



**WALTERBORO CITY COUNCIL
RESCHEDULED REGULAR MEETING
NOVEMBER 14, 2023
CITY HALL
6:15 P.M.**

AGENDA

I. Call to Order:

1. Invocation
2. Pledge of Allegiance

II. Public Input on Agenda Items:

III. Public Hearing:

1. **Ordinance # 2023-13**, AN ORDINANCE OF THE CITY OF WALTERBORO, SOUTH CAROLINA IMPOSING WATER AND SEWER CAPACITY FEES, AUTHORIZING POLICIES ASSOCIATED THEREWITH, AND AMENDING THE CITY'S FISCAL YEAR 2023-2024 BUDGET FOR THE WATER AND SEWER SYSTEM; AND OTHER MATTERS RELATED THERETO (Second and Final Reading).

IV. Approval of Minutes:

1. August 17, 2023 - Work Session Meeting
2. September 5, 2023 - Regular Meeting
3. October 3, 2023 - Regular Meeting

V. Old Business:

1. **Ordinance # 2023-13**, AN ORDINANCE OF THE CITY OF WALTERBORO, SOUTH CAROLINA IMPOSING WATER AND SEWER CAPACITY FEES, AUTHORIZING POLICIES ASSOCIATED THEREWITH, AND AMENDING THE CITY'S FISCAL YEAR 2023-2024 BUDGET FOR THE WATER AND SEWER SYSTEM; AND OTHER MATTERS RELATED THERETO (Second and Final Reading).

VI. New Business:

1. **Ordinance # 2023-14**, AN ORDINANCE AMENDING THE BUSINESS LICENSE ORDINANCE OF THE CITY OF WALTERBORO TO UPDATE THE CLASS SCHEDULE AS REQUIRED BY ACT 176 OF 2020 (Introduction and First Reading).
2. **Ordinance # 2023-15**, AN ORDINANCE TO AMEND CHAPTER 8 – BUSINESS AND BUSINESS REGULATIONS, ARTICLES III – SOLICITING; PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS AS REQUIRED BY ACT 176 OF 2020 (Introduction and First Reading).

3. **Ordinance # 2023-16**, AN ORDINANCE OF THE CITY OF WALTERBORO, SOUTH CAROLINA, AMENDING THE COMPREHENSIVE FEE SCHEDULE FOR THE UTILITY SUPPORT DEPARTMENT (Introduction and First Reading).
4. **Ordinance # 2023-17**, AN ORDINANCE AMENDING THAT CERTAIN AMENDED AND RESTATED BOND ORDINANCE ENTITLED “AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF WATERWORKS AND SEWER SYSTEM REVENUE BONDS OF THE CITY OF WALTERBORO, SOUTH CAROLINA, AND OTHER MATTERS RELATING THERETO” ENACTED ON NOVEMBER 1, 2016; AND OTHER MATTERS RELATING THERETO (Introduction and First Reading).
5. **Ordinance # 2023-18**, A SERIES ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF WATERWORKS AND SEWER SYSTEM IMPROVEMENT REVENUE BONDS OF THE CITY OF WALTERBORO, SOUTH CAROLINA IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT EXCEEDING THIRTEEN MILLION FIVE HUNDRED THOUSAND DOLLARS (\$13,500,000); AND OTHER MATTERS RELATING THERETO (Introduction and First Reading).
6. **Resolution # 2023-R-05**, A RESOLUTION TO CERTIFY THE RESULTS OF THE NOVEMBER 7, 2023, MUNICIPAL GENERAL ELECTION. (Resolution attached).
7. A Proclamation to declare November 16, 2023, as World Pancreatic Cancer Day (Proclamation attached).
8. Consideration of a parade request from Herman Bright – Martin Luther King, Jr. Parade, January 14, 2024, at 2:30 PM (Parade request attached).
9. Consideration of a request from the Pharaohs of the Lowcountry Eastern Truck Division to use the former Ford property at 114 North Walter Street to hold a car show and Christmas Toy Drive, Saturday December 9, 2023, 12:00 – 3:00 PM (Letter attached).
10. Consideration of a request to close streets for the Annual Christmas Parade to be held on Sunday, December 3, 2023 at 6:30 PM.
11. Election of Councilmember James Broderick as Voting Delegate at the 2023 National League of Cities City Summit.

VII. City Manager’s Report:

1. Consideration of funding recommendations from the Accommodations Tax Advisory Committee (Memo attached).
2. Introduction of Karen Williams, Main Street Manager-Tourism Director.

VIII. Executive Session:

1. The provision of water and sewer service to Northwest Walterboro.
2. Personnel Matter: Planning and Development Department.

IX. Open Session:

1. Council May Take Action on Items Discussed in Executive Session.

X. Adjournment

ORDINANCE #2023-13

AN ORDINANCE OF THE CITY OF WALTERBORO, SOUTH CAROLINA IMPOSING WATER AND SEWER CAPACITY FEES, AUTHORIZING POLICIES ASSOCIATED THEREWITH, AND AMENDING THE CITY'S FISCAL YEAR 2023-2024 BUDGET FOR THE WATER AND SEWER SYSTEM; AND OTHER MATTERS RELATED THERETO

NOW THEREFORE, be it ordained by the City Council of the City of Walterboro (the "**Council**"), the governing body of the City of Walterboro, South Carolina ("**City**"), as follows:

Section 1 Findings. The Council hereby makes the following findings of fact in connection with the enactment of this ordinance (this "**Ordinance**") and the imposition of the Capacity Fees (as defined this Ordinance):

(a) The City is a body politic and corporate located in Colleton County, South Carolina, entitled to exercise all the powers and privileges provided to municipal corporations in the State of South Carolina (the "**State**").

(b) The City possesses, maintains, and operates a combined waterworks and sewer system (the "**System**") that was established in compliance with the constitutional and statutory provisions of the State.

(c) The City and surrounding area anticipate substantial residential growth; to accommodate this anticipated growth, the System requires significant capital improvements.

(d) With the assistance of certain rate and engineering consultants, the City previously developed a capital improvements plan for the System (the "**Capital Improvement Plan**"), a copy of which is attached hereto as Exhibit A.

(e) The City wants to avoid placing the burden of serving new growth on its ancestral customers, and wishes to establish certain fees on new customers to accommodate its growth and certain improvements identified in the Capital Improvement Plan.

(f) Pursuant to Sections 6-1-330 and 6-1-1080 of the Code of Laws of South Carolina 1976, as amended (the "**SC Code**")¹, the City is permitted to impose capital recovery fees on all new customers of the System to recover a proportional share of capital costs incurred to provide service capacity for such new customers (the "**Capacity Fees**").

(g) As a condition to implementing the Capacity Fees, Section 6-1-1080 of the SC Code requires that the City: (a) maintain an existing capital improvement plan; (b) prepare a report to explain the basis, use, calculation and collection method for the Capacity Fees; and (c) authorize the Capacity Fees under the provisions of Title 6, Chapter 1, Article 3 of the SC Code.

