other

RECOMMENDATION: Staff recommends approval of this resolution.

ACTION REQUESTED: Motion to adopt

PART II - LAND DEVELOPMENT ORDINANCES
Chapter 103 - BUILDINGS AND BUILDING REGULATIONS
ARTICLE II. - CONSTRUCTION STANDARDS
DIVISION 2. - FIRE PREVENTION CODE

Sec. 103-48. - Supplemental provisions of the fire code.

- (a) *Fire protection sprinkler systems.* In addition to the requirements of Volume I and Volume II of the Arkansas Fire Prevention Code, 2012 edition, the following shall regulate the installation of fire protection sprinkler systems in the city: Any existing building which has an automatic sprinkler system installed shall have a water flow detection device on the riser of a wet pipe system or a low air detection device installed on the riser of a dry pipe system. These devices shall be electronically supervised and be monitored at all times by an approved fire alarm monitoring agency regardless of the number of sprinkler heads served.
- (b) *Remote fire department connections (FDCs).*
- (1) In all new construction where an automatic sprinkler system is required, the fire department connection shall be freestanding and remote from the building, equal to 150 percent of the height of the exterior wall as approved by the fire chief or his duly authorized designee.
 - (2) All FDCs shall be equipped with a five-inch thread-less Storz brand connection and shall have a 30- to 45-degree downward deflection.
 - (3) Underground piping serving an FDC shall be equipped with a ball drip valve to ensure there is no standing water in the connection and that the piping does not freeze.
 - (4) When, in the opinion of the fire chief or his duly authorized designee, an FDC is subject to vehicular damage, the FDC shall be protected as required by the Arkansas Fire Prevention Code.
 - (5) All FDCs shall be marked by signage approved by the fire chief or his duly authorized designee.
- (c) *Key box required.*
- (1) *Purpose.* The purpose of this ~~key box~~ requirement is to provide access to or within a structure or an area where it is unduly difficult because of secured openings, or where immediate access is necessary for lifesaving or firefighting purposes, or when hazardous materials data are required to be provided to the fire department by occupants of the structure.
 - (2) *Type of system.* The Knox Box vault system is hereby adopted for use in the city.
 - (3) *Where required.* A Knox Box shall be installed in all existing buildings which have an automatic alarm system which is monitored or has an automatic sprinkler system. The ~~key box~~ **Knox Box** shall contain those keys ~~found~~ necessary to provide emergency access and any other information as required by the fire chief, or ~~a his~~ duly authorized designee.
 - (4) *Location.* The Knox Box shall be compatible with other key boxes located within the city so that the fire department shall have access to all key boxes through the use of only one key.
 - (5) *Responsibilities of property owner.* The property owner is responsible to ensure that keys maintained within a ~~key box~~ **Knox Box** are those of the current type. When a change of locks within the building is necessary, the fire department shall be notified for appropriate placement of new keys in the ~~key box~~ **Knox Box**.
 - (6) *Expense.* The Knox Box shall be installed at the owner's or occupant's expense.

ORDINANCE NO. _____

CITY OF BELLA VISTA, ARKANSAS

AMENDING SECTION 103-48(c) OF THE CODE OF ORDINANCES OF
THE CITY OF BELLA VISTA CONCERNING KEY BOX
REQUIREMENTS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLA VISTA,
ARKANSAS:

SECTION 1: Subsection (c) of Section 103-48 of the Code of Ordinances of the City of Bella Vista, Arkansas is hereby amended so that after amendment, the subsection shall read as follows:

“(c) *Key box required.*

- (1) *Purpose.* The purpose of this requirement is to provide access to or within a structure or an area where it is unduly difficult because of secured openings, or where immediate access is necessary for lifesaving or firefighting purposes, or when hazardous materials data are required to be provided to the fire department by occupants of the structure.
- (2) *Type of system.* The Knox Box vault system is hereby adopted for use in the city.
- (3) *Where required.* A Knox Box shall be installed in all existing buildings which have an automatic alarm system which is monitored or has an automatic sprinkler system. The Knox Box shall contain those keys necessary to provide emergency access and any other information as required by the fire chief, or a duly authorized designee.
- (4) *Location.* The Knox Box shall be compatible with other key boxes located within the city so that the fire department shall have access to all key boxes through the use of only one key.
- (5) *Responsibilities of property owner.* The property owner is responsible to ensure that keys maintained within a Knox Box are those of the current type. When a change of locks within the building is necessary, the fire department shall be notified for appropriate placement of new keys in the Knox Box.
- (6) *Expense.* The Knox Box shall be installed at the owner’s or occupant’s expense.”

PASSED THIS _____ DAY OF _____, 2016.

APPROVED:

PETER CHRISTIE
MAYOR

ATTEST:

WAYNE JERTSON
CITY CLERK

Requested by: Mayor
Prepared by: Jason Kelley, Staff Attorney

**BUSINESS OF THE CITY COUNCIL
BELLA VISTA, AR**

MEETING DATE: March 28, 2016 – Regular Meeting

AGENDA ITEM:

ITEM TITLE: An Ordinance Amending Code Section 109-166 Regulating Accessory Structures and Section 109-248 Regulating Fence Location, and For Other Purposes

SUBMITTED BY: Christopher Suneson, PLA

SUMMARY EXPLANATION: Upon referral from the City Council, the Planning Commission has discussed and recommended several changes to Section 109-166 of the municipal code regulating accessory structures. The current language of this code section follows, with deletions contained in ~~strikeout~~ text and additions in **bold, underline** text:

Sec. 109-166. - Accessory buildings.

(a) *Nonresidential buildings.* An accessory nonresidential building may be erected detached from the principal building, or, except when a stable, may be erected as an integral part of the principal building.

(1) *Attached accessory.* An accessory building attached to a main building shall be made structurally a part and have a common wall with the main building and shall comply in all respects with the requirements of this article applicable to the principal building.

~~(2) *Size.* An accessory building shall be no larger than 720 square feet and shall have a similar architecture to that of the main structure.~~

(3) **2) Setbacks.** Detached accessory nonresidential buildings shall meet all setbacks for the zone as designated, **and shall not extend beyond the front plane of the house. In the case of corner lots, accessory structures must not be placed between a street right-of-way and the side plan of the house unless the structure is located behind the rear plane of the house.**

(4) **3) Height.** Accessory buildings shall not exceed the maximum height ~~as allowed by the zoning district in which it is located~~ **of twenty-five (25) feet nor the highest elevation of the primary structure whichever is less.**

(5) **4) Barns and stables.** Barns and stables shall not be considered nonresidential accessory structures and shall meet the setback requirements as set forth in the zoning district in which they are located.

The Planning Commission has also discussed and recommended several changes to Section 109-248 of the municipal code regulating fence placement. The current language of this code section follows, with deletions contained in ~~strikeout~~ text and additions in **bold, underline** text:

Sec. 109-248. - Fence location. Modified

(a) *Private property.* All fences shall be located on private property and shall be built with the consent of the property owner. The fence installer and/or property owner shall be responsible to correctly locate property boundaries. Fences shall not encroach onto adjoining property or rights-of-way. ~~Fences shall be located on the common property line between adjacent lots or be located a minimum of five feet away from the common property line.~~

(b) *Front yard.*

(1) A fence ~~over 36 inches in height~~ shall not be located in the front yard ~~or be~~ **but may be** positioned ~~any closer to the front property line than the front surface of the building for a typical residential lot~~ **in compliance with other regulations of this section.**

(2) For corner lots, only one side **street right-of-way** shall be considered the front **of the lot. For purposes of this section, the front shall be defined by the orientation of the primary pedestrian entry to the structure.**

(c) *Rear and side yards.* A fence may be located in the rear or side yard, but shall be in compliance with other regulations of this section.

