



TOWN COUNCIL REGULAR MEETING

Town Council Chambers, Moncks Corner Municipal
Complex, 118 Carolina Avenue
TUESDAY, NOVEMBER 18, 2025 at 6:00 PM

AGENDA

CALL TO ORDER

INVOCATION

1. **Invocation:** Tory J. Liferidge, Pastor of Grace Reformed Episcopal Church

PLEDGE OF ALLEGIANCE

PRESENTATIONS

2. **Proclamation:** November 20th - World Pancreatic Cancer Day in the Town of Moncks Corner

APPROVAL OF MINUTES

3. **Regular Meeting Minutes:** October 21, 2025

REPORTS

4. **Mayor's Report:** Thomas J. Hamilton, Jr.
5. **Administrator's Report:** Jeffrey V. Lord

NEW BUSINESS

6. **Consideration:** Staff recommended consultant for the awarded Safe Streets and Roads for All (SS4A) Grant Program.
7. **First Reading:** Consider an Annexation (AN-25-03) request for one (1) parcel (142-10-01-079) totaling ~0.93 acres, addressed as 525 S. Live Oak to be annexed in to the Town's corporate limits, seeking be zoned Office & Institutional (C-1).
8. **First Reading:** Consider an Zoning Map Amendment (CZ-25-02) request for a parcel (142-08-04-012) totaling ~4.2 acres, located at 402 Wall Street. The parcel is requesting to be zoned Conditional Zoning Single Family Residential (CZ R-2)

OLD BUSINESS

9. **Second Reading and Public Hearing:** A Master Bond Ordinance of the Town of Moncks Corner, South Carolina, providing for the issuance and sale of Stormwater System Revenue Bonds; and other matters relating thereto.
10. **Second Reading and Public Hearing:** A Series Ordinance of the Town of Moncks Corner, South Carolina, providing for the issuance and sale of Stormwater System Revenue Bonds in the aggregate principal amount of not exceeding \$3,750,000 and providing for other matters relating thereto.
11. **Second Reading and Public Hearing:** Consider an Annexation (AN-25-02) request for two (2) parcels (162-00-02-021 & -075) totaling ~6.81 acres, addressed as 1288 Old Highway 52 to be annexed in to the Town's corporate limits, seeking be zoned Office & Institutional (C-1).

- 12. Second Reading and Public Hearing:** An Ordinance to amend the Chapter 16, Article of the Town Code (Tree Protection Ordinance) to adjust certain processes and mitigation requirements.

PUBLIC INPUT - Public Input will be limited to 3 minutes per individual

EXECUTIVE SESSION - Council may take action regarding matters discussed

13. Discussion:

- * Contractual matters related to Jolly Lane Property.
- * Contractual negotiations related to the Downtown Redevelopment Project.

ADJOURNMENT

In accordance with the Americans with Disabilities Act, persons who need accommodation in order to attend or participate in this meeting should contact Town Hall at (843) 719- 7900 within 48 hours prior to the meeting in order to request such assistance.

PANCREATIC
CANCER
ACTION
NETWORK

Town of Moncks Corner Proclamation

Declaring November 20 as World Pancreatic Cancer Day in the Town of Moncks Corner.

WHEREAS in 2025, an estimated **67,440** people will be diagnosed with pancreatic cancer in the United States and **51,980** will die from the disease; and

WHEREAS pancreatic cancer is one of the deadliest cancers, is currently the third leading cause of cancer death in the United States, and is projected to become the second leading cause around 2030; and

WHEREAS pancreatic cancer is the only major cancer with a five-year relative survival rate at just **13 percent**; and

WHEREAS when symptoms of pancreatic cancer present themselves, it is generally in later stages, and **90 percent** of pancreatic cancer patients die within the first five years; and

WHEREAS approximately **820 deaths** will occur in South Carolina in 2025; and

WHEREAS pancreatic cancer is **the seventh most common** cause of cancer-related death across the world; and

WHEREAS there were an estimated **510,992 new pancreatic cancer cases diagnosed worldwide in 2022**; and

WHEREAS the good health and well-being of the residents of Moncks Corner are enhanced as a direct result of increased awareness about the symptoms and risks of pancreatic cancer, and research into early detection, causes, and effective treatments.

NOW, THEREFORE, I, Thomas J. Hamilton Jr., Mayor and Town Council Members of the Town of Moncks Corner, proclaim November 20 as World Pancreatic Cancer Day in the Town of Moncks Corner.

Signed this 18th day of November 2025.


Thomas J. Hamilton, Jr., Mayor





TOWN OF MONCKS CORNER REGULAR COUNCIL MEETING

Town Council Chambers, Moncks Corner Municipal
Complex, 118 Carolina Avenue
TUESDAY, OCTOBER 21, 2025 at 6:00 PM

MINUTES

CALL TO ORDER

The regular meeting of the Town Council was called to order by Mayor Thomas J. Hamilton, Jr. at 6:00 p.m.

Present:

Mayor Thomas J. Hamilton, Jr.
Mayor Pro-Tem David A. Dennis, Jr.
Council Member DeWayne G. Kitts
Council Member Latorie S. Lloyd
Council Member Chadwick D. Sweatman
Council Member James B. Ware, III

Staff Present:

James E. Brogdon, Town Attorney
Jeffrey V. Lord, Town Administrator
Marilyn M. Baker, Administrative Services Director/Clerk to Council
Justine H. Lovell, Finance Director
James C. Jackson, III, Fire Chief
Corey Denny, Battalion Chief
R. Logan Faulkner, Public Service Director
Mohamed A. Ibrahim, Technology Director
Elizabeth B. Rentz, Recreation Director
Lee W. Mixon, Jr., Police Chief
Justin S. Westbrook, Community Development Director
Carter France, Town Planner

Absent: Council Member James N. Law, Jr.

INVOCATION

Invocation was delivered by Jericho Nelson, Pastor of Macedonia Christian Church

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance to the American Flag was led by Council Member DeWayne Kitts.

SPECIAL PRESENTATIONS:

Introduction of new Police Officers:

- Lt Richard Gerten
- Officer Michael Abatantiono
- Officer Brandon Rawls
- Officer Adam Browning

Awards Presentation:

Police Chief Mixon presented the following Awards to the following Police Officers:

- Outstanding Intervention During a Mental Health Emergency:
 - Sergeant Daniel Breen
 - Officer Tommy Harger, Jr.
- Officer of the 3rd Quarter:
 - Officer Lucas Greer
- Supervisor of the 3rd Quarter:
 - Sergeant Andrew Turner

APPROVAL OF MINUTES

1. Regular Meeting Minutes: September 16, 2025

Motion was made by Mayor Pro-Tem Dennis to approve the regular meeting minutes of September 16, 2025. Motion was seconded by Council Member Ware and approved unanimously as follows:

Voting Yea: Mayor Hamilton, Mayor Pro-Tem Dennis, Council Member Kitts, Council Member Lloyd, Council Member Sweatman, Council Member Ware.

REPORTS

2. Mayor's Report: Thomas J. Hamilton, Jr.

Mayor Hamilton reported that he attended and participated in the following:

9/17/25: Ribbon Cutting for Lowcountry Health Brokers. Councilman Dennis and Council Woman Lloyd were also in attendance.

9/19/25: The Tidal Wave's Charity Event for the Miracle League.

He thanked the Recreation Team, Police and Fire Departments for showing up to raise funds. A total of \$3807.00 was raised during the event.

9/20-21/2025: The South Carolina Interscholastic Cycling League races at Biggin Creek Trail were held. These are middle and high school age girls and boys who competed. There were well over 200 participants. He added that he is hopeful that they will return next year.

10/04-05/2025: Travel ball tournaments at the Rec Complex. Teams from Virginia, Fort Mill and two from Georgetown participated along with several teams from the Lowcountry.

10/07/25: The Police Department hosted the National Night Out event, it was a great success. He expressed his appreciation to the Police for hosting the event and to the Fire Department for participating.

10/07/25: He spoke to the Kappa Kappa Kappa Teacher Sorority at the Methodist Church. They hosted with a meal, and he shared updates on current happenings around Town. The evening was wrapped up with a lively Q&A session.

10/15/25: Municipal Elected Official Advanced Training in Columbia through the Municipal Association of SC.

10/16/25: The Berkeley High School Homecoming Parade. He thanked the Moncks Corner Police Department for their outstanding traffic support and the Fire Department for joining in the festivities. He added that their presence helped make the event safe and memorable for everyone.

10/17/25: Ribbon cutting for Yesterdays and Todays Unique Treasures. Councilman Dennis and Councilman Sweatman also attended.

10/18/25: He and his wife were invited to attend the wedding of Corporal Robert Hobart, one of our dedicated Motorcycle Officers. He added that Robert does an outstanding job serving the Town, and it was a joy to celebrate this special occasion with him.

10/19/25: Red Ribbon Family Day. He thanked the Moncks Corner Police and Fire Departments for attending this event.

The Miracle League season wrapped up last week. He added that it was an incredible season and truly inspiring to see the joy and energy on the field. He offered a special thank you to Matt Fluharty, Director of the Miracle League, the entire recreation staff, the participants and their families, the volunteer coaches and buddies. He thanked the Santee Cooper Credit Union, for providing medals for the participants, Cookie Pics, for donating delicious cookies for every game and Kona Ice for providing free Kona Ice for everyone.

10/28/25: Halloween store front decorating contest.

10/29/25: Town's annual Halloween Festival.

11/15/25: Annual Pickin' in the Corner.

12/05/25: Annual Christmas Tree Lighting.

12/06/25: Annual nighttime Christmas Parade.

3. **Administrator's Report:** Jeffrey V. Lord

Introduction: Administrator Lord introduced James C. Jackson, III, as the new Fire Chief for the Town of Moncks Corner. Chief Jackson came to the Town from the City of Chester. He has 25 years' experience in the Fire Service and of those, 13 years' experience as a Fire Chief. He has multiple certifications and currently serves as the President of the SC Fire Marshal's Association. Chief Jackson thanked Council for the opportunity.

NEW BUSINESS

4. **Consideration:** Architectural Services for Town Hall and Fire Station 1

Administrator Lord reported that in February 2025, Council authorized engaging Creech and Associates for the project. The initial \$20,000 proposal included two phases: \$15,000 for public safety master planning and \$5,000 for other areas to meet grant requirements.

Upon completion of the Master Plan, the remaining services—Schematic Design, Design Development, Construction Documents, and Construction Administration—were originally set at 10% of construction cost, with minimum fees of \$400,000 (public safety) and \$219,000 (other areas), totaling \$619,000.

Following the Master Plan, the project scope expanded to include new construction, requiring revised contracts and fees. The 10% fee structure remains, with a minimum fee of \$384,500 (public safety) and \$840,000 (other areas), totaling \$1,224,500.

The project will be funded by Berkeley County ARPA (\$550,000) and the General Fund.

Motion was made by Mayor Pro-Tem Dennis. Motion was seconded by Council Member Sweatman and approved unanimously as follows:

Voting Yea: Mayor Hamilton, Mayor Pro-Tem Dennis, Council Member Kitts, Council Member Lloyd, Council Member Sweatman, Council Member Ware.

5. **First Reading:** Consider an Annexation (AN-25-02) request for two (2) parcels (162-00-02-021 & -075) totaling ~6.81 acres, addressed as 1288 Old Highway 52 to be annexed into the Town's corporate limits, seeking be zoned Office & Institutional (C-1).

Community Development Director Westbrook presented an overview of the request to Council. Staff recommended denial, citing inconsistencies with the Future Land Use Map, the character of the existing built environment, and the intent to preserve the residential nature of the roadway from potential commercial encroachment. He further noted that, if the property is annexed, staff cannot guarantee the future uses should the proposed development not proceed.

The Planning Commission recommended approval of the request by a vote of 5–2.

Mayor Hamilton expressed concern about approving the request in contradiction to the recently adopted Future Land Use Map.

Motion was made by Mayor Pro-Tem Dennis to approve. Motion was seconded by Council Member Kitts and approved by majority vote as follows:

Voting Yea: Mayor Pro-Tem Dennis, Council Member Kitts, Council Member Lloyd, Council Member Sweatman, Council Member Ware.

Voting Nay: Mayor Hamilton

6. First Reading: An Ordinance to amend the Chapter 16, Article of the Town Code (Tree Protection Ordinance) to adjust certain processes and mitigation requirements.

Council previously raised concerns about the impact of the current tree protection ordinance on homeowners. In response, staff solicited feedback from Council and referred the matter to the Town's planning consultant for an evaluation, as the ordinance is part of the Unified Development Ordinance (UDO).

Administrator Lord provided a brief overview of the proposed changes, explaining that the revisions aim to reduce the burden on single-family residential properties while preserving the overall integrity of the tree protection ordinance.

Council Member Sweatman made a motion to approve the proposed revisions to the tree protection ordinance, with discussion. The motion was seconded by Council Member Lloyd.

Discussion: During discussion, Council Member Sweatman requested clarification regarding the size and type of trees that would require a permit. He expressed appreciation for the work done on the revisions but noted ongoing concerns about the Town regulating what homeowners can do on their property.

Administrator Lord clarified that a permit would be required to verify the size of the tree. However, the matter would only be referred to the Planning Commission if the tree qualifies as a grand tree, defined as 24 inches in diameter or larger.

Council Member Sweatman amended his motion to approve the proposed revisions to the tree protection ordinance, with the condition that the grand tree requirement apply only to Live Oaks measuring 24 inches or greater in diameter. The amended motion was seconded by Council Member Kitts and approved by majority vote as follows:

Voting Yea: Mayor Pro-Tem Dennis, Council Member Kitts, Council Member Lloyd, Council Member Sweatman, Council Member Ware.

Voting Nay: Mayor Hamilton

7. First Reading: A Master Bond Ordinance of the Town of Moncks Corner, South Carolina, providing for the issuance and sale of Stormwater System Revenue Bonds; and other matters relating thereto.

Administrator Lord gave Council an overview of the Master Bond Ordinance and how it will be administered.

Motion was made by Mayor Pro-Tem Dennis to approve. Motion was seconded by Council Member Lloyd and approved unanimously as follows:

Voting Yea: Mayor Hamilton, Mayor Pro-Tem Dennis, Council Member Kitts, Council Member Lloyd, Council Member Sweatman, Council Member Ware.

- 8. First Reading:** A Series Ordinance of the Town of Moncks Corner, South Carolina, providing for the issuance and sale of Stormwater System Revenue Bonds in the aggregate principal amount of not exceeding \$3,750,000 and providing for other matters relating thereto.

Motion was made by Mayor Pro-Tem Dennis to approve. Motion was seconded by Council Member Sweatman and approved unanimously as follows:

Voting Yea: Mayor Hamilton, Mayor Pro-Tem Dennis, Council Member Kitts, Council Member Lloyd, Council Member Sweatman, Council Member Ware.

OLD BUSINESS

9. Second Reading and Public Hearing: Ordinance No. 2025 -09

Consider a Zoning Map Amendment (ZA-25-05) request for a parcel (142-07-01-002) totaling ~10,000 square feet, located at 111 Heatley Street. The parcel is requesting to be zoned Office & Institutional (C-1).

Community Development Director Justin Westbrook provided a comprehensive overview of the zoning request. Staff and the Planning Commission recommend approval.

Public Hearing: There were no comments from the public.

Motion was made by Mayor Pro-Tem Dennis to approve. Motion was seconded by Council Member Kitts and approved unanimously as follows:

Voting Yea: Mayor Hamilton, Mayor Pro-Tem Dennis, Council Member Kitts, Council Member Lloyd, Council Member Sweatman, Council Member Ware.

10. Second Reading and Public Hearing: Ordinance No. 2025-10

Consider a Zoning Map Amendment (ZA-25-06) request for a parcel (142-07-01-001) totaling ~13,800 square feet, located at 111-A Heatley Street. The parcel is requesting to be zoned Office & Institutional (C-1).

Community Development Director Justin Westbrook provided a comprehensive overview of the zoning request. Staff and the Planning Commission recommend approval.

Public Hearing: There were no comments from the public.

Motion was made by Mayor Pro-Tem Dennis to approve. Motion was seconded by Council Member Sweatman and approved unanimously as follows:

Voting Yea: Mayor Hamilton, Mayor Pro-Tem Dennis, Council Member Kitts, Council Member Lloyd, Council Member Sweatman, Council Member Ware.

11. Second Reading and Public Hearing: Ordinance No. 2025.-11

Consider an Annexation (AN-25-03) request for a parcel (122-00-01-013) totaling ~13.2 acres, addressed as 468 Nelson Ferry Road to be annexed into the Town's corporate limits, seeking be zoned Light Industrial (M-1).

Community Development Director Justin Westbrook provided a comprehensive overview of the annexation. Staff and the Planning Commission recommend approval.

Public Hearing: There were no comments from the public.

Motion was made by Mayor Pro-Tem Dennis to approve. Motion was seconded by Council Member Sweatman and approved unanimously as follows:

Voting Yea: Mayor Hamilton, Mayor Pro-Tem Dennis, Council Member Kitts, Council Member Lloyd, Council Member Sweatman, Council Member Ware.

PUBLIC INPUT: There were no comments from the public.

EXECUTIVE SESSION:

12. Motion was made by Mayor Pro-Tem Dennis to go into executive session to discuss contractual matters related to the expansion of public safety facilities.

Motion was seconded by Council Member Lloyd and approved unanimously as follows:

Voting Yea: Mayor Hamilton, Mayor Pro-Tem Dennis, Council Member Kitts, Council Member Lloyd, Council Member Sweatman, Council Member Ware.

Out of Executive Session and Reconvene to the Regular Meeting:

Motion was made by Mayor Pro-Tem Dennis to come out of executive session and reconvene to the regular meeting. Motion was seconded by Council Member Sweatman and approved unanimously as follows.

Voting Yea: Mayor Hamilton, Mayor Pro-Tem Dennis, Council Member Kitts, Council Member Lloyd, Council Member Sweatman, Council Member Ware.

Mayor Hamilton announced that there was no action taken during executive session.

ADJOURNMENT

Motion was made by Council Member Kitts and seconded by Council Member Ware to adjourn the regular meeting of Council. Motion was approved unanimously as follows.

Voting Yea: Mayor Hamilton, Mayor Pro-Tem Dennis, Council Member Kitts, Council Member Lloyd, Council Member Sweatman, Council Member Ware

The meeting was adjourned at 7:48 p.m.

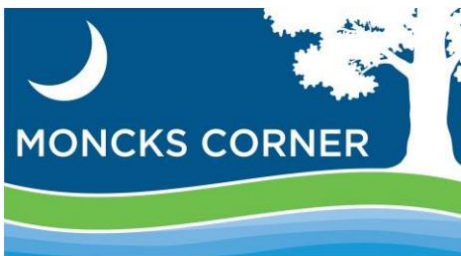
A copy of this meeting's agenda was e-mailed to the Post and Courier, The Berkeley Independent, Live 5 News, Channel 4, Channel 2, and The News Journal Scene. As required, the agenda was posted on the Municipal Complex bulletin board and the Town Website at least 24 hours prior to the meeting.

Minutes Approved and Adopted:

Marilyn M. Baker/Clerk to Council

November 18, 2025

DATE

*The Lowcountry's Hometown*PO Box 700 | Moncks Corner, SC 29461 | 843.719.7900 | monckscorner.sc.gov

STAFF REPORT

TO: Town Council

FROM: Justin Westbrook, Community Development Director

SUBJECT: Consulting Firms for Safe Streets for All (SS4A) Planning & Demonstration Grant

DATE: November 11, 2025

Background: The town sought and was awarded a Demonstration and Planning grant by the US Department of Transportation, for their Safe Streets and Roads for All (SS4A) Grant Program. This grant program was created to provide \$5 billion in appropriated funds for regional and local initiatives to prevent roadway fatalities and serious injuries. The grant type the Town applied for is a Demonstration and Planning grant, to develop an Action Plan, and was awarded \$240,000.00 to help create and implement an action plan. The Town will use these monies to hire a consultant who has experience writing such plans.

An Action Plan will study traffic concerns in Town, with a focus on our major corridors, and provide a list of potential projects and goals aimed to helping provide safer streets. Once adopted, the Town may then be eligible to seek implementation grants through the SS4A program for funding the infrastructural, behavioral, and operational projects in the Action Plan.

Staff solicited qualifications using a Request for Qualifications (RFQ) on October 7th, 2025, and received them on October 31st, 2025. Staff reviewed and scored the four (4) submittals, having spoken with all applicants during the process, for questions and request for clarifications.

Exhibits: N/A

Funding: N/A

Staff Recommendation: After rating all applicants using the scoring criteria in the Request for Qualifications (RFQ), Staff was able to identify an applicant that most closely aligned with our RFQ and who has performed similar work and seen very positive results from around the State and Lowcountry. Staff is recommending Stantec for their approach, methodology, availability and familiarity with the SS4A program.

Town Council Action Requested: Approve Staff to move forward using a consulting firm and authorize the Community Development Director to execute indefinitely Delivery Contracts with the listed firms.

*The Lowcountry's Hometown*

PO Box 700 | Moncks Corner, SC 29461 | 843.719.7900 | monckscorner.sc.gov

STAFF REPORT

TO: Town Council

FROM: Justin Westbrook, Community Development Director

SUBJECT: Annexation (AN-25-03) – Leiriane Junquera

DATE: November 11, 2025

Background: The applicant, Leiriane Junquera of 208 Oystercatcher Way, Simpsonville SC, has applied for **Annexation** (AN-25-03) for one (1) parcel (TMS # 142-10-01-079) addressed as 525 S Live Oak Drive. The applicant is seeking the parcel to be zoned **Office & Institutional (C-1)**.

Existing Zoning: The subject parcel is currently in the Berkeley County **General Commercial District (GC)** Zoning District. Per Berkeley County's Zoning Ordinance, this zoning district is intended to provide,

"For the development of commercial centers that serve the retail and services needs of the surrounding community within a ten-minute drive. The regulations in this district are intended [to] Ensure that developments complement the character of the surrounding community; and Ensure that appropriate pedestrian linkages with adjacent land uses are included; and Minimize roadway hazards caused by numerous or poorly located curb cuts; and Buffer from incompatible uses; and Strengthen business and commercial activity by concentrating facilities; and Dissuade noncomplementary uses that might weaken or conflict with commercial activity."

Adjacent Zoning		Adjacent Land Use
North	General Commercial (GC)(Berkeley County)	Undeveloped
South	General Commercial (GC)(Berkeley County)	Undeveloped
	Agricultural District (Flex1)(Berkeley County)	
East	Office & Institutional (C1)	Pruitt Health
West	General Commercial (GC)(Berkeley County)	Undeveloped

Existing Site Conditions: The subject parcel comprises of approximately 0.94 acres, which is currently undeveloped. Per the National Wetlands Inventory map, there appears to be some delineated wetlands at the Northwest corner of the subject parcel. The subject parcels front Live Oak Drive, with approximately 205 feet of road frontage.

Proposed Zoning Request: The applicant has requested to rezone the subject parcel to the **Office & Institutional (C-1)** Zoning District. Per the Town’s Zoning Ordinance, Office & Institutional (C-1) Zoning District is intended to:

“accommodate a variety of general light commercial uses characterized primarily by professional office and service establishments, as well as boutique retail and restaurants, and oriented primarily to major traffic arteries or extensive areas of predominately commercial usage and characteristics.”

Staff are generally in support of annexing non-residentially zoned land within the Live Oak Drive corridor, that is steadily transforming into a moderately traversed throughfare. With the proximity to existing **Office & Institutional (C-1)** and **Berkeley County General Commercial (GC)** along Live Oak Drive, the proposed zoning district and current and future associated uses fit the overall character of the corridor.

Density: The subject parcels consist of approximately 0.94 acres. Per the Zoning Ordinance, the maximum lot coverage for **Office & Institutional (C-1)** zoning district is 60%. Upon Staff’s first review of the Site Plan, It does not appear the proposed flatwork and structure exceeds that standard.

Transportation: At this time, Staff will not require a separate Traffic Impact Analysis (TIA) for the subject parcel. Should a more intensive use seek to establish on this property, Staff reserves our right per Section 5-9. D of the Zoning Ordinance, to require a TIA prior to the establishment of the proposed use.

Environmental: Staff will ensure all environmental concerns are addressed per the Zoning Ordinance, Stormwater Ordinance, and all other Town adopted policies and procedures. Any increase in impervious area would be required to meet the standards of the Town’s Stormwater Design Standards Manual.

Consistency with Plans: Adopted in 2024 as part of the Town’s Comprehensive Plan, the Future Land Use Map identifies the subject parcel as “Town-Character Residential”. The Plan calls for this land use to be designated for:

“Intended to promote and enhance smaller lot, town mixed residential type neighborhoods near the downtown, commercial corridors and transportation nodes. A mixture of densities should be promoted to include single-family houses, duplexes, triplexes, accessory dwelling units (ADUs), and small-scale apartments.”

The requested zoning designation does not appear to be congruent with this designation of the Future Land Use Map as the Comprehensive Plan defines “Town Character Residential” to be residential in nature with a mix of densities.

The subject parcel appears to be within the aforementioned “Mixed Use Overlay”, which the Plan defines as:

“A 250 ft mixed-use buffer (500 ft in total width) along select roadways is intended to allow for a mixture of higher density residential and low intensity service-based commercial land uses. This overlay provides flexibility for the Town to expand economic opportunities beyond the traditional downtown or strip mall type commercial corridors. Common commercial uses could include professional or medical offices, salons, corner stores, and other uses that provide daily services to local residents. Prime examples of a Neighborhood Mixed Use Corridor

are along Broughton Rd and Carolina Ave. Corridors, like these, have formed naturally by the pressures and demands of a growing economy. This Overlay also encourages higher density residential units such as du-tri- or quadruplexes, townhomes, condos and multi-family apartments to be located on or adjacent to these commercial businesses..”

The requested parcel shows the property within the “Mixed Use Overlay”. This overlay promotes “low intensity service-based commercial land uses.” Staff interprets uses with low intensity to be similar uses to, medical offices, corner stores and other uses that provide daily services to residents; intended use types that are generally permitted by-right within the **Office & Institutional (C-1)** zoning district. As this request seeks **Office & Institutional (C-1)**, it appears this request complies with the Town’s Comprehensive Plan.

The Comprehensive Plan also lays out various goals and implementation strategies to help in decision making for land use requests. Staff believes the applicant and request generally follow the following policies listed in the plan.

3. Enhance economic opportunities by improving the retention of businesses and encouraging a range of uses and services.

Staff does not believe that any of the various goals and implementation strategies conflict with the request.

Procedural Issues: As the subject parcels are requesting annexation by 100% of the property owners, and have signed annexation petitions, the request will be presented for approval at two (2) separate Town Council meetings. As part of this request, the applicant is also seeking to apply Town of Moncks Corner zoning to the subject parcels.

As part of any Zoning Map Amendment, the request must be at least two (2) acres, or an extension of an existing district boundary, or additional C-1 zoning contiguous to existing commercial. In this case, the parcel is over two (2) acres in size, therefore negating the concern for spot zoning.

Staff Analysis: Staff believes that the designated future land use may not be consistent with the requested zoning district, however with the inclusion of the “Mixed Use Overlay” land use encompassing the subject parcel, and the inclusion of one (1) of the implementation strategies of the Comprehensive Plan lends credence to the requested zoning district.

Staff Recommendation: After analysis of the resources provided to Staff, approval is recommended for the requested **Office & Institutional (C-1)** zoning designation for the subject parcel. Staff’s recommendation is due to the presence of the “Mixed Use Overlay” around the subject parcel, the request’s alignment with goal and implementation strategy number three (3) as seen in the Town’s 2024 Comprehensive Plan, and the existing commercial nature of the Live Oak Drive Corridor.

Planning Commission Recommendation: The Planning Commission heard the request at their October 28th meeting. The Commission voted unanimously in favor of recommending APPROVAL of the requested annexation and zoning of Office & Institutional (C-1) designation for the subject parcel. The applicant spoke in favor of the

request. The Planning Commission discussed the request regarding developing in the county versus annexing into the Town.

Attachments: SIGNED - Application (20250828)
Location Maps (Aerial, Zoning, Future Land Use Map, Environmental)

Annexation (AN-25-03) Junqueira

Item 7.



Subject Parcel

17A

BERKELEY
COUNTY

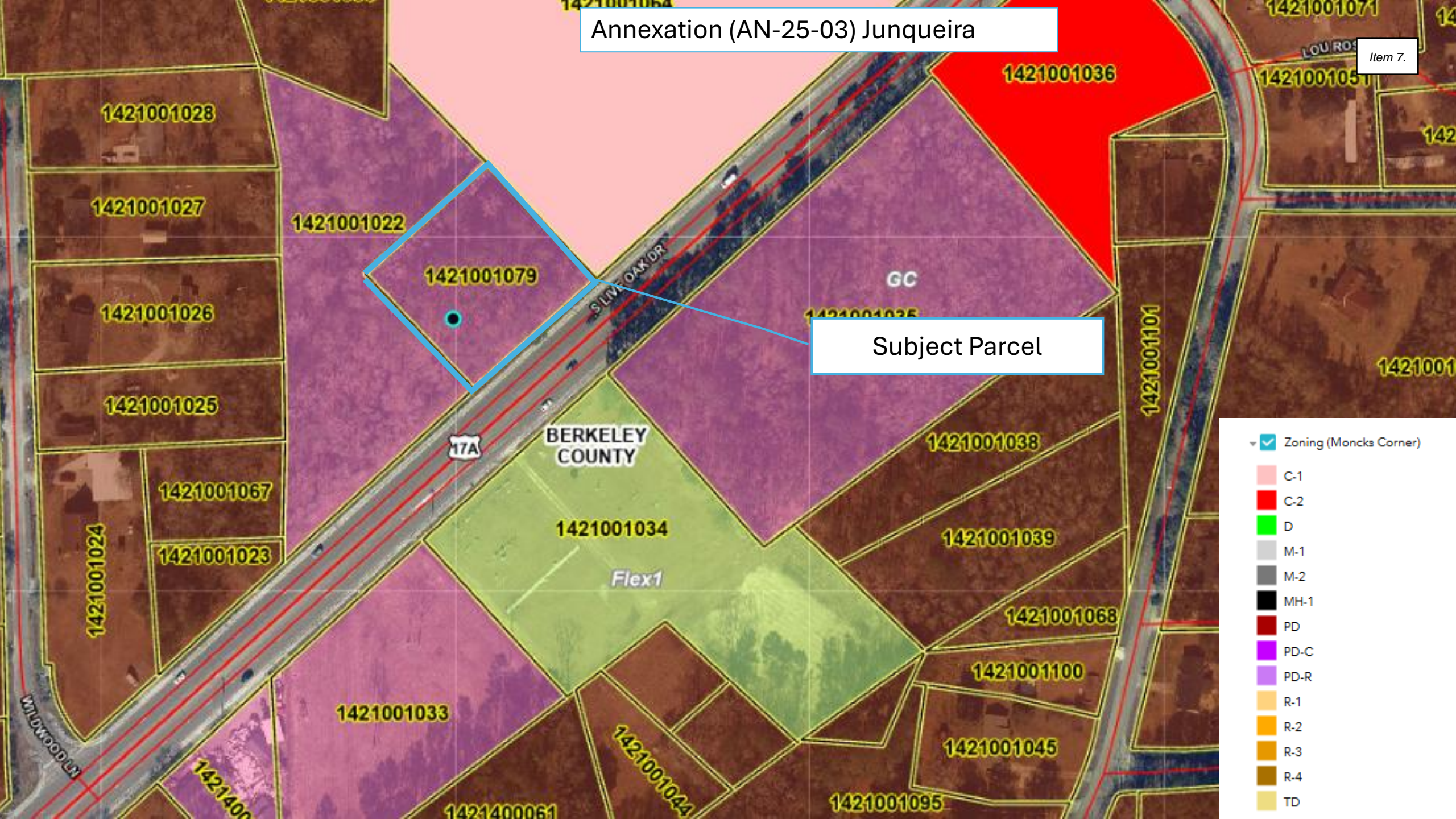
WILLOWOOD

HOWIE TR

ANNIE WILLIAM

Annexation (AN-25-03) Junqueira

Item 7.



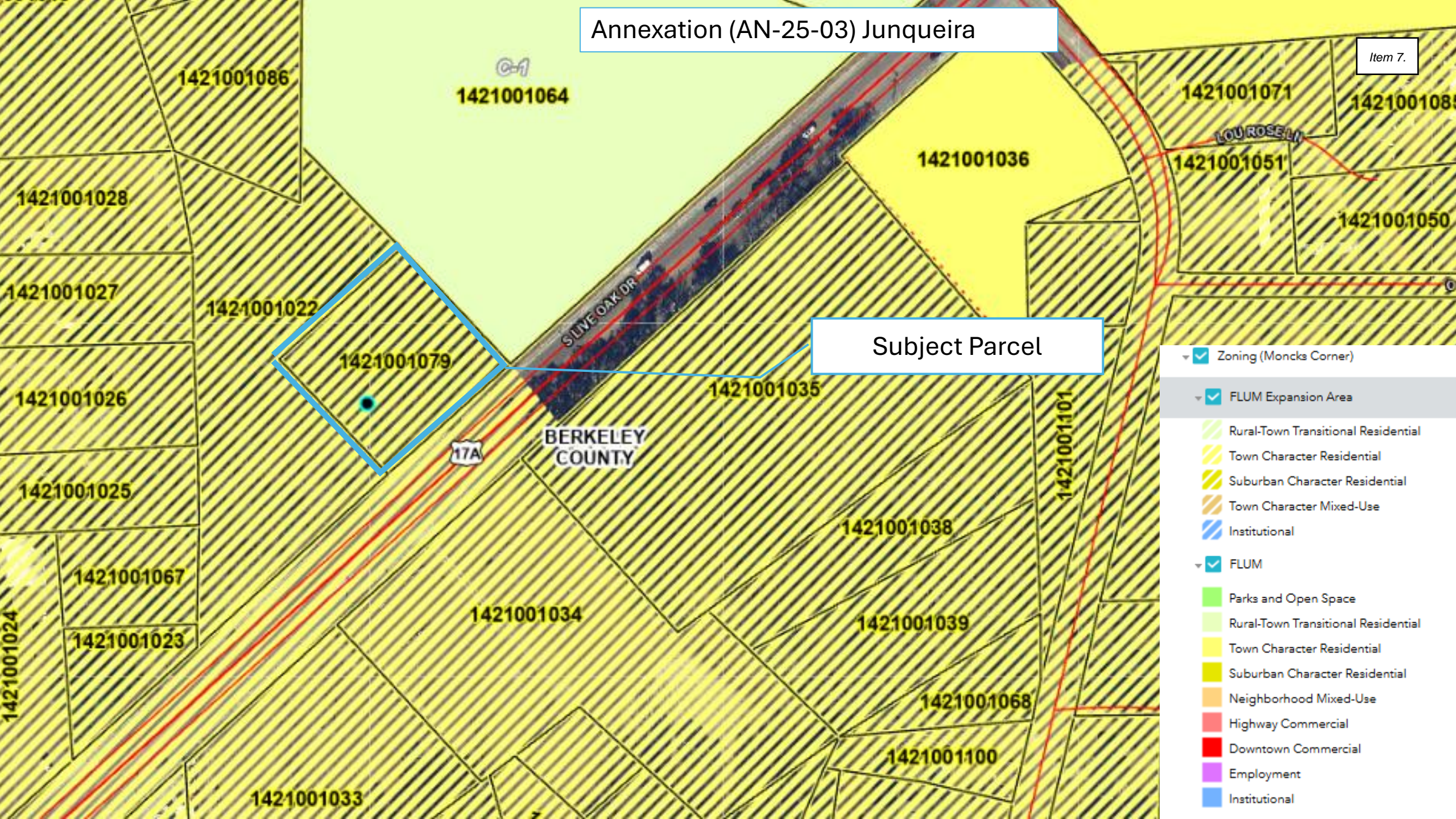
Subject Parcel

☑ Zoning (Moncks Corner)

- C-1
- C-2
- D
- M-1
- M-2
- MH-1
- PD
- PD-C
- PD-R
- R-1
- R-2
- R-3
- R-4
- TD

Annexation (AN-25-03) Junqueira

Item 7.



Subject Parcel

☒ Zoning (Moncks Corner)

☒ FLUM Expansion Area

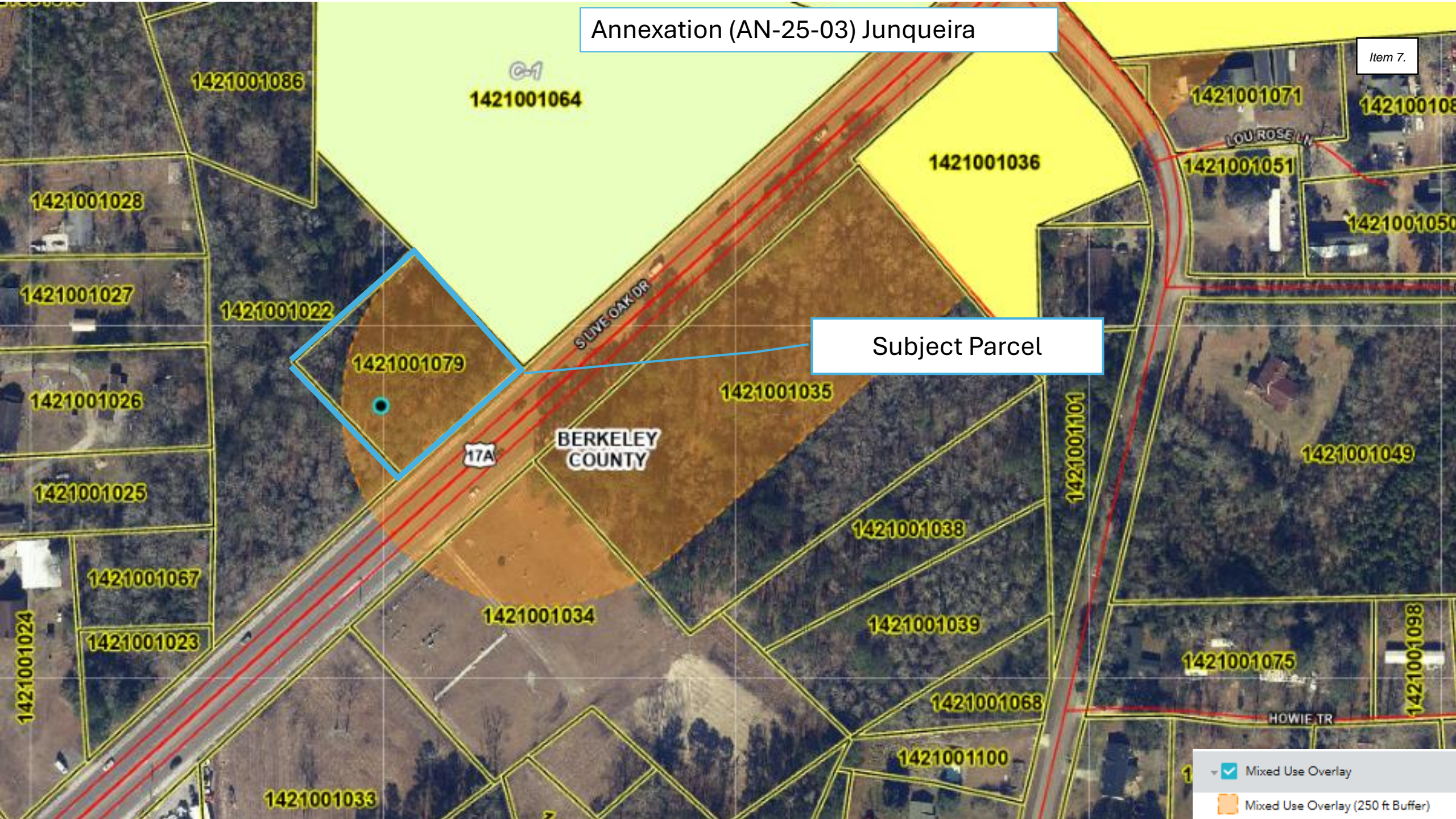
- ☒ Rural-Town Transitional Residential
- ☒ Town Character Residential
- ☒ Suburban Character Residential
- ☒ Town Character Mixed-Use
- ☒ Institutional

☒ FLUM

- ☒ Parks and Open Space
- ☒ Rural-Town Transitional Residential
- ☒ Town Character Residential
- ☒ Suburban Character Residential
- ☒ Neighborhood Mixed-Use
- ☒ Highway Commercial
- ☒ Downtown Commercial
- ☒ Employment
- ☒ Institutional

Annexation (AN-25-03) Junqueira

Item 7.



