New Business #14

COUNTY AGENDA REQUEST

Department:	Legal	Presenter(s):	County Attorney Dennis Davenport
Meeting Date:	Thursday, March 27, 2014	Type of Request:	New Business

Wording for the Agenda:

Consideration of staff's recommendation to adopt Ordinance 2014-05 revising provisions pertaining to Motorized Carts within unincorporated Fayette County.

Background/History/Details:

On August 15, 2013, Mr. Jason Girolami spoke to the Board of Commissioners about the need to have a unified approach to Fayette County's Motorized Cart Ordinances. In his report, he identified two areas of concern with the various golf cart ordinances throughout Fayette County. Those concerns were: 1) Age Restrictions for driving golf carts that differ between the jurisdictions, and 2) Registration / Decals requirements which can be specific for the jurisdictions that residents live in but can become a problem once a person crosses from one jurisdiction to another in his golf cart. At the end of the presentation, the Board directed the County Attorney to return to the Board with review on mimicking the age limits from Peachtree City for Fayette County, and for the county to begin the process of talking to the other jurisdictions upon creating a reciprocal agreement that each jurisdiction recognized the other jurisdiction's registrations.

Ordinance 2014-05 has been drafted with the intention of addressing the concerns that were raised at the August 15, 2013 meeting.

What action are you seeking from the Board of Commissioners?

Approval of staff's recommendation to adopt Ordinance 2014-05 revising provisions pertaining to Motorized Carts within unincorporated Fayette County.

If this item requires funding, please describe:

Not Applicable.

Has this request been considered within the past two years?	No	If so, when?	
Is Audio-Visual Equipment Required for this Request?*	No	Backup Provided with Request?	Yes

**** All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.***

Approved by Finance	Not Applicable	Reviewed by Legal	
Approved by Purchasing	Not Applicable	County Clerk's Approval	Yes
Administrator's Approval			

Staff Notes:

This request is an example of Fayette County working with its municipal partners in an effort to address concerns brought before the Board of Commissioners.

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CHAPTER 10. MOTOR VEHICLES AND TRAFFIC.
ARTICLE III. MOTORIZED CARTS.

Sec. 10-41. Findings; definition.

(a) *Findings.* The board of commissioners finds that certain public streets located within the unincorporated county are designed and constructed so as to safely permit the use thereof by regular vehicular traffic and also the driving thereon of motorized carts. The board of commissioners further finds that recreation paths are designed and constructed so as to safely permit travel thereon by motorized carts.

(b) *Definitions.* The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

All-terrain vehicle means any motorized vehicle designed for off-road use which is equipped with three or more low pressure tires and with a seat to be straddled by the operator and with handlebars for steering control.

Authorized streets means all such streets which have been authorized for motorized cart travel and are on file with the planning and zoning department. The list of authorized streets is subject to amendment from time to time by the board of commissioners.

Automobile means a passenger vehicle primarily designed to legally travel on the highways of this state that usually has an engine capable of propelling the vehicle over 35 miles per hour.

County means Fayette County, Georgia.

Dealer means a person engaged in the business of buying, selling, or exchanging vehicles who has an established place of business in this state.

Electric bicycle means a device with two or three wheels which has a saddle and fully operative pedals for human propulsion and also has an electric motor. For such a device to be considered an electric assisted bicycle, it shall meet the requirements of the Federal Motor Vehicle Safety Standards, as set forth in 49 C.F.R. Section 571, et seq., and shall operate in such a manner that the electric motor disengages or ceases to function when the brakes are applied. The electric motor in an electric assisted bicycle shall:

(1) Have a power output of not more than 1,000 watts;

(2) Be incapable of propelling the device at a speed of more than 20 miles per hour on level ground; and

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(3) Be incapable of further increasing the speed of the device when human power alone is used to propel the device at or more than 20 miles per hour.

Electric personal assistive mobility device or *EPAMD* means a self-balancing, two non-tandem wheeled device designed to transport only one person and having an electric propulsion system with average power of 750 watts (one horsepower) and a maximum speed of less than 20 miles per hour on a paved level surface when powered solely by such propulsion system and ridden by an operator who weighs 170 pounds.

Gross weight means the weight of a vehicle without load plus the weight of any load thereon.