(1) A fence that does not cross any portion of the front yard may begin on a rear or side property line at the full height of the fence, but shall not exceed eight feet (8') in height from the ground below the fence.

(2) When placed along a side property line, a fence shall not be placed any closer to a street right-of-way than the front building setback of the parcel on which it is located or the adjacent parcel, whichever is less restrictive.

(3) A fence may be located in the rear or side yard, but shall be in compliance with other regulations of this section.

(d) *Adjacent to right of way.* Fences adjacent to a public right of way shall be placed no closer than five feet to the right of way.

(e ~~d~~) *Sight triangle.* Fences constructed near **driveways and** street intersections shall stay clear of **all** the sight triangle(s) in order to provide a reasonable degree of traffic visibility. **See Section §109-3 for the definition and reference dimensions of a sight triangle.**

(f ~~e~~) *Easements.*

(1) *Utility easements.* Construction of fences in utility easements is permitted, but the fence installer and/or property owner assumes some risk by doing so. The fence enclosing utility easement shall have a gate installed to permit access to the easement.

(2) *Drainage easements.* Fences shall not impede the normal flow of stormwater and shall not cross an open drainage channel. Fences proposed in drainage easements shall be approved on a case by case basis.

(3) *Access easement.* Fences shall not be constructed over a public access easement. Fences proposed over private emergency access easements must be approved by the fire department to ensure adequate access for emergency vehicles and equipment at all times.

The Planning Commission conducted public hearings on both of the foregoing changes on Monday, March 14, 2016, to hear comments from the public. The language of both as presented here and in the accompanying ordinance were recommended to the City Council.

ATTACHMENT: ORDINANCE RESOLUTION OTHER

RECOMMENDATION: Staff recommends approval of this ordinance.

ACTION REQUESTED:
Motion to adopt

ORDINANCE NO. 2016- __

City of Bella Vista, Arkansas

AN ORDINANCE AMENDING MUNICIPAL CODE SECTION 109-166 REGULATING ACCESSORY STRUCTURES AND SECTION 109-248 REGULATING FENCE LOCATION, AND FOR OTHER PURPOSES

WHEREAS, the City Council has determined that current regulations affecting the placement and height of accessory structures are in need of revision and referred the question of how best to do so to the Planning Commission; and

WHEREAS, the Planning Commission held several work sessions to determine how to best regulate the placement and height of accessory structures; and

WHEREAS, the Planning Commission held several work sessions to determine how to best regulate fencing; and

WHEREAS, the Planning Commission held separate public hearings for accessory structure regulations and fence regulations on Monday, March 14, 2016, where it heard comments from the public on the proposed regulations and recommended approval of the both sets of amendments.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLA VISTA, ARKANSAS:

Section 1: That Section 109-166 of the municipal code shall be amended to read as follows:

Sec. 109-166. - Accessory buildings.

- (a) *Nonresidential buildings.* An accessory nonresidential building may be erected detached from the principal building, or, except when a stable, may be erected as an integral part of the principal building.
 - (1) *Attached accessory.* An accessory building attached to a main building shall be made structurally a part and have a common wall with the main building and shall comply in all respects with the requirements of this article applicable to the principal building.
 - (2) *Setbacks.* Detached accessory nonresidential buildings shall meet all setbacks for the zone as designated, and shall not extend beyond the front plane of the house. In the case of corner lots, accessory structures must not be placed between a street right-of-way and the side plane of the house unless the structure is located behind the rear plane of the house.
 - (3) *Height.* Accessory buildings shall not exceed the maximum height of twenty-five (25) feet nor the highest elevation of the primary structure whichever is less.
 - (4) *Barns and stables.* Barns and stables shall be considered nonresidential accessory structures and shall meet the setback requirements as set forth in the zoning district in which they are located.

Section 2: That Section 109-248 of the municipal code shall be amended to read as follows:

Sec. 109-248. - Fence location.

- (a) *Private property.* All fences shall be located on private property and shall be built with the consent of the property owner. The fence installer and/or property owner shall be

responsible to correctly locate property boundaries. Fences shall not encroach onto adjoining property or rights-of-way.

- (b) *Front yard.*
 - (1) A fence shall not be located in the front yard but may be positioned in compliance with other regulations of this section.
 - (2) For corner lots, only one street right-of-way shall be considered the front of the lot. For purposes of this section, the front shall be defined by the orientation of the primary pedestrian entry to the structure.
- (c) *Rear and side yards.*
 - (1) A fence that does not cross any portion of the front yard may begin on a rear or side property line at the full height of the fence, but shall not exceed eight feet (8') in height from the ground below the fence.
 - (2) When placed along a side property line, a fence shall not be placed any closer to a street right-of-way than the front building setback of the parcel on which it is located or the adjacent parcel, whichever is less restrictive.
 - (3) A fence may be located in the rear or side yard, but shall be in compliance with other regulations of this section.
- (d) *Sight triangle.* Fences constructed near driveways and street intersections shall stay clear of all sight triangles in order to provide a reasonable degree of traffic visibility. See Section §109-3 for the definition and reference dimensions of a sight triangle.
- (e) *Easements.*
 - (1) *Utility easements.* Construction of fences in utility easements is permitted, but the fence installer and/or property owner assumes some risk by doing so. The fence enclosing utility easement shall have a gate installed to permit access to the easement.
 - (2) *Drainage easements.* Fences shall not impede the normal flow of stormwater and shall not cross an open drainage channel. Fences proposed in drainage easements shall be approved on a case by case basis.
 - (3) *Access easement.* Fences shall not be constructed over a public access easement. Fences proposed over private emergency access easements must be approved by the fire department to ensure adequate access for emergency vehicles and equipment at all times.

PASSED THIS ____ DAY OF _____, 2016.

Motion to adopt made by:

Ayes:

Nays:

Motion:

APPROVED:

Mayor Peter Christie

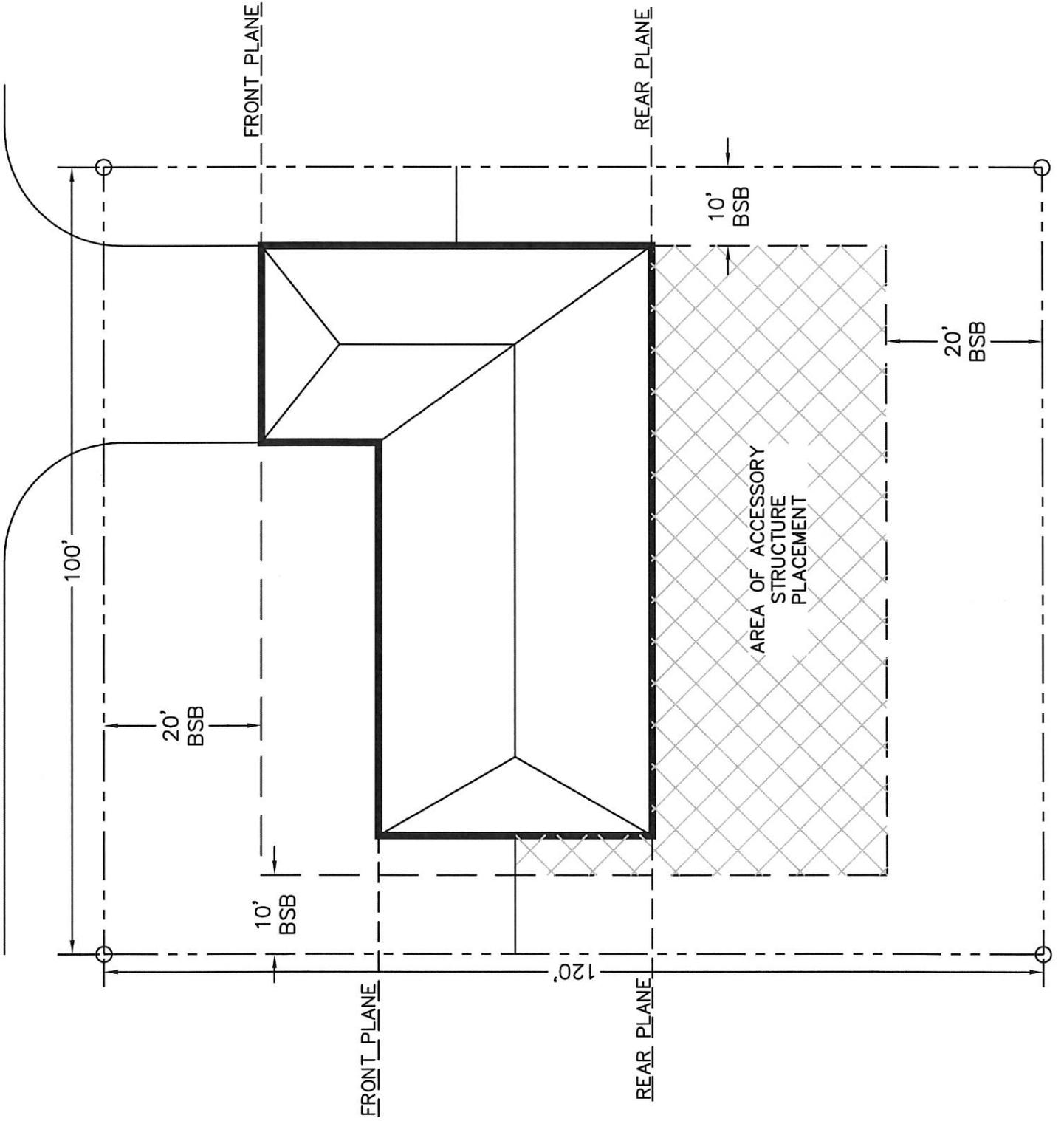
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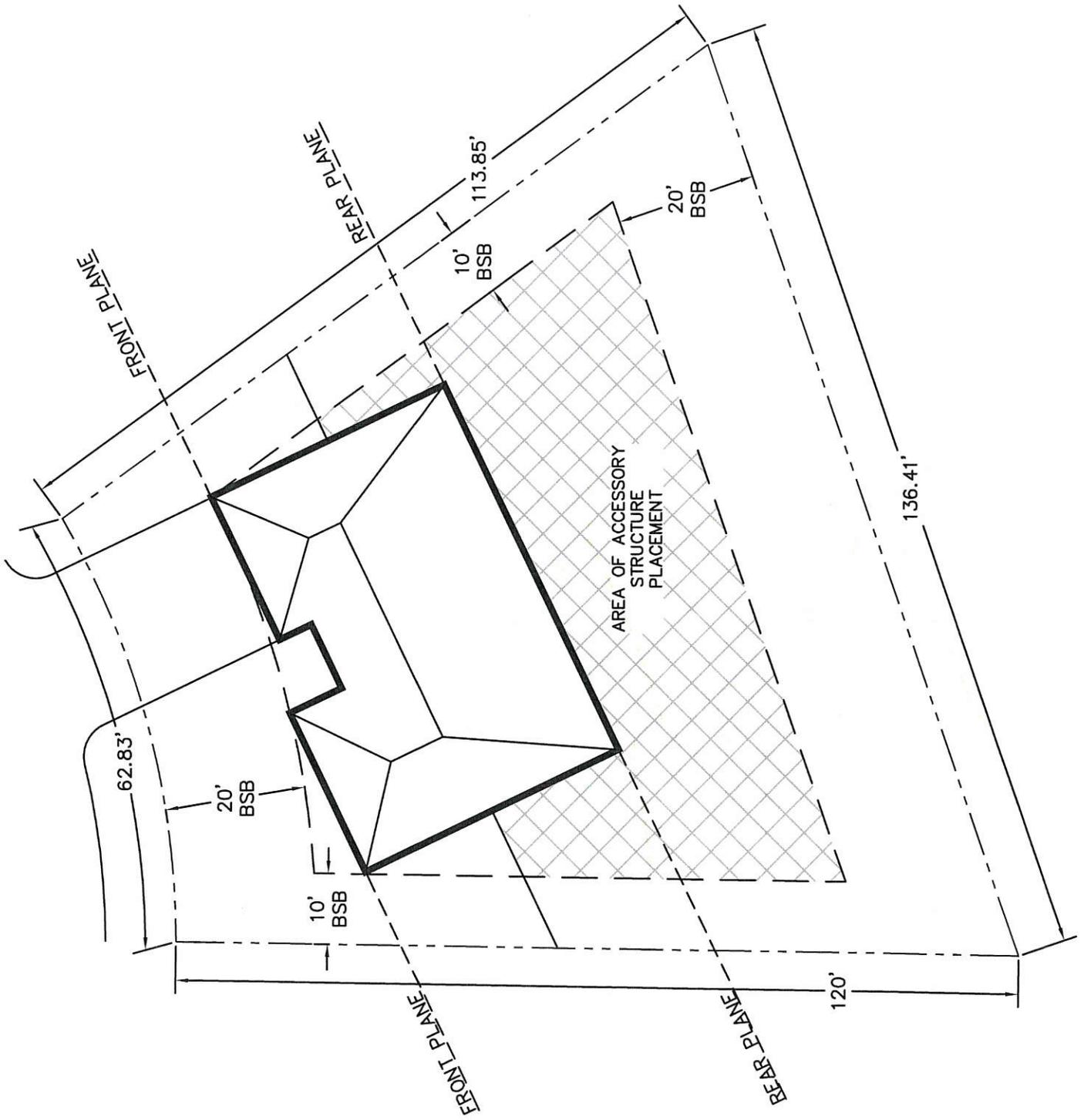
Wayne Jertson
City Clerk

APPROVED AS TO FORM:

Jason B. Kelley, Staff Attorney

Prepared by: Christopher Suneson, PLA, Director of Community Development Services





AMENDMENT OFFERED BY ALDERMAN FLYNN

That Sections 1 and 2 of the proposed ordinance, which amends Sec. 109-166 and Sec. 109-248 of the City Code, be amended so that, after amendment, Sections 1 and 2 shall read as follows:

“Section 1: That Section 109-166 of the municipal code shall be amended to read as follows:

Sec. 109-166.-Accessory buildings.

(a) *Nonresidential buildings.* Subject to the size and location limitations provided in this Section, one (1) accessory nonresidential building may be erected detached from the principal building, or, except when a stable, may be erected as an integral part of the principal building.

(1) *Attached accessory.* An accessory nonresidential building attached to a main building shall be made structurally a part and have a common wall with the main building and shall comply in all respects with the requirements of this article applicable to the principal building.

(2) *Location.* Detached accessory nonresidential buildings shall meet all setbacks for the zone as designated, and shall be constructed at or behind the midpoint created by a line segment intersecting the front plane and rear plane of the main building at a ninety degree angle. By way of illustration only, the line at or behind which an accessory nonresidential building may be constructed on a non-corner lot, can be shown as follows:

In the case of corner lots, accessory nonresidential buildings must not be placed between a street right-of-way and the side plane of the principal structure.

(3) *Height and size.* Accessory nonresidential buildings shall not exceed the maximum height of twenty-two and a half (22 ½') feet or the highest elevation of the primary structure whichever is less.