Subject Parcel

- ☒ Mixed Use Overlay
- ☐ Mixed Use Overlay (250 ft Buffer)



Applicant Information

NAME

Leiriane Junqueira

ADDRESS

525 s live oak Mocks corner

EMAIL ADDRESS

garciamiki622@gmail.com

PHONE

8644173144

Property Owner Information

If different than applicant

NAME

Leiriane junqueira

ADDRESS

208 oystercatcher way Simpsonville

EMAIL ADDRESS

garciamiki622@gmail.com

PHONE

8644143144

TO THE MAYOR AND COUNCIL OF THE TOWN OF MONCK'S CORNER:

Item 7.

The undersigned, being 100 percent of the freeholders owning 100 percent of the assessed value of the property in the contiguous territory described below and shown on the attached plat or map, hereby petition for annexation of said territory to the City/Town by ordinance effective as soon hereafter as possible, pursuant to South Carolina Code Section 5-3-150(3).

The territory to be annexed is described as follows. Description may be attached.

Insert description of territory. The description may be taken from deeds or may be drawn to cover multiple parcels using known landmarks. It should be definitive enough to accurately fix the location.

THE PROPERTY IS DESIGNATED AS FOLLOWS ON THE COUNTY TAX MAPS:

525 s live oak

**** A plat or map of the area should be attached. A tax map may be adequate *****

UPLOAD FILE

[opF36GgpN5NT-IMG_9431.jpeg](#)

IT IS REQUESTED THAT THE PROPERTY BE ZONED AS FOLLOWS:

Zone c1

CONSENT

checked

APPLICANTS SIGNATURE

DATE

08/28/2025

Leiv. S-
Jun 20

AN ORDINANCE TO ANNEX REAL PROPERTY LOCATED ALONG S LIVE OAK DRIVE, # 142-10-01-079, INTO THE CORPORATE LIMITS OF THE TOWN OF MONCKS CORNER, TO RE-CLASSIFY SAID PROPERTY FROM GC, GENERAL COMMERCIAL DISTRICT (BERKELEY COUNTY) TO C-1 – OFFICE AND INSTITUTIONAL (MONCKS CORNER), AND TO AMEND THE OFFICIAL ZONING MAP OF THE TOWN OF MONCKS CORNER TO SO REFLECT

WHEREAS, a proper petition has been filed with the Town Council by 100 percent of the freeholders owning 100 percent of the assessed value of the contiguous property hereinafter described petitioning for annexation to the Town under the provisions of S.C. Code Section 5-3-150(3); and

WHEREAS, the area to be annexed also includes any rights-of-way, roads, or railroad tracks located adjacent to the described property; and

WHEREAS, a request has been presented to the Moncks Corner Town Council by the owner of the properties designated on the Tax Map Records of Berkeley County, South Carolina as TMS # 142-10-01-079 to subsequently re-classify the property from R-1 – Single Family Residential District (Berkeley County) to C-1 – Office and Institutional (Moncks Corner); and

WHEREAS, it is necessary and desirable to reclassify said property from GC – General Commercial District (Berkeley County) to C-1 – Office and Institutional (Moncks Corner); and

NOW, THEREFORE, BE IT ORDAINED and ordered by the Mayor and Town Council of the Town of Moncks Corner, South Carolina, in Council duly assembled on this 16th day of December, 2025, that the property herein described is hereby annexed to and becomes a part of the Town of Moncks Corner effective immediately; and

BE IT FURTHER ORDAINED that the property herein described shall be zoned C-1 – Office and Institutional; and

BE IT FURTHER ORDAINED that the official zoning map of the Town of Moncks Corner be, and the same hereby is, amended to so reflect.

DONE IN COUNCIL ASSEMBLED this 16th day of December, 2025.

FIRST READING: November 18, 2025

SECOND READING AND PUBLIC HEARING: December 16, 2025

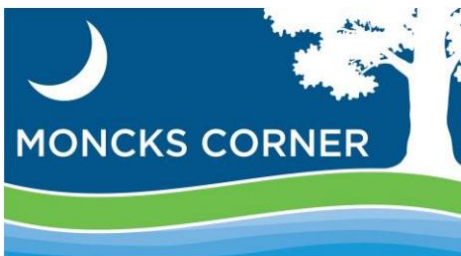
Thomas J. Hamilton Jr., Mayor

Attest:

Marilyn M. Baker, Clerk to Council

Approved As To Form:

James E. Brogdon, Jr., Town Attorney

*The Lowcountry's Hometown*

PO Box 700 | Moncks Corner, SC 29461 | 843.719.7900 | monckscorner.sc.gov

STAFF REPORT

TO: Town Council

FROM: Justin Westbrook, Community Development Director

SUBJECT: Zoning Map Amendment (CZ-25-02) – McNair Design

DATE: November 11, 2025

Background: The applicant, McNair Design, has applied for a Zoning Map Amendment (CZ-25-02) for the parcel (TMS # 142-08-04-012) addressed as 402 Wall Street. The applicant is seeking the parcel to be zoned **Conditional Zoning – Residential Single Family (CZ-R-2)**.

Existing Zoning: The subject parcel is currently in the **Single Family Residential District (R-2)** Zoning District. Per the Town's Zoning Ordinance, this zoning district is intended to:

"...as single-family residential areas with detached units with low to medium population densities. Use regulations for the single family districts are identical, but contain two (2) classes of lot width and lot area, and these dimensional differences are intended to be preserved"

	Adjacent Zoning	Adjacent Land Use
North	R-2	Single Family Detached Dwelling
South	M-1	Recreational Complex
East	R-2	VACANT
West	R-2	VACANT

Existing Site Conditions: The subject parcel comprises approximately 4.2 acres, which is currently unoccupied. The parcel appears to have been occupied by a single-family detached structure previously. Per the National Wetlands Inventory map, there does appear to be wetlands delineated on the parcel, predominantly to the south. The subject parcel currently benefits from approximately 243- feet of right-of-way.

Proposed Zoning Request: The applicant has requested to rezone the subject parcel to the **Conditional Zoning – Single Family Residential (CZ R-2)** Zoning District. Per the Town's Zoning Ordinance, a **Conditional Zoning (CZ)** Zoning District is intended to:

"provide a mechanism for evaluating alternative zoning regulations as well as other Town ordinance elements of the proposed application on its own merit, emphasizing that these provisions are not to be

used to circumvent the intent or use of conventional zoning classifications set forth in this chapter other applicable variance, waiver or amendment to other ordinances, contrary to state or federal law but to permit innovative and creative design of communities in the Town of Moncks Corner “

Item 8.

Per the Town’s Zoning Ordinance, a Conditional Zoning (CZ) Zoning District is intended:

“as single-family residential areas with detached units with low to medium population densities.”

As with any requested **Conditional Zoning** request, the applicant has worked with Staff to negotiate a density bonus to allow the reduction of minimum required lot size. As such, the applicant is looking for a reduction of lot size from 12,000 square feet, as the required starting point for any **Conditional Zoning** district, down to 6,960 square feet, or a 42% reduction in lot size.

Bonus Type	Bonus	Square Feet
Base Lot Size		12,000
POTENTEIAL TOWN-OWNED AMENITY	15%	1,800
Sidewalk Connectivity (1 side)	15%	1,800
Type A Bufferyard – Wall Street side	10%	1,200
Additional Parking	5%	600
Product Mix	5%	600

In discussion with the applicant, Staff does not feel that the sidewalk connectivity, as shown on the most recent concept plan, is sufficient to warrant such a high percentage. The Town’s Land Development Regulations call for sidewalks on both sides. The connection to the Recreational Complex, while desired by good planning practices, does not absolve the need to sidewalks on both sides, and certainly not at a 15% (1,800 ft²) lot size reduction.

In preliminary talks with the applicant, a dog park was desired to be constructed and dedicated to the Town. The applicant has chosen to accept the dedication of the land to the Town, however, cannot accomplish the construction of the facility many in the Town have long desired, due to financial constraints. The Town has the land to build a facility, but the funds to construct is a major limitation in a lot of Town needs and facility planning. Therefore, Staff believes the dedication of land, while appreciated, falls short of the need to provide existing residents benefits from this development, and does not warrant such a large density bonus. During the Planning Commission meeting for this request, on October 28th, the community was soundly against a dog park. One alternative presented was a picnic shelter, however Staff has since determined this alternative would be problematic for the Town’s recreation department. In discussion with the applicant, protecting a memorial wall along the frontage of the subject parcel, was an alternative for the 15% a dog park could have generated. Staff is open to the idea, however 15% may be too generous for a 1,800 ft² reduction in lot size.

While this project will be subject to “Rule of 5” limiting repeating house plans, the applicant has expressed interest in a “product mix”. While not in writing, Staff is under the impression this plays to our preliminary discussions of limiting the floor plans in this neighborhood to two units / floor plan. This will ensure that at least five (5) floor plans are used and help provide variability and a sense of organic growth often seen with older

subdivisions. Without this implicitly written, Staff can only assume this is the intention of the “product bonus density.”

Density: The subject parcel consists of approximately 4.2 acres. By right, the property could see upwards of 21 dwelling units. This is not practical, however, as the calculation does not take into effect stormwater, right-of-way dedication and area that must be left along per the Town’s Zoning Ordinance and Stormwater Manual. Staff’s estimate is that approximately 7 dwelling units could be reasonably placed on the parcel with the current **Single Family Residential (R-2)** zoning district, allowing down to 8,500 ft² lot sizes. With the more realistic output for dwelling units, the density would amount to approximately 1.66 dwelling units/acre.

The applicant is proposing a total of 10 dwelling units on the parcel, with property lots down to 6,000 ft². This results in a 50% reduction in lot size for **R-1**, the basis for any **Conditional Zoning**. With the requested number of dwelling units, the requested density would amount to approximately 2.38 dwelling units/acre. While not an insignificant increase in density, it is in line with recent developments in “old Moncks Corner”, particularly infill development of this kind. It is also more akin to the density currently seen in the Wall Street neighborhood.

During a quick analysis of the density in the Wall Street neighborhood, there are approximately 137 dwelling units in the area, within an approximate 65.2 acres. This results in a approximate density of 2.1 dwelling units/acre.

Transportation: Staff will not require a separate Traffic Impact Analysis (TIA) for the subject parcel for this sized parcel. Staff reserves our right to require a TIA prior to the establishment of the proposed use, per Section 5-9.D.

Environmental: Staff will ensure all environmental concerns are addressed per the Zoning Ordinance, Stormwater Ordinance, and all other Town adopted policies and procedures. Any delineation of, or impact to, wetlands will coincide with the required regulations from the US Army Corps of Engineers, and all wetlands will see a 20-foot buffer. Any increase in impervious area would be required to meet the standards of the Town’s Stormwater Design Standards Manual.

Consistency with Plans: Adopted in 2024 as part of the Town’s Comprehensive Plan, the Future Land Use Map identifies the subject parcel as “Town Character Residential”. The Plan calls for this land use to be designated for:

“Intended to promote and enhance smaller lot, town mixed residential type neighborhoods near the downtown, commercial corridors and transportation nodes. A mixture of densities should be promoted to include single-family houses, duplexes, triplexes, accessory dwelling units (ADUs), and small-scale apartments.”

The requested zoning designation does appear to be congruent with this designation of the Future Land Use Map as the request seeks to add a mixture of densities, in line with the existing surrounding neighborhood. The Wall Street neighborhood does see smaller lot sizes in the immediate vicinity. For example, the Hutchinson Lane development, constructed by Habitat for Humanity, sought and received zoning for 6,800 ft² lots, with this development being across Wall Street from the subject parcel. This is not the only example of smaller, non-

conforming lot sizes in the area, as some older parcels have been created with a mere 4,500 ft² lots on J Street.

The Comprehensive Plan also lays out various goals and implementation strategies to help in decision making for land use requests. Staff believes the applicant and request generally follow the following policies listed in the plan.

1. Maintain a sustainable community by ensuring current infrastructure has the capacity to accommodate for current and future growth.
3. Allow for a range of residential uses to support housing opportunities for residents of all ages and socio-economic statuses.
4. Re-establish the downtown as the focal point of the community by promoting a mixture of residential, commercial and recreational uses

Staff believes that these various goals and implementation strategies are in harmony with the request.

Procedural Issues: As part of any Zoning Map Amendment, the request must be at least two (2) acres, or an extension of an existing district boundary, or additional C-1 zoning contiguous to existing commercial. In this case, although divided by the public right-of-way, the subject parcel is adjacent to the Transitional District (TD) zoning designation which is considered commercial in nature.

Staff Analysis: Staff believes that the designated future land use is consistent with the requested zoning district, however the density bonus credits provided to the Town ultimately fall short of their intention; to create better planned communities by positively benefiting future residents and current residents. While the lot sizes in the area are comparable to the existing neighborhood, the desire to reduce beyond what is allowed by right is not justifiable with regard to the sidewalk connectivity and the assigned bonus amount, the dog park land dedication and lack of improvements to it, and specifically calling out the desire to not use a floor plan in the neighborhood more than two (2) times.

Staff Recommendation: After analysis of the materials provided, Staff recommends denial for the requested **Conditional Zoning – Single Family Residential (CZ R-2)** zoning district designation for the subject parcel. Staff's recommendation is due to the requested density and lack of justifiable and appropriately portioned density bonuses. With more work by the applicant, and specifically more physical contribution from the applicant to the Town and it's residents, this proposal may be a benefit to the community should more discussions and negotiations turn out a better project to be considered.

Planning Commission Recommendation: The Planning Commission heard the request at their October 28th meeting. The applicant spoke in favor of the request. There were several members of the public who had concerns regarding the development. The concerns ranged from traffic to the size of the proposed lots, with strong opinions against the proposed dog park. Staff recommended another option may be available, such as a Town-owned picnic shelter, which seemed to be a better option to the Wall Street community. The community as a whole were receptive to meeting with the developer, which at the time of this report is scheduled for the week of November 10th. The community feels that any development needs to fit into the existing character and

fabric of the Wall Street community. The Planning Commission discussed the request, asking the applicant multiple times their intention should their request be denied, with the applicant stating to build by-right homes on the lot with hopefully seven (7) units instead of the proposed ten (10). The Commission voted unanimously in favor of recommending DENIAL as the proposal was presented, with hopes the applicant would work with Staff and the Wall Street community, and a desire to see the request again once the density numbers improve.

Attachments: SIGNED - Application (Davis McNair)(20250923)
Location Maps (Aerial, Zoning, Future Land Use Map, Environmental)
Concept Plan v2 (20251018)
Density Bonus v3 (20251107)

Zoning Map Amendment (CZ-25-02)

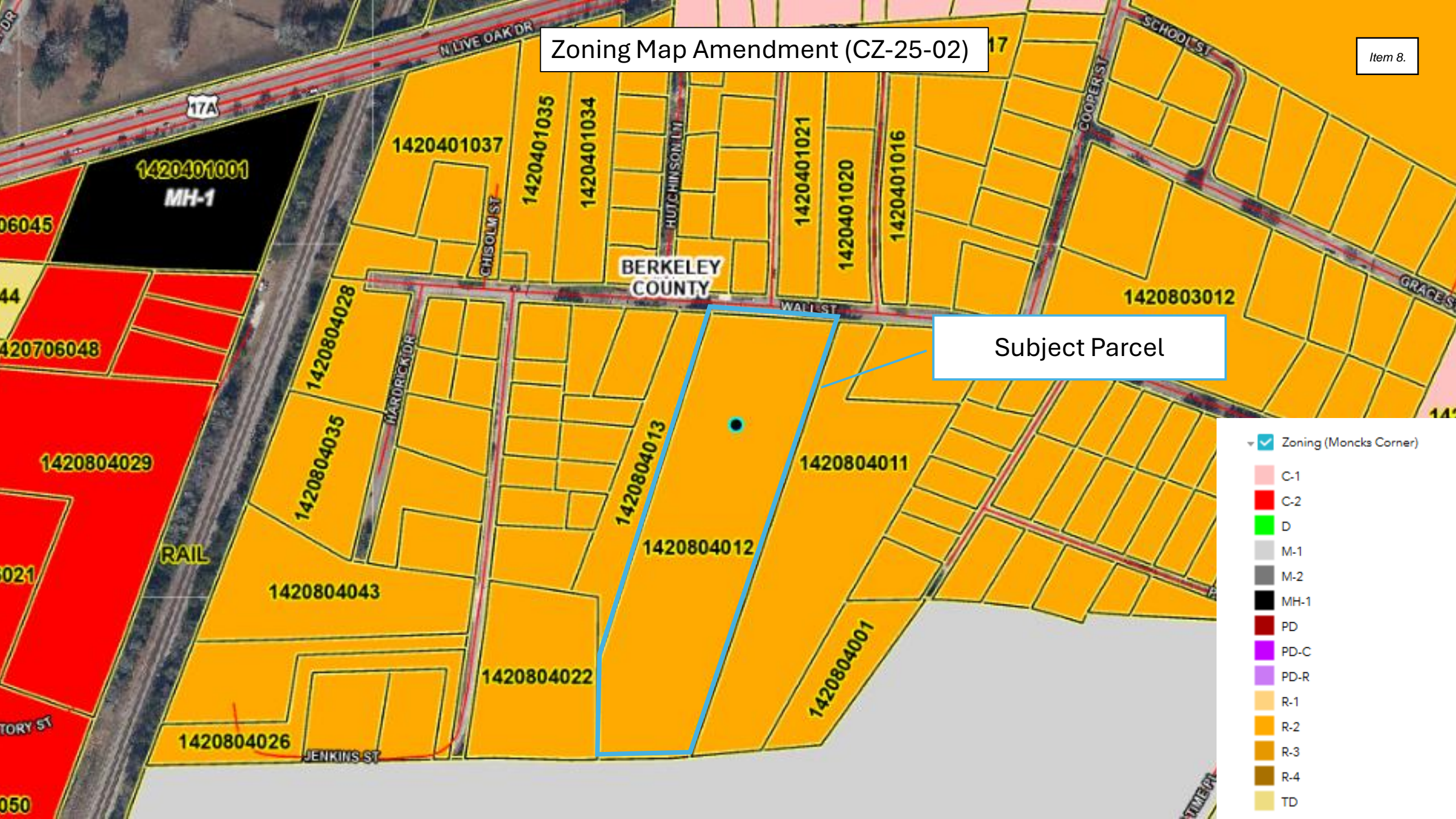
Item 8.

Subject Parcel



Zoning Map Amendment (CZ-25-02)

Item 8.



Subject Parcel

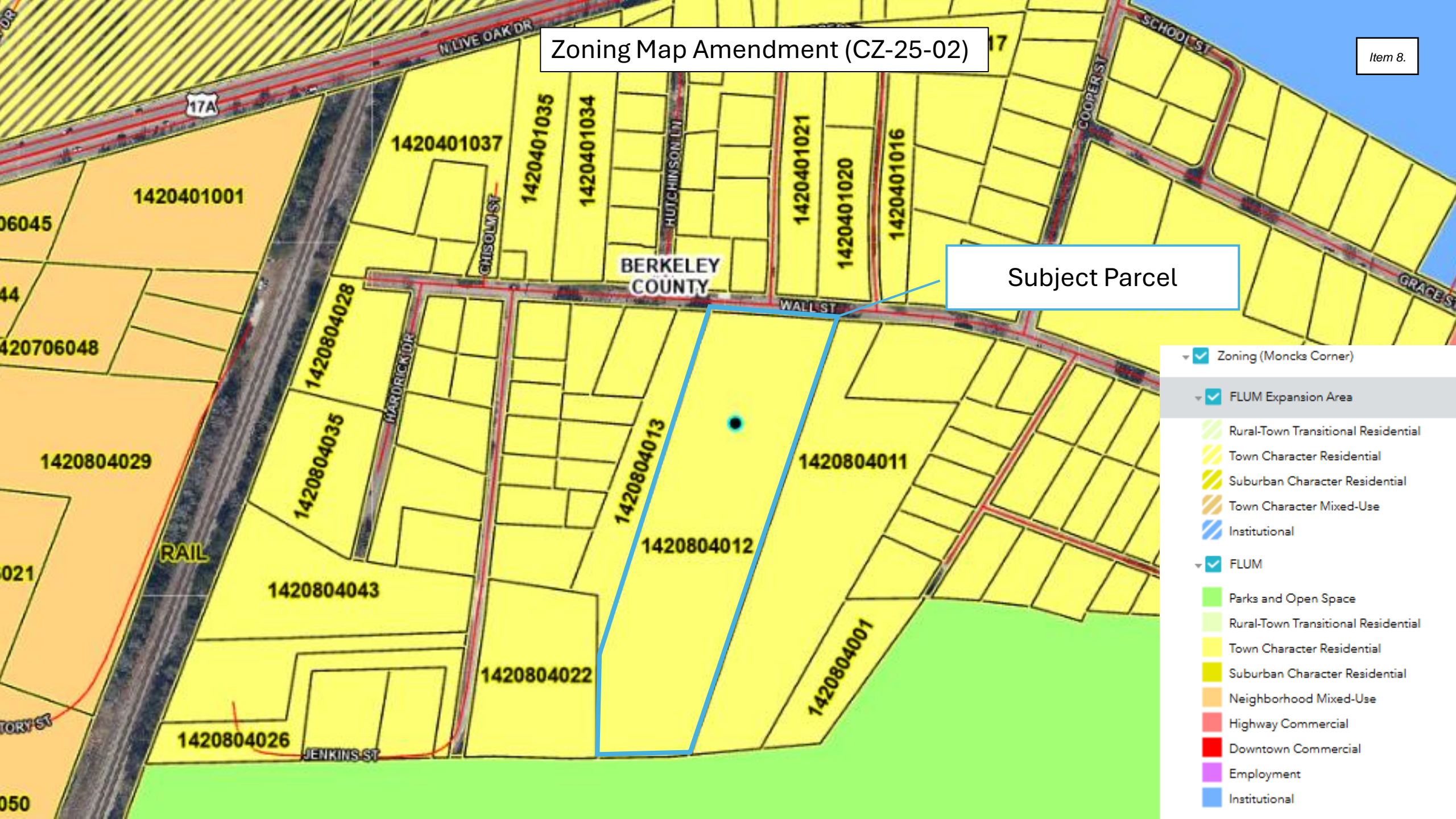
▼ ☒ Zoning (Moncks Corner)

- C-1
- C-2
- D
- M-1
- M-2
- MH-1
- PD
- PD-C
- PD-R
- R-1
- R-2
- R-3
- R-4
- TD

Zoning Map Amendment (CZ-25-02)

Item 8.

Subject Parcel



McNair

Design & Development

Mount Pleasant, SC | (843) 330-0296 | demcnair@mcnairdesigndevelopment.com

Date: 11/17/25

402 Wall Street

Moncks Corner, SC 29461

TMS#: 142-08-04-012

Density Bonus Request Letter

The subject property is a 4.35-acre parcel located on Wall Street in the Town of Moncks Corner. The property is currently zoned R-2, a single-family residential district with a minimum lot size of 8,500 SF and maximum density of 5 units per acre. Theoretically the by right zoning would allow 21 residential lots, however the width of the property creates a hardship, greatly impacting the potential density.

The Site's proximity to Main Street and easy access to Hwy 52 supports a residential subdivision. As this site is adjacent to Moncks Corner Regional Recreation Complex, there is an opportunity to provide connectivity from Wall Street to Main Street and promote pedestrian traffic to the Town Square Redevelopment project area.

The proposed development seeks a density bonus by providing the following:

Density Bonus Incentives		
Bonus Type	Bonus	Square Feet
Base Lot Size		12,000
Memorialize the Ex. Wall	15%	1,800
Sidewalk Connectivity	15%	1,800
Type A Buffer on Wall Street	10%	1,200
Add. Parking	5%	600
Product Mix (No more than 2 identical floorplans)	5%	600
	New Min. Lot Size	6,000

The rezoning request is scheduled for the October 28th, 2025, Planning Commission Meeting. McNair Design & Development LLC looks forward to working with the Town of Moncks Corner on this project. Should you have any questions or need additional information, please email demcnair@mcnairdesigndevelopment.com

McNair Design & Development, LLC

Davis McNair, PE

Principal

Demcnair@mcnairdesigndevelopment.com

843-330-0296



Applicant Information

NAME

Davis McNair

ADDRESS

1206 Pleasant Pines Rd Mt. Pleasant SC 29464

PHONE

18433300296

EMAIL ADDRESS

demcnair@mcnairdesigndevelopment.com

Property Owner Information

If different than the applicant.

NAME

Five Sellers LLC

PHONE

520-331-0883

EMAIL ADDRESS

jordan.scott@exprealty.com

ADDRESS

1324 PENSHELL PL Mt. Pleasant SC 29464

Subject Parcel

TMS NUMBER

142-08-04-012

CURRENT ZONING

R-2 Single-Family Residential

REQUESTED ZONING

CZ Conditional Zoning

CURRENT USE OF PROPERTY

Vacant

PROPOSED USE OF PROPERTY

Residential

Item 8.

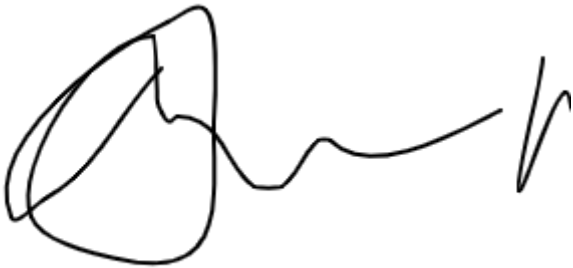
Has any application involving this property been previously considered by the Moncks Corner Planning Commission or Board of Zoning Appeals? If yes, please state details.

TEXTAREA

Not to my knowledge.

CONSENT

checked

SIGNATUREA handwritten signature in black ink, consisting of a large, stylized initial 'A' followed by a series of connected loops and a final vertical stroke.**DATE**

09/23/2025

AN ORDINANCE TO RE-CLASSIFY 4.2 ACRES OF REAL PROPERTY ADDRESSED AS 402 WALL STREET, TMS # 142-08-04-012 FROM R-2, SINGLE-FAMILY RESIDENTIAL TO CZ R-2, CONDITIONAL ZONING SINGLE-FAMILY RESIDENTIAL, AND TO AMEND THE OFFICIAL ZONING MAP OF THE TOWN OF MONCKS CORNER TO SO REFLECT

WHEREAS, a request has been presented to the Moncks Corner Town Council by the owner of the property designated on the Tax Map Records of Berkeley County, South Carolina as TMS # 142-08-04-012 to subsequently re-classify portions of the property from R-2, Single-family Residential to CZ R-2, Conditional Zoning Single-family Residential; and

WHEREAS, it is necessary and desirable to reclassify said property to CZ R-2, Conditional Zoning Single-family Residential; and

WHEREAS, the conditions to be placed upon this parcel are described as follows:

1. Up to ten (10) single family detached dwelling units may be platted and constructed on the subject parcel, as generally shown on Exhibit A – Concept Plan.
2. Dimensional Standards:
 - a. Minimum Lot Size: 6,000 ft²
 - b. Minimum Lot Width: 40-feet
 - c. Front Setback: 25-feet
 - d. Side Setback: 7.5-feet
 - e. Rear Setback: 15-feet
 - f. Maximum Lot Coverage: 50%
 - g. All other dimensional and zoning standards not specifically mentioned shall be subject to the R-2 – Single Family Detached zoning district listed in the Zoning Ordinance in place at the time of construction.
3. The community memorial wall shall be enhanced and protected, with input from the Wall Street community.
4. A 5-foot standard sidewalk shall be constructed through the parcel, from Wall Street to the Town's walking path at the Recreational Complex.
5. A Type-A buffer shall be installed prior to the issuance of a Final Plat, along the Wall Street edge of the subject parcel.
6. Additional parking, as generally shown on the Exhibit A – Concept Plan, shall be installed with at least six (6) parking spaces, with appropriate dimensions for the parking area as defined in the Town's Zoning Ordinance.
7. No more than two (2) dwelling units shall share the same floor plan, ensuring a robust product mix. Floor plan delineation and determination of similarity shall rest with the Zoning Administrator and approved prior to the issuance of a Building Permit.

NOW, THEREFORE, BE IT ORDAINED and ordered by the Mayor and Town Council of the Town of Moncks Corner, South Carolina, in Council duly assembled on this 16th day of December, 2025, that the property herein described is hereby zoned Conditional Zoning – Single-family Residential (CZ R-2); and

BE IT FURTHER ORDAINED that the official zoning map of the Town of Moncks Corner be, and the same hereby is, amended to so reflect.

DONE IN COUNCIL ASSEMBLED this 16th day of December, 2025.

FIRST READING: November 18, 2025
SECOND READING AND PUBLID HEARING: December 16, 2025

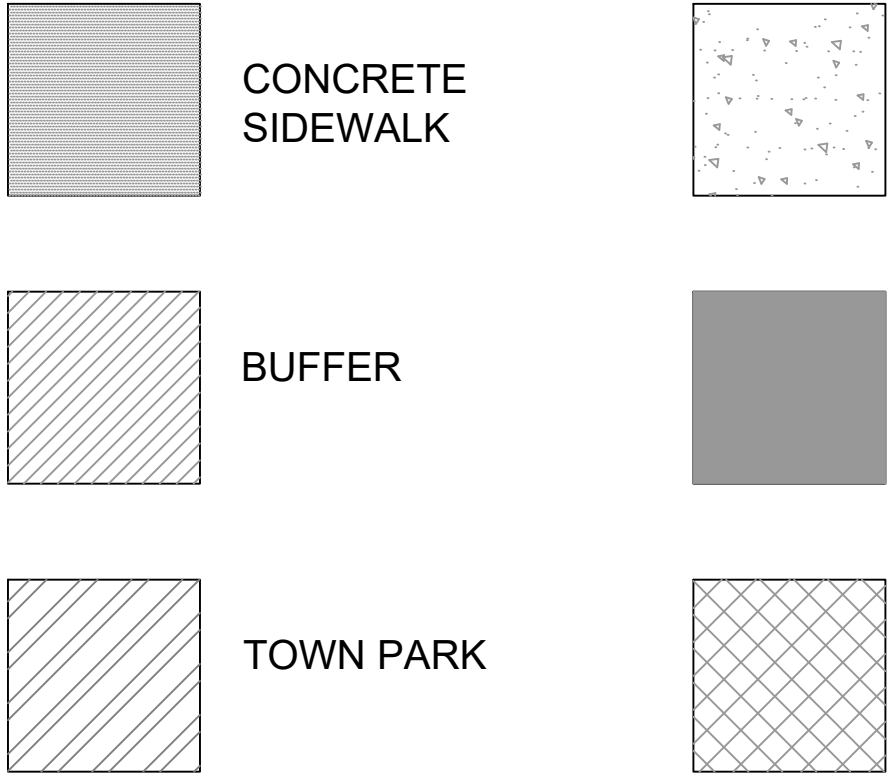
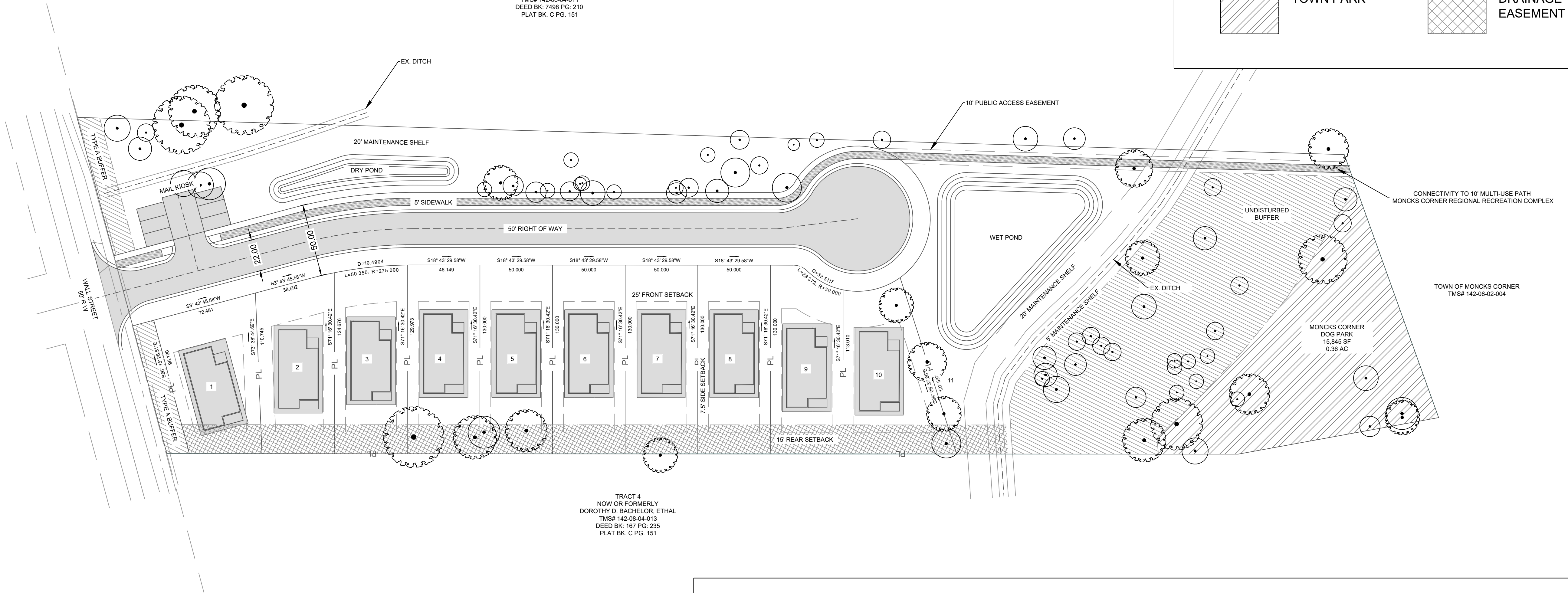
Thomas J. Hamilton Jr., Mayor

Attest:

Marilyn M. Baker, Clerk to Council

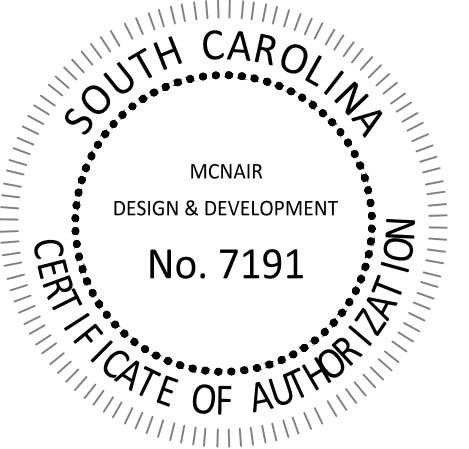
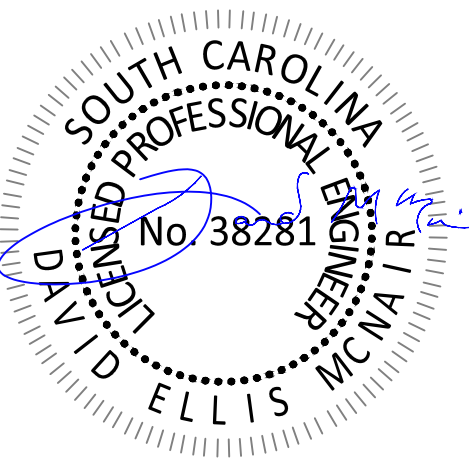
Approved As To Form:

James E. Brogdon, Jr., Town Attorney



McNair
Design & Development

MCNAIR.DESIGN.DEVELOPMENT@GMAIL.COM
843-330-0296



402 WALL STREET

MONCK'S CORNER, SC 29461

TMS#: 142-08-04-012

REVISION HISTORY

1. XX/XX/XX	
DRAWN BY:	DEM
DATE:	10/13/25
JOB #:	TBD

SITE PLAN

C-5.0

SITE INFORMATION

- TMS# 142-08-04-012
- ACREAGE: 4.35 ACRES
- ZONING: TOWN OF MONCK'S CORNER - R-2

LOT SUMMARY:

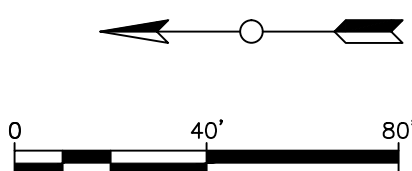
- UNITS: 10 (50' X 130')

R-2 LOT REQUIREMENTS:

- MAX DENSITY: 5 UNITS/ACRE
- MIN LOT AREA: 8,500 SF
- MIN. 70' WIDTH
- FRONT SETBACK: 25'
- SIDE SETBACK: 10'
- REAR SETBACK: 15'
- MAX . LOT COVERAGE: 30%

CONDITIONAL REZONING:

- MAX DENSITY: 5 UNITS/ACRE
- MIN LOT AREA: 6,000 SF
- MIN. 40' WIDTH
- FRONT SETBACK: 25'
- SIDE SETBACK: 7.5'
- REAR SETBACK: 15'
- MAX . LOT COVERAGE: 50%



ORDINANCE #2025-__

A MASTER BOND ORDINANCE OF THE TOWN OF MONCK'S CORNER, SOUTH
CAROLINA PROVIDING FOR THE ISSUANCE AND SALE OF STORMWATER
SYSTEM REVENUE BONDS; AND OTHER MATTERS RELATING THERETO

MASTER BOND ORDINANCE

Enacted November 18, 2025

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NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF MONCKS CORNER, IN COUNCIL, DULY ASSEMBLED, THAT:

ARTICLE I

FINDINGS AND DETERMINATIONS

Section 1.01 Findings and Determinations.

Incident to the enactment of this master bond ordinance (this “**Bond Ordinance**”, as further defined herein), the Town Council of the Town of Moncks Corner (the “**Town Council**”), the governing body of the Town of Moncks Corner, South Carolina (the “**Town**”), finds that the facts set forth in this Article exist, and the statements herein are in all respects true and correct:

(a) The Town is a municipal corporation of the State of South Carolina (the “**State**”), located in Berkeley County, South Carolina (the “**County**”), and as such possesses all the general powers granted by the Constitution of the State of South Carolina 1895, as amended (the “**Constitution**”), and statutes of the State to municipal corporations, including the power to possess and operate utility systems.

(b) The Town, pursuant to State law, owns, operates, maintains and manages a system of drainage through storm and surface water management facilities and components, which provides for the collection, management, and disposal of storm and surface water affecting the health, safety, and welfare of the residents of and visitors to the Town (the “**System**”).

(c) The System constitutes a “drainage system” or other “system” as such term is defined in Sections 6-21-40 and 6-21-50 of the Enabling Act (as defined herein).

(d) The Town, acting by and through the Town Council, is responsible for the management of the System and the issuance of revenue bonds to defray the costs of capital improvements to the System.

(e) The Town has enacted a Stormwater Management Ordinance to govern the Town’s Stormwater Management Utility and Stormwater Management Program, and imposes fees for the operation thereof that are subject to adjustment through the Town’s annual budget ordinance.

(f) The revenues of the System are not presently pledged or hypothecated to secure the payment of any revenue bonds or other obligations of the Town.

(g) Upon enactment hereof, the provisions of this Bond Ordinance shall govern the issuance from time to time of all revenue bonds or other obligations secured by the revenues of the System.

* * *

ARTICLE II

DEFINITIONS, CONSTRUCTION, AND INTERPRETATIONS

Section 2.01 Definition of Ordinance.

This ordinance may be hereafter cited and is hereinafter sometimes referred to as the “**Bond Ordinance**”; such term shall include all ordinances supplemental to, or amendatory of, this Bond Ordinance.

Section 2.02 Defined Terms.