¹ Also see *J.K. Const., Inc. v. Western Carolina Regional Sewer Authority*, 336 S.C. 162 (1999).

(h) Consistent with the requirements of Section 6-1-1080 of the SC Code, the City (a) has previously developed and currently maintains the Capital Improvement Plan, a copy of which is attached hereto as Exhibit A, (b) worked with Willdan Financial Services, a utility rate and feasibility consultant, to prepare a report related to the Capacity Fees (the “**Capacity Fee Report**”), a copy of which is attached hereto as Exhibit B; and (c) is enacting this Ordinance in a manner consistent with the requirements of Title 6, Chapter 1, Article 3 of the SC Code.

(i) The City has determined it is in the best interests of the City and the customers of the System to implement the Capacity Fees under the terms of this Ordinance.

(j) As a consequence of the implementation of Capacity Fees hereunder, the City has further determined to amend its fiscal year 2023-24 budget and to undertake certain amendments to the City’s code of ordinances to implement policies regarding collection and expenditure of the Capacity Fees.

Section 2 Approval of the Capital Improvement Plan and Capacity Fee Report. The Council hereby approves, ratifies and confirms the Capital Improvement Plan and the Capacity Fee Report, copies of which are attached hereto as Exhibit A and Exhibit B, respectively.

Section 3 Capacity Fees. In reliance on the Capacity Fee Report, which utilizes a combined cost method for the calculation of the Capacity Fees for the both the water and sewer components of the System, the Council hereby approves the imposition of the Capacity Fees (based upon meter size and utilizing the American Water Works Association’s (AWWA) meter equivalency factors) as set forth in the table herein below. The Capacity Fees shall be charged to all new customers seeking to connect to the System.

Meter Size	Equivalent Residential Units (ERU) ²	Water Capacity Fees	Sewer Capacity Fees	Total
5/8 or 3/4”	1.00	\$ 2,560.00	\$ 2,450.00	\$ 5,010
1”	2.50	6,400.00	6,125.00	12,525
1 ½”	5.00	12,800.00	12,250.00	25,050
2”	8.00	20,480.00	19,600.00	40,080
3”	16.00	40,960.00	39,200.00	80,160
4”	25.00	64,000.00	61,250.00	125,250
6”	50.00	128,000.00	122,500.00	250,500
8”	80.00	204,800.00	196,000.00	400,800

Section 4 Capacity Fee Policies. By and through the enactment of this Ordinance, for the purposes discussed above, the Council hereby implements the following capacity fee policies for the collection and administration of Capacity Fees (the “**Capacity Fee Policies**”). The Capacity Fee Policies shall be implemented and codified by the City at Chapter 34, Article VII, as follows:

² ERUs are based on the meter equivalency factors from AWWA. One ERU assumes usage of 300 gallons per day, which is consistent with regulations promulgated by the South Carolina Department of Health and Environmental Control.

Chapter 34 – UTILITIES

ARTICLE VII – IN GENERAL

Sec. 34-290.-Assessment.

A Capacity Fee shall be assessed on all new development and redevelopment for which a new water and/or sewer service is requested or for which additional water and/or sewer usage is requested, except for the following:

- (1) Rebuilding or replacing a structure (residential or commercial) on a parcel of land that contains an existing water and/or sewer service of sufficient size and capacity to meet the requirements of the new use;
- (2) Remodeling or repairing a structure with the same land use that does not result in an increase in the number of service units or place additional water and/or sewer demand on the City's facilities and equipment;
- (3) Construction of an addition to a structure on a parcel of land that contains an existing water and/or sewer service (residential or commercial) that does not increase the amount of water and/or usage; or
- (4) Changing or adding uses or equipment on a parcel of land that contains an existing water and/or sewer service, unless it is clearly demonstrated that the use creates new or increased water and/or sewer demand for the City's facilities and equipment.

Sec. 34-291.-Calculation.

The calculation of Capacity Fees shall be based upon the proposed meter sizes and equivalency units approved by the Council as provided by the owner, developer, or design engineer. If, after one year of substantially completed operation of the new use, the actual daily water and/or sewer demands are in excess of the demands used to determine the Capacity Fees or the meter sizes are different than originally determined, the individual or entity in whose name the water and/or sewer account is held will be assessed additional Capacity Fees in accordance with the then-existing capacity fee schedule. The Utilities Director of the City may request such additional information, studies, or analysis as may be necessary to determine anticipated water and/or sewer demands of any new use.

Sec. 34-292.-Collection.

All Capacity Fees will be collected at such time as connection fees are collected for all new development or redevelopment.

Sec. 34-293.-Fire Suppression Systems.

No Capacity Fee will be assessed for metered fire suppression system-only connections. Uses of this connection for other than fire suppression may result in the assessment of Capacity Fees to the owner or tenant. A compound meter is not sufficient to determine fire flow. A separate, fire-only meter (in addition to the regular service meter) must be established for any qualifying metered fire suppression system-only connection.

Sec. 34-294.-Usage.

Capacity Fees shall be imposed only to fund system improvement costs reasonably related to new development or redevelopment, including, but not limited to: design and construction plan preparation for additional capacity or rehabilitation of existing capacity supporting the efficient usage of such water and/or sewer capacity; right of way acquisition; construction of new facilities, structures, or amenities that provide additional capacity or rehabilitation of existing capacity supporting the efficient usage of water and/or sewer capacity; programs to prevent or limit water loss or sewer inflow and/or infiltration; purchase of new equipment that provide additional capacity or rehabilitation of existing capacity supporting the efficient usage of water and/or sewer capacity; principal payments, interest and other finance charges on bonds or other indebtedness issued by or on behalf of the City for financing any or all of these public facilities. Capacity Fees cannot be used to offset the City's operating costs, and shall be maintained, from an accounting standpoint, separate and distinct from the City's general operating fund for the System.

Sec. 34-295.-Appeals.

The payor of any Capacity Fee (a "***Fee Payor***") may appeal any Capacity Fee assessed on new development or redevelopment in accordance with the following procedures:

- (1) A Fee Payor may pay Capacity Fees under protest. Payment under protest is a condition precedent to appealing any Capacity Fees described herein. Additionally, a Fee Payor, at his option, may also post a bond or submit an irrevocable letter of credit for the amount of Capacity Fees due instead of making a cash payment under protest, pending the outcome of an appeal.
- (2) A Fee Payor may file an administrative appeal with the Utilities Director regarding the payment of Capacity Fees by filing a written notice of appeal. Said notice shall be filed within ten calendar days of the payment of the Capacity Fees. The filing of an appeal will immediately halt all proceedings regarding the provision of water and/or sewer services unless the Fee Payor posts a bond or submits an irrevocable letter of credit for the full amount of the Capacity Fees, as calculated by the City, to be due. All notices of appeal shall include a full explanation of the reasons for the appeal, specifying the grounds therefor, and containing any documentation that the Fee Payor desires to be considered. The appeal shall contain the name and address of the Fee Payor filing the appeal and shall state their capacity to act as representative or agent if they are not the owner of

the property to which recovery fees pertain. By no later than twenty calendar days following receipt of the written notice of appeal, the Utilities Director will review the appellant's written report, supporting documentation and departmental staff reports. The review period may be extended in the discretion of the Utilities Director if additional information is needed from the appellant in order to render a decision. Upon completion of the administrative review, the Utilities Director will provide a written response to the Appellant constituting a final administrative determination.