- a. For a lot size less than one (1) acre on which a principal building is built, accessory nonresidential buildings shall not exceed an area size of four hundred sixty square feet (460 sq. ft.).
 - b. For a lot size of one (1) acre, but less than four (4) acres, on which a principal building is built, accessory nonresidential buildings shall not exceed nine hundred twenty square feet (920 sq. ft.).
 - c. For a lot four (4) acres or larger on which a principal building is built, accessory nonresidential buildings shall not exceed thirteen hundred eighty square feet (1380 sq. ft.).
- (4) *Stables*. Stables shall be considered accessory nonresidential structures and shall meet the setback requirements as set forth in the zoning district in which they are located.
- (5) *Multiple adjoining lots*. Notwithstanding any provision of this Code to the contrary, one (1) accessory nonresidential building shall be the maximum number of accessory nonresidential buildings permitted per principal building, even if an owner of a principal building owns more than one (1) contiguous lot.
- (6) *Accessory buildings absent principal buildings*. This Code shall not be interpreted so as to permit, as of right, or through any conditional use or variance, an accessory nonresidential building use on a lot not containing a principal building. Any such accessory building use shall only be permitted in coordination with the location of a principal building.
- (7) *Single lots seven (7) acres or larger*. On any lot of seven (7) acres or larger, in any zone other than R-1, location requirements of subsection (a)(2) of this section shall not apply, however the setback requirements of the zone shall remain applicable.

Section 2: That Section 109-248 of the municipal code shall be amended to read as follows:

Sec. 109-248.-Fence location.

- (a) *Generally*. No fence shall be erected on any property without the consent of all owners of the property. Fences shall not encroach onto adjoining property not owned by the owner of the fence, nor shall any fence encroach upon any right-of-way.
- (b) *Front yard*.
 - (1) A fence meeting the requirements of this subsection may only be located in the front yard of a residence if the lot upon which a principal residence is built is one (1) acre or larger.
 - a. A fence located in a front yard may be no taller than three and two-tenths feet (3.2') and shall only be constructed of wrought iron, wooden pickets or other similar construction material designed to primarily delineate a property boundary, but not to provide seclusion or privacy from public view.
 - (2) For corner lots, only one street right-of-way shall be considered the front of the lot. For purposes of this section, the front shall be defined by the orientation of the primary pedestrian entry to the structure designed for use by nonresidents.
- (c) *Rear and side yards*.
 - (1) A fence that does not cross any portion of the front yard may begin on a rear or side property line at the full height of the fence, but shall not exceed eight feet (8') in height from the ground below the fence.

- (2) When placed along a side property line, a fence shall not be placed any closer to a street right-of-way than the front building setback of the parcel on which it is located or the adjacent parcel, whichever is less restrictive.
- (3) A fence may be located in the rear or side yard, but shall be in compliance with other regulations of this Section.
- (d) *Sight triangle.* Fences constructed near driveways and street intersections shall stay clear of all sight triangles in order to provide a reasonable degree of traffic visibility. See Section 109-3 for the definition and reference dimensions of a sight triangle.
- (e) *Easements.*
 - (1) *Utility easements.* Construction of fences in utility easements is permitted. The fence enclosing the utility easement shall have a gate installed to permit access to the easement.
 - (2) *Drainage easements.* Fences shall not impede the normal flow of stormwater and shall not cross an open drainage channel. Fences proposed in drainage easements shall be approved only if construction will not impede stormwater and drainage flow.
 - (3) *Access easement.* Fences shall not be constructed over a public access easement. Fences proposed over private emergency access easements must be approved by the fire department to ensure access for emergency vehicles and equipment at all times.”

AND

That the proposed ordinance be further amended to add a Section 3, which shall read as follows:

“Section 3: That Section 109-3 of the municipal code is amended by adding definitions in the appropriate location alphabetically which shall read as follows:

“*Front plane,* means the plane of the front elevation of the principal façade(s) of the principal structure extending to the side property lines.

Rear plane, means the plane of the rear elevation of the principal structure extending to the side property lines.

Side plane, means either of the two planes of the two side elevations of the principal structure extending to the front and rear property lines.

Stable, means a facility which boards livestock.””

AMENDMENT OFFERED BY ALDERMAN ANDERSON

That Sections 1 and 2 of the proposed ordinance, which amends Sec. 109-166 and Sec. 109-248 of the City Code, be amended so that, after amendment, Sections 1 and 2 shall read as follows:

“Section 1: That Section 109-166 of the municipal code shall be amended to read as follows:

Sec. 109-166.-Accessory buildings.

- (a) *Nonresidential buildings.* Subject to the size and location limitations provided in this Section, one (1) accessory nonresidential building may be erected detached from the principal building, or, except when a stable, may be erected as an integral part of the principal building.
 - (1) *Attached accessory.* An accessory nonresidential building attached to a main building shall be made structurally a part and have a common wall with the main building and shall comply in all respects with the requirements of this article applicable to the principal building.
 - (2) *Location.* Detached accessory nonresidential buildings shall meet all setbacks for the zone as designated, and shall be constructed at or behind the midpoint created by a line segment intersecting the front plane and rear plane of the main building at a ninety degree angle. By way of illustration only, the line at or behind which an accessory nonresidential building may be constructed on a non-corner lot, can be shown as follows:

In the case of corner lots, accessory nonresidential buildings must not be placed between a street right-of-way and the side plane of the principal structure.

- (3) *Height and size.* Accessory nonresidential buildings shall not exceed the maximum height of twenty-two and a half (22 ½') feet or the highest elevation of the primary structure whichever is less.
 - a. For a lot size less than one (1) acre on which a principal building is built, accessory nonresidential buildings shall not exceed an area size of four hundred sixty square feet (460 sq. ft.).
 - b. For a lot size of one (1) acre, but less than four (4) acres, on which a principal building is built, accessory nonresidential buildings shall not exceed nine hundred twenty square feet (920 sq. ft.).
 - c. For a lot four (4) acres or larger on which a principal building is built, accessory nonresidential buildings shall not exceed thirteen hundred eighty square feet (1380 sq. ft.).
- (4) *Stables.* Stables shall be considered accessory nonresidential structures and shall meet the setback requirements as set forth in the zoning district in which they are located.
- (5) *Multiple adjoining lots.* Notwithstanding any provision of this Code to the contrary, one (1) accessory nonresidential building shall be the maximum number of accessory nonresidential buildings permitted per principal building, even if an owner of a principal building owns more than one (1) contiguous lot.
- (6) *Accessory buildings absent principal buildings.* This Code shall not be interpreted so as to permit, as of right, or through any conditional use or variance, an accessory nonresidential building use on a lot not containing a principal building. Any such accessory building use shall only be permitted in coordination with the location of a principal building.

Section 2: That Section 109-248 of the municipal code shall be amended to read as follows:

Sec. 109-248.-Fence location.

- (a) *Generally.* No fence shall be erected on any property without the consent of all owners of the property. Fences shall not encroach onto adjoining property not owned by the owner of the fence, nor shall any fence encroach upon any right-of-way.
- (b) *Front yard.*
 - (1) A fence meeting the requirements of this subsection may only be located in the front yard of a residence if the lot upon which a principal residence is built is one (1) acre or larger.
 - a. A fence located in a front yard may be no taller than three and two-tenths feet (3.2') and shall only be constructed of wrought iron, wooden pickets or other similar construction material designed to primarily delineate a property boundary, but not to provide seclusion or privacy from public view.
 - (2) For corner lots, only one street right-of-way shall be considered the front of the lot. For purposes of this section, the front shall be defined by the orientation of the primary pedestrian entry to the structure designed for use by nonresidents.
- (c) *Rear and side yards.*
 - (1) A fence that does not cross any portion of the front yard may begin on a rear or side property line at the full height of the fence, but shall not exceed eight feet (8') in height from the ground below the fence.