In this Bond Ordinance, terms defined in Article I shall have the meaning assigned therein, and unless a different meaning clearly appears from the context, the following terms shall have the following respective meanings:

“**Accountant**” means an independent firm of certified public accountants of suitable standing selected by the Town who audit the books, records, and accounts of the Town.

“**Accounting Principles**” means generally accepted accounting principles and practices applicable to governmental entities, including those applicable to governmentally owned and operated utility systems such as the System.

“**Accreted Value**” means the amounts set forth in, or the amounts determined in the manner set forth in, a Series Ordinance authorizing the issuance of Bonds in the form of Capital Appreciation Bonds.

“**Annual Budget**” means, for a Fiscal Year, the budget or amended budget of the Town adopted with respect to such Fiscal Year, to include necessary appropriations for the System as provided in or required by provisions of this Bond Ordinance.

“**Annual Principal and Interest Requirement**” means, with respect to any particular Fiscal Year and to a Series of Bonds Outstanding, an amount (other than amounts paid from proceeds of Bonds) equal to the sum of (i) all interest payable on such Series of Bonds during such Fiscal Year, plus (ii) any Principal Installment of such Series of Bonds during such Fiscal Year, minus (iii) any Interest Payment Subsidies received by or on deposit with the Town for such Series of Bonds during such Fiscal Year and used to pay debt service on such Series of Bonds during such Fiscal Year.

For purposes of computing the Annual Principal and Interest Requirement:

(a) With respect to Balloon Indebtedness, the amount of principal which would be payable in such Fiscal Year if the principal of such Balloon Indebtedness to be amortized in succeeding Fiscal Years were amortized from the date of incurrence of such Balloon Indebtedness over a period of 20 years (or such shorter period as the Town may choose) on a level debt service basis at an interest rate set forth in a certificate or opinion of an Independent

Consultant as the interest rate at which the Town could reasonably expect to borrow the same by issuing an obligation with the same term and a fixed rate of interest as assumed above (and this method of determining the applicable interest rate shall control in the case of existing or prospective Balloon Indebtedness issued as Variable Rate Bonds); provided, however, that if the date of calculation is within 12 months of the stated maturity of such Balloon Indebtedness, the full amount of principal payable at maturity shall be included in such calculation unless (1) a binding commitment to refinance such Balloon Indebtedness shall be in effect, in which case the amortization schedule established by such commitment shall apply or (2) the Town has received a letter from an Independent Consultant to the effect that such firm has evaluated the creditworthiness of the Town and concluded that it is reasonable to assume that the Town will have access to the debt markets at reasonable interest rates and setting forth the projected interest rate and assumed maximum amortization schedule for such debt, in which case the amortization schedule and projected interest rate established by such letter shall apply.

(b) With respect to Variable Rate Bonds, the interest on such Series of Bonds shall be calculated at (1) in the case of Outstanding Variable Rate Bonds, the rate which is equal to the average of the actual interest rates which were in effect (weighted according to the length of the period during which each such interest rate was in effect) for the most recent 12-month period immediately preceding the date of calculation for which such information is available (or shorter period if such information is not available for a 12-month period) and (2) in the case of Variable Rate Bonds proposed to be incurred, the rate which is equal to the average of the SIFMA Municipal Swap Index (or any other specified index or reference rate for such Variable Rate Bonds) for the most recent 12-month period immediately preceding the date of calculation (or, if the SIFMA Municipal Swap Index or such other index or reference rate is not available for such 12-month period, the Revenue Bond Index most recently published by The Bond Buyer), plus or minus any specified fixed spread.

(c) The amounts available in the Debt Service Reserve Fund established for a Series of Bonds may be applied against the interest payable on and the Principal Installments due on such Series of Bonds in the last Fiscal Year that such Series of Bonds is Outstanding.

“Authorized Investments” means, within the limitations set forth herein, any investments now or hereafter permitted under Section 6-5-10 of the South Carolina Code, or any successor or similar statute, and shall also include the South Carolina Pooled Investment Fund (including the Local Government Investment Pool) established at Sections 6-6-10 to 6-6-40 of the South Carolina Code or any successor or similar statute and as the same may be further limited pursuant to the provisions of a Series Ordinance.

“Authorized Officer” means the Mayor, the Town Administrator, or any other official authorized by resolution or ordinance (including a Series Ordinance) of the Town Council to act on behalf of the Town under this Bond Ordinance, any one of whom may act individually as the Authorized Officer. A certificate of incumbency and specimen signature shall be delivered to the Trustee at the closing of each Series of Bonds and from time to time as necessary to establish the Authorized Officers.

“BAN Act” means Title 11, Chapter 17, of the South Carolina Code.

“Balloon Indebtedness” means a Series of Bonds, 25% or more of the original principal of which matures during any consecutive 12-month period, if such maturing principal amount is not required to be amortized below such percentage by mandatory redemption or prepayment prior to such 12-month period.

“Bond Anticipation Note” means any Note or other obligation issued under the BAN Act or the Enabling Act in anticipation of the issuance of Bonds.

“Bond Counsel” means an attorney or firm of attorneys of nationally recognized standing in the field of law relating to municipal, state, and public agency financing, selected by the Town.

“Bondholder,” “Holder,” “Owner,” “Registered Holder,” or “Registered Owner” or any similar term, (i) when used in reference to a registered Bond or Bonds, means any person who shall be the registered owner of any Outstanding Bond, (ii) when used in reference to Bonds issued in bearer form, the holder of any such Bond, and (iii) when used in reference to Bonds consisting of contractual obligations not in the form of an instrument under Section 4.22 hereof, the party entitled to enforce the Town’s payment obligation thereunder.

“Bond Ordinance” means this Master Bond Ordinance and all ordinances supplemental to or amendatory thereof.

“Bond Payment Date” means an Interest Payment Date, a Principal Payment Date, or a date consisting of both an Interest Payment Date and a Principal Payment Date.

“Bond Year” means the period commencing on July 2 in a year and ending on July 1 in the subsequent year.

“Bonds” means any indebtedness or obligations (issued as tax-exempt or taxable obligations), including those entered into under the provisions of long-term contracts payable from the revenues of the System entered into under Section 4.22 hereof, issued in accordance with the provisions of the Enabling Act, this Bond Ordinance, and a Series Ordinance, excluding indebtedness or obligations incurred in accordance with Article VI hereof.

“Business Day” means, except as set forth in a Series Ordinance with respect to the Series of Bonds issued thereunder, any day other than a Saturday, a Sunday, a day on which banking institutions in the State or in the State of New York are required or authorized by law (including executive orders) to close, or a day on which the United States federal reserve payment system is not operational.

“Capital Appreciation Bonds” means Bonds that bear interest payable only at maturity or payable prior to maturity only on the redemption dates set forth in, and in the amounts determined by reference to the Accreted Value established in accordance with the provisions of the Series Ordinance authorizing the issuance of such Capital Appreciation Bonds.

“Clerk” means the municipal clerk of the Town. The term also includes the acting municipal clerk when the Clerk is unavailable or unable to act as established by a certificate of an Authorized Officer. The Clerk-Treasurer of the Town currently acts as Clerk.

“Code” means the Internal Revenue Code of 1986, as amended, and the Treasury Regulations issued thereunder, in each case, as from time to time in force.

“County” has the meaning given such term in Section 1.01 hereof.

“Date of Issue” means that date established in, or by the manner set forth in, any Series Ordinance from which interest shall accrue on the Bonds of the applicable Series.

“Debt Service Fund” means the fund of that name established pursuant to Section 7.04 of this Bond Ordinance, which fund is designed to provide for the payment of the Principal Installment of, premium, if any, and interest on all Bonds Outstanding and issued pursuant hereto, as the same respectively fall due. This fund constitutes the “bond and interest redemption fund” as such term is used in the Enabling Act.

“Debt Service Fund Account” means the account of that name created in the Debt Service Fund and established for each respective Series of Bonds issued under the terms hereof. Within each Debt Service Fund Account, the Trustee may, but is not required to, further create an interest account, principal account, and bond redemption account with respect to each such Series of Bonds.

“Debt Service Reserve Fund” means the fund, if any, so designated and established (i) to secure the timely payment of the Principal Installments of and interest on an applicable Series of Bonds Outstanding and issued pursuant to this Bond Ordinance and the applicable Series Ordinance, and (ii) to provide for the redemption of such Series of Bonds Outstanding prior to their stated maturity, as established by the provisions of Section 7.04 hereof.

“Defeasance Obligations,” unless otherwise provided in a Series Ordinance for a particular Series of Bonds, mean non-callable: (i) Government Obligations; (ii) evidences of ownership of a proportionate interest in specified Government Obligations, which Government Obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity of custodian; (iii) U.S. Treasury Securities–State and Local Government Series Securities; and (iv) AAA-rated general obligation bonds issued by at least one nationally recognized credit rating organization, of the State, its institutions, agencies, school districts, and political subdivisions.

“Depository” means any bank or trust company selected by the Town as a depository of moneys or securities held under the provisions of this Bond Ordinance and may include the Trustee.

“Depreciation and Contingent Fund” means the fund herein so designated and established to provide for the replacement of depreciated or obsolete parts of the System and for

improvements, betterments, and extensions of the System, as established by the provisions of Section 7.06 hereof.

“Electronic Means” means the following communications methods: e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys, or another method or system specified by the Trustee as available for use in connection with its services hereunder.

“Enabling Act” means (i) as to the initial Series of Bonds issued hereunder, Title 6, Chapter 21, and (ii) as for any subsequent issuance, any of Title 6, Chapter 21; Title 6, Chapter 17; or Title 11, Chapter 21 of the South Carolina Code, or any combination thereof, and all other statutory authorizations as may be available from time to time, authorizing and enabling the Town to enact this Bond Ordinance and issue Bonds hereunder, all as may be amended from time to time.

“Events of Default” means those events set forth in Section 13.01 of this Bond Ordinance.

“Fiscal Year” means the period of 12 calendar months, beginning on July 1 of each year and ending on June 30 of the following year, unless the same shall have been changed by the Town pursuant to the authorization contained in Section 3.01 hereof.

“Government Obligations” means: (i) direct obligations of the United States of America for the payment of which the full faith and credit of the United States of America are pledged; (ii) obligations, the payment of the principal (if any), or the interest (if any) on which is fully guaranteed as a full faith and credit obligation of the United States of America; and (iii) obligations issued by the Federal Home Loan Bank and/or the Federal National Mortgage Association as permitted by Section 6-5-10(a)(2) of the South Carolina Code.

“Gross Revenues” or “Gross Revenues of the System” means:

(a) all receipts, income, and revenues derived from or paid on account of the operation of the System (but excluding those revenues allocable to the operation of Special Facilities to the extent the same have been pledged to the payment of Special Facilities Bonds) including without limitation all services fees, availability fees, and applicable impact fees;

(b) all proceeds from the sale or other disposition of any property owned directly or beneficially by the Town in connection with the operation of the System;

(c) all interest and other income received directly or indirectly by the Town from the investment of moneys or accounts relating to the System; excluding, however, investment income restricted to a purpose inconsistent with the payment of operating expenses or debt service, and specifically excluding (whether or not so restricted) interest earned on any Project Fund created with the proceeds of any borrowing by the Town;

(d) all other money to which the Town may become entitled from any source whatsoever in connection with the operation of the System which may be used to pay Principal Installments of and interest on Bonds, Operation and Maintenance Expenses, or both; and

(e) all Interest Payment Subsidies to the extent such monies are not otherwise used to pay debt service on a Series of Bonds. Any Interest Payment Subsidies received by the Town and used to pay debt service on a Series of Bonds shall not be included in Gross Revenues.

All amounts received as *ad valorem* taxes shall not be included in Gross Revenues.

“Independent Consultant” means such firm or firms, professional engineers, architects, financial advisors, accountants, rate consultants, or other professionals who are nationally recognized and have a favorable reputation for consulting services for utility systems similar to the System. Such Independent Consultant shall not be an employee of the Town and shall be engaged by the Town to perform the tasks set forth to be performed by such Independent Consultant under the provisions of this Bond Ordinance.

“Insurance Consultant” means a person or firm who is not, and no member, director, officer, or employee of which is, an officer or employee of the Town, which is qualified to survey risks and to recommend insurance coverage for public utilities and services and organizations engaged in such operations. The Insurance Consultant shall be selected by the Town.

“Insurer,” with respect to any Series of Bonds, means an insurance company that has written a Municipal Bond Insurance Policy covering such Series of Bonds.

“Interest Payment Date” means, for a particular Series of Bonds, date or dates on which interest shall be due, as may be established, or established in a manner otherwise delegated, in accordance with the Series Ordinance authorizing such Bonds.

“Interest Payment Subsidies” means refundable tax credit subsidies or direct payments payable to the Town from the federal government under any section of the Code that authorizes such tax credits or sums borrowed in a Series of Bonds for the purpose of paying all or a portion of the interest due on a Series of Bonds on specific Bond Payment Dates, as applicable.

“Junior Lien Bonds” means any revenue bonds issued by the Town or other obligations entered into by the Town including such obligations under the provisions of long-term contracts, which are secured by pledges of the revenues of the System on a junior and subordinate basis in all respects to the pledges and liens made to secure Bonds, to the payment of debt service on Bonds, and to the payment by the Town of all Operation and Maintenance Expenses.

“Mayor” means the Mayor of the Town. The term shall also include the acting Mayor or Mayor Pro Tempore when the Mayor is unavailable or unable to act as established by a certificate of the Clerk.

“Municipal Bond Insurance Policy” means any municipal bond insurance policy insuring the payment, when due, of the Principal Installments of and interest on a Series of Bonds.

“Net Earnings” means, for the period in question, the net income of the System, determined in accordance with Accounting Principles, but whether or not Accounting Principles so require, it shall be adjusted as follows:

- (1) Gross Revenues shall be included in income;
- (2) investment income not restricted to a purpose inconsistent with the payment of operating expenses or debt service shall be included in income;
- (3) investment income restricted to a purpose inconsistent with the payment of Operation and Maintenance Expenses or debt service including (whether or not so restricted) interest earned on any construction fund or construction account created with the proceeds of borrowing by the Town in connection with the System, shall be excluded as income;
- (4) any amounts received as Interest Payment Subsidies, to the extent credited against interest on Bonds, shall be excluded as income;
- (5) any amounts received from property taxes imposed by the Town, shall be excluded as income;
- (6) gains on the sale or other disposition of investments or fixed or capital assets which do not result from the ordinary course of business, shall be excluded as income;
- (7) any amounts received by way of federal or state government grants or aids-to-construction shall be excluded as income;
- (8) revenues derived from the operation of Special Facilities shall be excluded as income;
- (9) unrealized gains resulting from changes in the value of investments and swap agreements shall be excluded as income;
- (10) with regard to transfers from the Rate Stabilization Fund:
 - (a) amounts transferred into the Operation and Maintenance Fund from the Rate Stabilization Fund shall be included in income, and
 - (b) amounts transferred from Rate Stabilization Fund into any other fund, excluding the Operation and Maintenance Fund as provided in (1) above shall be excluded from income;

- (11) There shall be added back to such net income:
- (a) losses on the sale or other disposition of investments or fixed assets which do not result from the ordinary course,
 - (b) depreciation allowances,
 - (c) amortization (including Bond principal) allowances,
 - (d) principal and interest payments with respect to capital leases or other lease financing arrangements under Section 6.03 hereof; the fees and charges of the Trustee or trustee of any fund, including reasonable attorneys fees; the costs of audits required hereunder; the costs of computation and payment of any arbitrage rebate; and the premiums for all insurance and fidelity bonds required by this Bond Ordinance,
 - (e) amounts paid as interest on Bonds, Junior Lien Bonds, Special Facilities Bonds, or Bond Anticipation Notes,
 - (f) Operation and Maintenance Expenses paid from *ad valorem* taxes,
 - (g) expenses resulting directly from the operation of Special Facilities to the extent that the revenues derived therefrom have been pledged to secure, and used for, the payment of Special Facilities Bonds,
 - (h) any non-cash expenses related to net pension liabilities, other post-employment benefit liabilities, or similar accounting determinations under Accounting Principles that do not result in any actual disposition of cash, and
 - (i) amortization of financing expenses, underwriting discounts, call premiums, gains or losses on the extinguishment of debt due to the refinancing of the same, and other related or incidental non-recurring expenses resulting from the issuance or refinancing of Bonds, Junior Lien Bonds, Special Facilities Bonds, or Bond Anticipation Notes.

“Office of State Treasurer” means the Office of State Treasurer of the State.

“Operation and Maintenance Expenses” means, for the period in question, all expenses incurred in connection with the administration and the operation of the System, including, without limiting the generality of the foregoing, such expenses as may be reasonably necessary to preserve the System in good repair and working order.

“Operation and Maintenance Fund” means the fund established by the provisions of Section 7.05 hereof and which is designed to provide for the payment of all Operation and

Maintenance Expenses. This fund constitutes the “operation and maintenance fund” as such term is defined in the Enabling Act.

“Other Available Moneys Account” means the account of that name established within the Operation and Maintenance Fund pursuant to Section 7.05 hereof.

“Outstanding,” when used with reference to any Bonds, subject to Section 16.01 hereof, and except as may be modified for any Series of Bonds pursuant to the provisions of a Series Ordinance, means, as of any date, all such Bonds theretofore or then being authenticated and delivered except:

- (1) Bonds cancelled at or prior to such date;
- (2) Bonds in lieu of or in substitution for which other Bonds shall have been executed and delivered;
- (3) Bonds deemed to have been paid as provided in Article XVI hereof; and
- (4) for purposes of any consent or other action to be taken by the Holders of a specified percentage of Bonds, Bonds, as to which a Responsible Officer has actual knowledge, held by, or for the account of, the Town, or by any person controlling, controlled by, or under common control with the Town (unless all Bonds are so held).

“Paying Agent” means the financial institution which is authorized in writing by the Town Council to pay the Principal Installments of or interest on and redemption premium, if any, on any Bonds and having the duties, responsibilities and rights provided for in this Bond Ordinance and any Series Ordinance, and its successor or successors and any other corporation or association which at any time may be substituted in its place pursuant to this Bond Ordinance. Pursuant to the provisions of Section 15.02 of this Bond Ordinance, the Trustee appointed for a Series of Bonds shall serve as Paying Agent.

“Principal Installment” means, as of any date of calculation, (i) the aggregate principal amount of Outstanding Bonds due on a Bond Payment Date, reduced by the aggregate principal amount of such Bonds which would be retired by reason of the payment when due of, and application in accordance with, any mandatory sinking fund payment payable before such future date, plus (ii) any mandatory sinking fund payment due on such certain future date, together with the aggregate amount of the premiums, if any, applicable to such mandatory sinking fund payments, plus (iii) with respect to any Capital Appreciation Bonds required to be paid on such certain date, the Accreted Value as of such certain date of such Capital Appreciation Bonds; and in this latter respect, any reference to “principal” of Bonds in this Bond Ordinance means, with respect to Capital Appreciation Bonds, the Accreted Value of such Capital Appreciation Bonds as of the date of calculation.

“Principal Payment Date” means, for a particular Series of Bonds, the date or dates on which a Principal Installment shall be due, as may be established, or established in a manner otherwise delegated, in accordance with the Series Ordinance authorizing such Bonds.

“Project Fund” means any fund created by and designated as such in a Series Ordinance, in accordance with Section 7.08 hereof.

“Rate Stabilization Fund” means the fund established pursuant to Section 7.07 hereof designed to provide for the stabilization of stormwater rates by carrying forward surplus revenues.

“Record Date” means the 15th day of the month immediately preceding each Bond Payment Date (or such other time or times as shall be prescribed by any applicable Series Ordinance).

“Redemption Price” means, with respect to Bonds of any Series or a portion thereof, the principal amount of such Bonds or portion thereof plus the applicable premium, if any, and accrued interest payable upon redemption thereof in the manner contemplated in accordance with its terms, this Bond Ordinance, and the applicable Series Ordinance.

“Registrar” means the Trustee or any bank, trust company, or national banking association which is authorized in writing by the Town to maintain an accurate list of those who from time to time shall be the Holders of Bonds of a particular Series and to effect the transfer of such Bonds in accordance with the provisions of this Bond Ordinance and having the duties, responsibilities, and rights provided for in this Bond Ordinance and any Series Ordinance, and its successor or successors and any other corporation or association which at any time may be substituted in its place pursuant to this Bond Ordinance; however, the Town Council may, pursuant to a Series Ordinance, authorize the Town to serve as Registrar for the applicable Series of Bonds, in lieu of the Trustee or institutions referred to above.

“Reserve Requirement” means as of any date of calculation, the debt service reserve requirement, if any, established by a Series Ordinance authorizing a Series of Bonds.

“Responsible Officer” means, when used with respect to the Trustee, any vice president, assistant vice president, senior associate, associate or other officer of the Trustee having direct responsibility for the administration of this Bond Ordinance.

“Securities Depository” means The Depository Trust Company, or any other recognized securities depository selected by the Town, which securities depository maintains a book-entry system in respect of the Bonds of any Series, and shall include any substitute for or successor to the securities depository initially acting as Securities Depository.

“Securities Depository Nominee” means, as to any Securities Depository, such Securities Depository or the nominee of such Securities Depository in whose name there shall be registered on the registration books maintained by any Registrar, the Bond certificates to be delivered to

and immobilized at such Securities Depository during the continuation with such Securities Depository of participation in its book-entry system.

“Serial Bonds” means the Bonds of any Series which are stated to mature in installments and for which there are no mandatory sinking fund provisions.

“Series” means all of the Bonds authenticated and delivered on original issuance in a simultaneous transaction and designated as a single Series as authorized by the authorizing Series Ordinance, and any Bonds thereafter authenticated and delivered in lieu of or in substitution for (but not to refund) such Bonds as herein provided, regardless of variations in maturity, interest rate or other provisions.

“Series Ordinance” means an ordinance enacted by Town Council authorizing the issuance of a Series or multiple Series of Bonds pursuant to this Bond Ordinance in accordance with the terms and provisions hereof, in accordance with Article IV hereof.

“South Carolina Code” means the Code of Laws of South Carolina 1976, as from time to time amended.

“Special Facilities” means those facilities financed with the proceeds of Special Facilities Bonds as described in Section 6.02 hereof.

“Special Facilities Bonds” means those obligations issued in accordance with Section 6.02 hereof.

“State” has the meaning given such term in Section 1.01.

“Stormwater Fund” means the account or accounts established and maintained by the Town in such fashion as to adequately reflect all of the receipts and revenues derived from the operation of the System, with the exception of customer deposits, if any, and all interest and other income earned by the Town in connection with the operation of the System, as established by the provisions of Section 7.02 hereof.

“System” shall have the meaning given in Section 1.01 hereof as the same is now, or in accordance with Sections 11.02 and 11.03 of this Bond Ordinance may be constituted, all property real and personal, used and useful therefor, all apparatus and equipment used in connection therewith, and all acquisitions, replacements, enlargements, improvements, extensions, additions and betterments that may be made thereto at any time hereafter; provided, that during such time as any Special Facilities Bonds issued to finance Special Facilities are outstanding, the term “System” shall not include such Special Facilities.

“Term Bonds” means the Bonds of any Series which are stated to mature in a single year and which are subject to mandatory sinking fund redemption prior to the stated maturity date.

“Town” has the meaning given such term in Section 1.01 hereof.

“Town Administrator” means the Town Administrator of the Town or in the absence of the Town Administrator, the Deputy Town Administrator or other officer of the Town authorized to act on behalf of the Town Administrator, including, specifically, any acting Town Administrator.

“Town Council” has the meaning given such term in Section 1.01 hereof.

“Trustee” means the financial institution serving as Trustee in accordance with this Bond Ordinance, and which shall have such other duties, privileges and functions as are set forth herein. Such term shall include any successor and any corporation or association resulting from or surviving any consolidation or merger to which it or its successors may be a party and any successor trustee at the time serving as successor trustee hereunder. Such term shall include any successor and any corporation or association resulting from or surviving any consolidation or merger to which it or its successors may be a party.

“Variable Rate Bonds” means, for any period of time, any Bonds which during such period bear interest at a variable rate; provided that Bonds, the interest rate on which has been fixed for the remainder of the term thereof, shall no longer be Variable Rate Bonds.

“Water Quality Authority” means the South Carolina Water Quality Revolving Fund Authority.

Section 2.03 Interpretations.

In this Bond Ordinance, unless the context otherwise requires:

(a) Articles, Sections, and paragraphs referred to by number mean the corresponding Articles, Sections, and paragraphs of this Bond Ordinance.

(b) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Words importing the singular number shall include the plural number and vice versa, and words importing persons shall include firms, associations, partnerships (including limited partnerships), trusts, corporations, or other legal entities, including public bodies, as well as natural persons.

(c) The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder,” and any similar terms, as used in this Bond Ordinance, refer to this Bond Ordinance or Sections or paragraphs of this Bond Ordinance and the term “hereafter” mean any date after the date of enactment of this Bond Ordinance.

(d) Unless otherwise specified herein, all accounting terms used herein without definition shall be interpreted, all accounting determinations hereunder shall be made, and all financial statements required to be delivered hereunder shall be prepared, in accordance with Accounting Principles. In the event of changes to Accounting Principles which become effective after the date of enactment of this Bond Ordinance, the Town may in good faith effect

appropriate amendments to this Bond Ordinance so as to perpetuate the meaning and effect of Accounting Principles as in effect on the date of enactment of this Bond Ordinance.

(e) References to the payment of principal of Bonds shall be deemed to include payment of principal at maturity, at redemption pursuant to optional redemption, and by mandatory redemption pursuant to any sinking fund payment obligations.

(f) The Trustee and any other fiduciary shall be deemed to hold an Authorized Investment in which money is invested pursuant to the provisions of this Bond Ordinance, even though such Authorized Investment is evidenced only by a book entry or similar record of investment in the name of the Trustee or such other fiduciary.

(g) Three asterisks mark the end of each Article.

* * *

ARTICLE III

FISCAL YEAR

Section 3.01 Establishment and Modification of Fiscal Year.

The System shall be operated on a Fiscal Year basis, which shall commence on the 1st day of October of each year and shall end on the 30th day of September of the following year. The Town may, by ordinance duly enacted by the Town Council, change the Fiscal Year at any time from that now existing to a different twelve-month period. Upon any change to the Fiscal Year, the Town shall provide the Trustee a copy of the ordinance authorizing such change.

* * *

ARTICLE IV

THE BONDS

Section 4.01 Authorization for Bonds in Series.

- (a) From time to time and for the purposes of:
 - (1) obtaining funds for the acquiring, purchasing, constructing, improving, enlarging, and repairing of the System and improvements and additions thereto, including the recoupment or reimbursement of funds already so expended;
 - (2) providing funds for the payment of any Bond Anticipation Note issued in order to defray the cost of expansions, additions, and improvements to the System and that were issued in anticipation of the issuance and sale of Bonds;
 - (3) refunding Bonds or other obligations issued to provide land or facilities or equipment which are or are to become a part of the System or which are or were payable in whole or in part from revenues of the System;
 - (4) providing funds for the payment of interest due on any Bonds during the period permitted by the Enabling Act;
 - (5) funding any Debt Service Reserve Fund or restoring the value of the cash and securities in any Debt Service Reserve Fund to the amount equal to its Reserve Requirement, and reimbursing amounts owed to any providers of a surety bond, line of credit, insurance policy or letter of credit established pursuant to Section 7.04(d) hereof; and
 - (6) paying the costs of issuance of Bonds, including any costs of credit enhancement therefor;

but subject to the terms, limitations, and conditions herein, the Town Council may authorize the issuance of a Series of Bonds by the enactment of a Series Ordinance, and the Bonds of any such Series may be issued and delivered upon compliance with the provisions of this Article. Except as otherwise provided herein, the Bonds of each Series shall be issued in fully-registered form, without coupons, and may be issued in the form of book-entry bonds. The Bonds shall, in addition to the title “Town of Moncks Corner, South Carolina Stormwater System Revenue Bonds” (or such other appropriate designation to denote the purpose of such Series of Bonds), bear a letter or number Series designation as may be necessary to distinguish them from the Bonds of every other Series and shall designate the year in which the Series is issued. Bonds of any Series may be authorized to be issued in the form of Serial Bonds or Term Bonds, with or without mandatory sinking fund payments, or Capital Appreciation Bonds, or a combination of any of them, and may bear interest in whatever manner and payable at whatever frequency as shall be prescribed by the applicable Series Ordinance.

(b) Each Series Ordinance shall include a determination to the effect that the issuance of such Series of Bonds is necessary to provide funds to be used and expended for one or more of the purposes enumerated in subsection (a) above. In addition, in each Series Ordinance the Town Council shall specify and determine, and, as applicable, may delegate to an Authorized Officer or other person the authority to determine, the following:

- (1) The then period of usefulness of the System;
- (2) The Date of Issue of such Series of Bonds or the manner or method for determining the Date of Issue and the official authorized to make such determination;
- (3) The maximum authorized principal amount of such Series of Bonds, and the manner or method of determining the precise principal amount and the official authorized to make such determination;
- (4) The Bond Payment Dates, the Record Dates, and the date or dates of maturity and the amounts thereof, for the Bonds in such Series or the manner of determining such dates and amounts and the official authorized to make such determinations, and further provided that the Series Ordinance shall specify a date beyond which the final maturity of such Series shall not extend, which date shall not be longer than 45 years from the Date of Issue of such Series of Bonds;
- (5) The purposes for which such Series of Bonds are being issued;
- (6) The title and designation of such Series of Bonds;
- (7) The manner in which such Series of Bonds are to be sold and provisions for the sale thereof and, as applicable, the official authorized to cause such sale, or to determine the manner or method of making such determination and the official authorized to make such determination;
- (8) The interest rate or rates, or the manner of determining such rate or rates, of the Bonds of such Series, including whether and on what terms there shall be entered by the Town an agreement for any form of interest rate swap or similar transaction with respect to such Series or manner or method of making such determination and, as applicable, the official authorized to make such determination;
- (9) The portion of such Series that are Serial Bonds and that are Term Bonds and that are Capital Appreciation Bonds, if any, including the amount and date of each mandatory redemption or sinking fund installment, if any, required by such Series Ordinance to be paid for the retirement of any such Bonds, or the manner or method of making such designations and determinations by an authorized official;
- (10) The Redemption Price or Redemption Prices and the redemption date or redemption dates and other terms of redemption, if any, applicable to any of the

Bonds of such Series for such payments, or the manner or method of determining such dates and prices and the official authorized to make such determination;

- (11) The Paying Agent and the Registrar for such Bonds and if other than the Trustee, the manner of determining the Paying Agent and the Registrar and officials authorized to make such determinations;
- (12) The form or forms of the Bonds of such Series, and the officials authorized to make any revisions thereto upon the advice of Bond Counsel;
- (13) The manner of numbering and lettering, and the denomination or denominations of the Bonds of such Series or the manner or method of determining such matters;
- (14) Whether the Bonds of such Series shall be issued in book-entry form pursuant to Section 4.20 hereof;
- (15) That the then applicable Reserve Requirement, if any, for all Series of Bonds Outstanding have been met;
- (16) The Reserve Requirement, if any, for the Series of Bonds authorized thereby, or method for determining the same and the officials authorized to make such determination;
- (17) The disposition or application of the proceeds of the sale of the Bonds of such Series and the manner of their application;
- (18) That a Debt Service Fund Account (within the Debt Service Fund) shall be established and a Debt Service Reserve Fund may be established for the Series of Bonds, and that a Project Fund be established if the proceeds of the Bonds of any Series are intended to be used for the expansion or improvement of the System, and that a capitalized interest account and/or a cost of issuance account be established as a standalone account or within any such Project Fund or applicable Debt Service Fund Account, as set forth in a Series Ordinance, if interest for any period is to be paid from proceeds of such Series of Bonds;
- (19) An estimate of the cost of the purchasing, constructing, improving, enlarging, or repairing of the System, or any combination thereof, to be funded with the proceeds of the Bonds of such Series; and
- (20) Any other provisions or funds deemed advisable by the Town for the Bonds and any other applicable redemption requirement for the Bonds of such Series and the method of satisfying the same and not in conflict with or in substitution for the provisions of this Bond Ordinance.

Section 4.02 Conditions to Issuance of Bonds of a Series.

All Bonds shall be issued in compliance with the following provisions of this Section 4.02 and in compliance with any further conditions set forth in any Series Ordinance with respect to any Bonds then Outstanding:

- (1) Bonds shall be stated to mature and/or have mandatory or sinking fund redemptions on such day or days in the years and amounts prescribed or determined in the manner approved by the Series Ordinance.
- (2) Bonds shall bear interest at the rate or rates and be payable on the occasions prescribed or determined in the manner approved by the Series Ordinance.
- (3) Bonds shall be issued for a purpose or purposes set forth in Section 4.01(a) herein.
- (4) There shall exist, on the occasion of the issuance of the Bonds, no default in the payment of the Principal Installments of or interest on any Bonds or any Junior Lien Bonds and Special Facilities Bonds then Outstanding.
- (5) On the date of delivery of such Series of Bonds there shall be on deposit in each Debt Service Reserve Fund such amounts as may be necessary to make the value of the moneys and securities in such Debt Service Reserve Fund equal to the Reserve Requirement applicable to the Series of Bonds for which such Debt Service Reserve Fund was created, unless:
 - (A) the applicable Series Ordinance and any previous Series Ordinances shall have provided for successive monthly payments beginning in the first month following the date of the issuance of the Bonds of any such Series in substantially equal monthly amounts (the “*Monthly Series Payments*”) so that within ten years from the date of issuance of such Series of Bonds, or such shorter period of time as set forth in the Series Ordinance, there shall be in the applicable Debt Service Reserve Fund an amount equal to the applicable Reserve Requirement with respect to such Bonds; and
 - (B) there shall be no unremedied defaults of any Monthly Series Payments required to have been made.
- (6) Except in the case of the first Series of Bonds issued under this Bond Ordinance, and in the case of any additional Bonds issued for the purpose of refunding Bonds, or in the event no Bonds are Outstanding, the Town may issue additional Bonds if:
 - (A) Net Earnings during the most recent Fiscal Year for which audited financial statements of the System are completed shall not be less than 110% of the maximum Annual Principal and Interest Requirements on all Bonds Outstanding and on such proposed Series of Bonds, with such calculation to be made by an Authorized Officer upon the basis of such

audited financial statements for the Fiscal Year preceding the Fiscal Year in which the proposed Series of Bonds are to be issued; or

- (B) for each of the three Fiscal Years following the later of the date of delivery of the proposed Series of Bonds, or the period (if any) for which interest is funded from the proceeds of such Bonds, Net Earnings, as has been forecasted by an Authorized Officer, taking into account such circumstances and factors as he finds appropriate including, without limitation, rate adjustments, or acquisitions or improvements to expand the System, will not be less than 110% of the maximum Annual Principal and Interest Requirements on all Bonds Outstanding and on such proposed Series of Bonds.

The Authorized Officer making the calculations described in this paragraph (6) may, but is not required to, rely on a report, calculation, or projection of the Accountants or Independent Consultants.

Whenever this paragraph (6) requires a calculation based on the most recent Fiscal Year for which audited financial statements are available, the Town may, in its discretion, provide for a special audit and based upon such special audit, in lieu of the audit for such Fiscal Year, provided such special audit covers twelve consecutive calendar months of the eighteen full consecutive calendar months preceding the date of issuance of the proposed Series of Bonds.

- (7) In the case of Bonds issued for the purpose of refunding any Bonds, Series of Bonds, or a portion of a Series of Bonds:
 - (A) the Annual Principal and Interest Requirement of the refunding Bonds shall not exceed 120% of the Annual Principal and Interest Requirement of the refunded Bonds for any Fiscal Year until a time subsequent to the last maturity of Bonds issued prior to the issuance of such refunding Bonds which are not refunded and which remain Outstanding following the issuance of the refunding Bonds;
 - (B) the additional Bonds test prescribed by paragraph (6) herein shall be complied with; or
 - (C) an overall net present value savings results from the issuance of the refunding Bonds.
- (8) If any Series of Bonds shall contain Variable Rate Bonds:
 - (A) The Series Ordinance shall provide for and specify a maximum interest rate on (i) such Bonds and (ii) any reimbursement obligation to a liquidity provider for such Bonds;

- (B) The liquidity provider for such Bonds shall be rated within the highest two short-term rating categories by any rating agency then rating any Series of Bonds; and
 - (C) Any accelerated principal payments or any interest computed at a rate in excess of that on such Bonds due to the liquidity provider for such Bonds pursuant to any reimbursement agreement with such liquidity provider shall be subordinate to the payment of debt service on all Bonds; provided, however, if the tests referred to in Sections 4.02(6) and 4.02(7) of this Bond Ordinance are calculated (and met) assuming such accelerated principal payment and such excess interest amount to the liquidity provider, then such accelerated principal payment and excess interest amount may be on a parity with the payment of debt service on all Bonds.
- (9) All amounts then due under a reimbursement agreement with any provider of a surety bond, line of credit, insurance policy or letter of credit as contemplated under Section 7.04(d) hereof shall have been paid.
 - (10) Any Series Ordinance authorizing a Series of Bonds may prescribe, in addition to the requirements set forth in Sections 4.02(6) and 4.02(7) hereof, further requirements that must be met for the issuance of Bonds on a parity with all Series of Bonds then Outstanding.

Section 4.03 Reliance Upon Certificates.

The Town, the Trustee, and any purchaser of any Bonds shall be entitled to conclusively rely upon certificates or reports of the Accountants, an Authorized Officer, an Independent Consultant and any Insurance Consultant, made in good faith, pursuant to any provision of this Bond Ordinance.

Section 4.04 Execution of Bonds.

(a) Unless otherwise prescribed by any Series Ordinance, the Bonds shall be executed in the name of and on behalf of the Town by the Mayor or in his absence another Authorized Officer, the corporate seal of the Town shall be impressed or reproduced thereon and the same shall be attested by the Clerk. Such officers may employ facsimiles of their signatures and also a Series Ordinance may specify the manner of executing the Bonds by electronic signature.

(b) In case any officer whose signature or facsimile signature shall appear on the Bonds shall cease to be such officer before the delivery of any Bond, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office.

Section 4.05 Authentication.

Only such Bonds as shall have endorsed thereon a certificate of authentication duly executed by the Registrar shall be entitled to any right or benefit under this Bond Ordinance. No Bond shall be valid or obligatory for any purpose unless and until such certificate of authentication shall have been duly executed by the Registrar, and such executed certificate of the Registrar upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this Bond Ordinance. The Registrar's certificate of authentication on any Bond shall be deemed to have been duly executed if signed by any authorized signatory of the Registrar.

Section 4.06 Medium of Payment.

The Bonds shall be payable with respect to Principal Installments, interest on, and premium, if any, in lawful money of the United States of America, unless otherwise provided in a Series Ordinance.

Section 4.07 Mutilated, Lost, Stolen or Destroyed Bonds.

In the event any Bond is mutilated, lost, stolen or destroyed, the Town may execute and the Registrar may authenticate a new Bond of the same Series of like date, maturity and denomination as that mutilated, lost, stolen or destroyed; provided that, in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Registrar, and in the case of any lost, stolen or destroyed Bond, there shall be first furnished to the Town and to the Registrar evidence of or affidavit as to such loss, theft or destruction satisfactory to the Town and the Registrar together with indemnity satisfactory to them. In the event any such Bond shall have matured, instead of issuing a duplicate Bond, the Town shall pay the same. The Town and the Registrar may charge the Holder or owner of such Bond with their reasonable fees and expenses (including reasonable attorney's fees, costs and expenses) in connection with such actions.

Section 4.08 Transfer and Registry; Persons Treated as Owners.