Low-speed motor vehicle or *LSMV* means any four-wheeled electric vehicle whose top speed attainable in one mile is greater than 20 miles per hour but not greater than 25 miles per hour on a paved level surface and which is manufactured in compliance with those federal motor vehicle safety standards for low-speed vehicles set forth in 49 C.F.R. Section 571.500 and in effect on January 1, 2001.

Moped means a motor driven cycle equipped with two or three wheels, with or without foot pedals to permit muscular propulsion, and an independent power source providing a maximum of two brake horsepower. If a combustion engine is used, the maximum piston or rotor displacement shall be 3.05 cubic inches (50 cubic centimeters) regardless of the number of chambers in such power source. The power source shall be capable of propelling the vehicle, unassisted, at a speed not to exceed 30 miles per hour (48.28 kilometers per hour) on level road surface and shall be equipped with a power drive system that functions directly or automatically only, not requiring clutching or shifting by the operator after the drive system is engaged.

Motorcycle means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor, all-terrain vehicle, dirt bike, and moped.

Motor driven cycle means every motorcycle, including every motor scooter, with a motor which produces not to exceed five brake horsepower, every bicycle with a motor attached, and every moped.

Motorized cart means ~~all electric and gasoline-powered pleasure carts which are commonly called golf carts~~every motor vehicle having no less than three wheels and an unladen weight of 1,300 pounds or less and which cannot operate at more than 20 miles per hour. Within this article, the terms "motorized cart," "golf cart" and "cart" shall have the same meanings;~~ these are the only carts authorized for use under this article~~.

Motorized play vehicle means a coaster, scooter, pocket bike, any other alternatively fueled device, or other motorized vehicle that is self-propelled by a motor engine, gas or electric, and is not otherwise defined in this code as a "motorized cart", "low speed motor vehicle (LSMV)" "motor vehicle", "motorcycle", "electric bicycle", motorized skateboard", "electric personal assistive mobility device" or "motorized wheelchair".

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Motorized skateboard or *motorized scooter* means a self-propelled device that has a motor, gas or electric, a deck upon which a person may ride, not equipped with a seat, and at least two tandem wheels in contact with the ground and which is not otherwise defined in this Code as a "motor vehicle," "motorcycle," "motorized play vehicle," "electric personal assistive mobility device" or "motorized wheelchair."

Motorized wheelchair means a self-propelled wheelchair that is used by a physically disabled person for mobility.

Pocket motorcycle or *pocket bike* means a two-wheeled vehicle other than a motor vehicle, bicycle with helper motor or a motorized scooter and which is propelled by an internal combustion engine, electric motor or other mechanical means, is capable of carrying a rider and/or passenger at a speed in excess of 20 miles per hour, and is designed to replicate the general appearance of a motorcycle, regardless of the scale of the replication.

Recreation path means a paved area of generally six feet or more in width that is designed or intended for multi-use such as pedestrians, bicyclists, motorized carts, or any other approved use.

Sidewalk means a paved area of generally five feet in width or less that is designed or intended for the use of pedestrian traffic only.

Sec. 10-42. ~~Operation of gasoline-powered carts.~~ Registration/transfer requirements.

(a) *Required.* It shall be the duty of every owner of an electric or gasoline-powered motorized cart or low-speed motor vehicle that is operated over the designated streets, paved recreational paths or sidewalks of the unincorporated portion of the County to register the vehicle with the County within ten business days of the date of purchase. Proof of ownership listing the vehicle must be presented. This is to be accomplished at the County Administrative Complex where two numerical decals will be issued for each vehicle registered. A record of each vehicle so registered will be completed. The registration will record the name and address of the owner, vehicle manufacturer, model, serial number or VIN, and color.

(b) *Registration fee.* The registration fee for motorized carts and low-speed motor vehicles shall be $15.00, and the registration shall be effective until the end of the third calendar year in which the registration is made. Registration must be renewed by January 1 of each fourth calendar year from the initial registration. Every renewal will be for a period of three years and the fee for said renewal shall be $15.00. If registration is not made within ten (10) business days of purchase or if renewal of registration is not made by January 1 of the required year, a $5.00 penalty shall be applied for each month the motorized cart remains unregistered. This additional penalty shall be capped at $30.00 and will be in addition to the registration or renewal fee. In addition, those persons wishing to register a vehicle designed for a disabled person, presentation of medical verification of a disability is required. An annotation will be placed on the registration document. A decal will be issued and must be displayed when utilizing parking

Comment [P1]: This registration scheme is based on that currently used by the Town of Tyrone.