- (2) When placed along a side property line, a fence shall not be placed any closer to a street right-of-way than the front building setback of the parcel on which it is located or the adjacent parcel, whichever is less restrictive.
- (3) A fence may be located in the rear or side yard, but shall be in compliance with other regulations of this Section.
- (d) *Sight triangle.* Fences constructed near driveways and street intersections shall stay clear of all sight triangles in order to provide a reasonable degree of traffic visibility. See Section 109-3 for the definition and reference dimensions of a sight triangle.
- (e) *Easements.*
 - (1) *Utility easements.* Construction of fences in utility easements is permitted. The fence enclosing the utility easement shall have a gate installed to permit access to the easement.
 - (2) *Drainage easements.* Fences shall not impede the normal flow of stormwater and shall not cross an open drainage channel. Fences proposed in drainage easements shall be approved only if construction will not impede stormwater and drainage flow.
 - (3) *Access easement.* Fences shall not be constructed over a public access easement. Fences proposed over private emergency access easements must be approved by the fire department to ensure access for emergency vehicles and equipment at all times.”

AND

That the proposed ordinance be further amended to add a Section 3, which shall read as follows:

“Section 3: That Section 109-3 of the municipal code is amended by adding definitions in the appropriate location alphabetically which shall read as follows:

“*Front plane,* means the plane of the front elevation of the principal façade(s) of the principal structure extending to the side property lines.

Rear plane, means the plane of the rear elevation of the principal structure extending to the side property lines.

Side plane, means either of the two planes of the two side elevations of the principal structure extending to the front and rear property lines.

Stable, means a facility which boards livestock.””

Alderman King

Draft of Ammendments:Sec. 109-166. - Accessory buildings. Modified

(a)

Nonresidential buildings. An accessory nonresidential building may be erected detached from the principal building, or, except when a stable, may be erected as an integral part of the principal building.

(1)

Attached accessory. An accessory building attached to a main building shall be made structurally a part and have a common wall with the main building and shall comply in all respects with the requirements of this article applicable to the principal building.

(2)

Size. An accessory building ~~**shall be no larger than 720 square feet and**~~ shall have a similar architecture to that of the main structure. ~~Building size and location may be adapted to the topography of the lot, allowing for septic fields, steep inclines, or other natural features that would impede the home owners use of the land, regardless of the location of the main dwelling structure.~~

(3)

Setbacks. Detached accessory nonresidential buildings shall meet all setbacks for the zone as designated.

(4)

Height. Accessory buildings shall not exceed the maximum height as allowed by the zoning district in which it is located.

(5)

Barns and stables. Barns and stables shall not be considered nonresidential accessory structures and shall meet the setback requirements as set forth in the zoning district in which they are located.

(b)

Accessory dwellings.

(1)

Residential districts. Detached dwelling units shall meet the setback requirements for the zoning district in which it is located. The detached dwelling unit shall be no larger than 50 percent of the size of the primary structure and no taller than the height of the primary structure.

(2)

C-1 and C-3 Districts. Density limitations for attached residential uses in the C-1 District shall follow that of the R-3 District. Density limitations for the C-3 District are set forth in the bulk and area regulations for the C-3 District.

(3)

C-2, I-1 and I-2 Districts. Density limitations shall follow that of the R-3 District. The building site and yard area must be separate and distinct from off-street parking spaces and setback areas required for the principal structure and shall include a minimum of 4,200 square feet of land area. The residential structure shall be located to meet required setbacks from exterior

boundaries of the total tract.

(Zoning Ord., § 700.02; Ord. No. 2009-23, § 700.02, 1-8-2010)

Alderman King

Fence Location Ammendment DRAFT:

• Sec. 109-248. - Fence location. Modified

(a)

Private property. All fences shall be located on private property and shall be built with the consent of the property owner. The fence installer and/or property owner shall be responsible to correctly locate property boundaries. Fences shall not encroach onto adjoining property or rights-of-way. Fences shall be located on the common property line between adjacent lots; and, may be directly adjacent to existing fencing, or attached to such fencing if agreed to by the owner of such fencing. ~~** or be located a minimum of five feet away from the common property line.**~~

(b)

Front yard.

(1)

A fence over 36 inches in height shall not be located in the front yard or be positioned any closer to the front property line than the front surface of the building for a typical residential lot.

(2)

For corner lots, only one side shall be considered the front, ~~without consideration of any pedestrian entrances.~~

(c)

Rear and side yards. A fence may be located in the rear or side yard, but shall be in compliance with other regulations of this section.

(d)

Adjacent to right-of-way. Fences adjacent to a public right-of-way shall be placed no closer than five feet to the right-of-way.

(e)

Sight triangle. Fences constructed near street intersections shall stay clear of the sight triangle in order to provide a reasonable degree of traffic visibility.

(f)

Easements.

(1)

Utility easements. Construction of fences in utility easements is permitted, but the fence installer and/or property owner assumes some risk by doing so. The fence enclosing utility easement shall have a gate installed to permit access to the easement.

(2)

Drainage easements. Fences shall not impede the normal flow of stormwater and shall not cross an open drainage channel. Fences proposed in drainage easements shall be approved on a case by case basis.

(3)

Access easement. Fences shall not be constructed over a public access easement. Fences

proposed over private emergency access easements must be approved by the fire department to ensure adequate access for emergency vehicles and equipment at all times.

(Zoning Ord., § 900.05; Ord. No. 2011-17, § 900.05, 12-28-2011)

ORDINANCE NO. _____

CITY OF BELLA VISTA, ARKANSAS

**AMENDING SECTION 109-3 DEFINITIONS OF TERMS AND USES IN
CHAPTER 109 ZONING OF THE CODE OF ORDINANCES OF THE CITY
OF BELLA VISTA TO EXCLUDE CAPTIVE-BRED MEMBERS OF THE
FAMILY COLUMBIDAE (DOVES AND PIGEONS) FROM THE
DEFINITION OF LIVESTOCK**

WHEREAS, it is desired to modify existing Code to permit the keeping of captive-bred members of the family Columbidae (doves and pigeons) in certain residential zones; and

WHEREAS, the current definition of livestock includes members of the family Columbidae (doves and pigeons); and

WHEREAS, removing members of the family Columbidae (doves and pigeons) from the definition of livestock will permit such animals to be kept in the R-1 zone as a domestic animal (bird);

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLA VISTA, ARKANSAS:

SECTION 1: Section 109-3 Definitions of Terms and Uses in Chapter 109 Zoning of the Code of Ordinances of the City of Bella Vista, Arkansas is hereby amended by amending the subpart (9) of the definition of Livestock so that after amendment, the subpart shall read as follows:

(9) All captive-bred members of the family Anatidae (ducks).

PASSED THIS _____ DAY OF _____, 2016.

APPROVED:

PETER CHRISTIE
MAYOR

ATTEST:

WAYNE JERTSON
CITY CLERK

Requested by: Alderman King
Prepared by: Jason Kelley, Staff Attorney

ORDINANCE NO. _____

CITY OF BELLA VISTA, ARKANSAS

AMENDING THE CODE OF ORDINANCES OF THE CITY OF BELLA VISTA TO ADD RULES AND REGULATIONS FOR THE USAGE OF CITY PUBLIC-USE TRAILS, DECLARING AN EMERGENCY, AND FOR OTHER PURPOSES

WHEREAS, a new trail system is being constructed in the City which, when complete, shall constitute approximately forty (40) miles of City public-use trails; and

WHEREAS, certain rules and regulations regarding usage of City public-use trails are necessary to provide for public safety;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLA VISTA, ARKANSAS:

SECTION 1: The Code of Ordinances of the City of Bella Vista, Arkansas is hereby amended by adding a Chapter 27, Trails, which shall read as follows:

“Chapter 27 Trails.

ARTICLE I. IN GENERAL

Sec. 27-1. Applicability.

The provisions of this Chapter shall apply only to public-use City trails.

Sec. 27-2. Vehicle Restrictions.