- (3) Any person desiring to appeal the final administrative determination of the Utilities Director regarding payment of Capacity Fees shall file a written notice of appeal to the Council. Said Notice of Appeal to the Council shall be filed with the Clerk to Council within five business days following receipt of the final administrative determination. Receipt shall be construed to have occurred when the final administrative decision is deposited in the United States mail postage prepaid to the person whose name and address is identified in the original notice of appeal. Thereafter, the Council shall conduct a hearing at its next regularly scheduled meeting, or such other meeting time as may be agreeable to Council and the appellant, and shall allow the appellant, in person or acting through counsel, to present an oral presentation to the Council regarding its appeal. After hearing such appeal, the Council, within ten business days, shall make a written finding as to the appeal and either accept the findings appeal, reject it or proffer a compromise. If any refund is determined, the City shall refund the required amount within ten business days of the written determination by the Council. The findings and determination of the Council shall constitute the final judicial determination as to the payment of Capacity Fees.
- (4) Only after all administrative appeals have been exhausted under the provisions of this policy, the aggrieved Fee Payor may determine to file a suit in a court of competent jurisdiction to challenge the payment of the disputed Capacity Fees.

Section 5 Removal of Codification of Utility Fees. By and through the enactment of this Ordinance, the Comprehensive Fee Schedule in Appendix B of the City's Code of Ordinances is amended to remove references to all "Utility Support Department Fees", including "Water," "Sewer," and "Sanitation" fees. Instead, the schedule of all water, sewer and sanitation fees shall be set forth in the City's annual budget, including the City's most recent fiscal year 2023-24 budget, and made available on the City's website and upon request at City Hall.

Section 6 Budget Amendment. In response to the imposition of the Capacity Fees, the City has determined to amend its Enterprise Fund Budget for fiscal year 2023-24 to duly and properly supplement the projected revenues and expenses for the remainder of the 2023-24 fiscal year, which began on July 1, 2023 and ends on June 30, 2024.

Section 7 Public Hearings. Prior to the date of enactment of this Ordinance and pursuant to the requirements of Sections 6-1-330 and 6-1-80 of the SC Code, the City held public hearings on November 14, 2023 on the questions of (1) implementing the Capacity Fees, and (2) amending the fiscal year 2023-24 budget for the System and the ratification of the water, sewer and sanitation fees in the existing fiscal year 2023-24 budget. Notice of the public hearings, in the form and format required by Sections 6-1-80 and 6-1-330 of the SC Code, a copy of which is attached hereto as Exhibit C, was timely published in the *Press and Standard*, which is a newspaper of general circulation in the City (and Colleton County). All interested parties were given an opportunity to speak in favor of or against this Ordinance.

Section 8 Ratification of Findings; Actions. The Council ratifies and approves the findings of fact recited above. Further, all actions of the Mayor and other City staff regarding the public hearings, preparation of the Capital Improvement Plan and the Capacity Fee Report and the required amendments to the fiscal year 2022-23 budget are ratified, approved and confirmed. Further, the Mayor and City staff shall be authorized to do all things necessary to implement the provisions of this Ordinance.

Section 9 Effective Date. This Ordinance has been duly approved by a positive majority (as defined in Section 6-1-300 of the SC Code) of the Council, and shall be effective as of the date of second and final reading. All prior ordinances and resolutions conflicting with the provisions of this Ordinance are hereby repealed.

DONE AND ORDAINED, this 14th day of November 2023.

CITY OF WALTERBORO, SOUTH CAROLINA

William T. Young, Jr.
Mayor

ATTEST:

Adrienne Nettles
City Clerk

First Reading:	October 3, 2023
Public Hearing #1 (Capacity Fees):	November 14, 2023
Public Hearing #2 (Budget):	November 14, 2023
Second Reading:	November 14, 2023

Exhibit A
Capital Improvement Plan

Capacity Fee Analysis
Capital Improvement Program for FY 2024 - FY 2033
Water & Wastewater Systems

Line	Description	Total	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033
1	Pickup truck(s)	\$ 407,000	\$ 32,000	\$ 80,000	\$ 35,000	\$ 35,000	\$ 36,500	\$ 36,500	\$ 37,000	\$ 37,000	\$ 39,000	\$ 39,000
2	Service truck w/unlvy body	145,000	70,000	0	0	0	0	0	0	0	0	0
3	Atlas compressor	32,000	0	0	0	0	75,000	0	0	0	0	32,000
4	Armory Well Rehab	0	0	0	0	0	0	0	0	0	0	0
5	(2) Pickup trucks	0	0	0	0	0	0	0	0	0	0	0
6	Asphalt roller w/trailer	60,000	60,000	0	0	0	0	0	0	0	0	0
7	Dump Truck	130,000	0	130,000	0	0	0	0	0	0	0	0
8	Backhoe	100,000	0	0	100,000	0	0	0	0	0	0	0
9	Trencher	75,000	0	0	0	75,000	0	0	0	0	0	0
10	Mini Excavator	70,000	0	0	0	0	0	0	0	70,000	0	0
11	Lawnmower	30,000	0	15,000	0	0	15,000	0	0	0	0	0
12	Pickup truck	182,500	0	35,000	0	35,000	0	36,500	0	37,000	0	39,000
13	SBR tank cleanout	0	0	0	0	0	0	0	0	0	0	0
14	SBR pipe replacement	0	0	0	0	0	0	0	0	0	0	0
15	Dump truck	140,000	0	0	0	0	0	0	0	140,000	0	0
16	Beaver Liftstation demolition	45,000	0	45,000	0	0	0	0	0	0	0	0
17	Wellston Force Main relocation	55,000	0	55,000	0	0	0	0	0	0	0	0
18	Tractor	50,000	0	0	50,000	0	0	0	0	0	0	0
19	Service truck w/crane body	125,000	0	0	0	0	0	0	0	125,000	0	0
20	Crewcab pickup	40,000	0	40,000	0	0	0	0	0	0	0	0
21	Pickup truck	329,500	0	35,000	35,000	35,000	36,500	36,500	36,500	37,000	39,000	39,000
22	Vacuum trailer	0	0	0	0	0	0	0	0	0	0	0
23	Wastewater Treatment Plant Expansion	38,454,908	38,454,908	0	0	0	0	0	0	0	0	0
24	Black Street Sub Basin 12	0	0	0	0	0	0	0	0	0	0	0
25	Sub System 1 East and 3	1,000,000	1,000,000	0	0	0	0	0	0	0	0	0
26	WWTP truck line - Washington St	3,692,178	0	3,692,178	0	0	0	0	0	0	0	0
27	WWTP generator	1,703,850	1,703,850	0	0	0	0	0	0	0	0	0
28	Total Water & Wastewater CIP	\$46,866,936	\$41,320,758	\$ 4,127,178	\$ 220,000	\$ 180,000	\$ 163,000	\$ 169,500	\$ 73,500	\$ 446,000	\$ 78,000	\$ 149,000

Exhibit B

Capacity Fee Report

Exhibit C

Notice of Public Hearings

The City Council of the City of Walterboro (the “Council”), the governing body of the City of Walterboro, South Carolina (the “City”), has determined that it may be in the interest of the City to impose capacity fees benefiting the City’s waterworks and sewer system (the “Capacity Fees”) and enact a corresponding amendment to the City’s enterprise fund budget (the “Budget Amendment”) for the 2023-24 fiscal year, including the removal of certain codified utility fees in Appendix B of the City’s code of ordinances.