(a) As long as any Bonds shall be Outstanding, the Town shall cause books for the registration and for the transfer of Bonds to be kept. Such books shall be kept by the Trustee unless there shall have been appointed a Registrar other than the Trustee to keep the books of registration for any particular Series of Bonds, in which case such Registrar shall promptly notify the Trustee of any registration or transfer of the Bonds. The transfer of each Bond may be registered only upon the registration books of the Town kept for that purpose by the Holder thereof in person or by his duly authorized attorney upon surrender thereof and an assignment with a written instrument of transfer satisfactory to the Registrar, duly executed by the Holder or his duly authorized attorney. Upon the registration or transfer of any Bond, the Town shall cause to be issued, subject to the provisions of Section 4.11 hereof, in the name of the transferee a new Bond or Bonds of the same aggregate principal amount, maturity and interest rate as the surrendered Bond.

(b) Any of the Town, the Trustee, any Registrar, and any Paying Agent may deem and treat the person in whose name any Bond shall be registered upon the registration books of the Town as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the Principal Installment of, premium (if any) and interest on such Bond and for all other purposes, and all such payments so made to any such Holder or, upon his order, shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid; and none of the Town, the Trustee, any Registrar, or the Paying Agent shall be affected by any notice to the contrary.

(c) Notwithstanding anything in subsections (a) and (b) of this Section 4.08 to the contrary, Bonds may be issued in the form of contractual obligations which are not instruments and which may be transferred as provided in such contracts.

Section 4.09 Date and Payment Provisions.

Unless otherwise provided in any Series Ordinance with respect to Bonds issued thereunder, each Bond of a Series shall be authenticated on such dates as they shall, in each case, be delivered. Each Bond shall bear interest from the Date of Issue if no interest has yet been paid; otherwise from the last date to which interest has been paid and which date is on or prior to the date of such Bond's authentication.

Holders of at least \$1,000,000 principal amount of a Series of Bonds may, by written notice containing wiring instructions filed with the Trustee or Registrar, as the case may be, at least 20 days prior to any Bond Payment Date, provide for the payment of the interest on such Bonds by wire transfer to an account at a bank located in the continental United States.

Section 4.10 Transferability of Bonds.

Bonds of a Series, upon surrender thereof at the office of the Registrar for the Bonds of such Series with a written instrument of transfer satisfactory to the Registrar, duly executed by the Holder or his duly authorized attorney, may, at the option of the Holder and upon payment by such Holder of any charges made pursuant to Section 4.11 hereof, be exchanged for an equal aggregate principal amount of Bonds of such Series of like maturity and interest rate of any other authorized denominations.

Section 4.11 Regulations with Respect to Exchanges and Transfer.

In all cases in which the privilege of exchanging or transferring Bonds is exercised, the Town shall execute and the Registrar shall authenticate and deliver Bonds in accordance with the provisions of this Bond Ordinance. All Bonds surrendered in any such exchanges or transfers shall forthwith be cancelled and destroyed and shall not be reissued, and a counterpart of the certificate of destruction evidencing such destruction shall be furnished by the Registrar to the Town. All Bonds so destroyed shall thereafter no longer be considered Outstanding for any purposes of this Bond Ordinance. There shall be no charge to the Holder for such exchange or transfer of Bonds except that the Registrar may make a charge sufficient to reimburse it for any tax or other governmental charge required to be paid with respect to such exchange or transfer. Neither the Town nor the Registrar, as the case may be, shall be required to register, transfer or

exchange Bonds of a Series during the period between a Record Date and its related Bond Payment Date, or to register, transfer or exchange any Bonds called for redemption after the mailing of any notice of redemption of such Bond.

Section 4.12 Cancellation and Destruction of Mutilated, Paid or Surrendered Bonds.

Upon the surrender of mutilated Bonds pursuant to Section 4.07 hereof, or Bonds paid or surrendered, the same shall be cancelled and destroyed and shall not be reissued, and a counterpart of the certificate evidencing such destruction shall be furnished by the Trustee or the Registrar, as the case may, be, to the Town. All Bonds so destroyed shall thereafter no longer be considered Outstanding for any purposes of this Bond Ordinance.

Section 4.13 Notice of Redemption.

If any of the Bonds, or portions thereof, are called for redemption, the Registrar, at the written direction of an Authorized Officer, shall give written notice to the Holders of any Bonds to be redeemed, in the name of the Town, of the redemption of such Bonds, or portions thereof. Notice of each redemption of Bonds is required to be mailed by the Registrar by first class mail, postage prepaid, at least 30 but no more than 60 days prior to the redemption date to each Registered Owner of Bonds to be redeemed, at the address of such owner recorded on the bond register and to be otherwise given in accordance with, among others, the following requirements:

- (1) notices must contain, at a minimum, whether the redemption is conditioned on any event, the complete official name of the Bonds, CUSIP numbers (if any), Bond numbers, principal amount of each Bond to be redeemed (if less than all), publication date, redemption date, Redemption Price, redemption agent's name and address with contact person and phone number, Registrar's name and address, date of the Bonds, interest rate, maturity date, the place or places where amounts due will be payable, and any other descriptive information deemed necessary by the Registrar;
- (2) except in the case of a Bond held by a single Holder, in which case notice need only be provided as stated in the first paragraph to this Section 4.13, notices must be sent to Bondholders of \$1,000,000 or more, to the Municipal Securities Rulemaking Board, if necessary (via its Electronic Municipal Market Access (EMMA) system, or its successor, as may be amended or modified), and any Securities Depository (if such Bonds are registered in the name of a Securities Depository or the nominee of such Securities Depository) by such method or such other method as is standard in the industry; in addition, any Bondholder holding in excess of \$1,000,000 principal amount of Bonds may request the Registrar to send notices to any additional addressee specified;
- (3) a second notice to Holders of the Bonds must be mailed by the means specified above to any Bondholder who has not presented Bonds for redemption 60 days after the redemption date;

- (4) notice of redemptions effected by advance refundings must also be given in accordance with the above requirements and any other requirements specified by the applicable Enabling Act; and
- (5) CUSIP number identification, if any, with appropriate dollar amounts for each CUSIP number must accompany all redemption payments and interest payments, whether by check or by wire transfer.

The obligation to provide notice shall not be conditioned upon the prior payment to the Paying Agent of money or the delivery to the Paying Agent of Authorized Investments or Government Obligations sufficient to pay the Redemption Price of the Bonds to which such notice relates or the interest thereon to the redemption date.

If at the time of mailing of a notice of redemption, there shall not have been deposited with the Paying Agent moneys sufficient to redeem all the Bonds or portions thereof called for redemption, which moneys are or will be available for redemption of such Bonds, such notice is required to state that it is conditional on the deposit of the redemption moneys with the Paying Agent not later than the opening of business on the redemption date, and such notice shall be of no effect unless such moneys are so deposited.

The failure of the Registrar to give notice to a Bondholder or any defect in such notice shall not affect the validity of the redemption of any other Bonds for which notice is properly given. Any Bondholder may waive notice of redemption by delivery of a written waiver to the Registrar.

Any Series Ordinance providing for the issuance of Bonds consisting of contractual obligations not in the form of an instrument or not registered in the name of a Securities Depository or the nominee of such Securities Depository or providing for Bonds in bearer form may provide for or authorize alternative methods for delivery of notice of redemption, and the Trustee shall be entitled to conclusively rely on such Series Ordinance as being consistent with the provisions of this Bond Ordinance.

Provided sufficient funds for such redemption are on deposit with the Paying Agent, all Bonds so called for redemption shall cease to bear interest on the specified redemption date and shall no longer be deemed to be Outstanding hereunder. If said money shall not be so available on the redemption date, such Bonds or portions thereof shall continue to bear interest until paid at the same rate as they would have borne had they not been called for redemption.

Section 4.14 Cancellation of Bonds Which Have Been Redeemed.

All Bonds which have been redeemed shall be cancelled and destroyed by the Registrar and shall not be reissued, and a counterpart of the certificate of destruction evidencing such destruction shall be furnished by the Registrar to the Town. All Bonds so destroyed shall thereafter no longer be considered Outstanding for any purposes of this Bond Ordinance.

Section 4.15 Restriction on Optional Redemption.

Notwithstanding anything in this Bond Ordinance to the contrary, no optional redemption of Bonds may occur unless all amounts payable by the Town owing under a reimbursement agreement with any provider of a surety bond, line of credit, insurance policy or letter of credit as contemplated under Section 7.04(d) hereof shall have been paid in full.

Section 4.16 Selection of Bonds to be Redeemed.

In the event that less than all of the Bonds of any Series are to be redeemed at the option of the Town, Bonds to be redeemed shall be in such order of maturity as selected by the Town. In the event of redemption of less than all of the Bonds of a Series of any maturity, the Bonds or portions of Bonds to be redeemed, shall be selected by lot by the Trustee. The portion of any Bond of a denomination which is larger than the minimum denomination for the Bonds of such Series shall be in the principal amount of such minimum denomination or a multiple thereof, and that, in selecting portions of such Bonds for redemption, the Trustee shall treat each such Bond as representing that number of Bonds of minimum denomination which is obtained by dividing the principal amount of such Bond to be redeemed in part by the amount of the minimum denomination; provided further that, if less than all of the beneficial interests in a Bond of a single maturity registered in the name of a Securities Depository or a Securities Depository Nominee are to be redeemed, the beneficial interests to be redeemed shall be selected by lot or in such manner as may be directed by the Securities Depository. If there shall be drawn for redemption less than all of a Bond, the Town shall execute and the Trustee shall authenticate and deliver, upon the surrender of such Bond, without charge to the owner thereof, for the unredeemed balance of the principal amount of the Bond so surrendered, Bonds of the same Series in any authorized denomination. The procedures for selection of Bonds of a Series for redemption set forth in this Section 4.16 are subject, however, to any alternative provisions set forth in a Series Ordinance applicable to such Series of Bonds.

Section 4.17 Purchase of Bonds.

The Town may, or the Trustee for a Series of Bonds at the written direction of the Town, shall, if and to the extent practicable, purchase Bonds at such time, in such manner and at such price as may be specified by the Town. The Trustee may so purchase Bonds with any money then held by the Trustee which is available for the redemption or purchase of Bonds and in excess of that set aside for the payment of Bonds called for redemption; provided, that the Trustee is provided with an opinion of Bond Counsel to the effect that such redemption or purchase complies with any limitations or restrictions on such redemption or purchase contained in this Bond Ordinance.

Section 4.18 Bonds Issued as Taxable Obligations.

Notwithstanding anything in this Bond Ordinance to the contrary, the Town may from time to time, pursuant to one or more Series Ordinances, provide for the issuance of Bonds and Junior Lien Bonds the interest on which may be includable in gross income of the Holders of such Bonds for federal income taxation purposes.

Section 4.19 Security for Payment of Bonds; Priority of Lien.

(a) The Bonds, together with the interest thereon, shall be payable solely from and secured equally and ratably by a pledge of and a lien upon the Gross Revenues. The principal of the Bonds, together with the interest and redemption premium, if any, thereon shall be payable from and secured, subject to the foregoing, by a pledge of the funds deposited, from time to time, in the funds and accounts created hereunder, including the Debt Service Fund; provided, however, that amounts on deposit in each Debt Service Fund Account, and any subaccount therein, and in each Debt Service Reserve Fund shall be held solely for the benefit of the Series of Bonds for which such accounts, subaccounts, or funds were established. Such pledge and lien securing the Bonds shall at all times and in all respects be and remain superior to pledges and liens made and given to secure any other bonds or other obligations payable from the revenues of the System.

(b) To further secure the Bonds, pursuant to Section 6-21-330 of the Enabling Act and as additional security for the payment of the Bonds, there is hereby granted to the Holders of Bonds Outstanding from time to time, a statutory lien on the System until payment in full of such Bonds as may be Outstanding from time to time. Such lien shall extend to the entirety of the System as currently constituted and as expanded from time to time unless otherwise provided in the Series Ordinance authorizing a Series of Bonds for a specific improvement to or expansion of the System. The Trustee, may, either at law or in equity, by suit, action, mandamus or other proceedings, protect and enforce such statutory lien and may, by suit, action, mandamus or other proceedings, enforce and compel performance of all duties of the officials of the Town hereunder, including the fixing of sufficient rates, the collection of Gross Revenues, the proper segregation of the Gross Revenues of the System and the proper application thereof. But such statutory lien shall not be construed to give the Trustee or any such Bondholder authority to compel the sale of the System or any part thereof.

(c) The Town is expressly authorized to pledge the Gross Revenues on a parity or junior lien basis to secure obligations issued under Title 31, Chapter 6 of the South Carolina Code as authorized by Section 31-6-110 of the South Carolina Code if the same are used to finance in whole or in part the extension or expansion of the System, upon enactment of a Series Ordinance, or other authorizing ordinance in the case of a junior lien pledge, and compliance with all requirements to issue a Series of Bonds or junior lien bonds, as applicable.

(d) The Bonds shall (a) be payable solely from the Gross Revenues, (b) not be secured by, or in any way entitled to, a pledge of the full faith, credit, or taxing power of the Town, (c) not be an indebtedness of the Town within the meaning of any State constitutional provision or statutory limitation but are payable solely from a revenue-producing project or special source which source does not involve revenues from any tax or license, and (d) not be a pecuniary liability of the Town or a charge against the Town's general credit or taxing power. The Town is not obligated to pay any of the Bonds or the interest thereon except from the Gross Revenues.

Section 4.20 Bonds in Book-Entry Form.

Notwithstanding any other provision of this Bond Ordinance with respect to the form of Bonds to the contrary, a Series Ordinance may provide for the issuance of one or more Series of Bonds solely in fully-registered form registerable to a Securities Depository, a Securities Depository Nominee or the beneficial owner of the Bonds. A Series Ordinance may further provide that such Series of Bonds shall be evidenced by one or more certificates or by a system of book entries in a form satisfactory to an Authorized Officer and to provide for payment, redemption, notices, and like provisions in a manner consistent with such system of registration.

Section 4.21 Waiver of Certain Provisions.

Notwithstanding anything in this Bond Ordinance to the contrary, whenever all of the debt issued or all of the obligations incurred by the Town under a Series Ordinance are acquired by and are held by a single entity, that single entity, at its sole option, may waive any provision or requirement of this Bond Ordinance that relates separately to the governance of such Series and is for the protection and benefit of such single entity only and not for the protection or benefit of any other Holder or Holders of Bonds; provided that if such Series of Bonds is insured by an Insurer, then any such waiver shall require the prior written approval of such Insurer.

Section 4.22 Bonds Not in the Form of an Instrument.

The Town may from time to time issue a Series of Bonds as contractual obligations not in the form of an instrument, and in such event such contract shall recite that it is authorized under the provisions of this Bond Ordinance and shall be authorized through the enactment of a Series Ordinance therefor, and the provisions regarding redemption or prepayment of such Bonds, notices to Bondholders, and transfers of such Bonds contained herein may be altered or supplemented by the provisions of the Series Ordinance pursuant to which such Bonds are issued or the contract pursuant to which such obligations are created.

Section 4.23 Payments Due on Saturdays, Sundays and Holidays.

In any case where the Bond Payment Date or the date fixed for redemption of any Bonds shall be a Saturday or Sunday or shall be, at the place designated for payment, a legal holiday or a day on which banking institutions are authorized by law to close, then payment of principal of, premium, if any, or interest on the Bonds need not be made on such date but may be made on the next succeeding Business Day which is not a Saturday, Sunday or legal holiday or a day upon which banking institutions are authorized by law to close, with the same force and effect as if made on the Bond Payment Date or the date fixed for redemption, and no interest shall accrue for the period after such date.

* * *

ARTICLE V

RATES AND CHARGES

Section 5.01 Rate Covenant.

(a) It is hereby determined that the rates for services and facilities furnished by the System shall, until otherwise revised pursuant to the provisions of this Bond Ordinance, be as now established. Said rates and charges are determined to be sufficient to meet the requirements of this Bond Ordinance but they shall be revised whenever necessary in order that they shall at all times be maintained on a basis sufficient to meet the requirements of this Bond Ordinance, and the Town specifically covenants and agrees to maintain rates and charges for all services furnished by the System which shall at all times be sufficient:

- (1) to maintain the Debt Service Fund and the Debt Service Fund Accounts and thus provide for the punctual payment of the Principal Installments of and interest on the Bonds;
- (2) to provide for the payment of the Operation and Maintenance Expenses as may be necessary to preserve the System in good repair and working order;
- (3) to maintain the Debt Service Reserve Funds in the manner prescribed herein and in any applicable Series Ordinance;
- (4) to pay all amounts owing under a reimbursement agreement with any provider of a surety bond, insurance policy, or letter of credit as contemplated under Section 7.04(e) hereof;
- (5) to provide for the punctual payment of the principal of and interest on all Junior Lien Bonds that may from time to time hereafter be outstanding;
- (6) to build and maintain the Depreciation and Contingent Fund for depreciation of the System and to build up a reserve for improvements, betterments and extensions to the System other than those necessary to maintain it in good repair and working order; and
- (7) to discharge all obligations imposed by the Enabling Act and by this Bond Ordinance and any applicable Series Ordinance.

(b) The Town covenants and agrees that it will, at all times, prescribe and maintain and thereafter collect rates and charges for the services and facilities furnished by the System which, together with other income, are reasonably expected to yield annual Net Earnings in the current Fiscal Year equal to at least the sum of 110% of the Annual Principal and Interest Requirements for all Series of Bonds Outstanding in such Fiscal Year. Promptly upon any material change in the circumstances which were contemplated at the time such rates and charges were most recently reviewed, but not less frequently than once in each Fiscal Year, shall review the rates and charges for its services and shall promptly revise such rates and charges as

necessary to comply with the foregoing requirement. Prior to the beginning of each Fiscal Year, the Town shall adopt an Annual Budget including amended rate schedules for such Fiscal Year which shall set forth in reasonable detail the estimated revenues and operating expenses and other expenditures of the System for such Fiscal Year and the amount to be deposited during such Fiscal Year in the Depreciation and Contingent Fund. The Town may at any time adopt an amended Annual Budget for the remainder of the then current Fiscal Year.

(c) If the Town Council, in adopting the Annual Budget, determines that revenues may not be sufficient to meet the rate covenant established hereinabove or if the audited financial statements of the Town indicate that the Town did not satisfy such rate covenant for the prior year, the Town shall, within 45 days, engage an Independent Consultant to prepare a report recommending such actions which will provide sufficient revenues in the following Fiscal Year to permit the Town to meet the rate covenant. Copies of such report shall be made available to the Town and the Trustee no later than sixty days after the engagement of the Independent Consultant. The Town agrees that it shall use its best efforts to effect such changes recommended by the Independent Consultant in its report. So long as the Town uses its best efforts to comply with such recommendations, failure to comply with the rate covenant shall not constitute an Event of Default under Article XIII hereof; provided however, a failure to comply with the rate covenant for a period of three consecutive Fiscal Years shall constitute an Event of Default.

(d) To the extent any legally available sources, which are not otherwise considered Gross Revenues, are made available by the Town in its Annual Budget, such amount shall be timely transferred to the Other Available Moneys Account.

* * *

ARTICLE VI

JUNIOR LIEN BONDS AND SPECIAL FACILITIES BONDS

Section 6.01 Junior Lien Bonds; Junior Lien Bonds as Contracts; Accession.

(a) Notwithstanding that Bonds may be Outstanding, subject to compliance with the conditions and limitations expressly set forth herein and in any Series Ordinance, the Town may at any time, and without further limitation and free of all conditions, issue Junior Lien Bonds for any corporate purpose of the Town, in such amount as it may from time to time determine, payable from the revenues of the System, provided that the pledge of and lien upon the revenues of the System granted for the protection of said Junior Lien Bonds, shall at all times be and remain subordinate and inferior in all respects to the pledge of and lien upon the revenues made or authorized for the Bonds and to the payment of all Operation and Maintenance Expenses; and provided, further, that the maturity of Junior Lien Bonds may not be accelerated or paid in full unless all of the Bonds shall have been paid or provision therefor has been made pursuant to Article XVI hereof.

(b) The Town may provide for Junior Lien Bonds in the form of contractual obligations, and not as instruments, and in such event such contracts shall recite that it is authorized under the provisions of this Bond Ordinance as a Junior Lien Bond and shall be authorized through the enactment of an ordinance therefor.

(c) By proceedings authorizing the issuance of Junior Lien Bonds, the Town may provide for the accession of such Junior Lien Bonds to the status of Bonds provided all of the following conditions are met. Any such subsequent proceedings adopted by the Town Council providing for such accession shall make the findings provided in the below paragraphs (1) through (4) and state whether and to what extent a Debt Service Reserve Fund shall be established as set forth in paragraph (5).

- (1) The Junior Lien Bonds were issued for a purpose or purposes set forth in Section 4.01(a) hereof.
- (2) There shall exist on the date of accession (a) no default in the payment of the Principal Installments of or interest on any Bonds Outstanding or any Junior Lien Bonds then outstanding, (b) no default in the performance of any duties required under the provisions of this Bond Ordinance, and (c) no amount owed by the Town with respect to the full funding of a Debt Service Reserve Fund, either by way of cash or reimbursement of any other funding mechanism, except in accordance with paragraph (6)(A) of Section 4.02 hereof.
- (3) There shall be deposited in the Debt Service Fund Account for such Series of newly-acceded Bonds the amounts which would have been required under the provisions of Section 8.02 hereof to be accumulated therein on the date of accession if said Junior Lien Bonds had originally been issued as Bonds.

- (4) On the date of accession, an earnings test prescribed by paragraph (6) of Section 4.02 hereof shall have been met.
- (5) In the event such proceedings require a Reserve Requirement to be maintained for such Series of newly-acceded Bonds, then in such event, there shall be on deposit on the date of accession in a Debt Service Reserve Fund an amount equal to the Reserve Requirement established for such Junior Lien Bonds which are being acceded to the status of Bonds.
- (6) The Town shall obtain an opinion of Bond Counsel to the effect that: (a) this Bond Ordinance and the proceedings authorizing such Junior Lien Bonds have been duly adopted and are in full force and effect; (b) the Junior Lien Bonds have been duly and lawfully authorized and executed by the Town and are valid and binding upon, and enforceable against, the Town (except to the extent that the enforceability thereof may be limited by the operation of bankruptcy, insolvency and similar laws affecting rights and remedies of creditors); and (c) with respect to such Junior Lien Bonds, this Bond Ordinance creates the valid pledge of, and lien which it purports to create on, the Gross Revenues and of moneys and securities on deposit in any of the funds established hereunder subject to the application thereof to the purposes and on the conditions permitted by this Bond Ordinance.
- (7) In the event such Junior Lien Bonds were issued with variable rates, the provisions of paragraph (8) of Section 4.02 shall have been met.

Section 6.02 Right to Issue Special Facilities Bonds.

The Town shall have at all times the right to enter into contracts, leases, or other agreements pursuant to which it will agree to construct, operate and pay the costs of Special Facilities to be financed by its issuance of Special Facilities Bonds, subject to the following conditions:

- (1) it shall have been determined to the satisfaction of the Town Council that the rents, revenues, or receipts to be derived from the Special Facilities shall be at least equal to the principal, interest and any reserve requirements contained in the ordinance authorizing such Special Facilities Bonds and to pay all operation, maintenance and other costs and expenses applicable to such Special Facilities;
- (2) the revenues derived from Special Facilities need not be deposited in the Stormwater Fund and may be pledged to secure Special Facilities Bonds; but no debt service on, or other costs or expense related to, any Special Facilities Bonds may be paid from System revenues deposited in the Stormwater Fund except pursuant to Section 8.08 hereof;
- (3) the Town Council shall have determined that the issuance of the Special Facilities Bonds and the application of revenues from the Special Facilities to the payment thereof shall not have a detrimental effect on the System or the Bondholders; and

- (4) the Town shall timely notify the Trustee of the planned issuance of any such Special Facilities Bonds;

For purposes of this Section 6.02, the term “Special Facilities” shall include all or a portion of stormwater facilities and rights to all or a portion of the use of, or the capacity available from, any such facilities.

Section 6.03 Lease Financing Agreements.

The Town shall have at all times the right to enter into capital leases or other lease financing agreements secured by a lien on the property, plant and equipment comprising a part of the System; provided, however, that (i) (a) such capital lease or other lease financing agreement shall be payable solely from amounts available for such purpose in the Operations and Maintenance Fund and the aggregate principal amount of all such leases or other financing agreements outstanding at any time shall not exceed 10% of the value of the System, less accumulated depreciation, as shown on the audited financial statements of the Town for the most recent Fiscal Year for which audited financial statements are available, and (b) the loss of the property secured by the lien will not materially adversely affect the ability of the Town to meet its financial obligations under this Bond Ordinance; or (ii) the capital lease or other financing agreement constitutes Bonds, Junior Lien Bonds, or Special Facilities Bonds and is entered into pursuant to and in accordance with the provisions of this Bond Ordinance.

* * *

ARTICLE VII

ESTABLISHMENT OF FUNDS

Section 7.01 Requirement for Special Funds.

For so long a time as any sum remains due and payable by way of Principal Installments or interest on Bonds, the following funds or accounts of the System shall be established and maintained, and deposits shall be made therein in the manner herein required.

Section 7.02 The Stormwater Fund.

(a) There shall be established and maintained a fund or account designated as the Stormwater Fund held and administered by the Town.

(b) Except as otherwise specifically directed or permitted herein, all Gross Revenues of the System shall be deposited in accordance with and in the manner prescribed by Article VIII hereof into the Stormwater Fund. Money in the Stormwater Fund shall be withdrawn and made use of only in the manner and in the order of priority specified in Article VIII hereof. So long as the Town establishes, under Accounting Principles, proper records of receipts and disbursements from the Stormwater Fund, the Stormwater Fund may be used for the purposes of the Operation and Maintenance Fund and the Depreciation and Contingent Fund, subject, in the case of the Depreciation and Contingent Fund, to the prior applications of the amounts in the Stormwater Fund for the purposes set forth in Sections 7.03 and 7.04 hereof.

Section 7.03 The Debt Service Fund.

(a) There shall be established and maintained a Debt Service Fund held by the Trustee. Within the Debt Service Fund there shall be established a Debt Service Fund Account for each Series of Bonds Outstanding. Each Debt Service Fund Account is intended to provide for the ratable payment of the Principal Installments of, redemption premium, if any, and interest on the respective Series of Bonds as the same fall due. Payments into the Debt Service Fund shall be made in the manner prescribed by this Bond Ordinance, including the applicable provisions of Article VIII of this Bond Ordinance, and, except as herein provided, all money in the applicable Debt Service Fund Accounts shall be used solely to pay the Principal Installments of, redemption premium, if any, and interest on the applicable Series of Bonds, and for no other purpose. Each Debt Service Fund Account shall bear a number or alphanumeric Series designation as may be necessary to distinguish each Debt Service Fund Account. Within each Debt Service Fund Account, the Trustee may, but is not required, to further create an interest account, principal account, and bond redemption account with respect to each such Series of Bonds.

(b) The Debt Service Fund and each Debt Service Fund Account shall be kept in the complete custody and control of the Trustee, and withdrawals from each Debt Service Fund Account shall be made only by such Trustee who shall transmit to each Bondholder, when due, the sums required to pay the Principal Installments of, redemption premium, if any, and interest on the applicable Series of Bonds. Amounts held by the Trustee due to non-presentment of

Bonds on any redemption date must be retained by the Trustee for a period of at least one year after the final maturity of such Bonds. Funds retained for more than one year shall be remitted to the Office of State Treasurer as unclaimed property. Further, subject to the written consent of the Town, payment on a Series of Bonds may be made without presentation and surrender of the physical Bond; in such event, the Trustee assumes no liability to any person and no obligation shall be imposed on the Trustee to seek the return of such Series of Bonds from the Holder thereof. Provided, however, in the event (i) a Series of Bonds is purchased by a single institution and thereafter held by a single Bondholder, and (ii) there is not established for such Series of Bonds a Reserve Requirement, the Debt Service Fund Account established for such Series of Bonds may be held by the Holder of that Series of Bonds, and the Holder of any such Series of Bonds must provide to the Trustee, as and when requested by the Trustee, a written certificate containing current information as to the principal Outstanding, the redemption premium, if any, and accrued interest on such Series of Bonds, and, if the Holder of such Series of Bonds does not provide the Trustee such written certificate within five Business Days of a request by the Trustee, the Trustee, for all purposes of this Bond Ordinance, shall conclusively assume that such Series of Bonds has been paid in accordance with the original tenor of such Series of Bonds. Furthermore, if a Series of Bonds is sold to an agency of the United States of America, including the United States Department of Agriculture – Rural Development, withdrawal from the applicable Debt Service Fund Account may be made to a custodial or checking account from which such entity may directly withdraw payments of Principal Installments and interest on such Series of Bonds.

(c) Moneys in the Debt Service Fund shall be invested and reinvested by the Trustee at the written direction of an Authorized Officer in Authorized Investments, maturing not later than the date on which such money is required to pay the Principal Installments of, premium, if any, and interest on the next occurring maturity of the Bonds. The Trustee shall have no responsibility for the investment of money in the Debt Service Fund that is not held by the Trustee. The Trustee shall be entitled to conclusively rely on such written direction as to the legality and suitability of any such investments and as to qualifications as Authorized Investments and compliance with the requirements of this section. Unless otherwise provided in a Series Ordinance, all earnings from such investments shall be added to and become a part of the Debt Service Fund Account in which such investments are held, but shall be credited against payments that would otherwise be made to such Debt Service Fund Account pursuant to the provisions of Section 8.02 hereof.

(d) There may be established in the applicable Debt Service Fund Accounts from time to time a capitalized interest account to provide for the payment of interest on the Bonds of a particular Series. Any such account shall be created by the Series Ordinance relating to the issuance of such Series of Bonds. Any earnings from the investment of funds in the capitalized interest account not required to pay interest on the Bonds of any Series during the period for which interest on the Bonds of such Series is capitalized shall be deposited in the Project Fund created by the Series Ordinance relating to such Bonds or, if such Project Fund has been terminated or no such fund was created, such earnings shall be retained in the appropriate Debt Service Fund Account.

(e) The Trustee shall maintain two separate sub-accounts within each Debt Service Fund Account into which (i) amounts transferred from the Stormwater Fund (including any

Interest Payment Subsidies), and (ii) amounts transferred from the Other Available Moneys Account of the Operation and Maintenance Fund, respectively, shall be deposited.

(f) All monies received by the Trustee or by the Town as Interest Payment Subsidies shall be deposited in the Debt Service Fund Account for the Series of Bonds with respect to which such Interest Payment Subsidy was received and used to pay debt service on such Series of Bonds.

(g) Within each Debt Service Fund Account, the Trustee, or as otherwise provided in the Series Ordinance, is authorized to create sub-accounts, as requested by the Town for the timely payment of the principal of, interest on, and sinking fund installments due on the Bonds.

Section 7.04 The Debt Service Reserve Funds.

(a) Each Series Ordinance may create a Debt Service Reserve Fund for the Series of Bonds authorized thereby. Any such Debt Service Reserve Fund shall be for the equal and ratable benefit only of Bonds of that Series. Each such Debt Service Reserve Fund is intended to insure the timely payment of the Principal Installments of, and premium, if any, and interest on, that Series of Bonds, and to provide for the redemption of such Bonds prior to their stated maturities. Any Debt Service Reserve Fund shall be maintained in an amount equal to the Reserve Requirement established by the Series Ordinance for such Series of Bonds. Unless otherwise provided in a Series Ordinance, money in a Debt Service Reserve Fund shall be used for the following purposes, and for no other:

- (1) To prevent a default in the payment of the Principal Installments of or interest on the applicable Series of Bonds, by reason of the fact that money in the applicable Debt Service Fund Account is insufficient for such purposes;
- (2) To pay the Principal Installments of, interest on, and redemption premium, if any, of the applicable Series of Bonds in the event that all Outstanding Bonds of such Series are to be defeased or redeemed as a whole; or
- (3) To effect partial redemption of the applicable Series of Bonds; but subject to the restrictions of Section 4.15 hereof and provided that subsequent to said partial redemption, the market value of the cash and securities in such Debt Service Reserve Fund shall be not less than the Reserve Requirement therefor.

Notwithstanding the above provisions of paragraphs (1) through (3) of this Section 7.04(a) and as permitted by the Code and Section 4.21 hereof, if the Debt Service Reserve Fund was funded with cash generated by the System, then, upon the written consent of the Holder of such Series of Bonds secured by such Debt Service Reserve Fund, the monies in such Debt Service Reserve Fund may be returned to the Town prior to the final maturity of such Series. The requirements for and provisions governing any Debt Service Reserve Fund in the remainder of this Bond Ordinance, in references to “the Debt Service Reserve Fund,” “the Reserve Requirement,” the “Debt Service Fund(s)” and “the Bonds”, shall be deemed to refer to each such Debt Service Reserve Fund created by a Series Ordinance, if any, and in each case to the Reserve Requirement

for the applicable Series of Bonds, and to Bonds only of that applicable Series and not to any other Bonds.

(b) (i) Each Debt Service Reserve Fund shall be kept in the complete custody and control of the Trustee, and withdrawals from each Debt Service Reserve Fund shall be made only by such Trustee, who, at the direction of an Authorized Officer, shall transmit to each Bondholder the sums required to pay the Principal Installments of, redemption premium, if any, and interest on such Series of Bonds; or

(ii) If a Series of Bonds is held by the Water Quality Authority, then the Debt Service Reserve Fund for such Series of Bonds may be kept in the custody and control of the Office of State Treasurer and invested in the South Carolina Local Government Investment Pool in Authorized Investments. Withdrawals therefrom shall be made only as directed by the Water Quality Authority at such times as may be required to pay the principal and interest on such Series of Bonds. Any withdrawal of the monies in a Debt Service Reserve Fund that exceeds the Reserve Requirement shall be transferred in accordance with the provisions of Section 7.04(c) hereof.

(c) Except as provided in Section 7.04(b)(ii) of this Bond Ordinance, money in a Debt Service Reserve Fund shall be invested and reinvested by the Trustee at the written direction of an Authorized Officer in Authorized Investments. The Trustee shall be entitled to conclusively rely on such written direction as to the legality and suitability of any such investments and as to qualifications as Authorized Investments and compliance with the requirements of this section. Subject to the remaining provisions of this paragraph (c), the earnings from such investments in a particular Debt Service Reserve Fund shall be added to and become a part of that Debt Service Reserve Fund. Except as provided in a Series Ordinance, if as of any date of calculation (as described in Section 8.02 hereof), the value of the securities and money in any Debt Service Reserve Fund shall exceed its Reserve Requirement, such excess shall first be fully used to raise the level of any other Debt Service Reserve Funds that are then underfunded to their applicable Reserve Requirements, and then any remaining excess shall either be used to effect partial redemption of such Series of Bonds, or shall be removed from such Debt Service Reserve Fund and, either (i) transferred into the applicable Debt Service Fund Account, as directed in writing by the Authorized Officer, or (ii) transferred to the Stormwater Fund, as permitted by the provisions of the Code.

(d) In the event a Series Ordinance requires a Debt Service Reserve Fund to be established for a Series of Bonds, unless otherwise required by such Series Ordinance, the Town, in lieu of the deposit of moneys into a Debt Service Reserve Fund, may alternatively satisfy the applicable Reserve Requirement by causing to be credited to such Debt Service Reserve Fund an irrevocable and unconditional surety bond, line of credit, letter of credit or insurance policy equal to the Reserve Requirement therefor.

(e) In the event the amount on deposit in, or credited to, a Debt Service Reserve Fund, in addition to the amount available under a surety bond, line of credit, insurance policy, or letter of credit (the “**Original Funding Instrument**”) also includes amounts available under another surety bond, line of credit, insurance policy, or letter of credit (the “**Additional Funding Instrument**”), draws on the Original Funding Instrument and the Additional Funding Instrument

shall be made on a pro rata basis to fund any insufficiency in the Debt Service Fund Account. In the event a Debt Service Reserve Fund is funded with both monies and a surety bond, line of credit, insurance policy or letter of credit, (i) any withdrawals from such Debt Service Reserve Fund shall be made first from such monies (or the liquidation of investments made therewith) and second from such surety bond, line of credit, insurance policy or letter of credit, and (ii) cash deposits to such Debt Service Reserve Fund shall be used first to restore the cash balance and second to reinstate the surety bond, line of credit, insurance policy, or letter of credit. The surety bond, line of credit, insurance policy, or letter of credit shall be payable (upon the giving of notice as required thereunder) on any Bond Payment Date on which moneys will be required to be withdrawn from such Debt Service Reserve Fund and applied to the payment of the Principal Installments of or interest on the Outstanding Series of Bonds to which such surety bond, line of credit, insurance policy or letter of credit relates when such payments cannot be made by amounts otherwise credited to such Debt Service Reserve Fund.

Section 7.05 The Operation and Maintenance Fund.

(a) There shall be established and maintained an Operation and Maintenance Fund held and administered by the Town. The Operation and Maintenance Fund is intended to provide for the payment of the Operation and Maintenance Expenses.

(b) Within the Operation and Maintenance Fund there shall be established an Other Available Moneys Account.

(c) Withdrawals from the Operation and Maintenance Fund shall be made by or on the order of the Town in accordance, as nearly as may be practicable, with the Annual Budget then in effect.

Section 7.06 The Depreciation and Contingent Fund.

(a) There shall be established and maintained a Depreciation and Contingent Fund to be held and administered by the Town. This fund, which shall constitute both the "Depreciation Fund" and the "Contingent Fund" as referred to in Title 6, Chapter 21 of the Enabling Act, shall be maintained in an amount to be established not less frequently than annually by the Town Council in order to provide a reasonable reserve for depreciation of the System, for contingencies and improvements, and betterments and extensions of the System.

(b) Money in this fund shall be used solely:

- (1) For the purpose of restoring depreciated or obsolete items of the System;
- (2) For improvements, betterments, and extensions of the System other than for those things which are reasonably necessary to maintain the System in good repair and working order;
- (3) To defray the costs of unforeseen contingencies;
- (4) To prevent defaults in Bonds and Junior Lien Bonds; and

- (5) For optional redemption of Bonds and Junior Lien Bonds.
- (c) Withdrawals from this fund shall be made by or on order of an Authorized Officer.
- (d) Within the Operation and Maintenance Fund there shall be established an Other Available Moneys Account.

Section 7.07 Rate Stabilization Fund.

The Town Council may establish a Rate Stabilization Fund, as needed, and, if created, shall hold and administer such fund under the provisions of this Bond Ordinance and State law.

Section 7.08 Establishment of Project Funds.

There shall be established a Project Fund with respect to each Series of Bonds issued to finance acquisition of, additions or improvements to, or equipment for the System in the Series Ordinance providing for the issuance of such Series of Bonds, the moneys in which shall be used to defray the costs of and to pay any costs incurred or to be incurred with respect to the project so financed and costs of issuance incurred in connection therewith. Any such Project Fund may be held by the Trustee or the Town, as required by any Series Ordinance or as may be required by the purchaser of any Series of Bonds. The Project Fund for any Bonds issued with a draw-down structure may be held by the purchaser. The Town may but shall not be required to establish a capitalized interest account and a cost of issuance account in any Project Fund so created and as may be provided in a Series Ordinance. On the occasion of the delivery of any such Series of Bonds, the proceeds therefrom shall be paid into the Project Fund established for such Series as set forth in the Series Ordinance authorizing their issue. Withdrawals from a Project Fund shall not be made except as provided in the Series Ordinance establishing such Project Fund.

Section 7.09 Investments of Funds.

Whenever, in the opinion of the Town, it becomes desirable to invest money in any of the funds established by this Article (other than the Debt Service Reserve Funds and the Debt Service Fund, and any capitalized interest account) for which provisions are made above, the Town may make Authorized Investments. Earnings resulting from the investment of money in a particular fund shall be deposited into the Stormwater Fund (i) except as otherwise provided in Sections 7.02, 7.03, and 7.04 hereof, and (ii) unless the Town Council shall have determined pursuant to the Annual Budget that any such earnings on amounts in the Depreciation and Contingent Fund shall remain therein.

Notwithstanding anything contained herein to the contrary and as limited solely to the funds held or invested by the Trustee, the Trustee shall have no obligation to enter into any repurchase agreement, investment agreement or any similar agreements with respect to the investment of any monies held under this Bond Ordinance unless (i) such agreement is in form and content acceptable to the Trustee in its sole discretion, (ii) any liability of the Trustee under such agreement is limited to loss occasioned by the negligence or willful misconduct of the

Trustee, and (iii) the Town shall pay to the Trustee an additional fee established by the Trustee in accordance with its customary practices.