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designated for the disabled. Upon termination of the disability, this decal must be removed and the vehicle's registration form updated.

(b) *Registration fee.* The registration fee for motorized carts or low-speed motor vehicles owned by residents of the unincorporated portion of the County shall be $12.00, and the registration shall be effective until the next regular registration period. Registration periods shall occur every five years, beginning in 2011. In addition to the initial $12.00 fee for the registration and decal, an annual registration/user fee of $60.00 shall be charged to nonresidents of the unincorporated portion of the County. The nonresident fee is due by January 31 each year until such time as the cart is sold or otherwise disposed of. This nonresident registration/user fee shall be prorated for carts purchased after January 31 of the first calendar year of ownership, unless the nonresident had previously paid the registration/user fee the same calendar year, in which case the $12.00 registration fee would be required to register and obtain decals for the new cart. If the cart is not registered within ten business days of purchase, a $20.00 penalty will be applied in addition to the registration fee; and the cart shall be considered an unregistered cart after the ten business-day period. In addition, those persons wishing to register a vehicle designed for a disabled person, presentation of medical verification of a disability is required. An annotation will be placed on the registration document. A decal will be issued and must be displayed when utilizing parking designated for the disabled. Upon termination of the disability, this decal must be removed and the vehicle's registration form updated.

Comment [P2]: This registration scheme is based on that currently used by Peachtree City.

(c) *Revocation.* The registration of gasoline-powered motorized carts will be revoked if the motorized cart is not in compliance with subsection (f) of this section and a new registration will be required upon compliance with subsection (f) of this section.

(d) *Reciprocal agreement.* A reciprocal agreement exists between the County and the City of Fayetteville, the City of Peachtree City and the Town of Tyrone (the "Cities"). The County will honor/recognize permits issued from the Cities in the unincorporated portion of the County. Residents of the Cities will be afforded the same privileges as those permit holders who are residents of the unincorporated portion of the County and all sections of this article will apply to the residents of the Cities as well. Notwithstanding anything contained herein to the contrary, the minimum age for operating a motorized cart or low-speed motor vehicle in the unincorporated portion of the County is 12 years old with an accompanying adult and 15 years old with a valid learner's permit.

Comment [P3]: Peachtree City and Tyrone currently have provisions in their ordinances granting reciprocity for residents of both cities. If Fayette County desires to participate in reciprocity with these cities, as well as Fayetteville, it may be necessary for these cities to revise their ordinances accordingly.

(e) *Transfer of ownership.* Upon the sale of a golf cart or low-speed motor vehicle to another person who will operate the vehicle over the streets or paved recreation paths of the unincorporated portion of the County, the registration must be transferred to the new owner within ten business days of the change in ownership. Transfer cost will be $5.00. If the transfer registration is not accomplished within ten business days, a $5.00 penalty shall be applied for each month the registration has not been updated. This additional fee shall be capped at $30.00 and will be in addition to the transfer fee.

(f) *Gasoline-powered motorized carts.*

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(~~a~~1) Every gasoline-powered motorized cart shall at all times be equipped with an exhaust system in good working order and in constant operation, meeting the following specifications:

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(~~1~~a) The exhaust system shall include the piping leading from the flange of the exhaust manifold to, and including, the muffler(s) and exhaust pipe(s) or include any and all parts specified by the manufacturer.

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(~~2~~b) The exhaust system and its elements shall be securely fastened, including the consideration of missing or broken brackets or hangers.

(~~3~~c) The engine and power mechanism of every gasoline-powered motorized cart shall be so equipped, adjusted and tuned, as to prevent the escape of excessive smoke or fumes.

(~~b~~2) It shall be unlawful for the owner of any gasoline-powered motorized cart to operate, or permit the operation of~~,~~ such cart on which any device controlling or abating atmospheric emissions, which is placed on a cart by the manufacturer, has been altered, rendered unserviceable or removed.

