

# CITY OF MABLETON, GEORGIA

Riverside EpiCenter  
135 Riverside Pkwy, Austell, GA 30168  
June 29, 2023 @ 6:30PM

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*The Honorable Michael Owens, Mayor*  
*The Honorable Ron Davis, District 1 Councilmember*  
*The Honorable Dami Oladapo, District 2 Councilmember*  
*The Honorable Keisha Jeffcoat, District 3 Councilmember*  
*The Honorable Patricia Auch, District 4 Councilmember*  
*The Honorable TJ Ferguson, District 5 Councilmember*  
*The Honorable Debora Herndon, District 6 Councilmember*

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## **SPECIAL CALLED**

### **TRANSITIONAL CITY COUNCIL MEETING AGENDA**

1. **CALL TO ORDER** Mayor Michael Owens
2. **ROLL CALL**
3. **INVOCATION**
4. **PLEDGE OF ALLEGIANCE**
5. **APPROVAL OF AGENDA**
6. **PUBLIC COMMENTS**
7. **OLD BUSINESS:**
  - a. *SECOND READ: Ordinance Creating Chapter 1, General Government, Article 1, General Provisions, of the City of Mableton Code of Ordinances*
  - b. *SECOND READ: Ordinance Creating Chapter 2, Administration, Article 1, In General, of the City of Mableton Code of Ordinances*
  - c. *SECOND READ: Ordinance Creating Chapter 7, Taxes, Fees and Assessments, of the City of Mableton Code of Ordinances*
8. **NEW BUSINESS:**
  - a. *FIRST READ: Ordinance Granting Franchise to Austell Natural Gas System*

*Public comments are limited to 2 minutes per speaker. Anyone wishing to make a public comment should complete and submit the public comment card to the City Clerk prior to the start of the meeting.*

June 29, 2023 Special Called Meeting Agenda

*b. Approval of Resolution Authorizing Deferred Costs for Georgia Municipal Association Newly Elected Council Training*

9. **DISCUSSION: N/A**
10. **CITY ATTORNEY COMMENTS**
11. **CITY CLERK COMMENTS**
12. **CITY COUNCIL COMMENTS**
13. **EXECUTIVE SESSION (IF NEEDED) FOR:**
  - Litigation O.C.G.A. 50-14-3 (b)(1)(A)*
  - Real Estate O.C.G.A. 50-14-3 (b)(1)*
  - Personnel O.C.G.A. 50-14-3 (b)(2)*
  - Exemptions O.C.G.A. 50-14-3 (b)(4)&(5)*
14. **ADJOURNMENT**

*Public comments are limited to 2 minutes per speaker. Anyone wishing to make a public comment should complete and submit the public comment card to the City Clerk prior to the start of the meeting.*

1 **STATE OF GEORGIA**  
2 **COBB COUNTY**  
3 **CITY OF MABLETON**  
4

**ORD**

5 **AN ORDINANCE CREATING CHAPTER 1, ARTICLE 1, GENERAL PROVISIONS,**  
6 **OF THE CITY CODE OF ORDINANCES AND FOR OTHER LAWFUL PURPOSES**  
7

8 **WHEREAS**, the City of Mableton (“City”) is a municipal corporation duly organized and  
9 existing under the laws of the State of Georgia;  
10

11 **WHEREAS**, the duly elected governing authority of the City is the Mayor and Council  
12 (“City Council”) thereof;  
13

14 **WHEREAS**, the City Council is authorized by the City Charter Sec. 1.13 and O.C.G.A. §  
15 36-35-3 to adopt ordinances relating to its operations, affairs and local government;  
16

17 **WHEREAS**, the City Council desires through this Ordinance to codify law relating to its  
18 operations, affairs and local government; and  
19

20 **WHEREAS**, the City Council finds this Ordinance to be in the best interest of the health,  
21 safety and welfare of the City.  
22

23 **IT IS HEREBY ORDAINED**, by the governing authority of the City of Mableton as  
24 follows:  
25

26 **Section 1.** Chapter 1, General Government, Article 1, General Provisions, of the City of  
27 Mableton Code of Ordinances is hereby created to read as follows:  
28

29 **CHAPTER 1 - GENERAL GOVERNMENT**  
30

31 **ARTICLE 1 - GENERAL PROVISIONS**

32 **Sec. 1.1.1 Designation and citation of Code.**

33 The ordinances embraced in this and the following chapters shall constitute and be designated  
34 the “Code of the City of Mableton, Georgia,” and may be so cited.

35 **Sec. 1.1.2 Definitions and rules of construction.**

36 The following words, terms and phrases, when used in this Code, shall have the meanings  
37 ascribed to them in this section, except where the context clearly indicates a different meaning:

38 *Construction.* In the construction of this Code and of all ordinances, the rules of construction  
39 and definitions set out in this section shall be observed. The rules of construction and definitions  
40 set out in this section shall not be applied to any section of this Code which shall contain any

express provisions excluding such construction or where the subject matter or context of such section may be repugnant thereto.

*Generally.* The ordinary signification shall be applied to all words, except words of art or words connected with a particular trade or subject matter when they shall have the signification attached to them by experts in such trade or with reference to such subject matter. In all interpretations the courts shall look diligently for the intention of the city council. Grammatical errors shall not vitiate, and a transposition of words and clauses may be resorted to when the sentence or clause is without meaning as it stands.

*Liberal construction; minimum requirements; overlapping provisions.* All general provisions, terms, phrases and expressions contained in this Code shall be liberally construed in order that the true intent and meaning of the city council may be fully carried out. In the interpretation and application of any provision of this Code, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of this Code imposes greater restrictions upon the subject matter than the other provisions of this Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling. The specific controls over the general.

*As soon as possible or promptly.* The term "as soon as possible" or "promptly" means within a reasonable time, having due regard to all the circumstances.

*City.* The term "city" means the City of Mableton, Georgia.

*City council, council.* The term "city council" or "council" means the city council of the City of Mableton, Georgia. The city council consists of the six councilmembers and the mayor.

*Charter.* The term "charter" means the municipal charter, as may be amended, for the City of Mableton, Georgia.

*Code.* The term "Code" means the Code of the City of Mableton, Georgia.

*Computation of time.* Unless required otherwise by State or federal law, the following computation of time shall govern: When a number of days is prescribed for the exercise of any privilege or the discharge of any duty, only the first or last day shall be counted. If the last day shall fall on Saturday or Sunday, the party having such privilege or duty shall have through the following Monday to exercise such privilege or to discharge the duty. When the last day prescribed for such action shall fall on a public or legal holiday as set forth in state law, the party having such privilege or duty shall have through the following business day to exercise such privilege or to discharge the duty. When the period of time prescribed is less than seven days, an intermediate Saturday, Sunday and legal holiday shall be excluded in the computation.