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ARTICLE VIII

DISPOSITION OF REVENUES

Section 8.01 Deposits to Stormwater Fund; Dispositions Therefrom.

The Gross Revenues of the System, excluding that money the disposition of which is controlled by other provisions of this Bond Ordinance, are declared to be a part of the Stormwater Fund and shall from time to time be promptly deposited in a bank, depository, or trust company selected by the Town in an account which will reflect the fact that they are a part of the Stormwater Fund. If Bonds are Outstanding, the dispositions from the Stormwater Fund required by the remaining Sections of this Article shall be made on or before the last Business Day of each month following the delivery of the first Series of Bonds issued pursuant to this Bond Ordinance and in the order of priority established by the sequence of the remaining Sections of this Article.

Any amounts representing *ad valorem* taxes appropriated to pay System expenses shall be deposited in the Operation and Maintenance Fund or the Depreciation and Contingent Fund.

Section 8.02 Payments for Bonds.

Provision shall be made for the payment of the Principal Installments of, premium, if any, and interest on all Bonds then Outstanding without priority of any other Bonds but ratably as to each Series of Bonds. To that end:

- (1) From the Stormwater Fund, to the extent Gross Revenues are available, there shall be deposited into the Debt Service Fund and thereafter transferred into the applicable Debt Service Fund Account as directed in writing by an Authorized Officer (and thereafter to the applicable interest sub-account, if any) the monthly fraction of the aggregate amount of interest to become due on the applicable Series of Bonds on the next ensuing Bond Payment Date. On or before the fifteenth day of the calendar month prior to an Interest Payment Date, there shall be transferred to each Debt Service Fund Account in the following order of priority: first, from the Stormwater Fund the amount necessary, after taking into account the current balance in the applicable Debt Service Fund Account, to pay the installment of interest coming due on the applicable Series of Bonds on such Interest Payment Date, and then, to the extent necessary to pay such installment, from the Other Available Moneys Account of the Operation and Maintenance Fund (which amounts shall be designated in writing by the Town to the Trustee and thereafter be credited to the respective sub-accounts therein), so that on each Interest Payment Date the amount of interest to be paid shall have been accumulated and be on hand; provided, however, that if provision has been made for the payment of all or part of the next installment of interest to become due on any Bonds, or the Trustee is in receipt of any Interest Payment Subsidies, pursuant to any other provision of this Bond Ordinance, or any Series Ordinance, or by reason of investment earnings or otherwise, then, in such event, the deposits required by this paragraph may be omitted, or reduced accordingly

- (2) From the Stormwater Fund, to the extent Gross Revenues are available, there shall be deposited into the Debt Service Fund and thereafter transferred into the respective Debt Service Fund Account (and thereafter to the respective principal sub-account, if any) an amount not less than the monthly fraction of the Principal Installment of the respective Series of Bonds next becoming due and payable (whether at stated maturity or by sinking fund installments), so that on each Principal Payment Date the amount of principal to be paid shall have been accumulated and be on hand; provided, however, that on or before the fifteenth day of the calendar month prior to a Principal Payment Date, there shall be transferred to each Debt Service Fund Account in the following order of priority: first, from the Stormwater Fund the amount necessary, after taking into account the current balance in the applicable Debt Service Fund Account, to pay the Principal Installment on the applicable Series of Bonds coming due on such Principal Payment Date, and then, to the extent necessary to pay such Principal Installment, from the Other Available Moneys Account of the Operation and Maintenance Fund (which amounts shall be designated in writing by the Town to the Trustee and thereafter be credited to the respective sub-accounts therein), so that on each Principal Payment Date the amount of principal to be paid shall have been accumulated and be on hand; provided, however, that if provision has been made for the payment of all or part of the next installment of principal to become due on the respective Series of Bonds, pursuant to any other provision of this Bond Ordinance, or any Series Ordinance, or by reason of investment earnings or otherwise, then, in such event, the deposits required by this paragraph may be omitted, or reduced accordingly.

Section 8.03 Deposits for the Debt Service Reserve Funds; Valuation.

Deposits shall next be made in the amounts required by this Section 8.03 or Section 4.02(5) into the applicable Debt Service Reserve Funds. Except as provided in Section 7.04(b)(ii), the Trustee shall calculate the Value of the cash and securities in each Debt Service Reserve Fund forty-five days prior to each Bond Payment Date in order to determine if each Debt Service Reserve Fund contains the Reserve Requirement therefor, and the extent to which payments therefor or withdrawals must be made therefrom, and the timing thereof, pursuant to this Bond Ordinance and the applicable Series Ordinances. To the extent the Trustee or an Authorized Officer, as applicable, determines that a deficiency exists, but such deficiency is solely the result of accounting practices governing the valuation of securities in the Debt Service Reserve Fund, the Trustee or Authorized Officer, as applicable, may alternatively calculate the value of the securities in each Debt Service Reserve Fund as of the maturity date of such securities, so long as such securities mature on or prior to the Bond Payment Date. Unless a Debt Service Reserve Fund is being funded pursuant to paragraph (5)(a) of Section 4.02 of this Bond Ordinance or then contains in cash and securities (or a surety bond, insurance policy, line of credit or letter of credit as herein described) an amount at least equal to its Reserve Requirement, unless otherwise provided in the Series Ordinance, there shall be paid into such Debt Service Reserve Fund on the last Business Day of each of the 24 months following a determination of a deficiency in such Debt Service Reserve Fund 1/24th of the amount necessary to re-establish in such Debt Service Reserve Fund its Reserve Requirement; provided, however, nothing herein

shall preclude the Town from fully re-establishing such Reserve Requirement in a more timely fashion than as so prescribed. Any surety bond, line of credit, insurance policy or letter of credit being used to meet the Reserve Requirement of a Debt Service Reserve Fund shall be valued at the amount still remaining to be drawn thereon; and in the event that any such surety bond, line of credit, insurance policy or letter of credit has been drawn upon, the amount necessary to restore the principal balance thereof shall be paid by the Town in the same manner and on a parity with the payments described in this Section 8.03 or as provided in an insurance agreement or applicable Series Ordinance.

For purpose of this Section and Section 7.04, “*Value*” means, with respect to any investment, the value calculated as follows:

- (1) as to investments the bid and asked prices of which are published on a regular basis in *The Wall Street Journal* (or, if not published therein, then in *The New York Times*): the average of the bid and asked prices for such investments so published on or most recently prior to such time of determination;
- (2) as to investments the bid and asked prices of which are not published on a regular basis in *The Wall Street Journal* or *The New York Times*: the average bid price at such time of determination for such investments by any two nationally recognized government securities dealers (selected by the Trustee in its absolute discretion) at the time making a market in such investments or the bid price published by a nationally recognized pricing service;
- (3) as to certificates of deposit and bankers acceptances: the face amount thereof, plus accrued interest; and
- (4) as to any investment not specified above, the value thereof established by prior agreement between the Town and the Trustee.

Section 8.04 Reimbursement of Interest on Amounts Advanced by Credit Providers for the Debt Service Reserve Fund.

Provision shall then be made for payment of interest and any fees or penalties on amounts advanced by the provider of any surety bond, line of credit, insurance policy or letter of credit as contemplated in Section 7.04(e) hereof.

Section 8.05 Payments for Junior Lien Bonds.

Provision shall then be made for the payment of Junior Lien Bonds.

Section 8.06 Deposits to the Operation and Maintenance Fund.

There shall be deposited in the Operation and Maintenance Fund, either from the Stormwater Fund or the Rate Stabilization Fund, the amounts budgeted for Operation and Maintenance Expenses for the ensuing month and any amounts required for an operational

reserve. Such transfer shall be made by or on the order of the Town in accordance, as nearly as may be practicable, with the Annual Budget then in effect.

There shall be deposited to the Other Available Moneys Account within the Operation and Maintenance Fund such legally available moneys which the Town Council in its sole discretion determines to apply for such purpose.

Section 8.07 Deposits for the Depreciation and Contingent Fund.

There shall be deposited into the Depreciation and Contingent Fund that sum which is 1/12th of the sum which has been currently determined by the Town Council to be the budgeted requirement therefor for the then current Fiscal Year.

Section 8.08 Bond Year Determination, Use of Surplus Money.

In any Bond Year, at such time as deposits to the Stormwater Fund equal the amounts required to be paid pursuant to Sections 8.02 through 8.07 for the then current Bond Year, and provided that each Debt Service Fund Account within the Debt Service Fund in the aggregate has on deposit therein an amount equal to all Debt Service due on the Bonds for the then current Bond Year, then any excess amount on deposit in or thereafter deposited to the Stormwater Fund in such Bond Year may be released from the Stormwater Fund and, subject to Accounting Principles, applied for any lawful purpose in such manner as the Town Council shall from time to time determine.

In any Bond Year, to the extent the moneys in the Stormwater Fund are insufficient to fund the deposits required pursuant to this Article VIII, then, in its discretion, the Town Council, in adopting its Annual Budget (including an supplement thereto), may appropriate funds from any legally available source for deposit to the Other Available Moneys Account of the Operation and Maintenance Fund. To the extent the application of monies from the Other Available Moneys Account for Debt Service is limited by the provisions of the Enabling Act, an amount equal to the amount to be appropriated from Other Available Moneys Account shall be applied from any balance in the Operation and Maintenance Fund and used for the purposes in Sections 8.03(1) and (2) above.

The Town Council may determine, at any time, to deposit any percentage or any set amount of surplus money under this Section 8.08 into the Rate Stabilization Fund. Amounts on deposit in the Rate Stabilization Fund may be used to make deposits into the Operation and Maintenance Fund required by Section 8.06 hereof. Amounts on deposit in the Rate Stabilization Fund may, at the option of the Town Council, be withdrawn and used for any other required purpose of the System, but in such event, such withdrawal, if for a purpose other than the payments of Operation and Maintenance Expenses, shall be excluded from Net Earnings.

* * *

ARTICLE IX

AGREEMENT TO FURNISH INFORMATION WITH RESPECT TO SYSTEM

Section 9.01 Keeping Records.

The Town recognizes that those who may from time to time hereafter be Bondholders will, throughout the life of the Bonds, require full information with respect to the System, the fiscal affairs of the System, and all matters incident to each. To that end the Town hereby covenants and agrees that it will create and thereafter at all times maintain proper books of records and accounts, separate and distinct from all other records and accounts, in which complete and correct entries shall be made of all transactions relating to the System, and all revenues and receipts derived therefrom, directly or indirectly. Such books and records shall be kept in such fashion as to reveal in detail:

- (1) The Gross Revenues of the System and the source from whence derived;
- (2) All Operation and Maintenance Expenses;
- (3) All amounts appropriated to the Other Available Moneys Account;
- (4) The Net Earnings of the System;
- (5) All expenditures made from the several funds established by this Bond Ordinance, and Series Ordinances authorizing the issuance of the Bonds; and
- (6) The rate schedules that may from time to time be in force.

Section 9.02 Audit Required.

The Town further covenants and agrees that so long as any Bonds are Outstanding, it will, not later than the first day of the eighth month after the close of each Fiscal Year, cause to be made and completed by the Accountants, an audit of the records, books and accounts pertaining to the System, made in accordance with Accounting Principles, showing, among other things, Gross Revenues and Net Earnings; and that it will furnish a copy of such audit to the Trustee. Such audit shall comment upon any violation of any provision of any ordinance authorizing the issuance of any Bonds or Junior Lien Bonds and any violation of any provision of this Bond Ordinance noted by the Accountants, and such other matters as to them seem pertinent. The cost of such audit shall be treated as an Operation and Maintenance Expense. Any audits made available to the Town shall not otherwise be restricted as to their subsequent dissemination to any party. Any copies so furnished need not be certified. Pursuant to the Enabling Act, the Town will make available, upon request, for inspection during regular business hours an unaudited balance sheet and income statement and other information required thereby within three months of the close of the Fiscal Year.

* * *

ARTICLE X

INSURANCE

Section 10.01 Requirement of Insurance.

- (a) The Town covenants and agrees that so long as any Bonds are Outstanding:
 - (1) To the extent insurance coverage is available, that it will insure and at all times keep the System insured against physical loss or damage with a responsible insurance company or companies, authorized and qualified under the laws of the State, to assume the risks insured against, in such amount as private corporations engaged in similar endeavors would customarily insure for, provided, however, that such requirement shall not apply to in-ground assets;
 - (2) That it will secure adequate fidelity bonds (blanket or individual) of a surety company doing business in the State, indemnifying the Town against defalcation of all persons handling money derived from the System or signing checks on any bank accounts relating to the System, other than the Trustee or any Registrar;
 - (3) That all premiums on all bonds or insurance policies shall be deemed an Operation and Maintenance Expense and paid out of Gross Revenues of the System;
 - (4) That all insurance policies shall be open to the inspection of any Bondholder (or the Trustee on behalf of any Bondholder) at any reasonable time;
 - (5) That all money received by the Town as a consequence of any defalcation, covered by any fidelity bond, shall be used to restore the fund depleted by the defalcation. All sums received by the Town from insurance policies covering the System may, to the extent necessary, be applied to the repair and replacement of the damaged or destroyed property, but, in the event that such money is not used for such purposes, then the same shall be deposited in the Depreciation and Contingent Fund; and
 - (6) That it will comply with the requirements of State law regarding the mandatory purchase of liability insurance contained in Section 15-78-140(b) of the South Carolina Code.

(b) Insurance required by this Section 10.01 may be provided through the South Carolina Insurance Reserve Fund, insurance offered by the Municipal Association of South Carolina or a subsidiary thereof (such as the South Carolina Municipal Insurance and Risk Financing Fund), or through other commercially available insurance. The Town may obtain or adopt alternative risk management programs which an Insurance Consultant determines to be reasonable, including, without limitation, self-insurance in whole or in part individually or in connection with other institutions, participation in programs of captive insurance companies;

participation with other governmental entities in mutual or other cooperative insurance or other risk management programs, participation in state or federal insurance programs, taking advantage of state or federal laws now or hereafter in existence limiting liability, or establishing or participating in other alternative risk management programs; all as may be approved by the Insurance Consultant as reasonable and appropriate risk management by the Town. If the Town shall be self-insured for any coverage, the Town shall obtain a report of an Insurance Consultant stating whether the anticipated funding of any self-insurance fund is actuarially sound, and if not, the required funding to produce such result and such coverage shall be reviewed by the Insurance Consultant not less frequently than annually. Any self-insurance program shall be subject to annual review by the Insurance Consultant who shall provide a written report to the Town which shall include recommendations relating to such self-insurance program. The Town shall provide to the Trustee annual certification evidencing compliance with the Insurance Consultant's recommendations. The Trustee has no duty or obligation to make any determination as to the sufficiency of the insurance required to be maintained hereunder.

* * *

ARTICLE XI

ADDITIONAL COVENANTS

Section 11.01 Additional Covenants to Secure Bonds.

The Town further covenants and agrees:

- (1) That neither the System, nor any part thereof, nor any of the revenues derived from the System, have been or will be hypothecated, mortgaged, otherwise pledged or encumbered, save and except in accordance with the provisions hereof;
- (2) That it will permit no free service to be rendered, or use to be made of the services and facilities of the System, and for the services and facilities of the System used by the Town, the reasonable cost and value of such services and facilities shall be paid as such services accrue. The revenue so received from the Town shall be deemed revenue derived from the operation of the System, and shall be accounted for in the same manner as other revenues of the System;
- (3) That it will permit no customer to be connected to the System, or to receive any service afforded by the System, unless a proper account is established and charges are levied against such account for services rendered, and such customer shall become obligated to pay for the service rendered at the appropriate rate according to the rate schedule then in force;
- (4) That so long as there are any Bonds Outstanding and unpaid, it will perform all duties with reference to the System required by the Constitution and the South Carolina Code;
- (5) That it will not pledge, mortgage, or otherwise encumber the System or any portion thereof, or any revenues therefrom except in the manner herein authorized, and it will not sell, lease or otherwise dispose of all or any portion of the System except as provided in Section 11.03 herein;
- (6) That it will permit, so long as there are any Bonds Outstanding, any Bondholder to inspect the System and all records and accounts thereof under reasonable terms and conditions and after reasonable notice has been given;
- (7) That it will not make any use, and it shall direct the Trustee and any fiduciary not to make any use, of the proceeds of any Series of Bonds which Bonds were intended upon the issuance thereof to be exempt from federal income taxation, which, if such use had been reasonably expected on the date of the issuance of the Bonds of such Series would have caused such Bonds or any other Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code and will observe and not violate the requirements of Section 148 of the Code;

- (8) That, as to any Series of Bonds that was intended at the time of their issuance to be exempt from federal income taxation, it will take all actions required of it under the Code that are necessary to preserve the tax-exempt status of such Series of Bonds, including without limitation, actions necessary to comply with all information reporting requirements and any obligation to rebate arbitrage earnings on the proceeds of such Bonds to the United States Government;
- (9) That it will make all payments or deposits required under Articles VII and VIII of this Bond Ordinance in a timely manner;
- (10) That no payments on account of appropriations to the general fund of the Town shall be made except as permitted under Section 8.08 hereof;
- (11) In adopting the Annual Budget, the Town shall determine whether it expects to have sufficient Gross Revenues to make, in such Fiscal Year, the payments and transfers agreed to pursuant to Sections 8.02 through 8.07 of this Bond Ordinance. If the Town does not expect to have sufficient Gross Revenues for such purpose, Town Council shall consider a budgetary appropriation from legally available funds in an amount that together with funds on deposit in the Stormwater Fund, each Debt Service Fund Account, and any Debt Service Reserve Fund will be sufficient to provide for the interest and Principal Installments on the Bonds in such Fiscal Year. Any such lawfully appropriated funds shall be deposited to the Other Available Moneys Account of the Operation and Maintenance Fund not later than the beginning of each Fiscal Year for which any legally available funds have been appropriated. In considering such budgetary appropriation, the Town Council may in its sole discretion determine not to make the budgetary appropriation (a “**Determination of Nonappropriation**”) described above and such Determination of Nonappropriation shall not constitute an Event of Default under this Bond Ordinance, nor shall the Town have any obligation to enact such appropriation; and
- (12) Wherever in this Bond Ordinance there is a statement to the effect that the Town may apply such other legally available moneys as the Town Council shall in its discretion determine to apply for a purpose, or words of similar import, such application shall be made by Town Council applying its legislative discretion in determining whether to apply such moneys. Any payment from other available moneys described in this Bond Ordinance shall constitute a current expense of the Town and shall not in any way be construed to be a debt of the Town in contravention of any applicable constitutional or statutory limitations or requirements concerning the creation of indebtedness of the Town, nor shall anything contained in this Bond Ordinance constitute or give rise to a general obligation or pledge of the general tax revenues, taxing power or full faith or credit of the Town Council. Any such budgetary appropriation shall be subject in all respects to the discretion of Town Council, and any failure to make such an appropriation, notwithstanding any provision of this Bond Ordinance to the

contrary, shall not constitute a default or Event of Default under this Bond Ordinance.

Section 11.02 Acquisition of Additional Systems.

No provision of this Bond Ordinance shall prevent the combining of the System with any other utility or public works authorized for financing under Section 6-21-50 of the South Carolina Code. The Town shall have the right, from time to time, to add such utility or public works, provided that it complies with the additional bonds test set forth at paragraph (6) of Section 4.02 of this Bond Ordinance upon addition or acquisition thereof, or combination therewith.

Section 11.03 Sale, Exchange, Removal or Disposal of Component of System.

(a) The Town may from time to time sell, exchange, remove or dispose of (but not lease, contract, or agree for the use thereof) an entire component or a material portion of the facilities or related appurtenances comprising the System, if the Town Council determines by Ordinance:

- (1) that the sale, exchange, removal or other disposition thereof would not materially reduce Net Earnings; or
- (2) that the sale, exchange, removal or other disposition thereof (i) would not materially adversely affect the ability of the Town to comply with the rate covenant, set forth in Section 5.01 hereof, for the current and next succeeding Fiscal Year, and (ii) would be for a consideration of not less than reasonable value as may be determined in the sole discretion of the Town Council; or
- (3) that the sale, exchange, removal, or other disposition thereof would not cause Net Earnings in the current and next succeeding Fiscal Year to equal less than 120% of the Annual Principal and Interest Requirements for all Series of Bonds Outstanding in such Fiscal Year after adjusting (i) Net Earnings to account for the impact of such sale, exchange, removal, or other disposition and (ii) Annual Principal and Interest Requirements to reflect the impact of the expected payment, redemption, or defeasance of Bonds, contracts, or other obligations as provided at Section 11.03(c).

(b) In addition to the provisions of Section 11.03(a) hereof, if the Town Council determines to sell, exchange, remove or dispose of an entire component comprising a part of the System the following conditions shall also be met:

- (1) the Town shall obtain an opinion of Bond Counsel to the effect that the sale, exchange, removal or disposal of a component of the System from the System has been effected in accordance with the terms of this Bond Ordinance; and

- (2) notice shall be provided by the Town to any rating agency, if any, then rating any Series of Bonds regarding the sale, exchange, removal or disposal of such component from the System.

(c) If the Town sells, exchanges, removes or otherwise disposes of a component of the System, the proceeds, if any, of such transaction may be applied, at the discretion of the Town Council, as follows:

- (1) to the payment or satisfaction, in whole or in part, of (i) Bonds associated with or related to such component and (ii) any other type of indebtedness of the Town associated with or related to such component; or
- (2) to the payment or satisfaction, in whole or in part, of the amount due under any type of contractual obligations of the Town associated with or related to such component; or
- (3) to the payment of the construction or purchase of additional improvements or expansions to the System.

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ARTICLE XII

MODIFICATION OF ORDINANCE

Section 12.01 Modification without Bondholder Approval.

(a) Provided always that the security of the Bonds shall not be diminished, or in any manner impaired, the Town Council may for any one or more of the following purposes at any time, or from time to time, enact an ordinance, amending or supplementing this Bond Ordinance, which supplemental ordinance shall be fully effective in accordance with its terms:

- (1) to provide for the issuance of a Series of Bonds in accordance with Article IV of this Bond Ordinance;
- (2) to add to the covenants and agreements of the Town in this Bond Ordinance, other covenants and agreements thereafter to be observed;
- (3) to surrender any right, power or privilege reserved to or conferred upon the Town by this Bond Ordinance;
- (4) to cure, correct, and remove any ambiguity or inconsistent provisions contained in this Bond Ordinance;
- (5) to implement an addition to the System pursuant to Section 11.02 hereof; and
- (6) for any other purpose which, in the opinion of Bond Counsel, does not materially affect the interests of the Bondholders.

(b) It is further provided that such supplemental ordinance shall not become effective until (i) a copy thereof, duly certified, shall have been filed in the office of the Clerk of Court for the County, and (ii) the Town shall have received an opinion of Bond Counsel to the effect that such supplemental Ordinance has been lawfully enacted in accordance with the provisions hereof and is in full force and effect. The Trustee will promptly give notice of adoption and a copy of any modification made hereunder to any Insurer.

Section 12.02 Modification with Bondholder Approval.

The rights and duties of the Town and the Bondholders and the terms and provisions of this Bond Ordinance may be modified or altered in any respect by an ordinance enacted by the Town Council with the consent of the Holders of a majority in principal amount of all Bonds of each Series which would be affected by such modification or alteration then Outstanding and the prior written consent of the Insurer, if any, of each such Series of Bonds, such consent to be evidenced by an instrument or instruments executed by such Holders and duly acknowledged or proved before a notary public or other public officer authorized to take oaths, but no such modification or alteration shall, without the consent of the Holders of all Bonds affected by such change or modification:

- (1) extend the maturity of any payment of a Principal Installment of or interest due upon any Bond;
- (2) effect a reduction in the amount which the Town is required to pay by way of principal, interest or redemption premium on any Bond;
- (3) effect a change as to the type of currency in which the Town is obligated to effect payment of the Principal Installment, interest and redemption premium of any Bond;
- (4) permit the creation of a pledge of or lien upon the revenues of the System prior to or equal to the Bonds except as may be permitted under the provisions of this Bond Ordinance;
- (5) permit preference or priority of any Bonds to others;
- (6) alter or modify the provisions of Section 4.02 or of Articles V, VII, and VIII of this Bond Ordinance; or
- (7) reduce the percentage required for the written consent to the modification or alteration of the provisions of this Bond Ordinance, without the consent of the Holders of all Bonds affected by such change or modification.

Section 12.03 Procedure for Procuring Bondholder Approval.

The Town and the Trustee may rely upon the registry books maintained by the Registrar to determine who are the Holders of the Bonds. Any and all modifications made pursuant to Section 12.02 shall not become effective until (i) there has been filed with the Clerk of Court for the County and with the Trustee a copy of such amendatory or supplemental ordinance hereinabove provided for, duly certified, (ii) there has been filed with the Trustee an opinion of Bond Counsel stating that such amendatory or supplemental Ordinance has been duly and lawfully adopted by the Town in accordance with the provisions of this Bond Ordinance and is valid and binding upon the Town and (iii) proof of consent to such modification by the Holders (depending on the type of type of type of modification) of a majority in principal amount of the Bonds of each Series then Outstanding shall be filed with the Trustee. In the event that any Series of Bonds are held under a book-entry system pursuant to Section 4.20, the approvals of Bondholders may be obtained in the manner provided in the agreement with the Securities Depository.

Section 12.04 Notice to Rating Agencies.

Any rating agency rating a Series of Bonds shall be provided notice by the Town and a copy of any amendment to this Bond Ordinance or to any Series Ordinance within 15 days of its execution or enactment; notice electronically filed on the Municipal Securities Rulemaking

Board's EMMA system shall be deemed sufficient to satisfy such notice requirement upon such filing for purposes of this Section 12.04.

Section 12.05 Consent of Trustee.

No amendment, modification or alternation of this Master Bond Ordinance may adversely modify the rights or duties of the Trustee or Registrar hereunder without the express written consent of the Trustee.

* * *

ARTICLE XIII

EVENTS OF DEFAULT

Section 13.01 Events of Default.

- (a) Each of the following events is hereby declared to be an Event of Default:
- (1) payment of the Principal Installments of any of the Bonds shall not be made when the same shall become due and payable, either at maturity or by proceedings for redemption;
 - (2) payment of any installment of interest on any Bonds shall not be made when the same becomes due and payable;
 - (3) except as provided in Section 5.01(c) hereof, the Town shall not comply with the rate covenant in Section 5.01(b) herein;
 - (4) the Town shall for any reason be rendered incapable of fulfilling its obligations hereunder;
 - (5) an order or decree shall be entered with the consent or acquiescence of the Town appointing a receiver, or receivers, of the System, or of the revenues thereof, or any proceedings shall be instituted with the consent or acquiescence of the Town for the purpose of effecting a composition between the Town and its creditors whose claims relate to the System, or for the purpose of adjusting claims of such creditors, pursuant to any federal or State statute now or hereafter enacted, or if such order or decree, having been entered without the consent or acquiescence of the Town, shall not be vacated or discharged or stayed on appeal within 60 days after entry thereof, or if such proceeding having been instituted without the consent or acquiescence of the Town, shall not be withdrawn or any orders entered shall not be vacated, discharged, or stayed on appeal within 60 days after the institution of such proceedings, or the entry of such orders;
 - (6) the Town shall fail to operate the System in an efficient and businesslike fashion so as to materially impair the operations of the System or shall default in the due and punctual performance of any other of the covenants, conditions, agreements or provisions contained in the Bonds or in any Series Ordinance or in this Bond Ordinance (except as provided in Section 5.01(b) and (c) hereof), and such default as to efficient operation or otherwise shall continue for 30 days after written notice, specifying such default and requiring the same to be remedied, shall have been given to the Town by any Bondholder, provided that in the case of default specified in this paragraph (6), if the default be such that it cannot be corrected within the said 30-day period, it shall not constitute an Event of Default if corrective action is instituted by the Town within said 30-day period and diligently pursued until the default is corrected;

(b) The occurrence of an Event of Default on the part of the Town under any reimbursement agreement between the Town and a provider of a surety bond, line of credit, insurance policy or letter of credit as contemplated under Section 7.05(d) hereof; and

(c) Such other events of default as may be specified in a Series Ordinance.

In determining whether a default in payment has occurred under paragraphs (1) or (2) of subsection (a) and in determining whether a payment on Bonds has been made under any other provision of this Bond Ordinance, no effect shall be given to payments made under a Municipal Bond Insurance Policy.

(d) The foregoing provisions of paragraphs (3), (4), (5), and (6) of the preceding subsection (a) are subject to the following limitations: If by reason of “force majeure” the Town is unable in whole or in part to carry out its agreements herein contained (other than the obligations on the part of the Town contained in any of Section 4.02 or Articles V, VII and VIII hereof as to which this paragraph shall have no application), the Town shall not be deemed in default during the continuance of such inability attributable to such force majeure. The term “force majeure” as used herein means, without limitation, the following: acts of God; strikes; lockouts or other industrial disturbances; acts of public enemies; orders of any kind of the government of the United States of America or of the State or any of their departments, agencies, or officials, or any civil or military authority; insurrections; riots; epidemics; landslides; lightning; earthquake; fire; hurricanes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accident to machinery, tunnels or canals; partial or entire failure of utilities; or any other cause or event not reasonably within the control of the Town Council, it being agreed that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the Town Council, and the Town shall not be required to make settlement of strikes, lockouts and other industrial disturbances by acceding to the demands of the opposing party or parties when such course is in the judgment of the Town unfavorable to the Town.

* * *

ARTICLE XIV

REMEDIES

Section 14.01 Acceleration; Annulment of Acceleration.

(a) Upon the occurrence of an Event of Default, the Trustee may, and shall upon the written request of the Holders of not less than a majority in aggregate principal amount of Bonds Outstanding, by notice in writing to the Town, declare all Bonds Outstanding immediately due and payable, and such Bonds shall become and be immediately due and payable, anything in the Bonds or in this Bond the Town to the contrary notwithstanding. In such event, there shall be due and payable on the Bonds an amount equal to the total principal amount of all such Bonds, plus all interest accrued thereon and which will accrue thereon to the date of payment.

(b) At any time after the principal of the Bonds shall have been so declared to be due and payable and before the entry of final judgment or decree in any suit, action or proceeding instituted on account of such default, or before the completion of the enforcement of any other remedy under this Bond Ordinance, the Trustee may annul such declaration and its consequences with respect to any Bonds not then due by their terms if:

- (1) moneys shall have been deposited in the Debt Service Fund and appropriately apportioned among each Debt Service Fund Account sufficient to pay all matured installments of interest and principal (other than principal then due only because of such declaration) of all Outstanding Bonds;
- (2) moneys shall have been deposited with the Trustee sufficient to pay the charges, compensation, expenses, disbursements, advances and liabilities of the Trustee;
- (3) all other amounts then payable by the Town hereunder shall have been paid or a sum sufficient to pay the same shall have been deposited with the Trustee; and
- (4) every Event of Default actually known to the Trustee (other than a default in the payment of a Principal Installment of such Bonds then due only because of such declaration) shall have been remedied as certified in writing by an Authorized Officer to the Trustee.

No such annulment shall extend to or affect any subsequent Event of Default or impair any right consequent thereon.

Section 14.02 Additional Remedies and Enforcement of Remedies.

(a) Upon the occurrence and continuance of any Event of Default, the Trustee shall, upon the written request of the Holders of not less than a majority in aggregate principal amount of the Bonds Outstanding, together with indemnification of the Trustee to its satisfaction therefor, proceed forthwith to protect and enforce its rights and the rights of the Bondholders

under this Bond Ordinance by such suits, actions or proceedings as the Trustee, being advised by counsel, shall deem expedient, including but not limited to:

- (1) seeking a *writ of mandamus*, requiring the Town to carry out its duties and obligations under the terms of this Bond Ordinance and under the Enabling Act;
- (2) suit upon all or any part of the Bonds;
- (3) civil action to require the Town to account as if it were the trustee of an express trust for the Holders of Bonds;
- (4) civil action to enjoin any acts or things which may be unlawful or in violation of the rights of the Holders of the Bonds; or
- (5) enforcement of any other right of the Bondholders conferred by law or by this Bond Ordinance including the right to make application for the appointment of a receiver to administer and operate the System.

(b) Regardless of the happening of an Event of Default, the Trustee, if requested in writing by the Holders of not less than a majority in aggregate principal amount of the Bonds then Outstanding, and upon receipt of assurances of indemnification of the Trustee, the sufficiency of which shall be determined in the Trustee's sole discretion, shall institute and maintain such suits and proceedings as it may be advised by counsel shall be necessary or expedient:

- (1) To prevent any impairment of the security under this Bond Ordinance by any acts which may be unlawful or in violation of this Bond Ordinance; or
- (2) To preserve or protect the interests of the Bondholders, provided that such request is in accordance with law and the provisions of this Bond Ordinance and, in the sole judgment of the Trustee, is not unduly prejudicial to the interests of the Holders of Bonds not making such request.

(C) When the Trustee incurs costs or expenses (including legal fees, costs and expenses) or renders services after the occurrence of an Event of Default, such costs and expenses and the compensation for such services are intended to constitute expenses of administration under any federal or state bankruptcy, insolvency, arrangement, moratorium, reorganization or other debtor relief law.

Section 14.03 Application of Revenues and Other Moneys After an Event of Default.

(a) The Town covenants that if an Event of Default shall happen and shall not have been remedied, the Town, upon demand of the Trustee, shall pay or cause to be paid over to the Trustee:

- (1) Forthwith, all moneys and securities then held by the Town which are credited to any fund under this Bond Ordinance. Any moneys and securities in any Project Fund created with proceeds of Bonds if construction of the projects to be paid for thereby has been completed or terminated but exclusive of any amounts remaining in such Project Fund that are in dispute between the Town and any contractor; provided however, any monies in a Debt Service Fund Account or Debt Service Reserve Fund shall be applied only toward the applicable Series of Bonds for which such Debt Service Fund Account or Debt Service Reserve Fund was established; and
 - (2) As promptly as practicable after receipt thereof, all Gross Revenues.
- (b) During the continuance of an Event of Default, the Trustee shall apply all moneys, securities, Gross Revenues, payments and receipts in its possession and the income therefrom as follows and in the following order:
- (1) to the payment of the reasonable and proper charges of the Trustee and its reasonable counsel fees and expenses;
 - (2) to the payment of Operation and Maintenance Expenses;
 - (3) to the payment of the interest and principal (and redemption premium, if any) then due on the Bonds, as follows:
 - (A) unless the principal of all of the Bonds shall have become or have been declared due and payable,
 - (i) first: to the payment of the persons entitled thereto of all installments of interest then due in the order of the maturity of such installments, and, if the amount available shall not be sufficient to pay in full any installment or installments maturing on the same date, then to the payment thereof ratably, according to the amounts due thereon to the persons entitled thereto, without any discrimination or preference;
 - (ii) second: to the payment to the persons entitled thereto of the unpaid Principal Installments (and redemption premiums, if any) of any Bonds which shall have become due, whether at maturity or by call for redemption, in the order of their due dates, and if the amounts available shall not be sufficient to pay in full all the Bonds due on any date, then to the payment thereof ratably, according to the amounts of principal (plus redemption premium, if any) due on such date, to the persons entitled thereto, without any discrimination or preference;

- (B) if the principal of all of the Bonds shall have become or have been declared due and payable, to the payment of the principal and interest then due and unpaid upon the Bonds without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto without any discrimination or preference except as to any differences as to the applicable rates of interest specified in the Bonds;
- (4) to the payment of the amounts required by Section 8.03, ratably, according to the amounts due thereon to the persons entitled thereto;
- (5) to the payment of the amounts required by Section 8.04, ratably, according to the amounts due thereon to the persons entitled thereto;
- (6) to the payment of the amounts required by Section 8.05, ratably, according to the amounts due thereon to the persons entitled thereto; and
- (7) to the payment of the required deposits to the Depreciation and Contingent Fund under Section 8.07.

Section 14.04 Remedies Not Exclusive.

No remedy by the terms of this Bond Ordinance conferred upon or reserved to the Trustee or the Bondholders is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Bond Ordinance or existing at law or in equity or by statute (including the Enabling Act) on or after the date hereof.

Section 14.05 Remedies Vested in Trustee.

All rights of action (including the right to file proof of claims) under this Bond Ordinance or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceedings relating thereto. Any such suit or proceedings instituted by the Trustee shall be brought in its name as Trustee without the necessity of joining as plaintiffs or defendants any Holders of the Bonds. Subject to the provisions of Section 14.03 hereof, any recovery of judgment shall be for the equal benefit of the Holders of the Outstanding Bonds.

Section 14.06 Majority of Bondholders Control Proceedings.

If an Event of Default shall have occurred and be continuing, notwithstanding anything in this Bond Ordinance to the contrary, the Holders of at least a majority in aggregate principal amount of Bonds then Outstanding shall have the right, at any time, by an instrument in writing executed and delivered to the Trustee, to direct the method and place of conducting any

proceeding to be taken in connection with the enforcement of the terms and conditions of this Bond Ordinance or for the appointment of a receiver or any other proceedings hereunder, provided that such direction is in accordance with law and the provisions of this Bond Ordinance (including indemnity satisfactory to the Trustee) and, in the sole judgment of the Trustee, is not unduly prejudicial to the interests of the Bondholders not joining in such direction and provided further that nothing in this Section 14.06 shall impair the right of the Trustee in its discretion to take any other action under this Bond Ordinance which it may deem proper and which is not inconsistent with such direction by the Holders of at least a majority in principal amount of Bonds then Outstanding.

Section 14.07 Individual Bondholder Action Restricted.

(a) No Holder of any Bond shall have any right to institute any suit, action, or proceeding in equity or at law for the enforcement of this Bond Ordinance or for the execution of any trust hereunder or for any remedy under this Bond Ordinance unless:

- (1) an Event of Default has occurred:
 - (A) under paragraph (1) or (2) of subsection (a) of Section 13.01 hereof;
 - (B) as to which the Trustee has actual notice; and
 - (C) as to which the Trustee has been notified in writing.
- (2) the Holders of at least 25% in aggregate principal amount of Bonds Outstanding shall have made written request to the Trustee to proceed to exercise the powers granted in this Bond Ordinance or to institute such action, suit or proceeding in its own name;
- (3) such Bondholders shall have provided assurances of indemnification of the Trustee, the sufficiency of which shall be determined in the Trustee's sole discretion; and
- (4) the Trustee shall have failed or refused to exercise the powers herein granted or to institute such action, suit or proceedings in its own name for a period of 60 days after receipt by it of such request and offer of indemnity.

(b) No one or more Holders of Bonds shall have any right in any manner whatsoever to affect, disturb or prejudice the security of this Bond Ordinance or to enforce any right hereunder except in the manner herein provided and for the equal benefit of the Holders of all Bonds Outstanding.

(c) Nothing contained in this Bond Ordinance shall affect or impair, or be construed to affect or impair, the right of the Holder of any Bond:

- (1) to receive payment of the Principal Installments of or interest on such Bond on the due date thereof; or
- (2) to institute suit for the enforcement of any such payment on or after such due date.

Section 14.08 Termination of Proceedings.

In case any proceeding taken by the Trustee or any Bondholder on account of any Event of Default shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee or the Bondholders, the Town, the Trustee and the Bondholders shall be restored to their former positions and rights hereunder, and all rights, remedies and powers of the Trustee and the Bondholders shall continue as if no such proceeding had been taken.

Section 14.09 Waiver and Nonwaiver of Event of Default.

(a) No delay or omission of the Trustee or of any Holder of the Bonds to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or an acquiescence therein. Every power and remedy given by this Article XIV to the Trustee and the Holders of the Bonds, respectively, may be exercised from time to time and as often as may be deemed expedient.

(b) The Trustee may waive any Event of Default which in its opinion shall have been remedied before the entry of final judgment or decree in any suit, action or proceeding instituted by it under the provisions of this Bond Ordinance, or before the completion of the enforcement of any other remedy under this Bond Ordinance.