No gas or electrically powered vehicles (except maintenance vehicles or emergency vehicles) shall be driven or operated on any trail, with the exception that powered wheelchairs or other devices designed for and used by persons with disabilities shall be permitted.

Sec. 27-3. Usage Rules.

Users of trails shall follow the requirements of any signage posted on the trail, including, but not limited to, stop signs, yield signs, or other traffic/pedestrian control measures.

Sec. 27-4. Hours of Trail Operation. Prohibition on Usage While Closed.

(a) Trails shall open at 5:00 a.m. and close at 10:00 p.m. each day.

- (b) The Mayor, or the Mayor's designee, may cause trails to be closed at any time for purposes of public safety, repair, or the issuance of a special event permit as provided for in Section 24-46, et seq. The public shall be advised of any such special closure by available and reasonable means, including, but not limited to, appropriate signage.
- (c) No person may use or be present on any trail when it is closed, unless such presence or usage is pursuant to a special event permit issued by the City. This prohibition shall not apply to persons crossing a trail while on a city street or other public right-of-way.

Sec. 27-5. Special Events.

During any permitted special event, the vehicle restrictions provided in Section 27-2 and the usage rules provided in Section 27-3 shall not apply to any segment of trail for which a special event permit has been issued.”

SECTION 2: EMERGENCY CLAUSE. It is hereby determined that the need to provide public safety rules for the new public-use City trail system is immediate and necessary for the preservation of the public peace, health and safety. Therefore, an emergency is hereby declared to exist, and this Ordinance shall take full force and effect from and after passage and approval as provided by law.

APPROVED:

PETER CHRISTIE
MAYOR

ATTEST:

WAYNE JERTSON
CITY CLERK

APPROVED AS TO FORM:

JASON KELLEY
STAFF ATTORNEY

Requested by: Mayor
Prepared by: Jason Kelley, Staff Attorney

ORDINANCE NO. _____

CITY OF BELLA VISTA, ARKANSAS

AUTHORIZING BORROWING FUNDS PURSUANT TO ARKANSAS CONSTITUTIONAL AMENDMENT 78 FOR THE ACQUISITION OF A 2016 KME CUSTOM PUMPER FIRE TRUCK BY ISSUANCE OF A PROMISSORY NOTE; PROVIDING FOR SECURITY FOR THE REPAYMENT OF THE PROMISSORY NOTE; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE NOTE; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES

WHEREAS, the City Council of the City of Bella Vista, Arkansas (the “City”) has determined that the City is in need of a 2016 KME Custom Pumper Fire Truck including all ancillary equipment attached thereto for use by the Bella Vista Fire Department which serves the City (the “Equipment”); and

WHEREAS, the cost of the Equipment is an amount not to exceed \$340,000.00; and

WHEREAS, the City can obtain the necessary funds for the acquisition of the Equipment by issuing its Promissory Note in favor of Arvest Bank (“Lender”) in the principal amount not to exceed \$340,000.00 (the “Note”);

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLA VISTA, ARKANSAS:

SECTION 1: The City Council hereby finds that the Equipment to be acquired will have a useful life of more than one (1) year and that the principal amount of the Note, plus all other obligations heretofore incurred by the City under Amendment 78 to the Arkansas Constitution (“Amendment 78”) does not exceed five percent (5%) of the assessed value of taxable property located within the City as determined by the last tax assessment.

SECTION 2: Under the authority of the Constitution and laws of the State of Arkansas (the “State”) including, Amendment 78, the Mayor and City Clerk are hereby authorized to execute and deliver, by and on behalf of the City, a Promissory Note in favor of Lender in the maximum principal amount not to exceed \$340,000.00 for the purpose of financing the cost of acquiring the Equipment. The Note shall be dated within sixty (60) days of the date of enactment of this Ordinance and shall be issuable only as a fully registered Note without coupons. The Note shall bear interest at an interest rate of two and eight hundredths percent (2.08%), and shall be paid in sixty (60) equal monthly installments of principal and interest, to mature on the date which is sixty (60) months from the date of the Note. As security for the performance of the obligations of the City pursuant to the Note, coincident with the execution and delivery of the Note, there is authorized the execution by the Mayor and City Clerk, and delivery of a security agreement granting unto and in favor of the Lender (as secured party), a prior lien upon the Equipment (the “Security Agreement”). The Lender is authorized to file one or more financing statements to perfect the lien granted by the Security Agreement.

SECTION 3: The Note shall be in such form as shall be approved by the Lender and the Mayor and City Clerk.

SECTION 4: As provided in Amendment 78, the debt service payments on the Note in each fiscal year shall be charged against and paid from the general revenues of the City for such fiscal year. For the purpose of making the debt service payments, there is hereby, and shall be appropriated to pay the Note, an amount of general revenues of the City sufficient for such purposes in each fiscal year of the City. The City covenants that for each fiscal year in which the Note is outstanding, the general revenues of the City shall exceed the amount of debt service payments due on the Note in that fiscal year.

SECTION 5: The City agrees to have its financial statements audited annually by the Joint Legislative Auditing Committee, Division of Legislative Audit of the State of Arkansas. While the Note is outstanding, a copy of the audit report shall be furnished to the Lender on request.

SECTION 6: The City agrees to prepare and adopt a budget for each fiscal year in accordance with Arkansas law and to furnish the Lender with a copy of the same by January 31 of each year while the Note is outstanding. Each budget shall make provision for the payment of debt service due on the Note in that fiscal year.

SECTION 7: If there be any default in the payment of the principal of or interest on the Note, or in the performance of any of the other covenants contained in this Ordinance, Lender may, in addition to any other remedies available to Lender, by proper suit, compel the performance of the duties of the officials of the City under the laws of the State of Arkansas. No remedy conferred upon or reserved to Lender is intended to be exclusive of any other remedy or remedies, and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Ordinance or by law. Lender may waive any default which shall have been remedied before the entry of final judgment or decree in any suit, action or proceeding instituted under the provisions of this Ordinance or before the completion of the enforcement of any other remedy, but no such waiver shall extend to or affect any other existing or any subsequent defaults or defaults or impair any rights or remedies of Lender with respect thereto. No delay or omission of Lender to exercise any right or power accrued upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power or remedy given by this Ordinance to Lender may be exercised from time to time and as often as may be deemed expedient. In any proceeding to enforce the provision of this Ordinance, Lender shall be entitled to recover from the City all costs of such proceeding, including reasonable attorneys' fees.

SECTION 8: The terms of this Ordinance, the Note and the Security Agreement shall constitute a contract between the City and the Lender and no variation or change in the undertaking herein set forth shall be made while the Note is outstanding, except as may be agreed in writing as between the City and Lender.

SECTION 9: The City covenants that it shall not take any action or suffer or permit any action to be taken or conditions to exist which causes or may cause the interest payable on the

Note to be included in gross income for federal income tax purposes, including, without limitation, any action in violation of the applicable provisions of the Internal Revenue Code of 1986 (the “Code”), and the Regulations thereunder. The City represents that it has not used or permitted the use of, any covenants that it will not use or permit the use of the Equipment or the proceeds of the Note, in such manner as to cause the Note to be “private activity bonds” within the meaning of Section 141 of the Code. The Note is hereby designated as a “qualified tax-exempt obligation” within the meaning of Section 265(b)(3)(B) of the Code. The City covenants that it will submit to the Secretary of the Treasury of the United States, not later than the 15th day of the second calendar month after the close of the calendar quarter in which the Note is issued, a statement as required by Section 149(c) of the Code.

SECTION 10: The provisions of this Ordinance are hereby declared to be separable and if any provision shall for any reason be held illegal or invalid, such holding shall not affect the validity of the remainder of this Ordinance.