*Conjunctions.* Where a provision involves two or more items, conditions, provisions or events connected by the conjunction "and," "or" or "either ... or," the conjunction shall be interpreted as follows, provided in appropriate cases the terms "and" and "or" are interchangeable:

- (1) The term "and" indicates that all the connected items, conditions, provisions or events shall apply.
- (2) The term "or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.

81 (3) The term "either ... or" indicates that the connected items, conditions, provisions or  
82 events shall apply singly, but not in combination.

83 *Councilmember.* The term "councilmember" means the individual members of the city  
84 council, including the mayor.

85 *County.* The term "county" means Cobb County, Georgia.

86 *Delegation of authority.* Whenever a provision appears requiring a city officer or city  
87 employee to do some act, it is to be construed to authorize the officer or employee to designate,  
88 delegate and authorize subordinates to perform the required act.

89 *Federal.* The term "federal" refers to the United States Government, and the agencies,  
90 departments and offices thereof.

91 *Fire department.* The term "fire department" shall refer to the county fire department or the  
92 city, whichever provides services to the city.

93 *Following.* The term "following" means next after.

94 *Gender.* Words of one gender include all other genders.

95 *Joint authority.* A joint authority given to any number of persons or officers may be executed  
96 by a majority of them, unless it is otherwise declared.

97 *Keeper and proprietor.* The terms "keeper" and "proprietor" means persons, whether acting  
98 by themselves or acting as a agent or employee.

99 *May.* The term "may" is to be construed as being permissive.

100 *Month.* The term "month" means a calendar month.

101 *Must.* The term "must" is to be construed as being mandatory.

102 *Number.* The singular and plural number includes the other, unless expressly excluded.

103 *Oath.* The term "oath" includes an affirmation.

104 *O.C.G.A., state acts.* The abbreviation "O.C.G.A." means the Official Code of Georgia  
105 Annotated, as amended. A reference to a "state act," whether by year and act number, year, act  
106 number and page, year and page or short title is a reference to such official act of Georgia, as  
107 amended.

108 *Officials, employees, boards, commissions or other agencies.* Whenever reference is made to  
109 officials, employees, boards, commissions or other agencies by title only, the reference refers to  
110 the officials, employees, boards, commissions or other agencies of the city.

111 *Owner.* The term "owner," as applied to a building or land, means and includes any part  
112 owner, joint owner, tenant in common, tenant in partnership or joint tenant of the whole or of a  
113 part of the building or land.

114 *Person.* The term "person" means and includes any association, club, society, firm,  
115 corporation, limited liability company, partnership or body politic and corporate, as well as an  
116 individual.

117 *Personal property.* The term "personal property" means and includes every species of  
118 property, except real property.

119 *Police.* The term "police" means the police department or police chief of the county or of the  
120 city, whichever is serving as the police force for the city.

121 *Preceding.* The term "preceding" means next before.

122 *Property.* The term "property" means and includes real and personal property.

123 *Public place.* The term "public place" means and includes any place that the public is invited  
124 or permitted to go or congregate.

125 *Real property.* The term "real property" means and includes lands, tenements and  
126 hereditaments.

127 *Shall.* The term "shall" is to be construed as being mandatory.

128 *Sidewalk.* The term "sidewalk" means any portion of a street between the curb line and the  
129 adjacent property line, intended for the use of pedestrians, excluding parkways.

130 *Signature or subscription.* The terms "signature" and "subscription" means and includes the  
131 mark of an illiterate or infirm person.

132 *State.* The term "state" means the State of Georgia.

133 *Street or road.* The terms "street" and "road" means and includes any street, avenue,  
134 boulevard, road, alley, lane, viaduct and any other public highway in the city, including, but not  
135 limited to, the paved or improved surfaces thereof.

136 *Tenant or occupant.* The term "tenant" or "occupant," applied to a building or land, means  
137 and includes any person holding a written or oral lease of or who occupies the whole or a part of  
138 a building or land, either alone or with others.

139 *Tense.* Words used in the past or present tense mean and include the future, as well as the past  
140 and present.

141 *Week.* The term "week" means seven days.

142 *Will.* The term "will" is to be construed as being mandatory.

143 *Writing.* The term "writing" means and includes printing and coherent text.

144 **Sec. 1.1.3. Catchlines of sections, effect of history notes, references in Code.**

145 (a) The catchlines of the several sections of this Code in boldface type are intended as mere  
146 catchwords to indicate the contents of the sections and shall not be deemed or taken to be  
147 titles of such sections nor, as any part of such sections nor, unless expressly so provided, shall  
148 they be so deemed when any of such sections, including the catchlines, are amended or  
149 reenacted.

150 (b) The history or source notes appearing in parentheses after sections in this Code are not  
151 intended to have any legal effect but are merely intended to indicate the source of matter  
152 contained in the section. Editor's notes, cross references, and state law references which  
153 appear after sections or subsections of this Code or which otherwise appear in footnote form  
154 are provided for the convenience of the user of this Code and have no legal effect.

155 (c) All references to parts, titles, chapters, articles, divisions, subdivisions or sections are  
156 references to this Code, unless otherwise specified.

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**Sec. 1.1.4 Effect of repeal of ordinances.**

The repeal of an ordinance shall not revive any ordinance in force before or at the time the ordinance repealed took effect. The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect or any suit, prosecution or proceeding pending at the time of the repeal for an offense committed or cause of action arising under the ordinance repealed.

**Sec. 1.1.5 Amendments to Code; effect of new ordinances; amendatory language.**

(a) All ordinances adopted subsequent to this Code that amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion in this Code. The subsequent ordinances as numbered and printed or omitted, in the case of repeal, shall be prima facie evidence of these subsequent ordinances or resolutions until such time that this Code and subsequent ordinances numbered or omitted are readopted as a new Code.

(b) Amendments to any of the provisions of this Code may be made by amending those provisions by specific reference to the section number of this Code in the following language: "Section \_\_\_\_\_ of the Code of the City of Mableton, Georgia, is hereby amended to read as follows:...." The new provisions may then be set out in full as desired.

(c) If a new section not heretofore existing in the Code is to be added, the following language may be used: "The Code of the City of Mableton, Georgia, is hereby amended by adding a section (or chapter, article, division or subdivision, as appropriate), that reads as follows:...." The new material may then be set out in full as desired.

**Sec. 1.1.6 Supplementation of Code.**

(a) Supplements to this Code shall be prepared and printed whenever authorized or directed by the city. A supplement to the Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code that have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the person authorized to prepare the supplement may make formal, non-substantive changes in ordinances or resolutions and parts of ordinances or resolutions included in the supplemental, insofar as it is necessary to do so to embody them into a unified Code. For example, the person may:

(1) Organize the ordinance material into appropriate subdivisions.

- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement and make changes in such catchlines, headings and titles.
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers.
- (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections \_\_\_\_\_ to \_\_\_\_\_" (inserting section numbers to indicate the sections of the Code that embody the substantive sections of the ordinance incorporated into the Code).
- (5) Make other non-substantive changes necessary to preserve the original meaning of ordinances inserted into the Code.

#### **Sec. 1.1.7 General penalty; continuing violations.**

- (a) In this section, the term "violation of this Code" means:
  - (1) Doing an act that is prohibited or made or declared unlawful or an offense by ordinance or by rule or regulation authorized by ordinance;
  - (2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance; or
  - (3) Failure to perform an act if the failure is declared an offense or unlawful by ordinance or by rule or regulation authorized by ordinance.
- (b) In this section, the term "violation of this Code" does not include the failure of a city officer or city employee to perform an official duty, unless it is provided that failure to perform the duty is to be punished as provided in this section or it is clear from the context that it is the intent to impose the penalty provided for in this section upon the officer or employee.
- (c) Except as otherwise provided:
  - (1) A person convicted of a violation of this Code shall be punished by a fine not exceeding \$1,000.00, imprisonment for a term not exceeding six months, or any combination thereof.
  - (2) With respect to violations of this Code that are continuous with respect to time, each day the violation continues is a separate offense.
  - (3) With respect to violations of this Code that are not continuous with respect to time, each day the violation continues is a separate offense.
- (d) All fines shall be paid into the city treasury.
- (e) Community service may be substituted for the fine, within the applicable Court's discretion, with the rate of hourly work set to that of the federal minimum wage.
- (f) The imposition of a penalty does not prevent revocation or suspension of a license, permit or franchise or other administrative sanctions.

- (g) Violations of this Code that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief and by such other means as are provided by law. The imposition of a penalty does not prevent other relief authorized by law, including equitable relief.

#### **Sec. 1.1.8 Severability of Code.**

The sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional, invalid or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, that unconstitutionality, invalidity or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Code, since they would have been enacted without the incorporation in this Code of the unconstitutional, invalid or unenforceable phrase, clause, sentence, paragraph or section.

#### **Sec. 1.1.9 Provisions considered as continuations of existing ordinances.**

The provisions appearing in this Code, insofar as they are the same as those of ordinances and resolutions existing at the time of adoption of this Code, shall be considered as continuations thereof and not as new enactments.

#### **Sec. 1.1.10 Prior offenses, penalties, contracts or rights not affected by adoption of Code.**

- (a) Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code.
- (b) The adoption of this Code shall not be interpreted as authorizing or permitting any use or the continuance of any use of a structure or premises in violation of any ordinance or resolution in effect on the date of adoption of this Code.

#### **Sec. 1.1.11 Certain ordinances not affected by Code.**

Nothing in this Code or the ordinance adopting this Code affects the validity of any of the following ordinances or portions of ordinances not in this Code, which ordinances or portions of ordinances continue in full force and effect to the same extent as if published at length in this Code:

- (1) Promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instruments of indebtedness.
- (2) Authorizing or approving any contract, deed, or agreement.
- (3) Granting any right or franchise.
- (4) Making or approving any appropriation or budget.
- (5) Providing for salaries or other employee benefits not codified in this Code.
- (6) Adopting or amending the comprehensive plan.
- (7) Levying or imposing any special assessment.

- 265 (8) Dedicating, establishing naming, locating, relocating, opening, paving, widening,  
266 repairing or vacating any street, sidewalk or alley.
- 267 (9) Providing for or dedicating, accepting or vacating any plat or subdivision.
- 268 (10) Levying, imposing or otherwise relating to taxes not codified in this Code.
- 269 (11) Rezoning property or otherwise pertaining to zoning.
- 270 (12) That is temporary, although general in effect.
- 271 (13) That is special, although permanent in effect.
- 272 (14) The purpose of which has been accomplished.

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**Section 2.** It is hereby declared to be the intention of the City Council that:

- (a) All sections, paragraphs, sentences and phrases of this Ordinance are or were, upon their enactment, believed by the City Council to be fully valid, enforceable and constitutional.
- (b) To the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. No section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.
- (c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the City Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance.

**Section 3.** The City Attorney and City Clerk are authorized to make non-substantive editing and renumbering revisions to this Ordinance for proofing and renumbering purposes.

**Section 4.** The effective date of this Ordinance shall be the date of adoption, unless provided otherwise by the City Charter, state and/or federal law.

SO ORDAINED this \_\_\_\_\_ day of 2023.

ATTEST:

CITY OF MABLETON, GEORGIA:

\_\_\_\_\_  
Susan D. Hiott, Interim City Clerk

\_\_\_\_\_  
Michael Owens, Mayor

APPROVAL AS TO FORM:

\_\_\_\_\_  
Emilia Walker-Ashby, Interim City Attorney

1 **STATE OF GEORGIA**  
2 **COBB COUNTY**  
3 **CITY OF MABLETON**  
4

**ORD**

5 **AN ORDINANCE CREATING CHAPTER 2, ADMINISTRATION, ARTICLE 1, IN**  
6 **GENERAL, OF THE CITY CODE OF ORDINANCES AND FOR OTHER LAWFUL**  
7 **PURPOSES**  
8

9 **WHEREAS**, the City of Mableton (“City”) is a municipal corporation duly organized and  
10 existing under the laws of the State of Georgia;  
11

12 **WHEREAS**, the duly elected governing authority of the City is the Mayor and Council  
13 (“City Council”) thereof;  
14

15 **WHEREAS**, the City Council is authorized by the City Charter Sec. 1.13 and O.C.G.A. §  
16 36-35-3 to adopt ordinances relating to its operations, affairs and local government;  
17

18 **WHEREAS**, the City Council desires through this Ordinance to codify law relating to its  
19 operations, affairs and local government; and  
20

21 **WHEREAS**, the City Council finds this Ordinance to be in the best interest of the health,  
22 safety and welfare of the City.  
23

24 **IT IS HEREBY ORDAINED** by the governing authority of the City of Mableton as  
25 follows:  
26

27 **Section 1.** Chapter 2, Administration, Article 1, In general, of the City of Mableton Code  
28 of Ordinances is hereby created to read as follows:  
29

30 **CHAPTER 2 - ADMINISTRATION**  
31

32 **ARTICLE 1 –IN GENERAL**

**Sec. 2.1.1 Exercise of powers.**

The powers of the city may be exercised, as provided by the charter, by the city, and by the parties with whom the city contracts for municipal services.

**Sec. 2.1.2 Meetings.**

- (a) *Meeting times.* As described in section 2.19 of the charter, the city council shall hold regular meetings at such times and places as shall be prescribed by ordinance.
- (b) *Meetings scheduled on a federal or state holiday.* If a meeting falls on a federal or state holiday, the council may cancel or reschedule the meeting and publish notice of the change.