Pursuant to Section 6-1-330(A) of the Code of Laws of South Carolina 1976, as amended (the “SC Code”) and Section 6-1-80 of the SC Code, the Council has ordered two separate public hearings to be held regarding (1) whether to impose the Capacity Fees in accordance with the provisions of Title 6, Chapter 1 of the SC Code (the “Capacity Fee Hearing”), and (2) whether to enact the Budget Amendment (the “Budget Amendment Hearing” and together with the Capacity Fee Hearing, the “Public Hearings”).

The Public Hearings will be held in the City Hall, located at 242 Hampton Street, Walterboro, South Carolina 29488, on Tuesday, November 14, 2023. The Capacity Fee Hearing will begin at 6:15p.m. (or as soon thereafter as possible) and the Budget Amendment Hearing will begin as soon as practicable after the conclusion of the Capacity Fee Hearing. The aforesaid Public Hearings shall be conducted publicly and both proponents and opponents of the proposed actions shall be given full opportunity to be heard in person or by counsel.

A schedule of the Capacity Fees is included in “AN ORDINANCE OF THE CITY OF WALTERBORO, SOUTH CAROLINA IMPOSING WATER AND SEWER CAPACITY FEES, AUTHORIZING POLICIES ASSOCIATED THEREWITH, AND AMENDING THE CITY’S FISCAL YEAR 2023-2024 BUDGET FOR THE WATER AND SEWER SYSTEM; AND OTHER MATTERS RELATED THERETO” (the “Ordinance”). Copies of the Ordinance are available for pick up at City Hall, which is located at 242 Hampton Street, Walterboro, South Carolina 29488, during regular business hours.

The proposed Budget Amendment does not result in any change to the tax millage rate as no taxes are directly levied or collected for the City’s waterworks and sewer system. The current operating budget for the water and sewer enterprise fund for fiscal year 2023-24 and the proposed Budget Amendment for fiscal year 2023-24 are as follows:

<u>Source</u>	<u>FY 2023-2024 Approved</u>	<u>FY 2023-2024 Proposed Amended</u>	<u>Percentage Increase</u>
Revenues	\$ 4,876,324	\$ 5,026,624	3.08%
Expenditures	\$ 5,026,624	\$ 5,026,624	0.00%

Following the Public Hearings, the Council will consider the enactment of the Ordinance, the provisions of which impose the Capacity Fees and implement the Budget Amendment.

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Following the Public Hearings, the Council will consider the enactment of the Ordinance, the provisions of which impose the Capacity Fees and implement the Budget Amendment.

Walterboro City Council

Work Session

August 17, 2023

Minutes

A Work Session for Walterboro City Council was held at City Hall on Thursday August 17, 2023, at 5:00 P.M., with Mayor Bill Young presiding.

Present: Joined in the meeting were: Mayor Bill Young, Councilmembers: Carl Brown, Judy Bridge, Paul Siegel, James Broderick, Ladson Fishburne, and Greg Pryor. City Manager Jeff Molinari, Assistant City Manager Ryan McLeod, Finance Director Amy Risher, Wayne Crosby Utilities Director, Darryl Parker and Jeff McGarvey with Willdan Financial Services and Jay Glover with PFM Financial Advisors.

Call to Order:

With the above-mentioned Councilmembers present, Mayor Young called the meeting to order.

Presentations:

1. Willdan Financial Services, Darryl Parker – Water/Sewer Capacity Fees and Wastewater Treatment Plant Expansion Debt Service.

City Manager Jeff Molinari stated Mr. Mayor and members of City Council we have Willdan Financial Services with us this afternoon. If you remember Willdan is the same firm we used when we did our rate study in 2019. We have Darryl Parker, Jeff McGarvey, and Financial Advisor from PFM, Jay Glover here with us tonight. In Darryl's presentation he will go through the additional debt service that we are having to take on with the wastewater treatment plant. This will involve adjusting both our water and sewer rates. After that, Darryl will go through our proposed capacity fee for water and sewer. A few months ago, City Council authorized me to engage Willdan Financial Services to do an analysis and report on the potential capacity fee for water and sewer.

Mr. Parker went through a detailed PowerPoint presentation showing the city's current water and sewer rate structure and its rates compared to surrounding jurisdictions. Mr. Parker explained that the city will need to adjust its water and sewer rates by 11% by January 1, 2024, 10% on July 1, 2024, and implement 2% increases in subsequent fiscal years to pay back the additional debt service and to also demonstrate to prospective lenders that the city has the capacity to pay back the debt.

Mr. Parker stated our study also found a need for the city to establish a mechanism for recovering the capital costs associated with system growth and expansion. Capital recovery fees for new connections have become more common as growth continues, and state and federal funding has been reduced. It is a very common management practice to apply mechanisms to recover capital costs. The capacity fee developed is equitable and provides for reasonable recovery of the capital costs associated with providing services to new customers. Since the city has developed a Capital Improvement Plan, the proposed capacity fee will be enacted in accordance with the standard approval and public hearing procedures. The proposed capacity fees are based on a listing of existing systems and assets provided by the city, as well as the 10-year Capital Improvement Plan developed by the city. The city currently imposes connection-related and administrative fees for new customer connections. The capacity fee developed is intended to be charged in addition to the existing connection-related charges. The proposed capacity fees are intended to be applied equally to comparable customers whether they are located inside or outside the city limits. The rationale for this method is that the operating cost may increase for providing service outside of the city limits. The capital

costs per gallon of capacity for a major system does not typically differ based on the location of the customer. This concludes my presentation, if you all have any questions, please feel free to reach out.

There being no further business to consider, a motion to adjourn was made by Councilmember Bridge, seconded by Councilmember Brown, and passed unanimously. Mayor Young adjourned the meeting at 5:45 P.M. Notice of the meeting was distributed with the agenda packets, to all local media posted on City Hall bulletin board and posted on the City's website at least twenty-four hours prior to meeting time.