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(g) *Rental motorized carts and low-speed motor vehicles.* Motorized cart and low-speed motor vehicle dealers and distributors, as well as other commercial establishments, may rent golf carts and low-speed motor vehicles to the public for use on the streets and paved recreation paths. Each such establishment renting motorized carts or low-speed motor vehicles shall be required to register each and shall maintain a written record of each person renting a motorized cart or low-speed motor vehicle. Renters shall be required to furnish positive identification and shall be furnished a copy of this article to read. Each renter must be at least 16 years of age and possess a valid driver's license. Registration fees and transfer fees shall be the same as those in subsections (a) and (b) of this section. Motorized carts and low-speed motor vehicles for temporary use by the County during special events are exempt from the requirements of this subsection.

(h) *Age, number of registrants limited.* Only those persons 18 years of age or older may register a motorized cart or low-speed motor vehicle. Registration may be in one person's name only and the registration form must be signed by that person.

Sec. 10-43. Operating regulations.

(a) Any person who possesses a valid motor vehicle driver's license ~~and is at least sixteen (16) years of age~~ may operate a motorized cart or low-speed motor vehicle on the recreation paths and authorized streets of the unincorporated portion of the County.

(b) Any person who possesses a valid motor vehicle learner's permit and is at least fifteen (15) years of age may operate a motorized cart or low-speed motor vehicle on the recreation paths and authorized streets of the unincorporated portion of the County~~, so long as such person~~

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~~is accompanied in the front seat by a person who possesses a valid motor vehicle driver's license and is at least eighteen (18) years of age~~.

(c) No person less than fifteen (15) years of age shall be permitted to operate a motorized cart or low-speed motor vehicle on the recreation paths and authorized streets of the unincorporated portion of the County under any circumstances. Exception: Those persons who are 12 years of age or older may drive a motorized cart or low-speed motor vehicle on designated streets and paved recreation paths of the unincorporated portion of the County if they are accompanied in the front seat by a person at least 18 years of age who holds a valid motor vehicle driver's license.

(d) All operators of motorized carts and low-speed motor vehicles shall abide by all traffic regulations applicable to vehicular traffic when using the recreation paths and authorized streets of the unincorporated portion of the County. ~~Recreation paths~~ Where recreation paths exist, they must be used in preference to parallel authorized streets.

(e) Motorized carts and low-speed motor vehicles shall not be operated on sidewalks at any time.

(f) Motorized carts and low-speed motor vehicles may be operated over authorized streets or recreation paths of the unincorporated portion of the County only during daylight hours, unless such motorized carts or low-speed motor vehicles are equipped with functional headlights and taillights.

(g) It shall be unlawful for the owner of any motorized cart or low-speed motor vehicle to operate, or permit the operation of, such cart over the recreation paths or authorized streets of the unincorporated portion of the County in violation of this article.

Sec. 10-44. Recreation path users prohibited uses.

Recreation paths shall not be used by:

(1) Automobiles and trucks, except authorized maintenance vehicles;

(2) Motorcycles;

(3) Street and trail motorized bikes (not to include electric bicycles) or vehicles, including, but not limited to, all-terrain vehicles, commonly known as ATVs;

(4) Minibikes and mopeds;

(5) Horses, mules or donkeys~~; and~~

(6) Go-carts.

(7) Motorized play vehicles;

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(8) Unregistered electric motorized carts; and

(9) Unregistered gasoline-powered motorized carts.

Sec. 10-45. Hazardous activities and special rules.

No individual or group shall engage in hazardous activities on the recreation paths or authorized streets. Such hazardous activities include, but are not limited to, the following:

(1) Racing of any kind, except for special events approved by the ~~county~~County.

(2) Blocking of public access, except for special events approved by the ~~county~~County.

(3) Pedestrians, skaters and permitted vehicles shall not loiter or park on recreation path bridges or in underpasses.

(4) Pedestrians should be given due consideration and reasonable right-of-way by other users of the recreation paths to ensure safe passage.

(5) An audible warning shall be given by operators of motorized carts and low-speed motor vehicles and other users of the recreation paths, such as bicyclists and skaters, when approaching pedestrians from the rear.

(6) All laws and ordinances relative to alcohol and the use thereof, including open container laws, apply to the recreation paths.

Sec. 10-46. Liability.

Each person using the recreation paths is liable for his or her own actions.

Sec. 10-47. Penalties.

Any person who violates the terms of this article shall be punished as provided in section 1-8 of the county code.