- (c) *Special meetings.* Special meetings may be called in accordance with the Charter provision section 2.19.
- (d) *Meetings adjourned.* Any meeting of the council may be continued or adjourned from day to day, or for more than one day.
- (e) All city council meetings, including any closed executive sessions, shall be held in accordance with the Georgia Open and Public Meetings Act, O.C.G.A. § 50-14-1 et seq.
- (f) Rules and procedures for city council meetings and public hearings may be further defined by adoption of a resolution of the city council.

#### **Sec. 2.1.3 Records and document retention.**

- (a) All requests for city records made under the Georgia Open Records Act, O.C.G.A. § 50-18-70 et seq., shall be submitted in writing to the city clerk. Requests for records stored by outside agencies, such as police and/or fire records, shall be made to the agency who stores such records.
- (b) Pursuant to the Georgia Records Act, O.C.G.A. § 50-18-90 et seq., the city adopts the records management plan and record retention schedules recommended by the Georgia secretary of state, as may be additionally amended from time to time by future resolutions of the city council.

#### **Sec. 2.1.4 Subpoenas.**

- (a) The city council, when sitting as a judicial or quasi-judicial body pursuant to public law, its charter, or its ordinances, may compel the attendance of witnesses by subpoena under the same rules as prevail in the superior courts.
- (b) The subpoenas as authorized in the preceding section shall bear witness in the name of the mayor; shall be issued by the city clerk; and may be served by any law enforcement officer with jurisdiction in Cobb County or by such other person as the mayor may designate.
- (c) Should any person fail to respond to a subpoena of the council, after having been lawfully served, without good cause, or should the person refuse to testify under oath, then the council may hold the person in contempt, and, in their discretion, punish the person by the imposition of a fine according to the maximum allowed by state law. Each of the failures or refusals herein described shall constitute a separate contempt.

#### **Sec. 2.1.5 Reimbursement and travel.**

- (a) *City business.* As authorized by section 2.13 of the city charter, the mayor and councilmembers shall be reimbursed each fiscal year for expenses actually and necessarily incurred by the mayor and councilmembers in carrying out their official duties, at an amount each fiscal year which shall not exceed \$5,000 for the mayor and \$3,000 for any councilmember.
- (b) *Incidentals and training.* Reimbursement under this section shall include overnight travel, lodging, ground transportation, meals and other and incidental expenses incurred by the mayor or councilmember in connection with city business. Such

allowances shall not include the costs associated with any state mandated or sponsored training which has been preapproved by the city council.

- (c) *Expense reports.* Within 60 days after incurring the aforementioned expenditures, the mayor or councilmembers shall file with the finance director, city manager, or mayor, if a city manager has not been appointed, a signed travel expense form setting forth the reasonable expenses incurred for which city payment is sought. Original receipts documenting each expense over \$10.00 must accompany the form, except for reasonable and customary out-of-pocket expenses such as tolls, valet services, gratuities, and federal mileage.

\*\*\*\*\*

**Section 2.** It is hereby declared to be the intention of the City Council that:

- (a) All sections, paragraphs, sentences and phrases of this Ordinance are or were, upon their enactment, believed by the City Council to be fully valid, enforceable and constitutional.
- (b) To the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. No section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.
- (c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the City Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance.

**Section 3.** The City Attorney and City Clerk are authorized to make non-substantive editing and renumbering revisions to this Ordinance for proofing and renumbering purposes.

**Section 4.** The effective date of this Ordinance shall be the date of adoption, unless provided otherwise by the City Charter, state and/or federal law.

SO ORDAINED this \_\_\_\_\_ day of 2023.

ATTEST:

CITY OF MABLETON, GEORGIA:

\_\_\_\_\_  
Susan D. Hiott, Interim City Clerk

\_\_\_\_\_  
Michael Owens, Mayor

APPROVAL AS TO FORM:

---

Emilia Walker-Ashby, Interim City Attorney

1 **STATE OF GEORGIA**  
2 **COBB COUNTY**  
3 **CITY OF MABLETON**  
4

**ORD**

5 **AN ORDINANCE CREATING CHAPTER 7, TAXES, FEES AND ASSESSMENTS OF**  
6 **THE CITY CODE OF ORDINANCES; AND FOR OTHER LAWFUL PURPOSES**  
7

8 **WHEREAS**, the City of Mableton (“City”) is a municipal corporation duly organized and  
9 existing under the laws of the State of Georgia;  
10

11 **WHEREAS**, the duly elected governing authority of the City is the Mayor and Council  
12 (“City Council”) thereof;  
13

14 **WHEREAS**, the City Council is authorized by Sec. 6.14 of the City Charter to “grant  
15 franchises for the use of this city's streets and alleys for the purposes of railroads, street railways,  
16 telephone companies, electric companies, electric membership corporations, cable television and  
17 other telecommunications companies, gas companies, transportation companies, and other similar  
18 organizations”;  
19

20 **WHEREAS**, the City Council is further authorized by Sec. 1.13 of the City Charter “to  
21 levy and collect such other taxes as may be allowed now or in the future by law”;  
22

23 **WHEREAS**, the City Council desires through this Ordinance to adopt reasonable Code  
24 provisions relating to taxes, fees and assessments; and  
25

26 **WHEREAS**, the City Council finds this Ordinance to be in the best interest of the health,  
27 safety and welfare of the City.  
28

29 **IT IS HEREBY ORDAINED**, by the governing authority of the City of Mableton as  
30 follows:  
31

32 **Section 1.** Chapter 7, Taxes, fees and assessments, of the City of Mableton Code of  
33 Ordinances is hereby created to read as follows:  
34

35 **CHAPTER 7 - TAXES, FEES AND ASSESSMENTS**  
36  
37

38 **ARTICLE 1 - FRANCHISES**  
39

40 **Sec. 7.1.1 Definitions.**  
41

42 “Cable Service Supplier” means any person or group of persons: A) who provides cable  
43 service within the city, over a cable system and directly, or through one or more affiliates, owns a

significant interest in such cable system, or B) who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system.

*“Electric Service Supplier”* means a person or entity engaged in Franchise Activity for the purpose of distributing and/or selling electric power within the city.

*“Franchise Activity”* means installing, constructing, maintaining or causing to be installed, constructed or maintained, any pipe, main, conduit, cable, wire, pole, tower, traffic or other signal and other equipment, facilities, appliance, receptacle or sign, in, on, along, over or under the public roads or alleys of the city.

*“Gas Service Suppliers”* means a person or entity engaged in Franchise Activity for the purpose of distributing and/or selling gas within the city.

*“Telecommunication Services”* means the receipt and/or distribution, through any means, including, without limitation, coaxial cable, optical fiber, or satellite or microwave transmission of one or more audio, voice or data signals. Telecommunication services includes both cable services and noncable telecommunication services.