(c) Notwithstanding anything contained in this Bond Ordinance to the contrary but subject to the provisions of Section 17.01 hereof, the Trustee, upon the written request of the Holders of at least a majority of the aggregate principal amount of Bonds then Outstanding (including, if more than one Series of Bonds shall at the time be Outstanding, the Holders of a majority in principal amount of all Bonds then Outstanding of each such Series), shall waive any Event of Default hereunder and its consequences; provided, however, that except under the circumstances set forth in subsection (b) of Section 14.01 hereof or subsection (b) of this Section 14.09, a default in the payment of the principal of, premium, if any, or interest on, any Bond, when the same shall become due and payable by the terms thereof or upon call for redemption, may not be waived without the written consent of the Holders of all the Bonds at the time Outstanding.

(d) In case of any waiver by the Trustee of an Event of Default hereunder, the Town, the Trustee, each Insurer and the Bondholders shall be restored to their former positions and rights under this Bond Ordinance, respectively, but no such waiver shall extend to any subsequent or other Event of Default or impair any right consequent thereon. The Trustee shall not be responsible to anyone for waiving or refraining from waiving any Event of Default in accordance with this Section 14.09.

Section 14.10 Notice of Events of Default.

- (a) Within 30 days after:
 - (1) the receipt of notice of an Event of Default as provided in Section 14.07(a)(1)(B) or (C) hereof; or
 - (2) the occurrence of an Event of Default under paragraphs (1) or (2) of Section 13.01(a) hereof, as to which the Trustee shall be deemed to have notice,

the Trustee shall, unless such Event of Default shall have been cured, give written notice thereof by first class mail to each Insurer of any Series of Bonds then Outstanding, if any, and to each Bondholder, provided that, except in the case of a default in the payment of Principal Installments of, together with premium, if any and interest on any of the Bonds, the Trustee may withhold such notice if, in its sole judgment, it determines that the withholding of such notice is in the best interests of the Bondholders.

(b) The Trustee shall promptly notify the Town and each Insurer of any Series of Bonds then Outstanding of any Event of Default actually known to the Trustee.

Section 14.11 Rights of Insurers.

Any Series Ordinance may provide that any Insurer, insuring the applicable Series of Bonds, upon the occurrence of an Event of Default and with respect to all remedies provided herein, may prevent the acceleration of the Bonds of all Series or may prevent the annulment of the acceleration of the Bonds of all Series. Such Insurer may be subrogated to the rights to payment of the Holders of any Bonds with respect to which it pays any principal or interest on the Bonds owned by that Holder.

* * *

ARTICLE XV

TRUSTEE AND ITS FUNCTIONS; OTHER FIDUCIARIES

Section 15.01 Appointment and Vesting of Powers in Trustee; Limitation of Rights of Bondholders to Appoint Trustee.

Prior to the delivery of any Bonds pursuant to this Bond Ordinance, the Town shall appoint the Trustee. Such appointment shall be made by means of the Series Ordinance adopted by the Town Council in connection with the issuance of the first Series of Bonds pursuant to this Bond Ordinance or as otherwise permitted under the provisions of this Bond Ordinance. The Trustee shall be and is hereby vested with all rights and powers necessary to enable it to discharge its duties hereunder but the right of the Bondholders to appoint a Trustee hereunder is limited to the circumstances contemplated by Section 15.10 hereof.

Section 15.02 Functions of Trustee.

The Trustee shall have the following additional functions:

- (1) to authenticate, as applicable, the Bonds of all Series that may be issued;
- (2) to act as custodian of the Debt Service Fund and each Debt Service Fund Account (and any subaccounts) established thereunder;
- (3) except as otherwise provided herein, to act as custodian of the Debt Service Reserve Funds, if any;
- (4) except as otherwise provided herein, to act as Paying Agent for the Bonds;
- (5) unless otherwise prescribed by any Series Ordinance, to act as Registrar for the Bonds, and to maintain a set of registration books therefor, which shall at all times accurately reflect the names and addresses of all those who may be Holders of any Bonds;
- (6) to make reports to the Town on a monthly or such other basis as may be requested by the Town, but not less often than semi-annually and not more frequently than monthly:
 - (A) listing balances for any funds or accounts held by the Trustee;
 - (B) listing investments made for any fund held by the Trustee;
 - (C) listing the market value of the Debt Service Reserve Funds; and
 - (D) listing all securities, if any, pursuant to Section 15.13 hereof.

Section 15.03 Duty of Trustee with Respect to Deficits in Debt Service Funds.

It shall be the further duty of the Trustee to give written notice to the Town three Business Days prior to each Bond Payment Date, if there is any deficiency in any Debt Service Fund Account which would result in a need for further moneys to meet the payment of interest and/or principal falling due on the next ensuing Bond Payment Date, and the extent, if any, to which resort must be had to the applicable Debt Service Reserve Fund to meet such deficiency.

Section 15.04 Acceptance by Trustee Required.

Prior to the delivery of any Bonds, the Trustee appointed pursuant to Section 15.01 hereof shall signify its acceptance of the powers, duties and obligations conferred and imposed upon it by this Bond Ordinance, by executing and delivering to the Town a written acceptance thereof.

Section 15.05 No Liability as to Recitals in Bond Ordinance and Bonds.

(a) The recitals of fact made in this Bond Ordinance, in any Series Ordinance, and in the Bonds shall be taken as statements of the Town, and the Trustee shall not be deemed to have made any representation as to the correctness of the same, nor shall the Trustee be deemed to have made any representation whatsoever as to the validity or sufficiency of this Bond Ordinance or of the Bonds issued hereunder except with respect to the authentication of any Bonds, as applicable. Nor shall the Trustee be under any responsibility or duty with respect to the operation of the System, any offering document or memorandum related to the marketing or sale of Bonds, or the issuance of Bonds or the application of the proceeds thereof, except to the extent provided for herein. Nor shall the Trustee be liable in connection with the performance of its duties hereunder, except for its own negligence or willful misconduct.

(b) Prior to the occurrence of an Event of Default of which the Trustee has or is deemed to have notice hereunder, and after the curing of any Event of Default which may have occurred:

- (1) the Trustee shall undertake to perform such duties and only such duties as are specifically set forth in this Bond Ordinance or any Series Ordinance, as applicable, and no implied covenants or obligations shall be read into this Bond Ordinance or any Series Ordinance, as applicable, against the Trustee; and
- (2) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Bond Ordinance or any Series Ordinance, as applicable.

(c) In case an Event of Default of which the Trustee has or is deemed to have notice hereunder has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Bond Ordinance or any Series Ordinance, as applicable, and use the

same degree of care and skill in their exercise, as a prudent person would exercise or use in the conduct of such person's own affairs.

Section 15.06 Trustee May Rely on Notices, Etc.

The Trustee shall at all times be protected in acting upon any notice, ordinance, request, consent, order, certificate, statement, opinion, bond, or other paper or document believed to be genuine and to have been signed by the proper party or parties.

Section 15.07 Trustee Permitted to Resign.

The Trustee may, at any time, resign and be discharged of its duties and obligations hereunder by giving to the Town and the Bondholders written notice of such resignation, specifying a date (not less than 60 days after such notice) when such resignation is intended to take effect. Such resignation shall take effect immediately upon but not before the appointment and qualification of its successor. If after 60 days no successor has been appointed, the Trustee may petition a court of competent jurisdiction to appoint a successor.

Section 15.08 Removal of Trustee.

(a) The Trustee may be removed at any time by the Holders of not less than a majority in aggregate principal amount of Bonds Outstanding upon 30 days written notice to the Trustee.

(b) Provided an Event of Default has not occurred and is not continuing, the Trustee may be removed at any time by the Town upon thirty days written notice to the Trustee.

(c) Any such removal shall take effect immediately (after the 30 day notice period) upon, but not before the appointment and qualification of its successor.

Section 15.09 Appointment of Successor Trustee Upon Resignation or Removal of Trustee.

(a) In case at any time the Trustee shall resign, or be removed or become incapable of acting, or be adjudged bankrupt or insolvent, or a receiver of its property shall be appointed, or any public officer shall take charge or control of its property or affairs, a successor thereto shall be promptly appointed by the Town by ordinance duly enacted. The successor shall in all instances be a bank or a trust company, and duly chartered pursuant to the laws of the United States or of any state and shall have a combined capital and surplus of not less than \$500,000,000.

(b) Immediately following such appointment the Town shall give written notice of such appointment to the Bondholders and any Registrar other than the Trustee.

Section 15.10 When Bondholder May Seek Successor Trustee.

If no appointment of a successor Trustee shall be promptly made pursuant to Section 15.09, any Bondholder, the resigning or removed Trustee may make application to any court of competent jurisdiction for the appointment of a successor and said court may thereupon, after such notice, if any, as such court may prescribe, appoint a successor.

Section 15.11 Acceptance by Successor Trustee.

Any successor Trustee appointed hereunder shall execute and deliver to its predecessor and to the Town a written acceptance of such appointment, and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all moneys, estates, properties, rights, powers, duties and obligations of its predecessor hereunder with like effect as if originally named as such Trustee and its predecessor shall be obligated to pay over, transfer, assign and deliver all moneys, securities and other property held by it to its successor, and on the written request of the Town, or the successor, shall execute, acknowledge and deliver such instruments of conveyance and further assurance and do such other things as may be reasonably required for the vesting and confirming in such successor all the right, title and interest of the predecessor in and to any property held by it.

Section 15.12 Effect of Trustee Merging with Another Bank.

Any bank or trust company into which the Trustee may be merged, or with which it may be consolidated, or any bank or trust company resulting from any merger or consolidation to which it shall be a party, or any bank or trust company to which the Trustee may sell or transfer all or substantially all of its corporate trust business, shall become the successor without the execution or filing of any paper or the performance of any further act; provided, always, that if the Town shall be dissatisfied with the institution resulting from the merger, consolidation or other action spoken of above, then the Town may at any time within 30 days after such action name a new Trustee (with the qualifications prescribed by Section 15.09 hereof) in lieu of the Trustee then acting.

Section 15.13 Trustee to Secure Funds and Securities Held in Trust.

Unless the same be secured as trust funds in the manner provided by the regulations of the Comptroller of the Currency as from time to time in effect, all funds or securities in the custody of the Trustee, in excess of the amount of such deposit insured by the Federal Deposit Insurance Corporation, shall be invested in Authorized Investments at the written direction of the Town.

Section 15.14 Disposition of Paid Bonds.

It shall be the duty of the Trustee to cancel all Bonds which shall have been paid, whether upon their maturity or redemption prior to maturity; such cancellation shall be done in such fashion as to render such Bonds incapable of further negotiation or hypothecation. In any event it shall furnish appropriate certificates or documents to the Town indicating the disposition of such Bonds.

Section 15.15 Appointment of Substitute Registrar.

The Town may, from time to time, appoint a Registrar or Registrars to act in the place and stead of the Trustee as Registrar of the Bonds of one or more Series. The Town shall cause written notice of such appointment to be mailed to the Holders of all Bonds affected by such appointment 30 days prior to the effective date of such appointment.

Section 15.16 Additional Provisions Regarding the Trustee.

(a) The Trustee, prior to the occurrence of an Event of Default and after the curing of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Bond Ordinance, and no implied covenants or obligations should be read into this Bond Ordinance against the Trustee.

(b) The Trustee agrees to perform the trust functions provided herein upon and subject to the expressed terms and conditions of this Section 15.16.

(c) The Trustee may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, agents or receivers appointed with due care.

(d) The permissive items assigned to the Trustee as enumerated herein shall not be construed as a duty.

(e) The Trustee shall not be accountable for the use or application by the Town of any money paid over by the Trustee in accordance with the provisions of this Bond Ordinance.

(f) Before taking any action under this Bond Ordinance relating to an Event of Default or in connection with its duties under this Bond Ordinance other than making payments of principal and interest on the Bonds as they become due or causing an acceleration of the Bonds whenever required by this Bond Ordinance, the Trustee may require that a satisfactory indemnity bond be furnished for the reimbursement of all costs and expenses to which it may be subject (including legal fees, costs and expenses) and to protect it against all liability, including, but not limited to, any liability arising directly or indirectly under any federal, state or local statute, rule, law or ordinance related to the protection of the environment or hazardous substances and except liability which is adjudicated to have resulted from its own negligence or willful misconduct in connection with any action so taken.

(g) The Trustee shall have no responsibility with respect to any information, statement or recital in any official statement, offering memorandum or any other disclosure material prepared or distributed with respect to the Bonds and shall have no responsibility for compliance with any state or federal tax or securities laws in connection with the Bonds.

(h) None of the provisions of this Bond Ordinance shall require the Trustee to expend or risk its own funds or otherwise to incur any liability, financial or otherwise, in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers if it

shall have reasonable grounds for believing that repayment of such funds cannot be assured to the Trustee's satisfaction.

(i) The Trustee may conclusively rely upon the Town's written instructions as to both the suitability and legality of all investments directed hereunder and their qualification as Authorized Investments. The Trustee shall have no responsibility to monitor the ratings of investments after the initial purchase of such investments or to confirm whether an investment continues to be an Authorized Investment and shall have no liability if such investment ceases to be an Authorized Investment. The Trustee may, but it not required to, make any and all such investments through its own investment department or that of its affiliates or subsidiaries, and may charge reasonable fees for such trades, including cash sweep accounts. Notwithstanding anything to the contrary herein, in the absence of written investment instructions from the Town, the Trustee shall not be responsible or liable for keeping moneys held by it hereunder fully invested. The Trustee shall not be liable for any losses from or diminution in the value of such investments executed pursuant to the written direction of the Town. Broker confirmations of investments are not required to be issued by the Trustee for each month in which a monthly statement is rendered.

(j) The Trustee shall have no duty to review or analyze any financial statements delivered to it hereunder (including the audit required by Section 9.02 hereof) or verify the accuracy thereof and shall hold such financial statements solely as a repository for the benefit of the Bondholders; the Trustee shall not be deemed to have notice of any information contained therein or Event of Default which may be disclosed therein.

(k) The Town shall pay to the Trustee reasonable compensation for all services performed by it hereunder and also its reasonable expenses, charges and other disbursements and the fees, costs, and expenses of its attorneys, agents and employees incurred in and about the administration and the performance of its powers and duties hereunder. If the Trustee is required by a governmental agency or court proceeding initiated by a third party to undertake efforts beyond that which is set forth herein but related thereto, the Trustee shall notify the Town of same in writing. Payment for such extraordinary fees, costs and expenses (including but not limited to reasonable attorney's fees, costs and expenses) shall be made promptly by the Town only after said notice.

(l) The Trustee shall not be responsible or liable for any failure or delay in the performance of its obligations under this Bond Ordinance arising out of or caused, directly or indirectly, by circumstances beyond its reasonable control, including, without limitation: acts of God; earthquakes; fire; flood; hurricanes or other catastrophic storms; wars; terrorism; similar military disturbances; sabotage; epidemic; pandemic; riots; interruptions; loss or malfunctions of utilities, computer (hardware or software) or communications services; labor disputes; acts of civil or military authority or governmental action; it being understood that the Trustee shall use commercially reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as reasonably practicable under the circumstances.

(m) Upon request from any Bondholder and absent any further direction or consent of the Town, the Trustee may disseminate a copy of the financial statements to such requester.

(n) The Trustee shall have the right to accept and act upon directions or instructions delivered using Electronic Means; provided, however, that the Town shall provide to the Trustee an incumbency certificate listing qualified officers with the authority to provide such directions or instructions (each a “*Qualified Officer*”) and containing specimen signatures of such Qualified Officers, which incumbency certificate shall be amended whenever a person is to be added or deleted from the listing. If the Town elects to give the Trustee directions or instructions using Electronic Means and the Trustee in its discretion elects to act upon such directions or instructions, the Trustee’s understanding of such directions or instructions shall be deemed controlling. The Town understands and agrees that the Trustee cannot determine the identity of the actual sender of such directions or instructions and that the Trustee shall conclusively presume that directions or instructions that purport to have been sent by a Qualified Officer listed on the incumbency certificate provided to the Trustee have been sent by such Qualified Officer. The Town shall be responsible for ensuring that only Qualified Officers transmit such directions or instructions to the Trustee and that all Qualified Officers treat applicable user and authorization codes, passwords and/or authentication keys as confidential and with extreme care. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee’s reliance upon and compliance with such directions or instructions notwithstanding such directions or instructions conflict or are inconsistent with a subsequent written direction or written instruction. The Town agrees: (i) to assume all risks arising out of the use of Electronic Means to submit directions or instructions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized directions or instructions, and the risk of interception and misuse by third parties, (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting directions or instructions to the Trustee and that there may be more secure methods of transmitting directions or instructions, and (iii) that the security procedures (if any) to be followed in connection with its transmission of directions or instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances.

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ARTICLE XVI

DEFEASANCE

Section 16.01 Defeasance Generally.

Subject to the provisions of any Series Ordinance, if all of the Bonds issued pursuant to this Bond Ordinance and any other amounts required to be paid to the Trustee and a provider of a surety bond, line of credit, insurance policy or letter of credit hereunder shall have been paid and discharged, then the obligations of the Town under this Bond Ordinance, the pledge of Gross Revenues made hereby, and all other rights granted hereby shall cease and determine. Subject to the provisions of any Series Ordinance, Bonds shall be deemed to have been paid and discharged within the meaning of this Article under each of the following circumstances:

- (1) The Trustee shall hold, at the stated maturities of such Bonds (or properly noticed redemption or prepayment dates), in trust and irrevocably appropriated thereto, sufficient money for the payment thereof,
- (2) If default in the payment of the Principal Installments of such Bonds or the interest thereon shall have occurred and thereafter tender of such payment shall have been made, and the Trustee shall then hold in trust and irrevocably appropriated thereto, sufficient money for the payment thereof to the date of the tender of such payment, or
- (3) If the Town shall have deposited with the Trustee, or any other bank or trust company which would otherwise meet the chartering and capital and surplus requirements contained in Section 15.09(a) hereof (after properly establishing an escrow account therefor), in irrevocable trust money or Defeasance Obligations, the principal of and interest on which when due (without reinvestment thereof) will, as certified in a verification report provided by an independent entity providing such services and selected by the Town, provide money which, together with the money, if any, deposited at the same time, shall be sufficient to pay, when due, the principal, interest and redemption premium, if any, due and to become due on and prior to the maturity, or, if the Town has irrevocably elected to redeem Bonds, on and prior to the redemption date, of such Bonds.

Section 16.02 Money to be Held in Trust - When Returnable to the Town.

Any money which at any time shall be deposited with the Trustee or other escrow holder authorized under paragraph (3) of Section 16.01 by or on behalf of the Town for the purpose of paying and discharging any Bonds or the interest thereon, shall be and is hereby assigned, transferred and set over to the Trustee or such other escrow holder in trust for the applicable Holders of the Bonds, and such money shall be and is hereby irrevocably appropriated to the payment and discharge thereof. But if, through lapse of time or otherwise, the Holders of said Bonds shall no longer be entitled to enforce payment of their obligations, then, in such event, it

shall be the duty of the Trustee or such other escrow holder to forthwith return said funds to the Town.

Section 16.03 Deposits with Trustee Subject to Conditions of Article XVI.

The Town covenants and agrees that any money which it shall deposit with the Trustee shall be deemed to be deposited in accordance with, and subject to, the applicable provisions of this Article, and that whenever it shall have elected to redeem Bonds it will irrevocably bind and obligate itself to give notice of redemption thereof, and will further authorize and direct the Trustee to cause the publication of such notice of redemption in its name and on its behalf.

Section 16.04 No Defeasance of Series of Bonds Paid by Insurer.

In the event that the Principal Installments and/or interest due on a Series of Bonds shall be paid by an Insurer pursuant to a Municipal Bond Insurance Policy, such Series of Bonds shall remain Outstanding for all purposes, not be defeased or otherwise satisfied and not be considered paid by the Town until the Insurer has been reimbursed in full therefor in accordance with the terms of the Municipal Bond Insurance Policy, and the assignment and pledge of the Gross Revenues of the System and all covenants, agreements and other obligations of the Town to the registered Holders shall continue to exist and shall run to the benefit of the Insurer, and the Insurer shall be subrogated to the rights of such registered Holders.

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ARTICLE XVII

MISCELLANEOUS

Section 17.01 Miscellaneous Rights of an Insurer.

(a) Notwithstanding any provision of this Bond Ordinance to the contrary, each Insurer shall be deemed the exclusive Holder of all Bonds insured by that Insurer, for the purposes of all approvals, consents, waivers, institution of any action, and the direction of all remedies. No rights granted to an Insurer by this Bond Ordinance or any Series Ordinance shall be effective at any time that such Insurer is in breach of its obligations under the Municipal Bond Insurance Policy, has committed a default under the Municipal Bond Insurance Policy or is subject to bankruptcy or receivership proceedings. Additionally, this paragraph (a) shall be effective only in the event the Insurer's Municipal Bond Insurance Policy results in being rated at least investment grade by either Standard & Poor's or Moody's Investors Service, Inc.

(b) Any provision of this Bond Ordinance expressly recognizing or granting rights in or to an Insurer may not be amended in any manner which affects the rights of such Insurer hereunder without the prior written consent of each such Insurer.

(c) To the extent that an Insurer makes payment of the principal of or interest on any Bonds, it shall become the owner and Holder of such Bonds, appurtenant coupons or right to payment of such principal of or interest on such Bonds and shall be fully subrogated to all of the registered Holders' rights thereunder, including the registered Holders' rights to payment thereof. To evidence such subrogation (i) in the case of subrogation as to claims for past due interest, the Trustee shall note Insurer's rights as subrogee on the registration books of the Town maintained by the Trustee or Registrar upon receipt of proof from the Insurer as to payment of interest thereon to the registered Holders of the Bonds, and (ii) in the case of subrogation as to claims for past due principal, the Trustee shall note the Insurer's rights as subrogee on the registration books of the Town maintained by the Trustee or Registrar upon surrender of the Bonds by the registered Holders thereof to the Insurer or its agent.

(d) In the event that the principal of and/or interest on any Bonds shall be paid by the Insurer pursuant to the terms of its Municipal Bond Insurance Policy, (i) such Bonds shall continue to be "Outstanding" under this Bond Ordinance, and (ii) the assignment and pledge of the Gross Revenues and all covenants, agreements and other obligations of the Town to the registered Holders shall continue to exist, and the Insurer shall be fully subrogated to all of the rights of such registered Holders in accordance with the terms and conditions of subparagraph (c) above and the Insurer's Municipal Bond Insurance Policy.

(e) The terms and provisions of this Bond Ordinance or of any applicable Series Ordinance may not be terminated as long as there are any moneys owed to an Insurer under such terms and provisions of this Bond Ordinance or the applicable Series Ordinance or any agreement between such Insurer and the Town.

Section 17.02 Purpose of Covenants in Bond Ordinance.

Every covenant, undertaking and agreement made on behalf of the Town, as set forth in this Bond Ordinance and any Series Ordinance is made, undertaken and agreed to, for the proper securing of the payment of the principal of and interest on the Bonds. Each shall be deemed to partake of the obligation of the contract between the Town and the Bondholders and shall be enforceable accordingly. In this connection, any provider of a surety bond, line of credit, insurance policy or letter of credit as contemplated under Section 7.05(e) hereof may enforce the terms, conditions and obligations under this Bond Ordinance as a third-party beneficiary hereunder. Nothing in this Bond Ordinance and any Series Ordinance expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the Town, the Insurers, the Trustee, and the Holders of the Bonds, any right, remedy or claim under or by reason of this Bond Ordinance and any Series Ordinance or any covenant, condition or stipulation thereof, and all covenants, stipulations, promises and agreements in this Bond Ordinance contained by and on behalf of the Town shall be for the sole and exclusive benefit of the Town, the Insurers, the Trustee, and the Holders of the Bonds.

Section 17.03 Severability.

If any Section, paragraph, clause or provision of this Bond Ordinance shall be held invalid, the invalidity of such Section, paragraph, clause or provision shall not affect any of the remaining provisions of this Bond Ordinance.

Section 17.04 Remedies Granted by Ordinance Not Being Available to Holders of Other Bonds.

If it shall be held by any court of competent jurisdiction that any right or remedy granted by this Bond Ordinance or any Series Ordinance to the Holders of any Bond is not available to the Holders of all other Bonds, then such rights and remedies are herewith conferred upon the Holders of such other Bonds.

Section 17.05 Authorization to Sign.

For purposes of all consents and other necessary documentation associated with the issuance of Bonds, the Authorized Officers and the Clerk shall be authorized to sign on behalf of the Town.

Section 17.06 Repealing Clause.

All ordinances, or parts thereof, inconsistent herewith shall be and the same are hereby repealed to the extent of such inconsistencies.

Section 17.07 Governing Law.

The provisions of this Bond Ordinance shall be governed by the laws of the State, without regard to conflict of law principles.

Section 17.08 Notices.

Notices to the Town and the Trustee may be transmitted to the following addresses as follows:

If to the Town:

Town of Moncks Corner
118 Carolina Avenue
Moncks Corner, SC 29461
Attn: Town Administrator

If to the Trustee:

U.S. Bank Trust Company, National Association
1441 Main Street, Suite 775
Columbia, SC 29201
Attn: Corporate Trust

The Town and the Trustee may designate any further or different addresses to which subsequent notice, certificates or other communications may be sent

Section 17.09 Date Effective.

The provisions of this Bond Ordinance shall become effective upon enactment.

* * *

NOW, THEREFORE, BE IT ORDAINED and ordered by the Mayor and Town Council of the Town of Moncks Corner, South Carolina, in Council duly assembled, that this Master Bond Ordinance is approved and ordered.

ENACTED IN REGULAR MEETING, the 18th day of November 2025.

First reading and Public Hearing: October 21, 2025

Second Reading: November 18, 2025

Thomas J. Hamilton, Jr., Mayor

Council:

ATTEST:

Marilyn M. Baker, Clerk to Council

APPROVED AS TO FORM:

James Brogdon, Town Attorney

ORDINANCE #2025-13

A SERIES ORDINANCE OF THE TOWN OF MONCK'S CORNER, SOUTH CAROLINA
PROVIDING FOR THE ISSUANCE AND SALE OF STORMWATER SYSTEM REVENUE
BONDS IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT EXCEEDING \$3,750,000;
AND PROVIDING FOR OTHER MATTERS RELATING THERETO

SERIES ORDINANCE

Enacted November 18, 2025

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NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF MONCKS CORNER, IN MEETING DULY ASSEMBLED, THAT:

ARTICLE I

FINDINGS AND DETERMINATIONS

Section 1.01 Findings and Determinations.

Incident to the enactment of this Series Ordinance (this “**2025 Series Ordinance**”), and the issuance of the bonds provided for herein, the Town Council of the Town of Moncks Corner (the “**Town Council**”), the governing body of the Town of Moncks Corner, South Carolina (the “**Town**”), finds that the facts set forth in this Article exist and the following statements are in all respects true and correct:

(a) The Town Council has made general provision for the issuance of stormwater system revenue bonds of the Town (“**Bonds**”), through the means of an ordinance enacted on November 18, 2025, entitled “A MASTER BOND ORDINANCE OF THE TOWN OF MONCKS CORNER, SOUTH CAROLINA PROVIDING FOR THE ISSUANCE AND SALE OF STORMWATER SYSTEM REVENUE BONDS; AND OTHER MATTERS RELATING THERETO” (the “**Bond Ordinance**”). Capitalized terms used herein and not otherwise defined shall have the meaning given to such term in the Bond Ordinance.

(b) It is provided in and by the Bond Ordinance that, upon enactment of a “Series Ordinance,” there may be issued one or more Series of Bonds for the purpose of, *inter alia*: (1) obtaining funds for the acquiring, purchasing, constructing, improving, enlarging, and repairing of the System and improvements and additions thereto, including the recoupment or reimbursement of funds already so expended; (2) providing funds for the payment of any Bond Anticipation Note issued in order to defray the cost of expansions, additions, and improvements to the System and that were issued in anticipation of the issuance and sale of Bonds; (3) refunding Bonds or other obligations issued to provide land or facilities or equipment which are or are to become a part of the System or which are or were payable in whole or in part from revenues of the System; (4) providing funds for the payment of interest due on any Bonds; (5) funding any Debt Service Reserve Fund or restoring the value of the cash and securities in any Debt Service Reserve Fund to the amount equal to its Reserve Requirement, and reimbursing amounts owed to any providers of a surety bond, line of credit, insurance policy or letter of credit established pursuant to Section 7.05(d) of the Bond Ordinance; and (6) paying the costs of issuance of Bonds, including any costs of credit enhancement therefor.

(c) On the basis of the authority provided in the Bond Ordinance, the Town has determined to issue the Series 2025 Bonds (as defined herein) to provide funds: (i) to defray or reimburse the costs of (a) acquiring excavator machinery, (b) acquiring real property and restoring watersheds impacted by flooding as well as restoring the California Branch, (c) providing for drainage improvements in various areas, including but not limited to Elijah Lane,

Coaxum Road, Haynesville Extension, and West Main Street (the “*Project*”), and (ii) to pay certain costs and expenses relating to the issuance of the Series 2025 Bonds.

(d) By reason of the foregoing, the Town has determined to enact this 2025 Series Ordinance in accordance with the terms and provisions of the Bond Ordinance in order to issue Bonds for the purposes described in paragraph (c) above.

Section 1.02 Determinations Required by Section 4.01(b) of the Bond Ordinance.

- (a) The Town Council hereby specifies and determines that:
- (1) the System is expected to have a period of usefulness of not less than 30 years;
 - (2) the Date of Issue of the Series 2025 Bonds shall be the date that the Series 2025 Bonds are executed and delivered, or such other date as shall be determined by an Authorized Officer pursuant to Article V hereof;
 - (3) the maximum aggregate authorized principal amount of the Series 2025 Bonds is set forth at Section 4.01 hereof, and the exact principal amount of the Series 2025 Bonds shall be determined by an Authorized Officer at the closing of the Series 2025 Bonds pursuant to Article V hereof;
 - (4) the Bond Payment Dates, the Record Dates, and the date or dates of maturity and amounts of maturity of the Series 2025 Bonds shall be determined by an Authorized Officer at the closing of such Series 2025 Bonds pursuant to Article V hereof, provided, however, no such Series 2025 Bond shall mature later than as specific in Section 4.03(a) hereof;
 - (5) Series 2025 Bonds are necessary to provide funds to be used and expended for purposes set forth in Section 4.01(a) of the Bond Ordinance, as such purposes are particularly described at Section 4.02 hereof;
 - (6) the title and designation of the Series 2025 Bonds shall be as set forth at Section 4.01 hereof or as otherwise determined by an Authorized Officer pursuant to Article V hereof;
 - (7) Series 2025 Bonds shall be sold in accordance with Article VIII hereof in the manner determined by an Authorized Officer as authorized by Article V hereof;
 - (8) Series 2025 Bonds shall bear interest at rates as determined by an Authorized Officer through the sale procedures of Article VIII hereof, and The Town will not enter into any interest rate swap or similar transaction with respect to the Series 2025 Bonds;
 - (9) Series 2025 Bonds may be issued as either Serial Bonds or Term Bonds (with appropriate mandatory redemption provisions), but not Capital

Appreciation Bonds, as determined by an Authorized Officer pursuant to Article V hereof;

- (10) the Redemption Prices and dates applicable to any Series of Series 2025 Bonds shall be as determined by an Authorized Officer at the closing of such Series 2025 Bonds pursuant to Article V hereof;
- (11) U.S. Bank Trust Company, National Association (the “*Trustee*”) shall serve as Trustee, Paying Agent, and Registrar for the Series 2025 Bonds;
- (12) Series 2025 Bonds shall be in the form as provided at Section 4.09 hereof and Exhibit A hereof, with such revisions as may be approved by an Authorized Officer pursuant to Article V hereof upon the advice of Bond Counsel, the execution thereof being conclusive evidence of such approval;
- (13) the initial maturity of the Series 2025 Bonds shall be numbered R-1 and any other Series 2025 Bonds thereafter shall be sequentially numbered “R- ” thereafter, and shall be issued in denominations of \$5,000 or any integral multiple thereof in one or more Series in the denomination of the principal amount of such Series of Series 2025 Bonds;
- (14) Series 2025 Bonds may be issued in book-entry form, as permitted by Section 4.20 of the Bond Ordinance, as determined by an Authorized Officer at the closing of such Series 2025 Bonds pursuant to Article V hereof;
- (15) the Town has no outstanding Bonds and therefore there is no Reserve Requirement;
- (16) no Reserve Requirement is being established and therefore no Debt Service Reserve Fund shall be established in connection with the Series 2025 Bonds;
- (17) the proceeds of Series 2025 Bonds shall be applied as set forth at Article VII hereof;
- (18) the 2025 Debt Service Fund Account is established pursuant to Section 4.06 hereof; and
- (19) The Town estimates that the cost of the Project will be \$8,080,000, exclusive of any federal matching funds, and that the portion to be defrayed from the Series 2025 Bonds, inclusive of financing and related costs, will be approximately \$3,750,000.

* * *

ARTICLE II

DEFINITIONS AND CONSTRUCTION

Section 2.01 Definitions.

(a) Except as provided in subsection (b) below, all capitalized terms which are defined in Section 2.02 of the Bond Ordinance shall have the meanings given thereby in this 2025 Series Ordinance.

(b) As used in this 2025 Series Ordinance, unless the context shall otherwise require, the following terms shall have the following respective meanings:

“2025 Debt Service Fund Account” means the account of that name established by this 2025 Series Ordinance pursuant to Section 7.04 of the Bond Ordinance.

“2025 Project Fund” means the fund created at Section 7.02 hereof.

“2025 Reserve Requirement” means \$0.

“2025 Series Ordinance” has the meaning ascribed thereto in Section 1.01 hereof.

“Bond Payment Date” means the annual or semi-annual dates as may be determined under the provisions of Article V hereunder.

“Date of Issue” means with respect to a Series of Series 2025 Bonds the date of delivery thereof, or the date determined under Article V in accordance with Section 4.03 hereof.

“Governmental Unit” means a state or local governmental unit within the meaning of Section 141(b) of the Code.

“Nongovernmental Person” means any Person other than a Governmental Unit.

“Person” or **“person”** means firms, associations, partnerships (including limited partnerships), trusts, corporations, or other legal entities, including public bodies, as well as natural persons.

“Project” has the meaning given such term in Section 1.01(c) hereof.

“Serial Bonds” means any Series of the 2025 Bonds which are stated to mature in installments and for which there are no mandatory sinking fund provisions.

“Series 2025 Bonds” means the one or more Series of Bonds authorized and designated by Section 4.01 of this 2025 Series Ordinance.

“Taxable Bonds” has the meaning given such term in Section 10.01(f) hereof.

“**Term Bonds**” means any of the Series 2025 Bonds which are stated to mature in a given year and which are subject to mandatory sinking fund redemption prior to the stated maturity date.

“**Trustee**” means U.S. Bank Trust Company, National Association, its successors and assigns.

Section 2.02 Authority for this 2025 Series Ordinance.

This 2025 Series Ordinance is enacted pursuant to the provisions of the Bond Ordinance.

* * *

ARTICLE III

USEFUL LIFE

Section 3.01 Determination of the Useful Life of the System.

The period of usefulness of the System is hereby determined to be not less than 30 years.

* * *

ARTICLE IV

AUTHORIZATION AND TERMS OF THE SERIES 2025 BONDS

Section 4.01 Principal Amount; Designation of Series 2025 Bonds.

(a) Pursuant to the provisions of the Bond Ordinance, the Series 2025 Bonds of the Town entitled to the benefits, protection, and security of the provisions of the Bond Ordinance are hereby authorized in the aggregate principal amount of not exceeding \$3,750,000; such Series of Bonds so authorized shall be designated as the “Town of Moncks Corner, South Carolina Stormwater System Revenue Bonds, Series 2025,” and shall bear a numeric or alphanumeric Series designation as may be necessary to distinguish them from the Bonds of every other Series, and shall designate the year in which the Series is issued. The Series 2025 Bonds may be sold as a single Series or from time to time as multiple Series bearing any such designation as appropriate. References herein to the Series 2025 Bonds shall include all Series of Bonds authorized by this 2025 Series Ordinance. As authorized by Section 10.01(g) hereof, any Series of the Series 2025 Bonds may be issued as Taxable Bonds and in such event it shall bear an appropriate designation so as to distinguish its tax status.

(b) Should the Series 2025 Bond not be issued in calendar year 2025, the designation for the Series 2025 Bond and all other references to “2025” recited herein shall be changed to appropriately reflect the year of such actual issuance.

Section 4.02 Purposes of the Series 2025 Bonds.

The Series 2025 Bonds are authorized for the principal purposes of:

- (1) defraying or reimbursing the cost of the Project; and
- (2) paying the costs of issuance of the Series 2025 Bonds.

Section 4.03 Date of Issue; Interest Rates; Maturity; Redemption.

(a) The Date of Issue of each Series of Series 2025 Bonds shall be the date of delivery thereof, subject to an alternate designation by an Authorized Officer pursuant to Article V hereof. Series 2025 Bonds shall mature on such dates and in such principal amounts, and shall bear interest at such rates, as may be determined by an Authorized Officer pursuant to Article V hereof, provided that the final maturity of any Series of Series 2025 Bonds shall not extend beyond December 31, 2045. Series 2025 Bonds shall mature as Serial Bonds or Term Bonds, with such mandatory sinking fund installments as are set forth in a schedule approved by the Authorized Officer prior to or simultaneously with the issuance of such Series 2025 Bonds.

(b) Interest on any Series of Series 2025 Bonds shall be payable on such Bond Payment Dates as are determined by an Authorized Officer pursuant to Article V hereof. Such interest shall be calculated on the basis of a 360-day year consisting of twelve 30-day months. Consistent with

the terms of the Bond Ordinance, the Record Dates for the payment of interest on Series 2025 Bonds shall be the 15th day of the month prior to each Bond Payment Date.

(c) Series 2025 Bonds may be subject to redemption prior to maturity, upon such terms and conditions, and at such Redemption Prices, as may be established by an Authorized Officer pursuant to Article V hereof, prior to or simultaneously with the issuance of the applicable Series of Series 2025 Bonds.

Section 4.04 Authentication; Payment of Series 2025 Bonds.

(a) The Series 2025 Bonds shall be authenticated by the Registrar on or before such date as it shall, in each case, be delivered. Each of the Series 2025 Bonds shall bear interest from its respective Date of Issue if no interest has yet been paid; otherwise from the last date to which interest has been paid and which date is on or prior to the date of authentication of such Series 2025 Bonds.

(b) The interest on the Series 2025 Bonds shall be paid by check or draft mailed from the office of the Trustee to the person in whose name each of the Series 2025 Bonds is registered at the close of business on the Record Date; provided, however, that any Holder of such Series 2025 Bonds in the aggregate principal amount of \$1,000,000 or more may request (in writing, delivered to the paying agent at least 20 days prior to the applicable Bond Payment Date) that interest payments be made by wire transfer to such Holder at an account maintained by a financial institution located in the continental United States specified in such request.

(c) Presentment of the Series 2025 Bonds for payment shall not be required, except for the final payment of the principal and interest thereon or upon such other condition or indicia of satisfaction as may be mutually agreed upon by the Town and the Holder of such Series 2025 Bonds, notice of which shall be provided to the Trustee in advance of such final payment.

Section 4.05 Denomination of the Series 2025 Bonds.

(a) Series 2025 Bonds shall be issued in denominations of \$1,000, \$5,000, or any multiple thereof. Each Series 2025 Bond shall be numbered by the Trustee in such a fashion as to reflect the fact that it is one of the Series 2025 Bonds, and to identify the owner thereof on the books kept by the Registrar. The initial maturity of the Series 2025 Bonds shall be numbered R-1, and thereafter sequentially "R-" numbered for identification.

(b) As necessary for the marketability and sale of the Series 2025 Bonds, an Authorized Officer may determine to authorize any Serial Bonds to be issued with split serial maturities.

Section 4.06 Establishment of 2025 Debt Service Fund Account.