SECTION 11: All ordinances and resolutions or parts thereof, in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 12: Emergency Clause. The Immediate need to acquire the Equipment in order to continue to provide essential services to the citizens and residents of the City being necessary for the preservation of the public peace, health, safety and welfare, an emergency is hereby found to exist and this Ordinance shall be in full force and effect from and after its passage.

PASSED THIS _____ DAY OF _____, 2015.

APPROVED:

PETER CHRISTIE
MAYOR

ATTEST:

WAYNE JERTSON
CITY CLERK

Requested by: Mayor
Prepared by: Jason Kelley, Staff Attorney

RIGHT OF WAY EASEMENT

Date 03/22/2016

County: Benton Easement # 7150509-01

KNOW ALL MEN BY THESE PRESENTS, That we the undersigned, whether one or more, CITY OF BELLA VISTA and _____ hereinafter called "**Grantors**", for good and valuable consideration, the receipt of which is hereby acknowledged do hereby grant and convey unto **Carroll Electric Cooperative Corporation (Grantee)**, hereinafter called "Cooperative", whose principal office is in Berryville, Arkansas, and unto its successors, licensees or assigns, a perpetual easement right, privilege, and authority to enter upon the lands of the undersigned Grantor, and to place, construct, reconstruct, erect, excavate, add to, relocate, rebuild, modify, change operating voltage level, repair, replace, patrol, operate and maintain on, over, and under the described lands, and in and upon all streets, roads, highways and other rights of way abutting said premises, overhead lines and underground cables of one or more circuits to serve as service, distribution, or transmission lines, or combinations of all, to transmit electrical energy and communications, including but not limited to poles, towers, wires, buried cable, guys, brace poles, guy wires, anchors, and other appurtenances necessary thereto, together with the right of ingress and egress to and from the lines of the Cooperative, over the lands of Grantors, which said lands

of Grantors situated in the County of Benton, State of Arkansas, are described as follows:

Parcel #16-70311-000

S32-T21-R31

LEGAL DESCRIPTION: See Attachment A:

The location of the right-of-way easement on the above described premises shall be determined by the Cooperative and shall have a cross-section as shown in Figure 1 of this easement with the centerline being generally described as follows:

The easement shall be a strip of land 30 feet in width with an additional 10 feet at all anchoring points. Point of beginning is to commence approximately 335 feet North of Southwest property corner at CECC transmission power line. Continuing in a Northerly direction approximately 835 feet along the platted utility easement as shown on Plat No. 5699 Page C-103, Per Plate Date 6-20-15 to end of said easement.

with centerline being finally determined as constructed.

At points of angle and termination in the line, Cooperative shall have the right to place anchors, stub poles, and guy wires outside of the width shown on the cross-section drawing in Figure 1 and said easement shall also extend 10' in all directions from all anchors, stub poles, and guy wires. The extension of the easement for the anchors, stub poles and guy wire shall be finally determined as they are constructed.

Grantors do also hereby grant and convey to Cooperative the perpetual right to clear and keep clear by cutting, trimming, spraying or removing by any other manner all brush, trees, timber, and vegetation within the defined easement and, at the Cooperative's option, to cut or top all other trees outside of the defined easement that would in the sole opinion of the Cooperative, endanger or be a hazard to the operation and maintenance of the lines. And to dispose of trees and brush in any manner desired by the Cooperative. And agree that no shrubs, trees, or structures shall be planted or constructed within the defined easement.

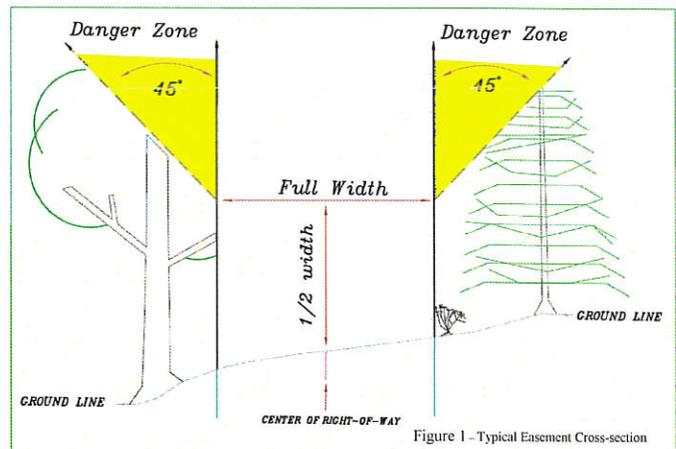


Figure 1 - Typical Easement Cross-section

Grantors agree to make no use of, nor permit others to make any use of said easement strip that would reduce in clearance or in any other way interfere with the proper and safe operation and/or maintenance of said line by Cooperative. Grantors further agree that Grantors will not make or allow others to make any attachments to any lines, poles, or structures of Cooperative although the Cooperative retains the right to do so at its discretion.

Grantors agree that all poles, wires, transformers and all other facilities installed by and at the expense of Cooperative on Grantors' property pursuant to the rights granted by this easement shall remain the property of Cooperative and may be removed by Cooperative at its option.

No delay in exercising any or all of the rights granted herein to Cooperative shall be interpreted to be a surrender of any of the said rights nor abandonment of the easement granted.

All provisions contained herein shall run with the land and be binding on the parties, their heirs, successors, representatives and assigns.

And any and all dower, curtesy, distributive shares or homestead interest the undersigned, or either of them, may have inconsistent with the rights herein conferred is hereby relinquished and released to the extent necessary to permit the free enjoyment of said rights and to that extent only. In so doing, the undersigned do not deed the ownership of said lands.

Grantors covenant to and with Cooperative that they are lawfully seized and possessed of said lands, and have good and lawful right to and power to sell and convey said land and the easement granted herein and that said land is free and clear of all liens and encumbrances and that Grantors will forever warrant and defend the title to said easement and the quiet possession thereof against the lawful claims and demands of all persons whomever.

IN WITNESS THEREOF, the grantors have set their hands and seal on this _____ day of _____, 20____.

Signature of Grantor 1

Signature of Grantor 2

CITY OF BELLA VISTA

Printed Name of Grantor 1

Printed Name of Grantor 2

ACKNOWLEDGMENT

STATE OF _____)

COUNTY OF _____)

BE IT REMEMBERED, that on this day personally appeared before me the undersigned a Notary Public with and for the County and State aforesaid duly commissioned and acting _____ and _____ to me well known as the grantor(s) in the foregoing easement and each stated that they had executed the same for the considerations and purposes therein mentioned and set forth.

WITNESS my hand and seal as such Notary Public this _____ day of _____, 20____.

Notary Public

My Commission Expires: _____

(SEAL)