#### **Sec. 7.1.2 - Granting authority.**

No person or entity shall install, construct, maintain or cause to be installed, constructed or maintained any pipe, main, conduit, cable, wire, pole, tower, traffic or other signal and other equipment, facilities, appliance, receptacle or sign, in, on, along, over or under the public roads or alleys of the city without a city approved franchise agreement or payment of a franchise tax as set forth under this article; provided, however, that such franchise fees and/or tax shall not be in excess of those as may be authorized by any applicable state or federal regulatory agency. No franchise agreement shall be granted except by adoption of such franchise agreement by the city council. Any franchise granted shall be nonexclusive.

#### **Sec. 7.1.3 - Electric service suppliers.**

Electric Service Suppliers engaging in Franchise Activity without a franchise agreement with the city, shall pay a gross receipts tax to the city at the rate of four percent (4%) on any and all gross revenue derived from distribution and sale of electric power to their customers, members and/or purchasers within the city. Payments due by Electric Service Suppliers to the city for such gross revenue shall be remitted to the city within thirty (30) calendar days of the last calendar day of the preceding month, and shall be accompanied by a verified statement of said gross revenues for such month prior. This tax is levied pursuant to authority granted in section 6.14 of the city charter, and any other applicable provision of said charter or applicable laws.

#### **Sec. 7.1.4 - Cable and other Telecommunication Service Suppliers.**

Cable and Telecommunication Services Suppliers engaging in Franchise Activity without a franchise agreement with the city, shall pay a tax to the city in an amount equal to five percent

(5%) of gross revenues derived from the operation of such cable system or telecommunication services within the city. Payments due by Cable and Telecommunication Services Suppliers to the City for such gross revenue shall be remitted to the City on a quarterly basis, not later than 30 days after the last day of March, June, September, and December. The initial payment shall be due on or by July 30, 2023, and quarterly thereafter as set forth herein.

#### **Sec. 7.1.5 - Gas Service Suppliers.**

Gas Service Suppliers engaging in Franchise Activity without a franchise agreement with the city, shall pay a monthly tax to the city, which shall be calculated as follows:

The following formula quantifies this payment:  $FF = FFF \times DDDC \times FFFA$

Where:

FF = total franchise fees due to the city for the 12-month period commencing October 1 and ending September 30th annually.

FFF = the Franchise Fee Factor, as regulated by the Georgia Public Service Commission.

DDDC = dedicated design day capacity or "DDDC" means the sum of the individual capacity in Dekatherms attributable to all firm customers, as defined below, located within the city limits of the city.

Franchise Fee Factor Adjustment ("FFFA") means the percent change in the cost of service as explicitly or implicitly determined by the GPSC as a result of a rate case.

Such Gas Service Suppliers shall make franchise payments as set forth herein to the city on a quarterly basis, and shall be remitted not later than 30 days after the last day of March, June, September, and December annually. The initial payment for June 2023 shall be due on or by July 30, 2023, and quarterly thereafter as set forth herein.

#### **Sec. 7.1.5 - Enforcement.**

Outstanding and unpaid taxes imposed and assessed by this article may be collected in any and all manners allowed by law.

## **ARTICLE 2 - INSURANCE COMPANIES**

### **Sec. 7.2.1 - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Gross direct premiums* means gross direct premiums as used in O.C.G.A. § 33-8-4, which provides:

- (1) All foreign, alien, and domestic insurance companies doing business in this state shall pay a tax of 2 1/4 percent upon the gross direct premiums received by them. The tax shall be levied upon persons, property, or risks in Georgia, from January 1 to December 31, both inclusive, of each year without regard to business ceded to or assumed from other companies. The tax shall be imposed upon gross premiums received from direct writings without any deductions allowed for premium abatements of any kind or character or for reinsurance or for cash surrender values paid, or for losses or expenses of any kind; provided, however, that deductions shall be allowed for premiums returned on change of rate or canceled policies; provided, further, that deductions may be permitted for return premiums or assessments, including all policy dividends, refunds, or other similar returns paid or credited to policyholders and not reapplied as premium for additional or extended life insurance. The term “gross direct premiums” shall not include annuity considerations.
- (2) For purposes of this chapter, annuity considerations received by nonprofit corporations licensed to do business in this state issuing annuities to fund retirement benefits for teachers and staff personnel of private secondary schools and colleges and universities shall not be considered gross direct premium.

*Insurer* means a company which is authorized to transact business in any classes of insurance designated in O.C.G.A. § 33-3-5.

#### **Sec. 7.2.2 - License fees.**

There is hereby levied for an annual license fee upon each insurer doing business within the city in the amount of One Hundred Fifty Dollars (\$150.00). Such license fees shall be due and payable on January 1 and on the first day of each subsequent year.

#### **Sec. 7.2.3 - Additional license fees.**

For each separate business location, not otherwise subject to a license fee hereunder, operated and maintained by a business organization which is engaged in the business of lending money or transacting sales involving term financing and in connection with such loans or sales offers, solicits or takes application for insurance through a licensed agent of an insurer for insurance, said insurer shall pay an additional license fee in the amount One Hundred Dollars (\$100) per location for the year 2023, and each year thereafter.

#### **Sec. 7.2.4 - Gross premiums tax—Life, accident and sickness insurers.**

- (a) There is hereby levied an annual tax based solely upon gross direct premiums upon each insurer writing life, accident and sickness insurance within the state in an amount equal to one percent of the gross direct premiums received during the preceding calendar year in accordance with O.C.G.A. § 33-8-8.1.
- (b) The premium tax levied by this section is in addition to the license fees imposed under this article.

**Sec. 7.2.5 - Same—All other insurers.**

- (a) There is hereby levied an annual tax based solely upon gross direct premiums upon each insurer, other than an insurer transacting business in the class of insurance designated in O.C.G.A. § 33-3-5(1), doing business within the state in an amount equal to 2½ percent of the gross direct premium received during the preceding calendar year in accordance with O.C.G.A. § 33-8-8.2.
- (b) The premium tax levied by this section is in addition to the license fees imposed under this article.

**ARTICLE 3 – FINANCIAL INSTITUTIONS**

**Sec. 7.3.1 - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Bank* means any financial institution chartered under the laws of any state or under the laws of the United States which is authorized to receive deposits in this state and which has a corporate structure authorizing the issuance of capital stock.

*Depository financial institution* means a bank or a savings and loan association.

*Gross receipts* means gross receipts as defined in O.C.G.A. § 48-6-93.

*Savings and loan association* means any financial institution, other than a credit union, chartered under the laws of any state or under the laws of the United States which is authorized to receive deposits in this state and which has a mutual corporate form.

**Sec. 7.3.2 - Business license tax.**

In accordance with O.C.G.A. § 48-6-93, there is hereby levied an annual business license tax upon all depository financial institutions located within the city at a rate of one-quarter percent of the gross receipts of said depository financial institutions.