Respectfully,

Adrienne Nettles
City Clerk

Walterboro City Council

City Hall

September 5, 2023

Minutes

A Regular Meeting of Walterboro City Council was held at City Hall on Tuesday, September 5, 2023, at 6:15 P.M., with Mayor Bill Young presiding.

Present: Joined in the meeting were: Mayor Bill Young, Councilmembers: Ladson Fishburne, Greg Pryor, James Broderick, Paul Siegel, Judy Bridge, and Carl Brown. City Manager Jeff Molinari, Assistant City Manager Ryan McLeod, City Clerk Adrienne Nettles, Finance Director Amy Risher, City Attorney Brown McLeod, Deputy Police Chief Kevin Martin, Ann Carmichael, Nicole Bryan, and Kenleigh Crosby.

Call to Order:

With the above-mentioned Councilmembers present, Mayor Young called the meeting to order, and invited everyone to join in as he gave the invocation. Councilmember Fishburne led the Pledge of Allegiance to our flag.

Public Input on Agenda Items:

Ms. Nicole Bryan owner of Gypsy's Boutique stated Mr. Mayor I would like to speak with you all about business licenses. I spoke with Councilmember Broderick about a year ago because I was denied a business license. We struggle to set up in other areas unless it is an approved event. Here recently I was granted a business license to do a private event inside the Press & Standard. I was instructed that I could not set up my mobile trailer in the parking lot. I would like you all to take into consideration that there are other businesses besides brick-and-mortar buildings that would like to participate inside city limits. I hope we will be able to come up with an ordinance or guidelines so we can obtain a business license and work out of our mobile boutiques.

Approval of Minutes:

Upon motion of Councilmember Brown, Seconded by Councilmember Fishburne, the following minutes were approved:

1. Regular Meeting – August 1, 2023.

New Business:

1. **Ordinance # 2023-11**, AN ORDINANCE TO AMEND THE ZONING MAP OF THE CITY OF WALTERBORO, SOUTH CAROLINA, TO PROVIDE FOR CHANGES IN THE ZONING DISTRICTS OF THE CITY OF WALTERBORO BY CHANGING THE ZONING CLASSIFICATION OF ONE PARCEL OF LAND DESIGNATED AS TMS # 163-15-00-062 FROM INDUSTRIAL DISTRICT (ID) TO MEDIUM DENSITY RESIDENTIAL (MDR) (Introduction and First Reading).

City Manager Jeff Molinari stated Mr. Mayor and members of City Council you have in your agenda packet an ordinance and resolution that was passed by the Planning Commission. The Planning Commission held a public hearing on August 15, 2023, to consider a change in zoning from Industrial District to Medium Density Residential for a property on Sanders Street, TMS # 163-15-00-062. The Planning Commission has unanimously recommended that the property be changed to Medium Density Residential.

Motion: Councilmember Broderick; Seconded by Councilmember Pryor

Discussion: None

Carried: All ayes

2. **Ordinance # 2023-12**, AN ORDINANCE PURSUANT TO TITLE 5, CHAPTER 3, SECTION 5-3-150, SUBSECTION 3, OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED, TO ANNEX AN AREA, KNOWN AS TMS # 147-15-00-009 INTO THE CITY OF WALTERBORO, A SOUTH CAROLINA MUNICIPAL CORPORATION (Introduction and First Reading).

City Manager Jeff Molinari stated Mr. Mayor and members of City Council you have in your agenda packet an ordinance and annexation petition to bring Genesis Health Care into the city, which is adjacent to Walgreens. This will be for first reading, and this is a 100% petition annexation. Staff recommends annexing the property. The Planning Commission will have a Special Called Meeting at the end of September to make a recommendation regarding the zoning of the parcel. The plan is to bring this to City Council in October for second and final reading.

Motion: Councilmember Bridge; Seconded by Councilmember Brown

Discussion: None

Carried: All ayes

3. **Resolution # 2023-R-04**, A RESOLUTION COMMITTING THE CITY OF WALTERBORO TO PROVIDE A LOCAL MATCH IN THE AMOUNT OF \$2,500 FOR A MUNICIPAL ASSOCIATION OF SOUTH CAROLINA HOMETOWN ECONOMIC DEVELOPMENT GRANT.

City Manager Jeff Molinari stated Mr. Mayor and members of City Council the last time the city applied for a Municipal Association Hometown Economic Development Grant was in 2016. We were awarded \$25,000 for the Walterboro Wildlife Center project. City staff would like to apply for another MASC Grant in the amount of \$25,000. This would be used to begin a Facade Improvement Grant Program for businesses in the city, with special consideration for properties in the downtown area. The grant could be used for signage, painting of buildings, doors, windows, lighting, landscaping, and restoring original materials. The city portion of this grant is 10% or \$2,500. The applications are due at the end of the month. One of the requirements is for the Council to pass a resolution. Staff asks for Council's favorable consideration.

Councilmember Broderick asked, Mr. Molinari will this be something the businesses repay?

City Manager Jeff stated we looked at several cities around the state, and usually how it works is on a reimbursement basis. For example, a business owner purchases and installs a new sign for \$2,500. The city would provide a 50% match. The business owner would be reimbursed 50% or \$1,250 for the cost of the improvements.

Motion: Councilmember Siegel; Seconded Councilmember Bridge

Discussion: None

Carried: All ayes

4. A Proclamation to designate September 2023 as National Recovery Month.

Motion: Councilmember Pryor; Seconded by Councilmember Broderick

Discussion: None

Carried: All ayes

5. Consideration of a request from Association WMU (Yellow Jacket Prayer Walk for School) on Saturday, September 16, 2023, at 8:00 AM.

City Manager Jeff Molinari stated Mr. Mayor and members of City Council you have in your agenda packet the parade request and Chief Marvin has already signed off on it.

Motion: Councilmember Brown; Seconded by Councilmember Fishburn

Discussion: None

Carried: All ayes

6. Consideration of a request from In His Name Colleton to use the city parking lot on Saturday, December 2, 2023, from 7:00 AM until 3:00 PM for its Annual Free Christmas Dinner.

Motion: Councilmember Broderick; Seconded by Councilmember Pryor

Discussion: None

Carried: All ayes

7. Consideration of a request from the Walterboro Rotary Club for its 9th Annual Ireland Creek Bridge Run to be held on Thursday, October 12, 2023.

Motion: Councilmember Pryor; Seconded by Councilmember Brown

Discussion: None

Carried: All ayes

8. Consideration of a request to use the lot behind 300 Hampton Street for FestiVELO participants to camp from November 6 – November 12, 2023.

Assistant City Manager Ryan McLeod stated they have used this space the last 3-4 years as a company site. 40-60 people will utilize this space. They have always been a great partner with the city, and they always leave the area clean.