ATTACHMENT A

Utility Easement

Property Description

PART OF THE W 1/2 OF THE SE 1/4 OF SECTION 32, TOWNSHIP 21 NORTH, RANGE 31 WEST, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF THE W 1/2 OF THE SE 1/4, RUN WEST 80 RODS, SOUTH 115 RODS, EAST 80 RODS, NORTH 115 RODS TO THE PLACE OF BEGINNING, EXCEPT THE FOLLOWING TRACT: BEGINNING 180 FEET EAST OF THE NORTHWEST CORNER OF THE W 1/2 OF THE SOUTHEAST QUARTER, RUN WEST 180 FEET, SOUTH 840 FEET TO THE WP1 ROAD, THENCE IN A NORTHEASTERLY DIRECTION ALONG SAID ROAD TO THE PLACE OF BEGINNING. LESS AND EXCEPT THE FOLLOWING: PART OF THE NW 1/4 OF THE SE 1/4 OF SECTION 32, TOWNSHIP 21 NORTH, RANGE 31 WEST, IN BENTON COUNTY, ARKANSAS, MORE PRECISELY DESCRIBED AS FOLLOWS: STARTING AT A FOUND LIMESTONE AT THE NORTHWEST CORNER OF THE NW 1/4 OF THE SE 1/4 OF SECTION 32; THENCE ALONG THE NORTH LINE OF THE NW 1/4 OF THE SE 1/4, SOUTH 87°08'08" EAST, 247.95 FEET TO A SET MAG NAIL AND THE TRUE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID LINE, SOUTH 87°08'08" EAST 1062.22 FEET; THENCE ALONG THE EAST LINE OF THE NW 1/4 OF THE SE 1/4, SOUTH 03°01'34" WEST, 779.43 FEET TO A SET 5/8" REBAR; THENCE NORTH 86°58'26" WEST, 1214.97 FEET; THENCE ALONG THE CENTERLINE OF ARKANSAS STATE HIGHWAY #279, THE FOLLOWING COURSES: NORTH 19°56'01" EAST, 145.83 FEET; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 2622.88 FEET, AN ARC LENGTH OF 648.03 FEET, AND A CHORD OF NORTH 12°51'20" EAST, 646.39 FEET TO A SET MAG NAIL AND THE TRUE POINT OF BEGINNING, CONTAINING 20.00 ACRES, MORE OR LESS, AND BEING SUBJECT TO THE RIGHTS-OF-WAY OF ARKANSAS STATE HIGHWAY #279 AND ROGERS ROAD AND ANY EASEMENTS OF RECORD. SURVEY 1/17/2012 2012-13

RESOLUTION NO. 2016-____

GRANTING AN EASEMENT TO CARROLL ELECTRIC ON THE STREET DEPARTMENT SITE, AND FOR OTHER PURPOSES

WHEREAS, the new Street Department facility needed three phase electric service extended to the building to power existing equipment; and

WHEREAS, Carroll Electric has a transmission line located along the south edge of the Street Department site capable of providing 3 phase service; and

WHEREAS, a portion of the 3 phase service line extension crosses a segment of the Street Department site requiring an easement.

NOW THEREFORE, BE IT RESOLVED by the City Council of Bella Vista:

Section 1: The electric easement contained in 'Exhibit A', which is attached hereto and made a part hereof, is hereby approved.

Section 2: The Mayor is hereby authorized to execute the attached easement, prepared by Carroll Electric.

PASSED THIS ____ DAY OF _____, 2016.

Motion to adopt made by:
Ayes:
Nays:
Motion:

APPROVED:

ATTEST:

Mayor Peter Christie

Wayne Jertson
City Clerk

APPROVED AS TO FORM:

Jason B. Kelley, Staff Attorney

CITY OF BELLA VISTA
2016 Street Resurfacing Bid

Opening April 14, 2016 @ 9:00 a.m.

Item No.	Estimated Quantity	Decco Paving		Hutchens Construction		Vance Brothers		APAC Central, Inc	
		Unit Price Bid	Total Bid	Unit Price Bid	Total Bid	Unit Price Bid	Total Bid	Unit Price Bid	Total Bid
1A Hot Mix Overlay	8140 tons	\$65.80	\$535,612.00	\$74.40	\$605,616.00	NO BID		\$91.35	\$743,589.00
3A Parking Lots	1900 tons	\$65.10	\$ 123,690.00	\$71.75	\$136,325.00			\$96.25	\$182,875.00
2A Hot Mix Overlay	39 water Valves	\$52.90	\$2,063.10	\$85.00	\$3,315.00	NO BID		\$100.00	\$3,900.00
1B Slurry Seal	332,950 Sq. Yds.	NO BID		NO BID		\$1.75	\$582,662.50	NO BID	
1C Road Undercut	890 Cu. Yds.	\$10.35	\$9,211.50	\$22.75	\$20,247.50	NO BID		\$48.50	\$43,165.00
2C Road Fill/Compact	1325 Ton.	\$21.00	\$27,825.00	\$26.90	\$35,642.50	NO BID		\$34.00	\$45,050.00
1D Asphalt Curb	420 Ln. Ft.	\$9.70	\$4,074.00	\$8.00	\$3,360.00	NO BID		NO BID	
2D Concrete Curb (Alternate)	420 Ln. Ft.	\$14.50	\$6,090.00	NO BID		NO BID		\$36.00	\$15,120.00
1E Milled Butt Joints	2	\$580.00	\$1,160.00		\$2,000.00	NO BID			\$5,800.00
		Subtotal column		Subtotal column		TOTAL		TOTAL	
		TOTAL		TOTAL					

Memorandum

April 19, 2016

To: Mayor Peter Christie and Bella Vista City Council

From: Mike Button, City of Bella Vista Street Superintendent

RE: Request for Bid, 2016 City Streets Resurfacing Program and Hard Surfacing at New Street Department Facility

Requests for Bid were sent out to 5 different vendors for the purpose of resurfacing approximately 40 miles of City Streets, with two methods being specked; one being Hot Mix Overlay and the other being Slurry Seal. 4 bids were received, with Decco Paving Inc. being the low bidder on the Hot Mix Overlay at \$65.80 per ton, and was low bidder as well on all other line items pertaining to the Hot Mix Overlay Program.

The only vendor to bid on the Slurry Program was Vance Brothers Inc. in the amount of \$1.75 per square yard. This has been a typical history of bidding for the Slurry Program for many years here in Bella Vista.

The 2016 approved budgeted amount for the resurfacing of City Streets was \$1,560,000.00, this also includes our Street Striping Program which normally totals around \$40,000.00 and \$40,000.00 for "major" street repairs needed for streets picked for resurfacing.

Also included in the bid specs was the hard surface paving around our new Street Department Facility which is planned to happen when all other out buildings are built out by this fall. The 2016 Budgeted amount for this project was in the amount of \$125,000.00 which was part of the 2.4-million-dollar loan from Arvest, account 100.

With this being said I recommend that Bella Vista City Council award bid to Decco Paving Inc. in an amount not to exceed \$830,000 for the purpose of resurfacing City Streets pertaining to our Hot Mix Overlay Program, being charged to Street Fund Account 57500, and also recommend a not to exceed amount of \$125,000 for the purpose of paving around our new Street Department Facility being charged to account 100, for a **total contract award not to exceed \$955,000.00.**

I also recommend that Bella Vista City Council award bid to Vance Brothers Inc. in an amount not exceed \$650,000.00 for the purpose of resurfacing City Streets pertaining to our Slurry Program, being charged to Street Fund account 57500.

Respectively Submitted,

Mike Button, Bella Vista Street Superintendent

RESOLUTION NO. _____

CITY OF BELLA VISTA, ARKANSAS

AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO A CONTRACT WITH DECCO PAVING INC. IN AN AMOUNT NOT TO EXCEED \$955,000.00 FOR ASPHALT STREET RESURFACING AND OTHER STREET DEPARTMENT ASPHALT PAVING, AND FURTHER AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO A CONTRACT WITH VANCE BROTHERS INC. IN AN AMOUNT NOT TO EXCEED \$650,000.00 FOR SLURRY STREET RESURFACING

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BELLA VISTA, ARKANSAS:

SECTION 1: The City Council of the City of Bella Vista, Arkansas hereby authorizes the Mayor and City Clerk to enter into a contract with Decco Paving Inc. in an amount not to exceed \$955,000.00 for asphalt street resurfacing and other Street Department asphalt paving, and further authorizes the Mayor and City Clerk to enter into a contract with Vance Brothers Inc. in an amount not to exceed \$650,000.00 for slurry street resurfacing.

PASSED THIS _____ DAY OF _____, 2016.

APPROVED:

Mayor Peter Christie

Attest:

City Clerk Wayne Jertson

Approved as to Form:

Jason B. Kelley
Staff Attorney

Requested by Mayor Christie
Prepared by Jason Kelley, Staff Attorney