**Sec. 7.3.3 - Minimum amount.**

The minimum annual amount of business license tax due from any depository financial institution pursuant to O.C.G.A. § 48-6-93(a) shall be \$1,000.00.

**Sec. 7.3.4 - Filing of return.**

Pursuant to O.C.G.A. § 48-6-93(a), each depository financial institution subject to the tax levied by this article shall file a return of the gross receipts with the city on or before March 1 of the year following the year in which such gross receipts are measured. Said return shall be in the manner and the form prescribed by the commissioner of the department of revenue, based on the allocation method set forth in O.C.G.A. § 48-6-93(d). The return shall provide the information necessary to determine the portion of the taxpayer's state gross receipts to be allocated to each

taxing jurisdiction in which such institution has an office. The city manager or designee shall assess and collect the tax levied pursuant to this article based upon the information provided in said return.

**Sec. 7.3.5 - Payment must accompany return.**

Taxes levied pursuant to this article shall be paid to the city at the time of filing the return.

**Sec. 7.3.6 - Relation of tax to other business licenses.**

The tax imposed by this article shall be in lieu of any other business license or occupation tax upon depository financial institutions.

**ARTICLE 4 – RENTAL MOTOR VEHICLE TAX**

**Sec. 7.4.1 - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Month or monthly period* means the calendar months of any year.

*Motor vehicle* means a motor vehicle designed to carry ten or fewer passengers and used primarily for the transportation of persons that is rented or leased without a driver regardless of whether such vehicle is licensed in the state.

*Rental charge* means the total value received by a rental motor vehicle concern for the rental or lease of 31 or fewer consecutive days of a rental motor vehicle, including the total cash and nonmonetary consideration for the rental or lease including, but not limited to, charges based on time or mileage and charges for insurance coverage or collision damage waiver, but excluding all charges for motor fuel taxes or sales taxes.

*Rental motor vehicle concern* means a person or legal entity which owns or leased five or more rental motor vehicles and which regularly rents or leases such vehicles to the public for value.

*Tax, excise tax or taxes* means the tax imposed by this article.

**Sec. 7.4.2 - Excise tax levied.**

- (a) There is hereby assessed and levied an excise tax upon each rental charge collected by any rental motor vehicle concern when such charge constitutes a taxable event for the purposes of the sales and use tax as provided for under O.C.G.A. ch. 8, art. 1 (O.C.G.A. § 48-8-1 et seq.) on any motor vehicle rental charge made in the city. The tax levied pursuant to this article shall be in the amount of three percent of the rental charge. The tax levied pursuant to this article shall be imposed only at the time when and the place where a customer pay sales tax with respect to the rental charge. The customer who pays a rental charge that is subject to the tax levy as provided in this article shall be liable for the tax. The tax shall be paid by the customer to the rental motor vehicle concern. The tax shall be a debt of the customer to the rental motor vehicle concern until it is paid and shall be recoverable at law in the same manner as authorized for the recover for other debts.
- (b) The rental motor vehicle concern collecting the tax shall remit the tax to the city and the tax thus remitted shall be a credit against the tax imposed by this article on the rental motor

vehicle concern. Every rental motor vehicle concern subject to the tax levied by this article shall be liable for the tax at the rate of three percent upon the rental charges, actually collected or the amount of taxes collected from the customers, whichever, is greater.

- (c) The city council declares that the proceeds received from the excise tax levied by this article are to be expedited for use in public safety facilities, including pedestrian sidewalks, installation of traffic lights, street lighting for public safety purposes, and for the maintenance of such systems of traffic lights and streets lights within the territorial city limits.

#### **Sec. 7.4.3 - Exceptions.**

No tax shall be imposed pursuant to this article on the rental charge associated with the rental or lease of a rental motor vehicle if either:

- (1) The customer picks up the rental motor vehicle outside the state and returns it within the state;
- (2) The customer picks up the rental motor vehicle in the state and returns it outside the state.

#### **Sec. 7.4.5 - Authority and records.**

- (a) The city manager or designee shall administer and enforce this article for the levy and collection of the tax.
- (b) Every rental motor vehicle concern subject to this article shall keep such records, receipts, invoices and other pertinent papers in such form as the city manager or designee may require.

#### **Sec. 7.4.6 - Reimbursement for collecting monies.**

Each rental motor vehicle concern collecting the tax imposed by this article shall be allowed to retain three percent of the tax due and collected and may retain that amount in the form of a deduction for expenses incurred in submitting, reporting and paying the amount of taxes due, if the amounts due are not delinquent at the time of payment.

#### **Sec. 7.4.7 - Statement required; penalty for failure to comply.**

- (a) On or before the 20th day of each month, the motor vehicle concern liable for the tax provided for herein shall transmit to the city, a statement showing the gross rental charges and gross taxes collected authority of this article for each preceding calendar month. Along with said statement, the motor vehicle concern shall submit the net taxes due for each particular month.
- (b) Failure to remit taxes by the due date shall subject the rental motor vehicle concern to a penalty of five percent of the tax then due and in addition to such penalty, interest thereon the unpaid principal amount due, computed at the rate of one percent per month.

#### **Sec. 7.4.8 - Records.**

In order to aid in the administration and enforcement of the provisions of this article and collect all the tax imposed, all rental motor vehicle concerns are hereby required to keep a record of rental charges for rental motor vehicles and taxes collected which are related thereto. Said records shall be open for inspection and copying by the city during business hours.

**Sec. 7.4.9 - Deficiency determination.**

- (a) If it appears that a return for excise tax or the amount of tax remitted is inaccurate or incomplete, the city may compute and determine the amount required to be paid based upon any information within his possession or that may come into his possession. One deficiency determination may be made of the amount due for one or more monthly periods.
- (b) The amount of the determination made by the city shall bear interest at the rate of one percent per month or fraction thereof from the due date of the taxes found due by him.
- (c) The city shall give to the rental vehicle concern a written notice of any such determination. The notice may be made personally or by mail and if by mail the service shall be addressed to the operator of the rental motor vehicle concern at the address as the same appears in the records of the city as provided by each rental motor vehicle concern. Service shall be complete when delivered by certified mail with a receipt signed by an addressee or agent addressee.
- (d) Except in cases of failure to make a return, every notice of deficiency determination shall be mailed within three years after the 20th day of the calendar month following the period in which the amount proposed to be determined or within three years after the return was filed, whichever period shall expire last.

**Sec. 7.4.10 - Audit authority.**

The city upon exhibition of identification and during regular business hours may examine and copy the books, papers, records, financial reports equipment and other facilities, if necessary, of any rental motor vehicle concern in order to verify the accuracy of any return made pursuant to this article, or if no return is made by the rental motor vehicle concern, to ascertain or determine the amount of the tax required to be paid.