Motion: Councilmember Fishburne; Seconded by Councilmember Pryor

Discussion: None

Carries: All ayes

City Manager's Report:

1. Consideration of a request to resurface the tennis courts at Forest Hills Tennis Center.

City Manager Jeff Molinari stated Mr. Mayor and members of City Council you have in your agenda packet a request to resurface the six (6) tennis courts at Forest Hills Tennis Center. We are recommending using Carolina Sport Surface Inc. out of Sullivans Island, SC in the amount of \$81,720. In accordance with Section 2-240 of the City's procurement code, we are recommending using sole-source procurement given

the level of expertise required. We would like to get this work done correctly. The amount of \$81,720 will be paid from the accumulated interest in the city's American Rescue Plan Act fund.

Councilmember Pryor asked have they given a timetable on when this will be completed.

City Manager Jeff Molinari stated we are trying to get on the schedule for the fall. It will be after the tennis season ends on October 15th. We just need to coordinate the resurfacing with the tennis community.

Councilmember Pryor asked are they going to dig the foundation up?

City Manager Jeff Molinari stated they are going to target and address the cracks. We had them come out and look at it 6 months ago. We initially were thinking that we would have to do a complete overhaul of the courts. Mr. Scarpa, the owner of the company, said the foundation of the courts were in good condition, and that the resurfacing of the courts would be a great investment. The company does very good work and this project is much needed.

Councilmember Brown stated I am happy with the price. How are we paying for this project?

City Manager Jeff Molinari stated the funds will come out of the interest we have accumulated in our American Rescue Plan Act fund.

Councilmember Broderick asked did they say how long the resurfacing should last?

Assistant City Manager Ryan McLeod stated the resurfacing should last 4-6 years, depending on how much the courts get used. This project is long overdue.

Councilmember Broderick stated the reason I ask that question is because maybe we should allow some money in the budget each year so we can take care of it in the future.

City Manager Jeff Molinari stated we have resources in the budget dedicated to the upkeep of the tennis courts.

Councilmember Bridge asked is October 15th the end of school tennis season?

City Manager Jeff Molinari stated yes, it is.

Councilmember Bridge asked do we know if the USTA has a calendar of matches.

Ms. Ann Carmichael stated we have talked about this. If we need to play our matches away, we will make it work till the courts are done.

Motion: Councilmember Broderick; Seconded by Councilmember Pryor

Discussion: None

Carried: All ayes

2. Consideration of a request to contract for maintenance of the medians on Jefferies Boulevard and Sniders Highway and maintenance of landscaping at Exit 53 and Exit 57 interchanges on I-95.

City Manager Jeff Molinari stated Mr. Mayor and members of City Council you have in your agenda packet a memo and supporting documentation for a proposed contract for landscape maintenance of the I-95 Business Loop and the maintenance of the interchanges at exits 53 and 57 on I-95. We have a low bid from Palmetto Landscaping based out of Summerville, SC in the amount of \$63,382.00. The fiscal year 2023-2024 Parks Department budget allocated \$65,000 for contractual services. City staff recommends awarding

the contract to Palmetto Landscaping in the amount of \$63,382 to be paid by the Parks Department. As we have improved the look of the city it has led to more work for our Parks Department. We would like to maximize the resources we have in house, but also contract out some things. We went through this very thoroughly and it was Jonathan's recommendation that the interchanges and medians are the most labor intense. He would like to contract that out and would allow us to spend more time on the Wildlife Sanctuary and Ireland Creek.

Councilmember Brown asked did you check the companies' references.

Assistant City Manager Ryan McLeod said yes, we did.

Councilmember Bridge asked the roadside areas that lead up to the exchanges is that the city's responsibility or is that DOT?

City Manager Jeff Molinari stated that is DOT's responsibility.

Assistant City Manager Ryan McLeod stated we do not have any equipment that can go up that steep of an angle. This is usually an ongoing conversation with DOT to see if we can work together.

Motion: Councilmember Broderick; Seconded by Councilmember Bridge

Discussion: None

Carried: All ayes

3. Consideration of Work Order No. 6 from WSP to conduct a boundary survey, topographic survey and underground utilities survey, and initial project coordination for the Ireland Creek Greenway Park and Stream Restoration project.

City Manager Jeff Molinari stated Mr. Mayor and members of City Council you have in your agenda packet a memo and supporting documentation with a proposal from our engineer WSP to complete the boundary survey, underground survey, and initial project coordination for the Ireland Creek Greenway and Stream Restoration in the amount of \$139,9555. This will be paid from the Capital Project Sales Tax. We were awarded ten million dollars for that project. Staff recommends approval of this work order.

4. Recognition of Finance Director, Amy Risher, and the Finance Department for receiving the GFOA Certificate of Achievement for Excellence in Financial Reporting for FY 2021-2022 (11th consecutive year).

City Manager Jeff Molinari stated Mr. Mayor and members of City Council I am very pleased to recognize our Finance Director and our Finance Department for receiving the GFOA certificate for the fiscal year ending June 30, 2022. This is the 11th consecutive year that Amy and the Finance Department have received this award. This is a testament to the outstanding work that Amy and her staff do daily.

A motion was made to go into Executive Session by Councilmember Brown, seconded by Councilmember Fishburne. Mayor Young explained that City Council would be going into Executive Session to discuss Contractual Matters – Project Suds, Provision of Water/Sewer to Northwest Waltherboro, Receipt of Legal Advice – Water/Sewer Capacity Fee, and Potential purchase of property.

Executive Session:

1. Contractual Matter – Project Suds.
2. Provision of Water/Sewer Service to Northwest Waltherboro.
3. Receipt of Legal Advice – Water/Sewer Capacity Fee.
4. Potential purchase of property.

A motion to come out of Executive Session was made by Councilmember Brown, seconded by Councilmember Pryor. All in favor, motion carries.

A motion to authorize the City Manager to sign the task order from Hybrid Engineering in the amount of \$323,063, was made by Councilmember Broderick, seconded by Councilmember Fishburne. All in favor, motion carries.

There being no further business to consider, a motion to adjourn was made by Councilmember Broderick, seconded by Councilmember Bridge, and passed unanimously. Mayor Young adjourned the meeting at 7:22 P.M. Notice of the meeting was distributed with the agenda packets, to all local media, posted on City Hall bulletin board and posted on the City's website at least twenty-four hours prior to the meeting.

Respectfully,

Adrienne Nettles
City Clerk

Walterboro City Council

City Hall

October 3, 2023

Minutes

A Regular Meeting of Walterboro City Council was held at City Hall on Tuesday, October 3, 2023, at 6:15 P.M., with Mayor Bill Young presiding.

Present: Joined in the meeting were: Mayor Bill Young. Councilmembers: Carl Brown, Judy Bridge, Paul Siegel, James Broderick, Greg Pryor, and Ladson Fishburne. City Manager Jeff Molinari, Assistant City Manager Ryan McLeod, City Clerk Adrienne Nettles, Finance Director Amy Risher, Utilities Director Wayne Crosby, Deputy Police Chief Kevin Martin, and Bond Counsel Lawrence Flynn (Pope Flynn, LLC).