In accordance with Section 7.03 of the Bond Ordinance, the Trustee is hereby directed to establish the 2025 Debt Service Fund Account under the Debt Service Fund on the Date of Issue of the Series 2025 Bonds for the benefit of the Holders of the Series 2025 Bonds. In the event that more than one Series of Bonds is issued pursuant to the terms of this 2025 Series Ordinance, a

Debt Service Fund Account (and any applicable subaccounts permitted under the Bond Ordinance) shall be established for each such Series.

Section 4.07 No Debt Service Reserve Fund.

No Debt Service Reserve Fund shall be established in connection with the Series 2025 Bonds.

Section 4.08 Appointment of Trustee, Paying Agent and Registrar.

U.S. Bank Trust Company, National Association is hereby appointed as Trustee, Paying Agent, and Registrar under the Bond Ordinance and this 2025 Series Ordinance. The Trustee shall signify its acceptance of the duties of Trustee, Paying Agent, and Registrar upon delivery of the Series 2025 Bonds. The Town shall pay to the Trustee from time to time reasonable compensation based on the then-standard fee schedule of such parties for all services rendered under the Bond Ordinance and this 2025 Series Ordinance, and also all reasonable expenses, charges, counsel fees, and other disbursements, including those of its attorneys, agents, and employees, incurred in and about the performance of their powers and duties under the Bond Ordinance and this 2025 Series Ordinance.

The Series 2025 Bonds shall be presented for registration of transfers and exchanges, and notices and demands to or upon the Trustee and the Town in respect of the Series 2025 Bonds shall be served, at the corporate trust office of the Trustee.

The Trustee (or any affiliate thereof which holds the funds and accounts hereunder as depository on behalf of the Trustee) shall be a member of the Federal Deposit Insurance Corporation (the “**FDIC**”) and shall remain such a member throughout the period during which it shall act as Trustee, Paying Agent, and Registrar. The Trustee, in its capacity as Trustee, Paying Agent, and Registrar, shall accept its appointment by a written instrument embodying its agreement to remain, or maintain an affiliate that serves as depository that is, a member of the FDIC. Unless the same be secured as trust funds in the manner provided by the applicable regulations of the Comptroller of the Currency of the United States of America, and unless otherwise provided for in the Bond Ordinance and in this 2025 Series Ordinance, all moneys in the custody of the Trustee (or such affiliate thereof) in excess of the amount of such deposit insured by the FDIC shall be secured in Authorized Investments at the written direction of the Authorized Officer that are at least equal to the sum on deposit and not insured by the FDIC.

Section 4.09 Form of Series 2025 Bonds.

Series 2025 Bonds, together with the certificate of authentication, certificate of assignment and/or statement of insurance, if any, are to be in substantially the form attached hereto as Exhibit A with such necessary and appropriate variations, omissions and insertions as permitted or required upon advice of Bond Counsel and as determined by an Authorized Officer, or as otherwise authorized by the Bond Ordinance or this 2025 Series Ordinance. The execution of the

Series 2025 Bonds shall constitute conclusive evidence of the approval of any changes to the form of any Series 2025 Bond.

* * *

ARTICLE V

CERTAIN DELEGATIONS AND AUTHORIZATIONS

Section 5.01 Certain Delegations.

The Town Council hereby expressly delegates to an Authorized Officer the authority, with respect to the Series 2025 Bonds, to determine, in connection with any Series of Series 2025 Bonds issued hereunder:

- (1) whether to issue the Series 2025 Bonds as a single Series or from time to time in several Series;
- (2) the manner of sale of such Series 2025 Bonds in accordance with Article VIII hereof and the award of such Series 2025 Bonds in connection with such sale;
- (3) the final form of such Series 2025 Bonds, whether to modify the Series designation in accordance with Section 4.01 hereof, and the exact principal amount of any Series of such Series 2025 Bonds;
- (4) whether and the extent to which such Series of Series 2025 Bonds shall be issued as Term Bonds or Serial Bonds;
- (5) the Date of Issue (if other than the date of delivery), Bond Payment Dates, rate or rates of interest obtained using the sale procedures of Article VIII hereof, provided that no coupon rate of interest shall exceed 6%, the maturity schedule, and the final maturity of each Series of Series 2025 Bonds, subject to Section 4.03 hereof;
- (6) whether any Series of the Series 2025 Bonds shall be subject to optional or mandatory redemption prior to maturity, and if so, the redemption provisions and Redemption Prices applicable thereto;
- (7) whether one or more Series of the Series 2025 Bonds will be designated as “qualified tax-exempt obligations” pursuant to the Code;
- (8) whether such Series 2025 Bonds (or any Series thereof) shall be issued as a Taxable Bond; and
- (9) such other matters regarding the Series 2025 Bonds as are necessary or appropriate to effect the issuance and sale thereof.

* * *

ARTICLE VI

EXECUTION; NO RECOURSE

Section 6.01 Execution of the Series 2025 Bonds.

The Series 2025 Bonds shall be executed and attested by the Mayor and the Clerk-Treasurer, respectively, in accordance with the applicable provisions of the Bond Ordinance; however, in the absence of the Mayor or the Clerk-Treasurer for any reason, an Authorized Officer shall be authorized to either execute the Series 2025 Bonds or attest to the execution of the Series 2025 Bonds on behalf of the absent party; however, in no event shall the same Authorized Officer be permitted to both execute and attest to the Series 2025 Bonds. If acting on behalf of an absent person, such Authorized Officer shall be authorized to execute, sign, certify or attest any documentation otherwise required of the Mayor or Clerk-Treasurer respecting the issuance and delivery of the Series 2025 Bonds.

Facsimile or electronic signatures by the Mayor, the Clerk-Treasurer, or any Authorized Officer are expressly authorized and permitted with respect to the Series 2025 Bonds and all closing documents and certificates associated therewith.

Section 6.02 No Recourse on the Series 2025 Bonds.

All covenants, stipulations, promises, agreements and obligations of the Town contained in the Bond Ordinance or in this 2025 Series Ordinance shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Town and not those of any officer or employee of the Town in his or her individual capacity, and no recourse shall be had for the payment of the principal or Redemption Price of or interest on the Series 2025 Bonds or for any claim based thereon or on the Bond Ordinance or on this 2025 Series Ordinance, either jointly or severally, against any officer or employee of the Town or any person executing the Series 2025 Bonds.

* * *

ARTICLE VII

APPLICATION OF BOND PROCEEDS

Section 7.01 Use and Disposition of Bond Proceeds.

Upon the delivery of any Series 2025 Bonds and receipt of the proceeds thereof, net of underwriter's discount or premium, such funds shall be disbursed to the Trustee pursuant to a closing memorandum authorized by an Authorized Officer and applied as follows:

- (1) to fund the 2025 Project Fund; and
- (2) the remaining net proceeds shall be used to pay the costs of issuance of the Series 2025 Bonds.

Section 7.02 Establishment of 2025 Project Fund; Excess Funds.

There is hereby established, in accordance with Section 7.08 of the Bond Ordinance, the "2025 Project Fund," and the Authorized Officer is authorized to create a "2025 Costs of Issuance Account" therein. There shall be paid into the 2025 Project Fund the sums prescribed by paragraph (1) of Section 7.01 hereof. The 2025 Project Fund shall be held and controlled by the Town pursuant to the terms of the Bond Ordinance and this 2025 Series Ordinance, unless otherwise determined by the Authorized Officer at the closing of the Series 2025 Bonds. Moneys held in the 2025 Project Fund shall be invested and reinvested at the written direction of the Authorized Officer in Authorized Investments. If there are any funds remaining in the 2025 Project Fund upon completion of the Project, such funds shall be transferred to the 2025 Debt Service Fund Account and used to pay principal of and interest on the Series 2025 Bonds as the same come due.

* * *

ARTICLE VIII

SALE OF BONDS

Section 8.01 Sale of Bonds.

The Series 2025 Bonds shall be sold to an institution or institutions as a single instrument as a means of making a commercial loan (a “***Direct Placement Purchaser***”) pursuant to negotiation, with or without providing for distribution of an RFP. In such case, the Town authorizes an Authorized Officer to solicit, or cause to be solicited, financing proposals from prospective purchasers of Series 2025 Bonds and award the Series 2025 Bonds after negotiation with prospective purchasers. Such Series 2025 Bonds shall be issued as a single Series (or separate single Bonds if the Series 2025 Bonds are sold in multiple Series), without CUSIP identification (unless otherwise agreed by the Direct Placement Purchaser and an Authorized Officer on behalf of the Town). The Direct Placement Purchaser of such Series 2025 Bonds shall execute an investor letter to the Town acknowledging its purchase of the Series 2025 Bonds as a means of making a commercial loan.

Section 8.02 Certain Financial Information to be Provided to Purchaser.

As requested by a Direct Placement Purchaser of the Series 2025 Bonds, the Town may furnish, or agree or arrange to provide, financial information related to or affecting the System as the Direct Placement Purchaser may reasonably request or require, and as may be agreed upon between such Direct Placement Purchaser and the Town. Upon reasonable notice, the Town shall permit any Holder of the Series 2025 Bonds, or its agents and representatives, to inspect during regular business hours the Town’s books and records relating to or affecting the System and to make extractions therefrom.

* * *

ARTICLE IX

SERIES 2025 NOTES

Section 9.01 Authority to Issue Series 2025 Notes.

(a) If an Authorized Officer should determine that issuance of Series 2025 Notes, in one or more series, pursuant to the BAN Act would be in the best interest of the Town, upon the advice of the Financial Advisor, such Authorized Officer is hereby directed and authorized to effect the issuance of Series 2025 Notes pursuant to the BAN Act. If Series 2025 Notes are issued and if, upon the maturity thereof the Authorized Officer should determine that renewal or refunding of any Series 2025 Notes would be in the best interest of the Town, the Authorized Officer is directed and authorized to continue the renewal or refunding of Series 2025 Notes until the Authorized Officer determines to issue Series 2025 Bonds on the basis as aforesaid, and such Series 2025 Bonds are issued. The aggregate stated principal amount of all Series 2025 Notes outstanding from time to time shall not exceed \$3,750,000.

(b) The proceeds of any Series 2025 Notes issued hereunder shall be applied for the purpose for which proceeds of the Series 2025 Bonds may be applied pursuant to Section 7.01 hereof, to provide for the renewal or refunding of any Series 2025 Notes, or to provide for the costs of issuance thereof, or any combination thereof.

Section 9.02 Details of Series 2025 Notes.

Subject to changes in terms required for any particular issue of Series 2025 Notes, Series 2025 Notes and additional series thereof, if any, shall be subject to the following particulars:

(a) Series 2025 Notes shall be dated and bear interest either from the original date of delivery thereof or in such manner as shall be determined by the Authorized Officer; shall be payable upon the stated maturity thereof at the interest rate or rates determined by the Authorized Officer in the manner prescribed by Sections 9.02(c) or 9.02(d) below on the basis determined by an Authorized Officer; and shall mature on such date, not to exceed one year from the date of delivery thereof. Series 2025 Notes may be issued as draw-down obligations, in which event interest shall accrue and be payable thereon based on the dates of and principal amounts advanced.

(b) Series 2025 Notes shall be numbered from R-1 upwards for each issue and shall be in the denomination of \$1,000 or any integral multiple thereof requested by the purchaser thereof or as may be specified by the Authorized Officer. The Authorized Officer shall determine the paying agent and registrar for any Series 2025 Note, if any, prior to the sale thereof. Series 2025 Notes shall be payable, both as to principal and interest, in legal tender upon maturity.

(c) Series 2025 Notes shall bear such rate or rates of interest as shall at the sale of Series 2025 Note referred to in Section 9.02(d) hereof be determined by the Authorized Officer to be in the best interest of the Town; provided, however, that:

(1) the interest rate named shall be expressed as 1/1000 of one percent;

- (2) all other restrictions as may be imposed by the Authorized Officer prior to the sale of the Series 2025 Note that are deemed to be in the best interest of the Town shall apply; and
- (3) no rate of interest shall exceed 6% per annum.
- (d) In the discretion of the Authorized Officer, Series 2025 Notes may be sold at a time certain after public notice or through negotiation.
- (e) Series 2025 Notes shall be sold as tax-exempt obligations pursuant to the Code, subject to the tax covenants set forth at Section 10.01 hereof, unless the Authorized Officer determines, upon the advice of Bond Counsel, to issue such Series 2025 Notes as taxable obligations. The Authorized Officer may further designate any Series 2025 Note as a “qualified tax-exempt obligation” pursuant to the Code.
- (f) Series 2025 Notes shall be issued in fully registered form, in form determined by the Authorized Officer, and may include a draw-down structure. Each series of the Series 2025 Notes shall state on their face that they are issued in anticipation of the issuance of the Series 2025 Bonds and are payable, both as to principal and interest, from the proceeds thereof.
- (g) In the event any Series 2025 Note is mutilated, lost, stolen or destroyed, the Town may execute a new Series 2025 Note of like date and denomination as that mutilated, lost, stolen or destroyed; provided that, in the case of any mutilated Series 2025 Note, such mutilated Series 2025 Note shall first be surrendered to the Town or to its designated agent, and in the case of any lost, stolen or destroyed Series 2025 Note, there shall be first furnished to the Town or its agent evidence of such loss, theft or destruction satisfactory to the Town or its agent, together with indemnity satisfactory to it; provided that, in the case of a holder which is a bank or insurance company, the agreement of such bank or insurance company to indemnify shall be sufficient. In the event any such Series 2025 Note shall have matured, instead of issuing a duplicate Series 2025 Note, the Town may pay the same without surrender thereof. The Town or its agent may charge the holder of such Series 2025 Note with its reasonable fees and expenses in this connection.
- (h) Any Series 2025 Note issued in fully-registered form shall be transferable only upon the books of registry of the Town, which shall be kept for that purpose at the office of the registrar (the “**Note Registrar**”), by the registered owner thereof or by his attorney, duly authorized in writing, upon surrender thereof, together with a written instrument of transfer satisfactory to the Note Registrar, duly executed by the registered owner or his duly authorized attorney. Upon the transfer of any Series 2025 Note, the Note Registrar shall issue, subject to the provisions of Paragraph (i) below, in the name of the transferee, a new Series 2025 Note or Series 2025 Notes of the same aggregate principal amount as the unpaid principal amount of the surrendered Series 2025 Note or Series 2025 Notes. Any holder of a Series 2025 Note in fully registered form requesting any transfer shall pay any tax or other governmental charge required to be paid with respect thereto. As to any Series 2025 Note in fully registered form, the person in whose name the same shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal and interest of any Series 2025 Note in fully-registered form shall be made only to or upon the order of the registered holder thereof, or his duly authorized attorney, and the Town, the Note Registrar shall not be affected by any notice

to the contrary, but such registration may be changed as herein provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Series 2025 Note to the extent of the sum or sums so paid.

(i) Any Series 2025 Note issued in fully-registered form, upon surrender thereof at the office of the Note Registrar, with a written instrument of transfer satisfactory to the Note Registrar, duly executed by the holder of the Series 2025 Note or his duly authorized attorney, may, at the option of the holder of the Series 2025 Note, and upon payment by such holder of any charges which the Town or the Note Registrar may make as provided in Paragraph (j) below, be exchanged for a principal amount of Series 2025 Note in fully-registered form of any other authorized denomination equal to the unpaid principal amount of surrendered Series 2025 Note.

(j) In all cases in which the privilege of exchanging or transferring Series 2025 Note in fully registered form is exercised, the Town shall execute and deliver a Series 2025 Note in accordance with the provisions hereof. All Series 2025 Notes in fully-registered form surrendered in any such exchanges or transfers shall forthwith be cancelled by the Town. There shall be no charge to the holder of such Series 2025 Note for such exchange or transfer of a Series 2025 Note in fully registered form except that the Town and Note Registrar may make a charge sufficient to reimburse it for any tax or other governmental charge required to be paid with respect to such exchange or transfer.

(k) The Authorized Officer, in his discretion and on advice received, shall determine whether the Series 2025 Note shall be subject to redemption prior to maturity at the option of the Town, including applicable redemption dates and prices. In the event that the Town shall elect to redeem a Series 2025 Note, it shall give notice to the Note Registrar and paying agent, if any, of such optional redemption. Such notice shall specify the date fixed for redemption.

Section 9.03 Security for Series 2025 Notes.

The Town hereby obligates itself to issue the Series 2025 Bonds in an amount and in time sufficient to pay the principal of and interest on any Series 2025 Notes. For the payment of any Series 2025 Notes, there are hereby pledged the proceeds derived from the sale of the Series 2025 Bonds issued pursuant to this 2025 Series Ordinance or if such Series 2025 Bonds are not issued prior to the maturity of any Series 2025 Notes, from the sale, issuance and delivery of renewal or refunding Series 2025 Note. The proceeds of such Series 2025 Bonds, when received by the Town, shall be applied first to the payment of principal of and interest on any Series 2025 Notes and shall be paid to or for the account of the holder thereof, prior to the disbursements set forth at paragraphs (1) – (3) of Section 7.01 hereof. The Town shall either issue such Series 2025 Bonds and apply the proceeds to the redemption of any Series 2025 Notes or shall provide funds therefor from other sources, including the issuance of renewal or refunding Series 2025 Notes.

* * *

ARTICLE X

TAX AND DISCLOSURE COVENANTS

Section 10.01 Tax Covenants.

(a) *General Tax Covenant.* The Town will comply with all requirements of the Code in order to preserve the tax-exempt status of the Series 2025 Bonds, including without limitation, (i) the requirement to file Form 8038-G, *Information Return for Tax-Exempt Government Obligations*, with the Internal Revenue Service, and (ii) the requirement to rebate certain arbitrage earnings to the United States Government pursuant to Section 148(f) of the Code. In this connection, the Town covenants to execute any and all agreements or other documentation as it may be advised by Bond Counsel will enable it to comply with this Section 10.01, including its certification on reasonable grounds that the Series 2025 Bonds are not “arbitrage bonds” within the meaning of Section 148 of the Code.

(b) *Tax Representations.* The Town hereby represents and covenants that it will not take any action which will, or fail to take any action which failure will, cause interest on the Series 2025 Bonds to become includable in the gross income of the Holders thereof for federal income tax purposes pursuant to the provisions of the Code and the United States Treasury Regulations (the “**Regulations**”). Without limiting the generality of the foregoing, the Town represents and covenants that:

(i) All property financed or refinanced with the proceeds of the Series 2025 Bonds will be owned by the Town or another political subdivision of the State so long as the Series 2025 Bonds are Outstanding in accordance with the rules governing the ownership of property for federal income tax purposes.

(ii) The Town shall not use, and will not permit any party to use, the proceeds of the Series 2025 Bonds, or any bonds refunded thereby, in any manner that would result in (i) 10% or more of such proceeds being considered as having been used directly or indirectly in any trade or business carried on by any Nongovernmental Person, (ii) 5% or more of such proceeds being considered as having been used directly or indirectly in any trade or business of any Nongovernmental Person that is either “unrelated” or “disproportionate” to the governmental use of the financed facility by the Town or by any other Governmental Unit (as the terms “unrelated” and “disproportionate” are defined for purposes of Section 141(b)(3) of the Code) or (iii) 5% or more of such proceeds being considered as having been used directly or indirectly to make or finance loans to any Nongovernmental Person.

(iii) The Town is not a party to, and will not enter into or permit any other party to enter into, any contract with any person involving the management of any facility financed or refinanced with the proceeds of the Series 2025 Bonds or by notes paid by the Series 2025 Bonds that does not conform to the guidelines set forth in Revenue Procedure 2017-13, or a successor revenue procedure, Code provision or Regulations.

(iv) The Town will not sell, or permit any other party to sell, any property financed or refinanced with the Series 2025 Bonds to any person unless it obtains an opinion of nationally recognized bond counsel that such sale will not affect the tax-exempt status of the Series 2025 Bonds.

(v) The Series 2025 Bonds will not be “federally guaranteed” within the meaning of Section 149(b) of the Code. The Town shall not enter into, or permit any other party to enter into, any leases or sales or service contract with any federal government agency with respect to any facility financed or refinanced with the proceeds of the Series 2025 Bonds and will not enter into any such leases or contracts unless it obtains the opinion of nationally recognized bond counsel that such action will not affect the tax-exempt status of the Series 2025 Bonds.

(c) *Arbitrage Bonds, Rebate.* The Town covenants that no use of the proceeds of the sale of the Series 2025 Bonds shall be made which, if such use had been reasonably expected on the date of issue of such Series 2025 Bonds, would have caused the Series 2025 Bonds to be “arbitrage bonds” as defined in the Code, and to that end the Town shall:

(i) comply with the applicable regulations of the Treasury Department previously promulgated under Section 103 of the Internal Revenue Code of 1954, as amended, and any regulations promulgated under the Code, so long as the Series 2025 Bonds are Outstanding;

(ii) establish such funds, make such calculations and pay such amounts, in the manner and at the times required in order to comply with the requirements of the Code and Regulations relating to required rebate of certain amounts to the United States Government;

(iii) make such reports of such information at the time and places required by the Code and Regulations; and

(iv) take such other action as may be required to assure that the tax-exempt status of the Series 2025 Bonds will not be impaired.

(d) *Tax Certificate.* An Authorized Officer is hereby authorized and directed to execute, at or prior to delivery of any Series of Bonds, a certificate or certificates specifying actions taken or to be taken by the Town, and the reasonable expectations of such officials, with respect to such Series of Bonds, the proceeds thereof, or the Town.

(e) *Bank Qualified.* A Series of Series 2025 Bonds may be designated by the Authorized Officer pursuant to Article V hereof as “qualified tax-exempt obligations” in accordance with Section 265(b)(3)(B) of the Code.

(f) *Reimbursement Declaration.* The Town hereby declares its intention to reimburse itself for a portion of the costs of the Project with the proceeds of Series 2025 Bonds. To that end, the Town Council determines and declares as follows:

(i) no funds from any sources other than the Series 2025 Bonds are or are reasonably expected to be, reserved, allocated on a long-term basis or otherwise set aside

by the Town pursuant to the budget or financial policies of the Town for the financing of the portion of the costs of acquisition, construction, and equipping of the Project to be funded with the Series 2025 Bonds;

(ii) The Town reasonably expects that all or a portion of the expenditures incurred for the Project and the issuance of the Series 2025 Bonds will be paid prior to the issuance of the Series 2025 Bonds;

(iii) The Town intends and reasonably expects to reimburse itself for all such expenditures paid by it with respect to the Project prior to the issuance of the Series 2025 Bonds from the proceeds of the Series 2025 Bonds, and such intention is consistent with the budgetary and financial circumstances of the Town;

(iv) all of the costs to be paid or reimbursed from the proceeds of the Series 2025 Bonds will be for costs incurred in connection with the issuance of the Series 2025 Bonds, or will, at the time of payment thereof, be properly chargeable to the capital account of the Project (or would be so chargeable with a proper election) under general federal income tax principles; and

(v) this 2025 Series Ordinance shall constitute a declaration of official intent under United States Department of the Treasury Regulation Section 1.150-2.

(g) *Taxable Bonds.* Prior to the issuance of a Series of Series 2025 Bonds, the Authorized Officer may, pursuant to Article V hereof, in consultation with Bond Counsel, designate such Series of Bonds as taxable under the Code. The election to issue a Series of Taxable Bonds shall be clearly indicated by including the phrase “Taxable Series,” or words to that effect, in the series designation of such Taxable Bonds. The above provisions of this Section 10.01 shall not be applicable to any Series of Taxable Bonds.

(h) The Trustee shall have no responsibility to monitor the Town’s compliance with the covenants set forth in this Section 10.01.

Section 10.02 Disclosure Covenants.

(a) The Town hereby covenants and agrees that it will comply with and carry out all of the provisions of any continuing disclosure certificate or agreement, executed by an Authorized Officer and dated the date of delivery of the Series 2025 Bonds, which will meet the requirements, as applicable, of Section 11-1-85 of the South Carolina Code, which may require, among other things, that the Town file with a central repository when requested:

- (1) a copy of its annual independent audit within 30 days of its receipt and acceptance, and
- (2) event-specific information, within 30 days of an event adversely affecting more than five percent of its revenues or five percent of its tax base.

The only remedy for failure by the Town to comply with the covenants in this Section 10.02 shall be an action for specific performance of this covenant. The Town specifically reserves the right to amend this covenant to reflect any change in Section 11-1-85 of the South Carolina Code, without the consent of any Bondholder.

(b) The Town may covenant to provide information to a Direct Placement Purchaser on a periodic basis or upon the occurrence of certain events, as may be mutually agreed upon by and between the Authorized Officer and such purchaser.

(c) The Trustee shall have no responsibility to monitor the Town's compliance with the covenants set forth in this Section 10.02.

* * *

ARTICLE XI

MISCELLANEOUS

Section 11.01 Severability.

If any one or more of the covenants or agreements provided in this 2025 Series Ordinance on the part of the Town or any fiduciary to be performed should be contrary to law, then such covenant or covenants or agreement or agreements shall be deemed severable from the remaining covenants and agreements, and shall in no way affect the validity of the other provisions of this 2025 Series Ordinance.

Section 11.02 Further Action.

The Town Council authorizes any Authorized Officer to execute and sign all other documents, certificates, and agreements necessary or convenient to effect the purchase and sale of the Series 2025 Bonds.

Section 11.03 Professional Services.

The Town Council hereby authorizes, approves, or ratifies, as applicable, the engagement of First Tryon Advisors to act as Financial Advisor (the “***Financial Advisor***”) and Pope Flynn, LLC to act as Bond Counsel and Disclosure Counsel (if applicable) in connection with the issuance of the Series 2025 Bonds and authorizes (or ratifies, as applicable) an Authorized Officer to engage the services of such other professionals and institutions of a type and in a manner customary in connection with the issuance of municipal bonds, including, but not limited to, contractual arrangements with other professionals, rating agencies, verification agents, financial and trust institutions, printers and the suppliers of other goods and services in connection with the sale, execution and delivery of the Series 2025 Bonds, as is necessary and desirable.

Section 11.04 Table of Contents and Section Headings Not Controlling.

The Table of Contents and the headings of the several articles and sections of this 2025 Series Ordinance have been prepared for convenience of reference only and shall not control, affect the meaning of, or be taken as an interpretation of any provision of this 2025 Series Ordinance.

Section 11.05 2025 Series Ordinance to Constitute Contract.

In consideration of the purchase and acceptance of Series 2025 Bonds by those who shall purchase and hold the same from time to time, the provisions of this 2025 Series Ordinance shall be deemed to be and shall constitute a contract between the Town and the Holder from time to time of the Series 2025 Bonds, and such provisions are covenants and agreements with such Holder which the Town hereby determines to be necessary and desirable for the security and payment thereof. The pledge hereof and the provisions, covenants and agreements herein set forth to be performed on behalf of the Town shall be for the benefit, protection, and security of the Holder of the Series 2025 Bonds.

Section 11.06 Series 2025 Bonds Issued as Multiple Series.

In the event Series 2025 Bonds are sold in more than one Series, separate funds and accounts shall be created and maintained for each Series of Series 2025 Bonds and appropriate numeric or alphanumeric designations shall be established so as to appropriately account for such funds and accounts. Notwithstanding anything in the 2025 Series Ordinance to the contrary, in the event that Series 2025 Bonds are sold in more than one Series, all references in this 2025 Series Ordinance to Series 2025 Bonds shall, as the context may require, be read as referring to the applicable Series of Series 2025 Bonds.

Section 11.07 Ratification of Prior Action.

All prior actions of Authorized Officers in furtherance of the purposes of this 2025 Series Ordinance (including, but not limited to, any negotiated sale of Series 2025 Bonds or any solicitation of bids under the provisions of Article VIII hereof) are hereby approved, ratified, and confirmed.

* * *

NOW, THEREFORE, BE IT ORDAINED and ordered by the Mayor and Town Council of the Town of Moncks Corner, South Carolina, in Council duly assembled, that this Master Bond Ordinance is approved and ordered.

ENACTED IN REGULAR MEETING, the 18th day of November 2025.

First reading and Public Hearing: October 21, 2025

Second Reading: November 18, 2025

Thomas J. Hamilton, Jr., Mayor

Council:

ATTEST:

Marilyn M. Baker, Clerk to Council

APPROVED AS TO FORM:

James Brogdon, Town Attorney

TOWN OF MONCK'S CORNER, SOUTH CAROLINA
STORMWATER SYSTEM REVENUE BOND
SERIES 2025

No. R-1

Interest Rate

Maturity Date

Original Issue Date

Registered Holder:

Principal Amount: _____ (\$ _____)

TOWN OF MONCK'S CORNER, SOUTH CAROLINA (the "**Town**"), acknowledges itself indebted and for value received hereby promises to pay, solely as hereinafter provided, to the Registered Holder named above, or registered assigns, the Principal Amount stated above, on the Maturity Date set forth above, unless this bond be subject to redemption and shall have been redeemed prior thereto as hereinafter provided, upon presentation and surrender of this bond at the designated Corporate Trust Office of U.S. Bank Trust Company, National Association (the "**Paying Agent**"), and to pay interest on such principal sum at the Interest Rate set forth above (calculated on the basis of a 360-day year of twelve 30-day months), until the obligation of the Town with respect to the payment of such principal sum shall be discharged.

Principal of and interest on this bond are payable at the times and in the amounts shown on Schedule I hereto.

Interest hereon is payable by check or draft mailed at the times provided herein from the Corporate Trust Office of the Paying Agent to the person in whose name this bond is registered on the Record Date at the address shown on the registration books kept by U.S. Bank Trust Company, National Association (the "**Registrar**"). The principal of, redemption premium, if any, and interest on this bond are payable in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

This bond is a Series 2025 Bond issued pursuant to and in accordance with the Constitution and statutes of the State of South Carolina (the "**State**") including particularly Title 6, Chapter 21 of the Code of Laws of South Carolina 1976, as amended (the "**South Carolina Code**"), and by an ordinance entitled, "A MASTER BOND ORDINANCE OF THE TOWN OF MONCK'S CORNER, SOUTH CAROLINA PROVIDING FOR THE ISSUANCE AND SALE OF STORMWATER SYSTEM REVENUE BONDS; AND OTHER MATTERS RELATING THERETO," enacted by the Town Council of the Town of Moncks Corner (the "**Town Council**"), the governing body of the Town, on November 18, 2025 (the "**Bond Ordinance**"), and a Series

Ordinance entitled, “A SERIES ORDINANCE OF THE TOWN OF MONCKS CORNER, SOUTH CAROLINA PROVIDING FOR THE ISSUANCE AND SALE OF STORMWATER SYSTEM REVENUE BONDS IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT EXCEEDING \$3,750,000; AND PROVIDING FOR OTHER MATTERS RELATING THERETO” (the “**2025 Series Ordinance**”) duly enacted by the Town Council on November 18, 2025 (the Bond Ordinance and the 2025 Series Ordinance are hereinafter together referred to as the “**Ordinances**”).

Certain capitalized terms used herein and not otherwise defined shall have the meanings ascribed thereto in the Ordinances. Certified copies of the Ordinances are on file in the office of the Trustee and in the offices of the Town.

For the payment of the principal of and interest on this bond issued pursuant to the Bond Ordinance, there are hereby irrevocably pledged the Gross Revenues. As permitted by the Enabling Act, the payment of the principal of and interest on this bond shall be additionally secured by a statutory lien upon the System. Such pledge securing this bond shall have priority over all other pledges except those made to secure any Bonds (as defined hereinbelow) as may be currently outstanding or issued from time to time in the future.

THIS BOND SHALL NOT IN ANY EVENT CONSTITUTE AN INDEBTEDNESS OF THE TOWN WITHIN THE MEANING OF ANY PROVISION, LIMITATION OR RESTRICTION OF THE CONSTITUTION OR STATUTES OF THE STATE, OTHER THAN THOSE PROVISIONS AUTHORIZING INDEBTEDNESS PAYABLE SOLELY FROM A REVENUE-PRODUCING PROJECT NOT INVOLVING REVENUES FROM ANY TAX OR LICENSE; AND THE FAITH, CREDIT AND TAXING POWER OF THE TOWN ARE EXPRESSLY NOT PLEDGED THEREFOR. THE TOWN IS NOT OBLIGATED TO PAY THIS BOND, OR THE INTEREST HEREON, SAVE AND EXCEPT FROM THE GROSS REVENUES.

The Bond Ordinance authorizes the issuance of additional bonds on a parity with the Series 2025 Bonds and any outstanding parity bonds which, when issued in accordance with the provisions of the Bond Ordinance, will rank equally and be on a parity herewith and therewith (“**Additional Bonds**” and together with this bond and any parity bonds, collectively the “**Bonds**”).

The Town has covenanted to continuously operate and maintain the System and fix and maintain such rates for the services and facilities furnished by the System as shall at all times be sufficient (i) to maintain the Debt Service Fund and the Debt Service Fund Accounts and thus provide for the punctual payment of the Principal Installments of and interest on the Bonds; (ii) to provide for the payment of the Operation and Maintenance Expenses as may be necessary to preserve the System in good repair and working order; (iii) to maintain the Debt Service Reserve Funds in the manner prescribed in the Bond Ordinance and in the Series Ordinance; (iv) to pay all amounts owing under a reimbursement agreement with any provider of a surety bond, insurance policy, or letter of credit as contemplated under Section 7.04(e) of the Bond Ordinance; (v) to provide for the punctual payment of the principal of and interest on all Junior Lien Bonds that may from time to time hereafter be outstanding; (vi) to build and maintain the Depreciation and Contingent Fund for depreciation of the System and to build up a reserve for improvements,

betterments and extensions to the System other than those necessary to maintain it in good repair and working order; and (vii) to discharge all obligations imposed by the Enabling Act and by the Bond Ordinance and any applicable Series Ordinance.

The Bond Ordinance provides that, in addition to other remedies, upon a default in payment of principal of or interest on any Bond, the Trustee shall, upon the written request of the Holders of not less than a majority in aggregate principal amount of Bonds Outstanding, declare all Bonds Outstanding immediately due and payable.

This bond is transferable, as provided in the Bond Ordinance, only upon the registration books of the Town kept for that purpose and maintained by the Registrar, by the holder hereof in person or by his duly authorized attorney, upon (i) surrender of this bond and an assignment with a written instrument of transfer satisfactory to the Trustee or any other Registrar, as the case may be, duly executed by the Holder hereof or his duly authorized attorney and (ii) payment of the charges, if any, prescribed in the Ordinances. Thereupon a new Series 2025 Bond of the then outstanding principal amount, then current maturity schedule and interest rate shall be issued to the transferee in exchange therefor as provided in the Bond Ordinance. The Town, the Trustee, and the Registrar may deem and treat the person in whose name this bond is registered as the absolute owner hereof for the purpose of receiving payment of or on account of the principal or Redemption Price hereof and interest due hereon and for all other purposes.

For every exchange or transfer of the Series 2025 Bonds, the Town or the Trustee or Registrar, as the case may be, may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer.

[Insert Redemption Feature]

This bond and the interest hereon are exempt from all State, county, municipal, school district, and all other taxes or assessments imposed within the State, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, except inheritance, estate, transfer and certain franchise taxes.

It is hereby certified and recited that all conditions, acts, and things required by the Constitution and statutes of the State to exist, be performed or happen precedent to or in the issuance of this bond, exist, have been performed and have happened, that the amount of this bond, together with all other indebtedness of the Town, does not exceed any limit prescribed by such Constitution or statutes.

EXHIBIT A
FORM OF BOND

Item 10.

IN WITNESS WHEREOF, THE TOWN OF MONCK'S CORNER, SOUTH CAROLINA, has caused this bond to be signed by the signature of the Mayor of the Town Council, its corporate seal to be reproduced hereon and the same to be attested by the signature of the Clerk-Treasurer to Town Council.

TOWN OF MONCK'S CORNER,
SOUTH CAROLINA

(SEAL)

Mayor

Attest:

Clerk-Treasurer

CERTIFICATE OF AUTHENTICATION

This bond is a Series 2025 Bond as described in the within mentioned Ordinances.

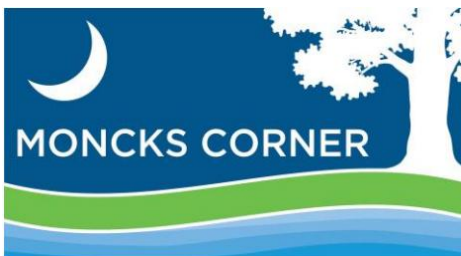
U.S. BANK TRUST COMPANY, NATIONAL
ASSOCIATION, as Registrar

By: _____
Authorized Officer

Date: _____, 2025

Schedule I

Principal and Interest Payment Schedule

*The Lowcountry's Hometown*

PO Box 700 | Moncks Corner, SC 29461 | 843.719.7900 | monckscornersc.gov

STAFF REPORT

TO: Town Council

FROM: Justin Westbrook, Community Development Director

SUBJECT: Annexation (AN-25-02) – Jay Law

DATE: October 21, 2025

Background: The applicant, Jay Law of The Real Estate Firm, has applied for **Annexation** (AN-25-02) for two parcels (TMS # 162-00-02-021 & -075) addressed as 1288 Old Highway 52. The applicant is seeking the parcel to be zoned **Office & Institutional (C-1)**.

Existing Zoning: The subject parcel is currently in the Berkeley County **Single Family Residential (R1)** Zoning District. Per Berkeley County's Zoning Ordinance, this zoning district is intended to,

"...implement the land use goals of the residential growth areas within urbanizing areas in the unincorporated portions of Berkeley County. This district is intended to, permit development of moderate density residential communities, encourage urban communities to develop in a manner that minimizes sprawl patterns, encourage efficient development patterns and use of in-fill development, protect development in residential growth areas from infiltration of incompatible land uses, provide for the development of recreational, religious, and educational facilities as basic elements of a balanced residential area, and permit the location of needed community facilities in support of residential development"

Adjacent Zoning		Adjacent Land Use
North	Single Family Residential (R-1)	Single Family Detached Dwelling
South	Single Family Residential (R1)(Berkeley County)	Single Family Detached Dwelling
	Planned Development (PD-R)	
East	Single Family Residential (R1)(Berkeley County)	Single Family Detached Dwelling
West	Planned Development (PD-R)	Single Family Detached Dwelling
		Non-profit Office

Existing Site Conditions: The subject parcels in whole comprises approximately 6.81 acres, which is currently occupied by what appears to be a single family detached dwelling unit. Per the National Wetlands Inventory map, there does not appear to be delineated wetlands on the subject parcels, however in working with previous interested parties and the current applicant, Staff has reason to believe a true delineation with the

United States Army Corps of Engineers may find wetlands on the parcels. The subject parcels front Old Highway 52, with approximately 491 feet of road frontage.

Proposed Zoning Request: The applicant has requested to rezone the subject parcel to the **Office & Institutional (C-1)** Zoning District. Per the Town's Zoning Ordinance, Office & Institutional (C-1) Zoning District is intended to:

"accommodate a variety of general light commercial uses characterized primarily by professional office and service establishments, as well as boutique retail and restaurants, and oriented primarily to major traffic arteries or extensive areas of predominately commercial usage and characteristics."

Staff are generally in support of annexing non-residentially zoned land; however the requested zoning is approximately 2,888 feet from the closest commercially zoned parcel to the north, the Big Lots on Old Highway 52, and 425 feet from the closest commercially zoned parcel to the south. There do appear to be office type uses, while zoned **Planned Development (PD)**, across the street from the subject parcels, with the remainder of the area being predominantly residential. With the potential purchasing client having office across the street from the subject parcel, but the remainder of the land surrounded by established and under construction subdivisions indicates a scattering of land use types, something that *may* be conducive to such a request.

Density: The subject parcels consist of approximately 6.18 acres. Per the Zoning Ordinance, the maximum lot coverage for **Office & Institutional (C-1)** zoning district is 60%. It does not appear the existing structures exceed that standard, however Staff anticipate the property to be redeveloped, where maximum lot coverage would be reviewed for compliance during the Site Plan submittal.

Transportation: At this time, Staff will not require a separate Traffic Impact Analysis (TIA) for the subject parcel. Should a more intensive use seek to establish on this property, Staff reserves our right per Section 5-9. D of the Zoning Ordinance, to require a TIA prior to the establishment of the proposed use.