**Sec. 7.4.11 - Withholding tax on sale of business.**

- (a) If any rental motor vehicle concern liable for any amount under this article transfers or sells its business or quits the business, its successors or assigns shall withhold sufficient amounts from the purchase price to cover the amount required to be paid pursuant to this article until the former owner or operator of the rental motor vehicle concern produces a receipt from the city manager or designee showing that the indebtedness has been paid or a certificate stating that no amount is due.
- (b) If the purchaser of a business or rental motor vehicle concern fails to withhold from the purchase price as required herein such purchaser shall be personally liable for the payment of the amount of the outstanding tax required to be withheld by him to the extent of such purchase price.

**Sec. 7.4.12 - Additional penalty.**

- (a) In addition to the interest charges and delinquent penalties specified in this article any person violating any of the provisions of this article shall be punished as allowed by applicable law. Such persons shall be guilty of a separate offense for each and every day during which any violation of any provision of this article is committed, continued, or permitted by that person and shall be punished accordingly.

\*\*\*\*\*

**Section 2.** It is hereby declared to be the intention of the City Council that:

- (a) All sections, paragraphs, sentences and phrases of this Ordinance are or were, upon their enactment, believed by the City Council to be fully valid, enforceable and constitutional.
- (b) To the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. No section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.
- (c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the City Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance.

**Section 3.** The City Attorney and City Clerk are authorized to make non-substantive editing and renumbering revisions to this Ordinance for proofing and renumbering purposes.

**Section 4.** The effective date of this Ordinance shall be the date of adoption, unless provided otherwise by the City Charter, state and/or federal law. In the event that any effective date and/or tax commencement date herein is determined to be invalid, said effective date and/or tax commence date shall instead be the earliest date allowed by law.

SO ORDAINED this \_\_\_\_\_ day of 2023.

ATTEST:

CITY OF MABLETON, GEORGIA:

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Susan D. Hiott, Interim City Clerk

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Michael Owens, Mayor

APPROVAL AS TO FORM:

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Emilia Walker-Ashby, Interim City Attorney

STATE OF GEORGIA  
COBB COUNTY  
CITY OF MABLETON

RES

**A RESOLUTION AUTHORIZING DEFERRED COSTS FOR NEWLY ELECTED  
OFFICIAL TRAINING WITH THE GEORGIA MUNICIPAL ASSOCIATION AND FOR  
OTHER LAWFUL PURPOSES**

**WHEREAS**, the City of Mableton (“City”) is a municipal corporation duly organized and existing under the laws of the State of Georgia;

**WHEREAS**, the duly elected governing authority of the City is the Mayor and Council (“City Council”) thereof;

**WHEREAS**, the Georgia Open Meetings Act (O.C.G.A. 50-14-1 et al.), and/or other applicable laws, provides for the City to submit certain notices to the City’s legal organ;

**WHEREAS**, the Georgia Municipal Association (“GMA”), currently representing 537 cities in Georgia, is a non-profit Georgia organization that provides a multitude of services to Georgia’s cities, including training for elected officials;

**WHEREAS**, GMA has offered to provide newly elected official training for Mableton’s elected officials at the cost of \$750 per day (“preliminary training”), with such costs to be deferred pending the establishment of the City’s preliminary budget and funding; and

**WHEREAS**, where the City desires through this resolution to accept GMA’s offer to defer preliminary training costs for Mableton’s officials until after the establishment of the City’s preliminary budget and receipt of sufficient funding; and

**WHEREAS**, this Resolution is enacted to safeguard and promote the public health, safety, and general welfare of the City.

**NOW, THEREFORE, BE IT RESOLVED**, by the governing authority of the City of Mableton, Georgia, as follows:

**Section 1.** The City Council hereby accepts GMA’s offer to provide preliminary training as set forth herein, for Mableton’s officials, with payment to be deferred until after the establishment of the City’s preliminary budget and receipt of sufficient funding.

\*\*\*\*\*

**Section 2.** It is hereby declared to be the intention of the City Council that:

- (a) All sections, paragraphs, sentences, clauses and phrases of this Resolution are or were, upon their enactment, believed by the City Council to be fully valid, enforceable and constitutional.

- (b) To the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Resolution is severable from every other section, paragraph, sentence, clause or phrase of this Resolution. No section, paragraph, sentence, clause or phrase of this Resolution is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Resolution.
- (c) In the event that any phrase, clause, sentence, paragraph or section of this Resolution shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the City Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Resolution.

**Section 3.** The City Attorney and the City Clerk are authorized to make non-substantive editing and renumbering revisions to this Resolution for proofing and renumbering purposes.

**Section 4.** The effective date of this Resolution shall be the date of adoption, unless provided otherwise by the City Charter, state and/or federal law.

**BE IT SO RESOLVED**, this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

ATTEST:

CITY OF MABLETON, GEORGIA:

\_\_\_\_\_  
Susan D. Hiott, Interim City Clerk

\_\_\_\_\_  
Michael Owens, Mayor

APPROVAL AS TO FORM:

\_\_\_\_\_  
Emilia Walker-Ashby, Interim City Attorney

**ORDINANCE GRANTING FRANCHISE**

**To**

**AUSTELL NATURAL GAS SYSTEM**

**By**

**CITY OF MABLETON**

**On**

\_\_\_\_\_, 2023

**The within Ordinance Granting Franchise**

**accepted on \_\_\_\_\_, 2023, by**

**AUSTELL NATURAL GAS SYSTEM:**

**By: \_\_\_\_\_,**  
**[Insert Name and Title]**

THIS ORDINANCE GRANTING FRANCHISE agreement is made by and between **Austell Natural Gas System** (referred to herein as “company”) and the **City of Mableton, Georgia** (referred to herein as the “city”) in consideration of the consideration and the mutual terms and conditions below and herein:

### **Section 1. Grant of franchise.**

In exchange for making the franchise fee payments as provided in this agreement, the city grants to the company, its successors and assigns a non-exclusive right to lay, construct, extend, maintain, renew, replace and repair gas pipes, valves, manholes, service boxes, posts, lamps, structures, appliances and all appurtenances and appendages under, along, through and across any streets, avenues, roads, public highways, alleys, lanes, ways, parks, rights-of-way and other public places in the city (hereinafter collectively referred to as the "city's property") and to use and occupy the city's property for the purpose of therein laying, constructing, extending, maintaining, renewing, replacing and repairing mains, pipes, valves, manholes, service boxes, posts, lamps, structures, appliances and all appurtenances and appendages thereto, used and useful for the manufacture, transmission, distribution and sale of gas within and through the present or future territorial limits of the city, such right, when exercised as herein provided, to commence as of June 1, 2023 and to continue for a term of 30 years through May 31, 2053.