Call to Order:

With the above-mentioned Councilmembers present, Mayor Young called the meeting to order, and invited everyone to join in as he gave the invocation. Councilmember Pryor led the Pledge of Allegiance to our flag.

Public Input on Agenda Items:

Mr. Stewart McAdoo stated I come here as a citizen of the community of Walterboro. I am not sure if this is the proper forum, but I was told to come here to express my concerns. I live on Carn Street and the traffic that goes down that road can be dangerous at times. I am not sure if we can do anything about the speeding issues. The through light is always green and I am not sure if we can turn that red.

Mayor Young stated normally we limit comments to those items that are on the agenda. We will welcome your comments, and we will talk with the City Manager and Chief of Police about looking into that situation.

Public Hearing:

1. **Ordinance # 2023-11**, AN ORDINANCE TO AMEND THE ZONING MAP OF THE CITY OF WALTERBORO, SOUTH CAROLINA, TO PROVIDE FOR CHANGES IN THE ZONING DISTRICTS OF THE CITY OF WALTERBORO BY CHANGING THE ZONING CLASSIFICATION OF ONE PARCEL OF LAND DESIGNATED AS TMS # 163-15-00-062 FROM INDUSTRIAL DISTRICT (ID) TO MEDIUM DENSITY RESIDENTIAL (MDR) (Second and Final Reading).

City Manager Jeff Molinari stated Mr. Mayor and members of City Council you have in your agenda packet an ordinance and map requesting a rezoning of a parcel on Sanders Street from Industrial District to Medium Density Residential. This application was reviewed by the Planning Commission on August 15, 2023, and they unanimously recommended changing the zoning from Industrial District to Medium Density Residential.

2. **Ordinance # 2023-12**, AN ORDINANCE PURSUANT TO TITLE 5, CHAPTER 3, SECTION 5-3-150, SUBSECTION 3, OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED, TO ANNEX AN AREA, KNOWN AS TMS # 147-15-00-009 INTO THE CITY OF WALTERBORO, A SOUTH CAROLINA MUNICIPAL CORPORATION (Second and Final Reading).

City Manager Jeff Molinari stated Mr. Mayor and members of City of Council you have in your agenda packet an ordinance as well as an annexation petition and map. This is the Genesis Health Care property. I will point out that between 1st reading and Public Hearing, the Planning Commission met on September 26, 2023. They conducted a public hearing and unanimously recommended a zoning classification of Highway Commercial District for that parcel which is consistent with the zoning of the surrounding parcels.

Old Business:

1. **Ordinance # 2023-11**, AN ORDINANCE TO AMEND THE ZONING MAP OF THE CITY OF WALTERBORO, SOUTH CAROLINA, TO PROVIDE FOR CHANGES IN THE ZONING DISTRICTS OF THE CITY OF WALTERBORO BY CHANGING THE ZONING CLASSIFICATION OF ONE PARCEL OF LAND DESIGNATED AS TMS # 163-15-00-062 FROM INDUSTRIAL DISTRICT (ID) TO MEDIUM DENSITY RESIDENTIAL (MDR) (Second and Final Reading).

Motion: Councilmember Broderick; Seconded by Councilmember Brown

Discussion: None

Carried: All ayes

2. **Ordinance # 2023-12**, AN ORDINANCE PURSUANT TO TITLE 5, CHAPTER 3, SECTION 5-3-150, SUBSECTION 3, OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED, TO ANNEX AN AREA, KNOWN AS TMS # 147-15-00-009 INTO THE CITY OF WALTERBORO, A SOUTH CAROLINA MUNICIPAL CORPORATION (Second and Final Reading).

Motion: Councilmember Siegel; Seconded by Councilmember Bridge

Discussion: None

Carried: All ayes

New Business:

1. **Ordinance # 2023-13**, AN ORDINANCE OF THE CITY OF WALTERBORO, SOUTH CAROLINA IMPOSING WATER AND SEWER CAPACITY FEES, AUTHORIZING POLICIES ASSOCIATED THEREWITH, AND AMENDING THE CITY'S FISCAL YEAR 2023-2024 BUDGET FOR THE WATER AND SEWER SYSTEM; AND OTHER MATTERS RELATED THERETO (Introduction and First Reading).

City Manager Jeff Molinari stated Mr. Mayor and members of City Council, you have in your agenda packet an ordinance and report from Willdan Financial Services to put into place a water and sewer capacity fee. As Council recalls we had a work session on August 17, 2023, where Willdan went through the mechanics of those proposed fees. We have our Bond Counsel, Lawrence Flynn here tonight, who is going to walk through that ordinance with you.

Lawrence Flynn stated the reason Jeff called me in on this is because we have done several capacity fee arrangements. The approval of the ordinance matches up with the report done by Willdan. State law says that municipal governments are authorized to enact impact fees. There is a stand-alone statute that governs development impact fees for service. There is an express exemption in the Development Impact Fee statute that exempts water and sewer impact fees from that authorization, so long as you have a qualified Capital Improvement Plan and report prepared by a qualified rate consultant. This is required to be done by ordinance and you must hold a public hearing. We went through the process, and the report lays out the

rational justification for implementing capacity fees. They are referred to as impact fees or capacity fees or development impact fees. The reason for this is because the city is going through the process of doing some expansion of their existing sewer treatment plant. You received a fair amount of grant money for that authorization. You also have realized that it is expensive to add utility capacity.

The thing a lot of people have started to realize is that the secret is out, and a lot of people are starting to move to South Carolina. Your ancestral rate payers who have built the system and who have historically spent the money to put the lines in the ground and build the existing treatment that you have in place now have built this over several generations. So, the idea of someone new coming into the community and receiving the benefits of all that infrastructure that has been put in place historically through time, without having to pay their proportional share of the initial cost of building that facility, not to mention the cost of having to expand that facility to support the growth that is coming to the community. The mathematical fee is in the report that was done by Willdan. Based on that justification they can allocate the value of the water system and distribution system as well as the sewer system. Observably you cannot charge those new customers for the grant dollars that you are receiving from EDA. For the debt service in the bonds that you have issued to fund, that debt you will make up. The debt service will have to be paid back through your rates. Those new customers are going to pay for those costs. The depreciation book value of your system and the new improvements are not going to be funded and should be recovered by a rate method. Willdan has identified the cost of a gallon of treated water and a gallon of treated wastewater. Based on that, they identified the general cost of a new development. This would be done with a 3 quarter or $5/8^{\text{th}}$ of an inch water line. That typically will be about 300 gallons per month. They take the mathematical calculation of a gallon of water capacity and a gallon of sewer capacity, multiply that by what they assume to be the average use for a new user, and you will apply that cost back. There is an AWWA standard for how they came up with the cost. A couple additional items we want to make sure we address since we are putting this impact fees in mid-cycle. We are several months into your fiscal year, and any money you collect with the implementation of this fee will have an immediate effect as of the date. Now this money can only be spent under restricted purposes. We have set up some policies that identify the new users as they come in. There is a whole state law on how you implement those fees. We have reviewed the City's Code of Ordinances, and we are not going to codify the rate, we are going to approve what you have in the annual budget.