Environmental: Staff will ensure all environmental concerns are addressed per the Zoning Ordinance, Stormwater Ordinance, and all other Town adopted policies and procedures. Any increase in impervious area would be required to meet the standards of the Town's Stormwater Design Standards Manual.

Consistency with Plans: Adopted in 2024 as part of the Town's Comprehensive Plan, the Future Land Use Map identifies the subject parcel as "Town-Character Residential". The Plan calls for this land use to be designated for:

"Intended to promote and enhance smaller lot, town mixed residential type neighborhoods near the downtown, commercial corridors and transportation nodes. A mixture of densities should be promoted to include single-family houses, duplexes, triplexes, accessory dwelling units (ADUs), and small-scale apartments."

The requested zoning designation does not appear to be congruent with this designation of the Future Land Use Map as the Comprehensive Plan defines "Town Character Residential" to be residential in nature with a mix of densities.

The Comprehensive Plan also lays out various goals and implementation strategies to help in decision making for land use requests. Staff believes the applicant and request generally follow the following policies listed in the plan.

3. Enhance economic opportunities by improving the retention of businesses and encouraging a range of uses and services.

Staff does not believe that any of the various goals and implementation strategies conflict with the request.

Procedural Issues: As the subject parcels are requesting annexation by 100% of the property owners, and have signed annexation petitions, the request will be presented for approval at two (2) separate Town Council meetings. As part of this request, the applicant is also seeking to apply Town of Moncks Corner zoning to the subject parcels.

As part of any Zoning Map Amendment, the request must be at least two (2) acres, or an extension of an existing district boundary, or additional C-1 zoning contiguous to existing commercial. In this case, the parcel is over two (2) acres in size, therefore negating the concern for spot zoning.

Staff Analysis: Staff believe that the designated future land use is not consistent with the requested zoning district. While the end user may provide more insight into the intended use of the land, Staff is aware that the current applicant may not always be the property owner, they could rent out the space to another tenant or use type, and as this request is not a negotiated district, the Town Council and Planning Board cannot be provided a legal guarantee to protect from any **Office & Institutional (C-1)** use.

Staff has visited the property several times and conducted a visual survey of the surrounding area for land use types, especially against the Official Zoning Map. We agree with the Future Land Use Map that this area is predominantly residential and expansion of even low intensity commercial, may erode at this residential stretch of Old Highway 52.

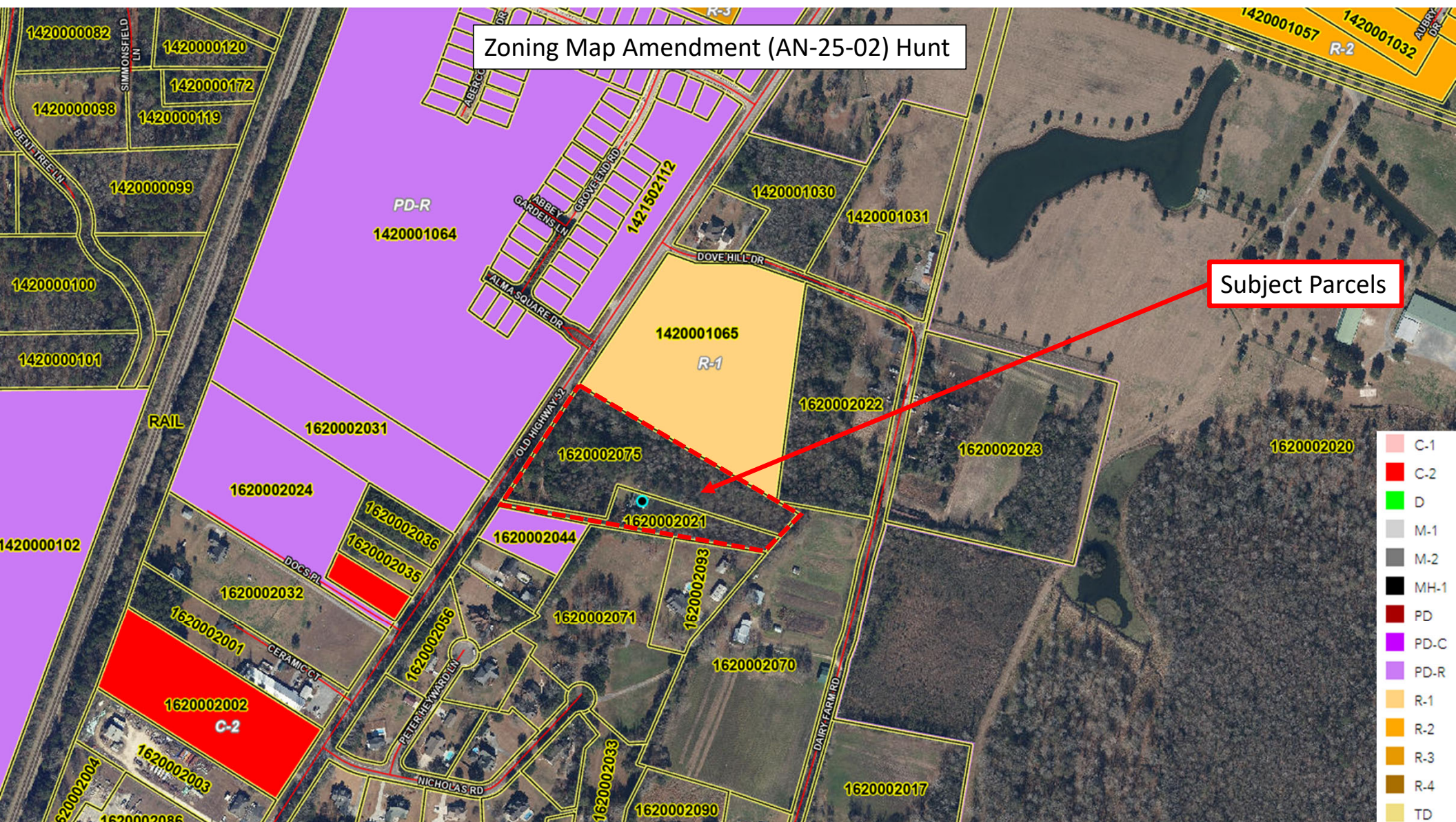
Staff Recommendation: Staff have conducted a comprehensive analysis of the area, a review of the Town's adopted policy guidance in the form of the 2024 Comprehensive Plan, along with multiple site visits and understanding of the area, and at this time cannot recommend approval for the request. This is based predominantly on the Future Land Use Map and the existing built environment and desire to preserve a residential roadway from future commercial encroachments. Should the applicant provide more compelling information that Staff can enforce and preserve the trust of the Town Council and Planning Commission, we urge others to take this into account when deciding on this application.

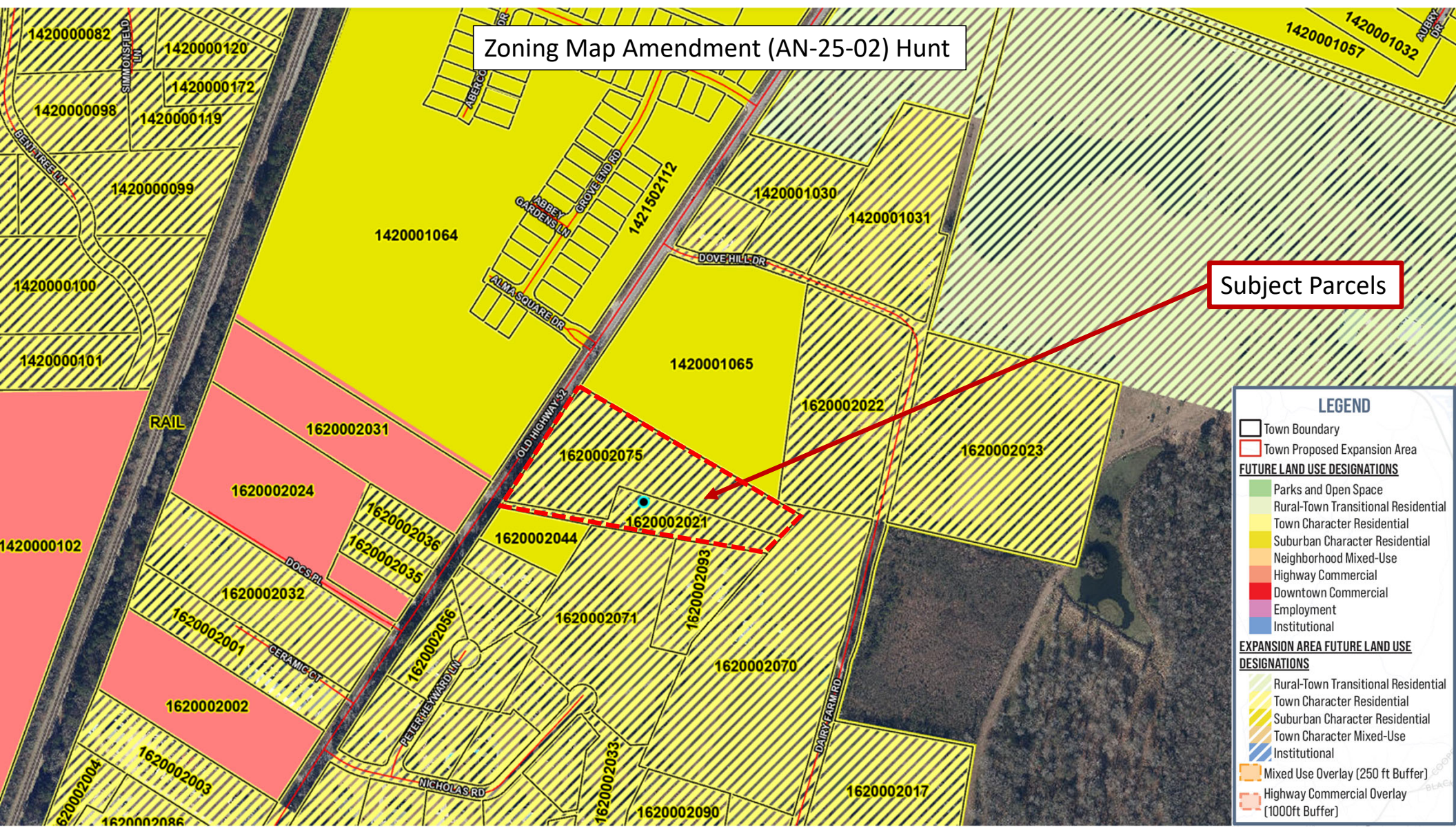
Planning Commission Recommendation: The Planning Commission heard the request at their September 23rd meeting. The Commission voted 5-2 in favor of recommending APPROVAL of the requested zoning of Office & Institutional (C-1) designation for the subject parcel. The applicant spoke in favor of the request. There were several members of the public who spoke against development. After some clarification from the applicant, some of the members of the public who spoke earlier felt more comfortable with the request, knowing the intent of the applicant. The Planning Commission discussed the request regarding developing in the county

versus annexing into the Town, as well as stormwater challenges and how a commercial entity fits along Old Highway 52. The Planning Commission made note that regardless of residential or commercial use, the property would be held to the same standard for stormwater design and detention.

Attachments: SIGNED - Application (20250711)
Location Maps (Aerial, Zoning, Future Land Use Map, Environmental)









Applicant Information

NAME

Jay Law

ADDRESS

218 W. Main Street Moncks Corner

EMAIL ADDRESS

jaylawrealestate@gmail.com

PHONE

8434421529

Property Owner Information

If different than applicant

NAME

Christee Hunt

ADDRESS

1288 Old Highway 52 Moncks Corner

EMAIL ADDRESS

christee.drew.hunt@gmail.com

PHONE

(843) 345-5148

TO THE MAYOR AND COUNCIL OF THE TOWN OF MONCK'S CORNER:

The undersigned, being 100 percent of the freeholders owning 100 percent of the assessed value of the property in the contiguous territory described below and shown on the attached plat or map, hereby petition for annexation of said territory to the City/Town by ordinance effective as soon hereafter as possible, pursuant to South Carolina Code Section 5-3-150(3).

The territory to be annexed is described as follows. Description may be attached.

Insert description of territory. The description may be taken from deeds or may be drawn to cover multiple parcels using known landmarks. It should be definitive enough to accurately fix the location.

THE PROPERTY IS DESIGNATED AS FOLLOWS ON THE COUNTY TAX MAPS:

1620002021 and 1620002075

**** A plat or map of the area should be attached. A tax map may be adequate ****

UPLOAD FILE

[9oSxxM36p29v-Hunt-Aerial.pdf](#)

IT IS REQUESTED THAT THE PROPERTY BE ZONED AS FOLLOWS:

C-1 and Annexed into the town limits.

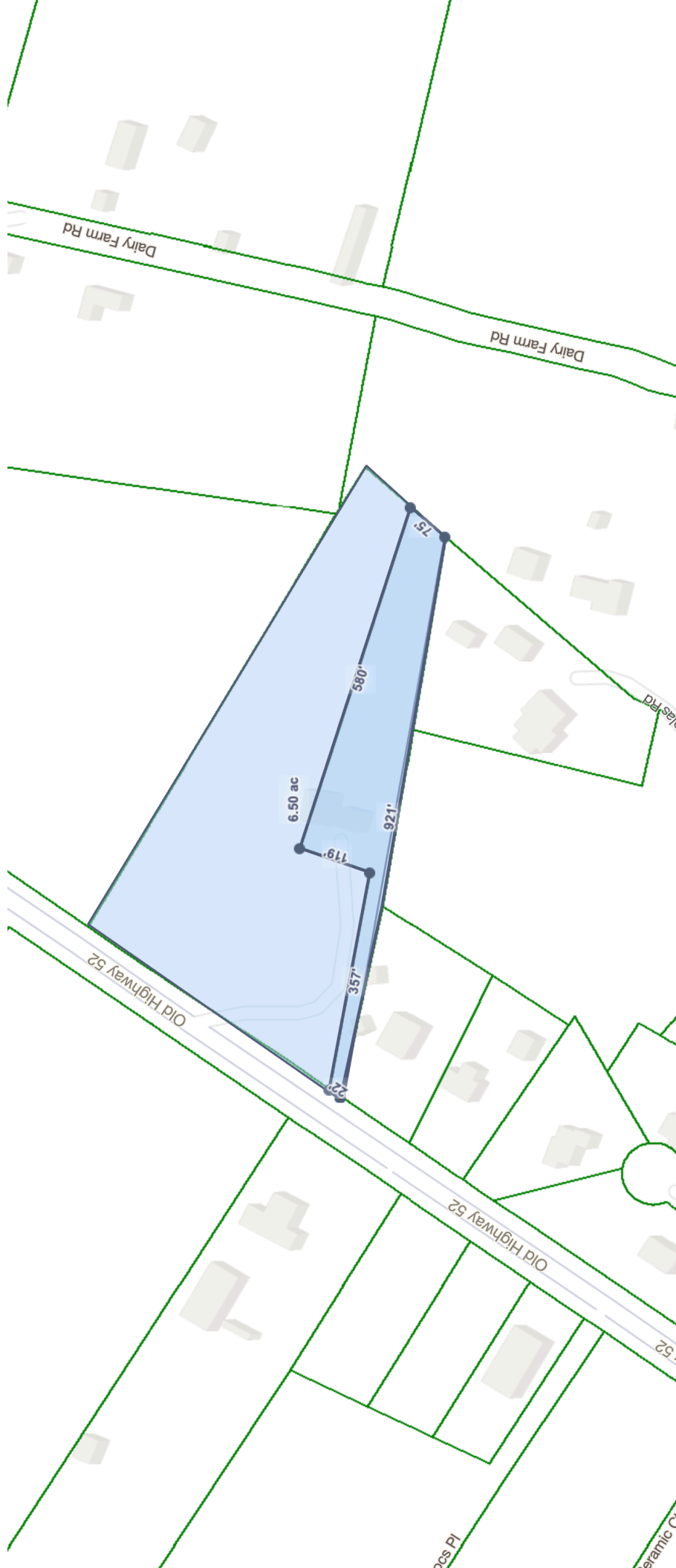
CONSENT

checked

APPLICANTS SIGNATURE**DATE**

07/11/2025





AN ORDINANCE TO ANNEX REAL PROPERTY LOCATED ALONG OLD HIGHWAY 52, TMS#162-00-02-021 AND TMS # 162-00-02-075, INTO THE CORPORATE LIMITS OF THE TOWN OF MONCKS CORNER, TO RE-CLASSIFY SAID PROPERTY FROM R-1, SINGLE FAMILY RESIDENTIAL DISTRICT (BERKELEY COUNTY) TO C-1 – OFFICE AND INSTITUTIONAL (MONCKS CORNER), AND TO AMEND THE OFFICIAL ZONING MAP OF THE TOWN OF MONCKS CORNER TO SO REFLECT

WHEREAS, a proper petition has been filed with the Town Council by 100 percent of the freeholders owning 100 percent of the assessed value of the contiguous property hereinafter described petitioning for annexation to the Town under the provisions of S.C. Code Section 5-3-150(3); and

WHEREAS, the area to be annexed also includes any rights-of-way, roads, or railroad tracks located adjacent to the described property; and

WHEREAS, a request has been presented to the Moncks Corner Town Council by the owner of the properties designated on the Tax Map Records of Berkeley County, South Carolina as TMS # 162-00-02-021 and TMS # 162-00-02-075 to subsequently re-classify portions of the property from R-1 – Single Family Residential District (Berkeley County) to C-1 – Office and Institutional (Moncks Corner); and

WHEREAS, it is necessary and desirable to reclassify said property from R-1 – Single Family Residential District (Berkeley County) to C-1 – Office and Institutional (Moncks Corner); and

NOW, THEREFORE, BE IT ORDAINED and ordered by the Mayor and Town Council of the Town of Moncks Corner, South Carolina, in Council duly assembled on this 18th day of November 2025, that the property herein described is hereby annexed to and becomes a part of the Town of Moncks Corner effective immediately; and

BE IT FURTHER ORDAINED that the property herein described shall be zoned C-1 – Office and Institutional; and

BE IT FURTHER ORDAINED that the official zoning map of the Town of Moncks Corner be, and the same hereby is, amended to so reflect.

DONE IN COUNCIL ASSEMBLED this 18th day of November, 2025.

FIRST READING: October 21, 2025

SECOND READING AND PUBLIC HEARING: November 18, 2025

Thomas J. Hamilton Jr., Mayor

Attest:

Marilyn M. Baker, Clerk to Council

Approved As To Form:

James E. Brogdon, Jr., Town Attorney

AN ORDINANCE AMENDING THE TREE PROTECTION ORDINANCE OF THE TOWN OF MONCKS CORNER, SOUTH CAROLINA, TO UPDATE THE PROCEDURES AND MITIGATION REQUIREMENTS

WHEREAS, the Mayor and Town Council finds the adoption of this ordinance to be in the public’s best interest as it will amend the Code of Ordinance of the Town of Moncks to adjust certain processes and mitigation requirements to continue protecting property rights and tree canopy, while also promoting public health, safety, and well-being; and

WHEREAS, the attached text amendments and additions to the Town of Moncks Corner Code of Ordinances have been proposed:

Strike Chapter 16, Article III in it’s entirety and replace with the attached Exhibit A

NOW, THEREFORE, BE IT ORDAINED and ordered by the Mayor and Town Council, that the Town of Moncks Corner, South Carolina, in Council duly assembled on this 18th day of November, 2025, that the Town Code of Ordinances is amended.

FIRST READING: October 21, 2025

SECOND READING AND PUBLID HEARING:
November 18, 2025

Thomas J. Hamilton Jr., Mayor

Attest:

Marilyn M. Baker, Clerk to Council

Approved As To Form:

James E. Brogdon, Jr., Town Attorney

- CODE OF ORDINANCES
Chapter 16 - ENVIRONMENT
ARTICLE III. TREE PROTECTION

ARTICLE III. TREE PROTECTION¹

DIVISION 1. GENERALLY

Sec. 16-101. Short title.

~~This article shall be known as and may be cited as the Town of Moncks Corner Tree Protection Ordinance.~~
(Ord. No. 2020-17, 8-18-2020)

Sec. 16-102101. Authority and purpose.

- (a) Pursuant to authority conferred by S.C. Code 1976, § 6-29-710, as amended, the citizens of Moncks Corner, having recognized the importance of preserving the natural landscape through the protection of existing trees, and to promote the public health, safety and general welfare, to lessen air pollution, to increase dust filtration, to reduce noise, heat, to prevent soil erosion, to improve surface drainage and minimize flooding, to insure that noise, glare and other distractions of movement in one area do not adversely affect activity within other adjacent areas, to beautify and enhance improved and undeveloped land, to preserve and protect both the natural and historic amenities within the ~~town~~Town, to insure that excessive tree cutting does not reduce property values, and to minimize the cost of construction and maintenance of drainage systems necessitated by the increased flow and diversion of surface waters, the ~~town council~~Town Council does hereby ordain and enact into law the following provisions of this article.
- (b) The intent of this article is to encourage the protection and replacement of trees consistent with the economic and healthful enjoyment of private property. The intent is not punitive, or to cause hardship to any individual, private firm, or public agency who uses every care and diligence to protect trees within the ~~town~~Town.
- (c) Nothing included in the provisions of this article is intended to prohibit agriculture, silviculture, horticulture or nursery operations within the ~~city~~Town.

(Ord. No. 2020-17, 8-18-2020)

Sec. 16-103102. Applicability.

This article shall apply to all trees located within rights-of-way, parks, public places and private property located within the corporate limits of the Town of Moncks Corner as amended.

(Ord. No. 2020-17, 8-18-2020)

¹Ord. No. 2020-17, adopted August 18, 2020, in effect repealed the former article III, §§ 16-101—16-111, and enacted a new article III as set out herein. The former article III pertained to similar subject matter and derived from Ord. No. 2017-06, adopted May 16, 2017 and Ord. No. 2019-06, adopted April 16, 2019.

Sec. 16-~~104~~103. Exemptions.

The following activities are exempt from the standards in this Section:

- (a) ~~Construction or maintenance of easements for water, sewer, electricity, gas, drainage, telephone or television transmission, or rights-of-way by utility companies, electric suppliers, and governmental agencies which in the course of constructing or maintaining easements for water, sewer, electricity, gas, drainage, telephone or television transmission or rights of way shall only be exempt from the provisions of this article if the applicable company, supplier, or agency has executed an agreement with the town which, at a minimum: Recognizes the need to minimize trimming of protected trees which do not substantially interfere with the intended purposes of construction and maintenance; follows ISA best management practices for utility pruning; identifies the saving of grand trees~~Grand Trees ~~as a factor to be considered in the design process; and allows for a consultation process with the town prior to the commencement of major construction or maintenance or the removal of grand trees. A breach of such agreement constitutes a violation of this article and a loss of the exemption provided for by this section 16-103~~102.

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(Ord. No. 2020-17 , 8-18-2020)

Sec. 16-~~105~~104. 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:

Clear-cutting shall mean the removal of one-half or more of the protected trees on a lot or parcel.

Commercial nursery shall mean a place where young trees or plants are grown for sale. Commercial nurseries must be properly zoned and must meet all ~~town~~Town business license regulations.

Commercial timber operation shall mean the process of removing timber for the purpose of sale of the resource for lumber, poles or forestry by-products.

Diameter at breast height or DBH shall mean diameter of the trunk of a tree at a height of 54 inches above the normal ground height at the base of the tree. If a tree splits into multiple trunks below four and one-half feet, then each trunk is measured as a separate tree. A tree which splits into multiple trunks above four and one-half feet is measured as a single tree at four and one-half feet.

Flowering trees shall mean any tree species designated as such by ~~town council~~Town Council or the ~~planning commission~~Planning Commission, and shall include, but not be limited to, the following:

American Tea Olive	<i>osmanthus americanus</i>
Black Locust	<i>robinia pseudoacacia</i>
Carolina Silverbell	<i>halesia carolina</i>
Crabapple	<i>malus angustifolia</i>
Dogwood	<i>cornus florida</i>
Grancy Graybeard	<i>chionanthus virginicus</i>
Hawthorn	<i>crataegus spp</i>
Loblolly-Bay	<i>gordonia lasianthus</i>
Pawpaw	<i>asimina triloba</i>
Persimmon	<i>diospyros virginiana</i>
Red Bay	<i>persea borbonia</i>
Redbud	<i>cercis canadensis</i>
Serviceberry	<i>amelanchier arborea</i>
Southern Catalpa	<i>catalpa bignonioides</i>

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Southern Magnolia	<i>magnolia grandiflora</i>
Sweet Bay Magnolia	<i>magnolia virginiana</i>
Wild Plums and Cherries	<i>prunus spp</i>

Note: Some of these species attain diameters at breast height (DBH) in excess of ten inches when mature.

Forestry activity includes, but is not limited to, timber harvest, site preparation, controlled burning, tree planting, applications of fertilizers, herbicides, pesticides, weed control, animal damage control, fire control, insect and disease control, forest road construction, and any other generally accepted forestry practices.

Grand ~~tree~~ Tree shall mean any protected tree having a diameter at breast height (DBH) of twenty-four (24) inches or larger, or any Flowering Tree having a DBH of ten (10) inches or larger. ~~Grand trees~~ Grand Trees are also protected trees.

Protected tree shall mean any flowering tree two inches in diameter at breast height (DBH) or larger, and trees with a DBH of ten inches or larger.

Removal of tree shall mean any intentional or negligent act which will cause a tree to decline and die, including but not limited to, cutting, damage inflicted upon the root system of a tree by application of toxic substances, the operation of machinery, the change of natural grade by excavation or filling about the root system or around the trunk of a tree, and damages from injury or fire inflicted on trees which result or permit pest infestation.

Town tree fund shall mean the fund set up by the ~~town~~ Town into which is deposited or credited the funds collected under sections 16-107(d) and 16-~~110~~ 109(c) of this tree protection ordinance and any other funds collected by the ~~town~~ Town and designed to go into the fund by the ~~town council~~ Town Council or ~~town~~ Town administrator; out of which payments shall only be made for the sole purpose of purchasing, planting, installing, maintaining or removing trees as necessary along streets, in public parks and other ~~town~~ Town owned or controlled public places, within the ~~town~~ Town limits of the Town of Moncks Corner.

Tree shall mean a member of a species of perennial woody plants. In general, trees are at least 15 feet in height at maturity, have a single trunk unbranched for at least three feet above the ground, have a potential DBH of two or more inches, and have a more or less definite crown. A tree may have more than one trunk. In any case, the ~~town administrator~~ Town Administrator or designee shall have the right to determine whether any specific woody plant shall be considered a tree. Such determination shall be final and not subject to appeal.

(Ord. No. 2020-17 , 8-18-2020)

DIVISION 2. TREE PROTECTION

Sec. 16-~~106~~ 105. Tree removal.

- (a) It shall be unlawful for any person to fell, injure or destroy any living protected tree within the corporate limits of the Town of Moncks Corner, except by permit as provided hereinafter.
- (b) Protected trees may be removed upon the issuance of a valid permit by the ~~town administrator~~ Town Administrator or his/her designee. Required mitigation will be determined by the administrator or designee per section 16-107, below.
- (c) ~~Grand trees~~ Grand Trees may be removed upon the issuance of a valid permit by the ~~town administrator~~ Town Administrator or his/her designee if, in the determination of staff, the trees meet the conditions for removal without mitigation. The ~~town administrator~~ Town Administrator reserves the right to

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forward any ~~grand tree~~Grand Tree removal permits to the ~~planning commission~~Planning Commission for review and issuance.

(d) Trees removed under these conditions do not require mitigation:

(1) Located on a parcel on which there is an existing single-family detached dwelling, not intended for development or redevelopment of the parcel, and;

(a) Any tree not identified as a Live Oak, or;

(b) Tree(s) which are located within ten (10) feet of a proposed building footprint, driveway or parking area, which cannot be reasonably relocated.

(2) Tree(s) is/are dead, through no fault of the owner, resident, or any other person, in order to circumvent the purpose of this article.

(23) Tree(s) which pose(s) an imminent safety hazard to nearby buildings, persons, utility lines or vehicular traffic.

(34) Trees which are located in the footprint of a proposed building or drive which cannot be reasonably relocated.

(45) Trees which are being cut as a commercial timber operation in accordance with the South Carolina Right to Practice Forestry Act. The ~~town~~Town requests but does not require that a 50-foot wide perimeter buffer of all existing trees be maintained in an undisturbed manner. Trees grown specifically for sale by commercial nurseries are exempt from the provisions of this article with respect to their removal from the commercial site upon which they are grown.

(65) Protected trees required to be removed to carry out a permitted wetland alteration and/or mitigation plan approved by the Army Corps of Engineers or South Carolina Office of Coastal Resource Management are exempt from the provisions of this article.

(67) Removal because of density or interference with the development of other trees.

(78) Removal of pine trees, unless permit is for multiple trees in which removal would constitute clear-cutting.

(89) Trees identified by the South Carolina Exotic Pest Plant Council Non-Native Plant Species List.

(e) In the event that the removal permit is forwarded to the ~~planning commission~~Planning Commission, ~~grand Grand trees-Trees~~ may only be removed when approved by action of a majority of the ~~planning commission~~Planning Commission or, upon appeal, the ~~town council~~Town Council.

(f) All tree permit applications for lot clearing and/or removal of multiple trees, for the development or redevelopment of property, ~~except individual single family homes and single unit duplex construction projects,~~ shall be accompanied by a tree survey. Surveys ~~for non-residential and multi-family residential development~~ shall be prepared by a South Carolina licensed landscape architect, surveyor or civil engineer. The survey shall indicate the following:

(1) The location, diameter at breast height (DBH) and species (common name) of all protected trees at the time of the survey.

(2) A clear designation of all protected trees proposed for removal.

(3) A mitigation plan showing the location, size and species (common name) to be planted, if required by section 16-107, of this Code.

(g) For individual single-family homes and single unit duplex construction projects, a reasonably accurate survey showing the location, size and species (common name) of any protected trees proposed to be removed must be shown. This survey need not be prepared by a licensed professional.

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- (h) Reasonable measures must be taken during construction or development to protect remaining trees from damage or injury.

(Ord. No. 2020-17 , 8-18-2020)

Sec. 16-~~107~~106. Commercial timber operations.

- (a) This article seeks to act in accordance with the South Carolina Right to Practice Forestry Act (S.C. Code 1976, § 48-23-205).
- (b) Per the Right to Practice Forestry Act, forestry activities, including timber harvesting, are permitted on forest land that is:
- (1) Taxed on the basis of its present use value as forest under section 12-43-220(d);
 - (2) Managed in accordance with a forest management plan;
 - (3) Certified under the Sustainable Forestry Initiative, the Forest Stewardship Council, the American Forest Foundations Tree Farm Systems, or any other nationally recognized forest certification system;
 - (4) Subject to a legally binding conservation easement under which the owner limits the right to develop or subdivide the land; or
 - (5) Managed and harvested in accordance with the best management practices established by the state commission of forestry pursuant to S.C. Code 1976, § 48-36-30.
- (c) Should any forestry activity take place on any land listed in subsection (b) above, there shall be a deferral period of one year for the consideration of any application for a building permit, a site disturbance or a subdivision plan or any other approval for development that if implemented would result in a change from forest land to nonforest or nonagricultural use.
- (d) Should any forestry activity take place on any land not listed in subsection (b) above, or in willful violation of any ~~town~~Town regulations, there shall be a deferral period of five years for the consideration of any application for a building permit, a site disturbance or a subdivision plan or any other approval for development that if implemented would result in a change from forest land to nonforest or nonagricultural use. A willful violation includes, but is not limited to, timbering a property for which development was discussed during the previous year. This five-year deferral period may be reduced upon approval of proper mitigation by the ~~town administrator~~Town Administrator or his/her designee.

(Ord. No. 2020-17 , 8-18-2020)

Sec. 16-~~108~~107. Mitigation.

- (a) The ~~town~~Town reserves the right to recommend a professional assessment from an International Society of Arboriculture Certified Arborist for applications regarding the removal of ~~certain species of grand trees~~Grand Trees, including but not limited to the following:

American Holly	Ilex opaca
Bald Cypress	Taxodium distichum
Blackgum, Tupelo	Nyssa sylvatica
Hickory	Carya sp.
Laurel Oak	Quercus laurifolia
Live Oak	Quercus virginiana
Nuttall Oak	Quercus texana
Overcup Oak	Quercus lyrata

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Pecan	Carya illinoensis
Red Maple	Acer rubrum
Sawtooth Oak	Quercus acutissima
Southern Magnolia	Magnolia grandiflora
Southern Red Oak	Quercus falcata
Sweetbay	Magnolia virginiana
White Oak	Quercus alba
Willow Oak	Quercus phellos

This professional assessment, obtained at the applicant's expense, will be used by staff and the ~~planning commission~~Planning Commission to determine whether a ~~grand-tree~~Grand Tree is dying, diseased, damaged, etc. and should be removed or if trimming is a viable option to retain the tree.

- (b) The removal of any protected tree authorized by permit, ~~where mitigation is required, from the planning commission or town council~~ shall be mitigated by planting new trees from the South Carolina Urban Species Guide in the same size category as the tree to be removed. The number of trees required to be planted to mitigate the removal of existing trees is determined by the mitigation ratio. The total DBH of all protected trees being removed shall be calculated, and this sum is multiplied by the mitigation ratio to determine the total DBH of all mitigation trees that must be planted on the same lot.

For example, removing a total of 24 inches of protected flowering trees, 24 inches of other protected trees and 24 inches of ~~grand-trees~~Grand Trees would result in planting a total of six inches of one-inch caliper minimum flowering trees, six inches of two and one-half-inch caliper minimum trees, and 12 inches of three-inch caliper minimum trees.

Each Existing Tree	Mitigation Ratio	Mitigation Tree Size (minimum)
Protected Flowering Tree	25%	One-inch DBH
Other Protected Tree	25%	Two and one-half-inch DBH
Grand Tree	50%	Three-inch DBH

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- (c) All mitigation shall be carried out on the site from which the trees were removed, unless otherwise approved by the ~~planning commission~~Planning Commission.
- (d) Mitigation trees are separate from and in addition to any planting required by the zoning ordinance for purpose of buffer yards or parking lot planter islands.
- (e) To prevent a monoculture among plantings, the ~~town~~Town shall require a diversity in the trees planted. Depending on the number of trees planted, there shall be a diversity of the plantings as follows:
- (1) Five to 10 trees: Minimum two types of trees to be planted;
 - (2) Ten to 20 trees: Minimum four types of trees to be planted;
 - (3) Twenty to 100 trees: Minimum seven types of trees to be planted;
 - (4) Greater than 100 trees: Minimum ten types of trees to be planted.
- (f) In lieu of on-site mitigation, the property owner or developer may elect to contribute an amount set by ~~town council~~Town Council multiplied by the total diameter in inches of the required mitigation trees. The funds generated by this mitigation provision shall be deposited in the ~~town tree fund~~Town Tree Fund. The owner may elect to directly mitigate or contribute in lieu of mitigation in any proportion.

(1) ~~In the event that the town tree fund contribution would exceed \$10,000.00 per acre, the town administrator is authorized to set a maximum contribution of \$10,000.00 per acre. Contribution to the Town Tree Fund shall not exceed \$10,000.00 per acre, or portion thereof.~~

(2) Should this mitigation contribution result from clear-cutting or the willful violation of any ~~town~~Town regulations, there shall be a deferral period of five years for the consideration of any application for a building permit, a site disturbance or a subdivision plan or any other approval for development. A willful violation includes, but is not limited to, timbering a property for which development was discussed during the previous year.

(g) The removal of any protected tree authorized by permit may be exempt from mitigation on a case-by-case basis as determined by the designee of the administrator or the ~~planning commission~~Planning Commission, per Section 16-105(d). ~~The decision making authority will take into account the reason(s) for the removal, impact on the tree population density of the neighborhood and the lot configuration, financial hardship for the property owner, and any other pertinent factors in its mitigation recommendation.~~ In no circumstances will mitigation exceed the parameters outlined in this section.

(h) Protected trees removed without a permit shall be mitigated at a rate of 100 percent of the diameter of the protected trees removed, unless otherwise approved by the ~~planning commission~~Planning Commission. Illegally removed trees shall be mitigated on site unless otherwise approved by the ~~planning commission~~Planning Commission. ~~The funds generated by this provision shall be deposited in the town tree fund.~~

(i) All trees planted as mitigation shall be properly maintained for a minimum period of 24 months after planting. Any trees which fail to survive for 24 months shall be replaced during this period, and all replacement mitigation tree(s) shall be properly maintained and replaced as required of mitigation trees by this subsection.

(j) ~~Trees removed because they are dead do not require mitigation if the loss of the trees is of no fault of the owner/resident or any other person in order to circumvent the purpose of this article.~~

(Ord. No. 2020-17 , 8-18-2020)

Sec. 16-~~109~~108. Administration.

(a) ~~The town administrator's designee(s) shall administer this article and shall consult with the town administrator, the town public service director and persons knowledgeable about trees as needed.~~

(b) During the period of an emergency, such as during the recovery period following a tornado, hurricane, ice storm, flood or any other act of nature or disaster, the requirements of this article may be waived by the ~~town administrator~~Town Administrator for a period not to exceed 30 days. The waiver period may be extended for a longer period by the action of ~~town council~~Town Council. In such cases, the waiver shall apply only to felled or severely damaged trees which pose a safety hazard.

(Ord. No. 2020-17 , 8-18-2020)

Sec. 16-~~110~~109. Appeals.

(a) Any person aggrieved or affected by a ~~staff or planning commission~~Planning Commission decision pursuant to this article may appeal the decision to ~~town council~~Town Council. All requests for appeal shall be filed with the ~~town administrator~~Town Administrator within 30 days of notification of denial of the permit request.

(b) All appeals of staff decisions shall be reviewed by the ~~planning commission~~Planning Commission prior to an appeal hearing before ~~town council~~Town Council.

(Ord. No. 2020-17 , 8-18-2020)

Sec. 16-~~111~~110. Violation and penalties.

- (a) Should a violation of this article be detected in progress, the town administrator's designee(s) shall be authorized to issue a stop work order requiring that all tree removal activities immediately cease. Failure to comply with the order shall subject the violator to arrest by an authorized law enforcement official. The stop work order will not be lifted until the violator submits an approved mitigation plan, prevails during an appeal hearing or is found not guilty in municipal court.
- (b) Section 16-107(f) of this article holds the owner of the tree liable for removing a protected tree without a permit and requiring 100 percent mitigation. Any contractor that removes a tree without a permit shall be warned against doing so again. If, within one year, the same contractor removes a tree without a permit a second time, the contractor's business license will be suspended for three months insofar as tree removal is concerned. If, within one year of the second occurrence, the same contractor removes a protected tree without a permit, that contractor's business license will be revoked for one year, prohibiting all tree removal services for that duration within the ~~town~~Town limits.

(c) _____

~~The town reserves the right to exercise section 1-9 of this article should any contractors or owners, tenants, lessees and/or occupants of any lot within the corporate limits of the town be determined to have removed any protected trees without a permit.~~

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- (c) Permits issued pursuant to this article for the removal of trees shall be valid for a period of 180 days from the date of issuance. All permits are non-transferable. Performing tree removal under an invalid or expired permit shall be a violation of this article.

(d) _____ Violation of this article or failure to comply with the lawful orders of the code enforcement official within the prescribed time frame shall be classified as a misdemeanor and punishable as provided in this article. In addition the violator shall be required to provide mitigation as required pursuant to section 16-107 of this Code.

The ~~town~~Town reserves the right to exercise section 1-9 ~~16-107~~ of this article should any contractors or owners, tenants, lessees and/or occupants of any lot within the corporate limits of the ~~town~~Town be determined to have removed any protected trees without a permit.

(Ord. No. 2020-17 , 8-18-2020)

Sec. 16-~~112~~111. Legality of article and parts thereof.

Should any section, clause or provision of this article be declared by the courts to be invalid, the same shall not affect the validity of the article as a whole, or parts thereof, other than the part so declared to be invalid.

(Ord. No. 2020-17 , 8-18-2020)