### **Section 2. Definitions.**

- a. *Franchise Fee Factor ("FFF")* means \$14.62, as periodically adjusted pursuant to section 4 of this franchise agreement.
- b. *Dedicated design day capacity* or "*DDDC*" means the sum of the individual capacity in Dekatherms attributable to all firm customers, as defined below, located within the city limits of the city.
- c. *Firm customers* means all residential and business customers who purchase gas service that ordinarily is not subject to interruption or curtailment.
- d. *Fiscal year* means the 12-month period ending September 30<sup>th</sup> of each year.
- e. *GPSC* means the Georgia Public Service Commission or such successor regulatory body, having general regulatory authority over the company.
- f. *Franchise Fee Factor Adjustment ("FFFA")* means the percent change in the cost of service as explicitly or implicitly determined by the GPSC as a result of a rate case.

### **Section 3. Rates.**

Company shall be entitled to charge for gas distribution services furnished by it such rates as are prescribed by the GPSC or other lawful regulatory bodies of the State of Georgia.

#### **Section 4. Franchise fee.**

The total dollar amount of franchise fees paid by the company to the city shall be calculated as follows:

The following formula quantifies this payment:  $FF = FFF \times DDDC \times FFFA$

Where,

FF = total franchise fees due to the city for the current fiscal year

FFF = the Franchise Fee Factor

DDDC = the Dedicated Design Day Capacity in the city as of the last day of the previous fiscal year

The company shall adjust the franchise fee factor by franchise fee factor adjustment only when the company changes its rates as a result of a rate case with the GPSC.

As the holder of the franchise privilege hereunder, the company is responsible for the payment of all franchise fees payable hereunder, and shall file such reports and returns as required by this franchise ordinance. Company shall make the franchise fee payments to city on the same schedule and with such supporting documentation as company provides to other municipalities in Georgia. As of June 1, 2023, company shall make franchise payments as set forth herein to the city on a quarterly basis, and shall be remitted not later than 30 days after the last day of March, June, September, and December throughout the term of this Agreement. The initial payment shall be due on or by July 30, 2023.

The franchise fee payments required hereunder shall be in lieu of any franchise fee, license fee, permit fee, administrative fee, occupation tax or other payment for the use of the rights-of-way by the company for the provision of gas service, but shall not prohibit imposition of a license fee or an occupation tax on gas marketers. The company shall comply with the city's utility right-of-way permitting process, as enacted, so long as such process does not conflict with O.C.G.A. § 32-4-92 and is not more restrictive than rules and regulations as promulgated by the Georgia Department of Transportation. The city will not charge the company any other franchise fee, occupation tax, or regulatory fee as prohibited by O.C.G.A. § 48-13-16, or any other fee prohibited by state law. Company reserves the right to reduce the annual franchise fee payable to the city for any and all fees, taxes or charges assessed by the city in contravention of this section in connection with the granting of permits to perform company's work on city's property during such fiscal year.

#### **Section 5. Powers retained by city.**

All rights herein granted and authorized by the city shall be subject to and governed only by this ordinance; provided, however, that the city expressly reserves unto itself all of its police power to adopt general ordinances necessary to protect the safety and welfare of the general public in relation to the rights hereby granted not inconsistent with the provisions of this franchise agreement.

## **Section 6. Excavation.**

Company, upon making an opening in the city's property, for the purpose of laying, repairing or maintaining gas facilities, shall use due care and caution to prevent injury to persons, shall replace and restore the city's property to its former condition as nearly as practicable within a reasonable time, and shall not unnecessarily obstruct or impede traffic upon the streets, avenues, roads, public highways, alleys, lanes, ways, parks and other places of the city.

## **Section 7. Liability of grantee.**

Company shall save and keep harmless the city from any and all liability by reason of damage or injury to any person or persons whomsoever, on account of negligence or intentional act or omission of the company in the installation, maintenance and repair of its mains and pipe lines located in the city's property, provided the company shall have been notified in writing of any claim against the city on account thereof and shall have been given ample opportunity to defend the same.

## **Section 8. When effective.**

This franchise agreement shall become effective upon its execution by the City and the Company.

## **Section 9. Insurance requirements.**

Throughout the term of this franchise agreement, the company shall, at its own cost and expense, maintain comprehensive general liability insurance and shall, upon request, provide the city certificates of insurance designating the city as additional insured and demonstrating that the company has obtained the insurance required in this section. Such policy or policies shall be in the minimum amount of \$1,000,000.00 for bodily injury or death to any one person, and \$1,000,000.00 for bodily injury or death to any two or more persons resulting from one occurrence, and \$1,000,000.00 for property damage resulting from any one accident. Such policy or policies shall be non-cancelable except upon 30 days' prior written notice to the city. The company shall provide workers' compensation coverage in accordance with applicable law. The company shall indemnify and hold harmless the city from any workers' compensation claims to which the company may become subject during the term of this franchise agreement. Alternatively, and in lieu of the foregoing insurance requirements, the company may elect to self-insure or insure through its captive insurance carrier, provided that company or its parent company have sufficient net worth to do so, as determined by customary practice in the natural gas utility industry.

## **Section 10. Renewal, term.**

Unless 90 days written notice is given by one party to the other prior to the expiration of this agreement, this franchise shall be considered as renewed and binding in all its provisions for twenty-nine consecutive one-year renewal terms, unless notice is given by either party prior to the expiration of any renewal term that the agreement shall not further renew after the end of the then current renewal term.

## **Section 11. Severability.**

In the event that any provision of this ordinance should be ruled void, invalid, unenforceable or contrary to public policy by any court of competent jurisdiction, the remaining provisions of this ordinance shall survive and be applied, and together with the invalid or unenforceable portion shall

be construed or reformed to preserve as much of the original words, terms, purpose and intent as shall be permitted by law.

**Section 12. Notices.**

Any and all notices required to be given under this agreement shall be in writing and shall be delivered by U.S. Mail, return receipt requested, commercial overnight courier or hand delivery and shall be deemed delivered when received or rejected for receipt by the recipient. The parties' addresses are set forth below and can be changed upon 30 days' notice to the other:

City of Mableton, Georgia  
Attn: Michael Owens, Mayor  
[insert address]

Austell Natural Gas System  
**Insert contact and address**

Adopted by the City Council of the City of Mableton, Georgia, at a meeting held on \_\_\_\_\_, 2023.

Approved: \_\_\_\_\_, 2023.

\_\_\_\_\_

Michael Owens, Mayor

I, \_\_\_\_\_, Clerk of the City of Mableton, Georgia, hereby certify that I was present at the meeting of the City Council of the City of Mableton, Georgia, held on \_\_\_\_\_, 2023, which meeting was duly and legally called and held, and at which a quorum was present, and that an ordinance, a true and correct copy of which I hereby certify the foregoing to be, was duly passed and adopted by the City Council of the City of Mableton, Georgia, at said meeting.

IN WITNESS WHEREOF, I hereunto set my hand and the corporate seal of the City of Mableton, County of Cobb, State of Georgia, this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
City Clerk