Councilmember Broderick asked, just to clarify, the money for this year will accumulate in the Enterprise Fund?

Lawerence Flynn stated, yes it will.

Councilmember Brown stated, you and Willdan have done a great job at narrowing this down for us.

Motion: Councilmember Broderick; Seconded by Councilmembers Brown

Discussion: None

Carried: All ayes

2. Consideration of a request from downtown merchants to continue First Thursday activities through 2024 under the same terms approved for 2023.

A gentleman with the Downtown Merchants stated that this request is to continue First Thursday through 2024. We have as a group increased our investments in marketing and advertising and we hope to grow this event. We also ask that we have permission to place signs on city property and in different places.

Mayor Young stated the City Manager can approve the use of signs 30 days before an event. He also stated that we will go ahead and approve the same conditions that we have been operating under since 2023.

City Manager Jeff Molinari stated I have the email from Heather Berry that states all the specifics.

Councilmember Broderick asked do you have the porter potties still taking care of?

Rilee stated it is hit or miss. All the merchants have agreed that our doors are open to the public.

Motion: Councilmember Bridge; Seconded by Councilmember Broderick

Discussion: None

Carried: All ayes

3. Consideration of a request from Anthony Herndon to conduct holiday carriage tours December 19-23, 2023.

Anthony Herndon stated we want to do exactly what we did last year. We will set up right across from City Hall. We will go down Hampton Street. We will do a judging contest, so that will encourage people to decorate along the route.

Motion: Councilmember Pryor; Seconded by Councilmember Bridge

Discussion: None

Carried: All ayes

4. Consideration of a parade permit request from Brandon Russell – Marching for Mia, October 7, 2023, at 3:30 PM.

City Manager Jeff Molinari stated Mr. Mayor and members of Council I will give you some background information on this. Chief Marvin met with the organizer, and this is not going to entail closing off any streets. It will be a rolling procession down East Washington Street, with is ending at Pinckney Park. The Police Department can easily handle this.

Motion: Councilmember Broderick; Seconded by Councilmember Pryor

Discussion: None

Carried: All ayes

5. Consideration of rescheduling November 7, 2023, Regular City Council Meeting (Election Day).

Motion: Councilmember Pryor; Seconded by Councilmember Bridge

Discussion: None

Carries: All ayes

Committee Report:

1. City Improvement Committee – Councilmember Ladson Fishburne.

Councilmember Fishburn stated I am reporting tonight on behalf of the City Improvement Committee. We meet monthly to discuss code enforcement activities and goals set by the committee. Recently we had an update by staff, where they have implemented new procedures and an Excel file where they can track the

properties we have discussed. This tool will help us keep up with the properties and progress we are making. There has been a new focus on letters of notice and citations. Currently there are twelve (12) citations that will be heard in Municipal Court in October. The total number of citations for August and September is fifteen (15). Three (3) of those citations were dismissed since the properties were improved prior to court. I would also like to thank Jeff and Ryan for the great job they have done in taking on this role.

Councilmember Brown stated, since this has taken place properties are being cleaned up.

Councilmember Pryor stated, I would also like to say thank you. If we are going to take Walterboro to the next level these issues must be addressed.

Ladson stated our next meeting will be October 31, 2023.

City Manager's Report:

1. Request to purchase new police administrative vehicle (Memo attached)

City Manager Jeff Molinari stated Mr. Mayor and members of City Council you have in your agenda packet a memo and supporting documentation from Police Chief Wade Marvin to purchase a new Police Administrative vehicle. The fiscal year 2023-2024 Police Department budget allocated \$127,040 for the purchase of new police vehicles. I will also mention that we included in the budget getting grant money from USDA. We have not received confirmation of any USDA grant money. We must purchase new police vehicles every year. Police vehicles are becoming increasingly difficult to find and the UAW strike is not helping. Chief Marvin came across a deal to purchase a 2023 Chevy Tahoe PPV from Love Chevrolet. Staff recommends that we purchase that vehicle in the amount of \$39,898.00.

Motion: Councilmember Brown; Seconded by Councilmember Pryor

Discussion: None

Carried: All ayes

2. Request to approve contract for the Gadson Loop Water Upgrade Project (Memo attached).

City Manager Jeff Molinari stated Mr. Mayor and members of City Council you have in your agenda packet a memo and supporting documentation from Utilities Director Wayne Crosby on the Gadsden Loop Water Upgrade Project. This is a CDBG project to upgrade the water distribution system along the Gadsden Loop and surrounding areas. It will consist of new 6-inch water mains, over 5,036 linear feet to replace existing small diameter water mains. There will be 7 new fire hydrants, and valves. The city received bids from 5 contractors. Hybrid Engineer the City's engineer has evaluated the construction experience of the bidders and found that the low bidder Corbett and Son Construction, LLC out of Greenwood, SC has provided evidence of both experience and resources that allow them to complete the project. Staff recommends awarding the contract to Corbett and Son Construction, LLC out of Greenwood, SC in the amount of \$622,285.00 contingent upon review and approval from the South Carolina Department of Commerce. The city received a CBDG grant in the amount of \$783,068 for construction of the project.

Motion: Councilmember Broderick; Seconded Councilmember Pryor

Discussion: None

Carried: All ayes

A motion was made to go into Executive Session by Councilmember Brown, seconded by Councilmember Fishburne. Mayor Young explained that the City Council would be going into Executive Session to discuss Potential Purchase of Property, Personnel Matters – Main Street Manager/Tourism Director Search and Municipal Court. Also, to discuss Provision of sewer service to Northwest Waltherboro, and Contractual Matter – Community Garden.

Executive Session:

1. Potential Purchase of Property
2. Personnel Matters:
 - a. Main Street Manager/Tourism Director Search
 - b. Municipal Court
3. Provision of sewer service to Northwest Waltherboro.
4. Contractual Matter- Community Garden

A motion to come out of Executive Session was made by Councilmember Broderick, seconded by Councilmember Brown, all in favor motion carried.

A motion to approve the purchase of TMS # 163-11-00-245 for \$12,000 plus closing costs from Carroll Griffin was made by Councilmember Brown, seconded by Councilmember Broderick, all in favor motion carries.

There being no further business to consider, a motion to adjourn was made by Councilmember Bridge, seconded by Councilmember Fishburne, and passed unanimously. Mayor Young adjourned the meeting at 7:49 P.M. Notice of the meeting was distributed with the agenda packets, to all local media, posted on City Hall bulletin board and posted in the City's website at least twenty – four hours prior to the meeting.

Respectfully,

Adrienne Nettles
City Clerk

AN ORDINANCE 2023-14

**AMENDING THE BUSINESS LICENSE ORDINANCE OF THE CITY OF WALTERBORO TO UPDATE
THE CLASS SCHEDULE AS REQUIRED BY ACT 176 OF 2020.**

WHEREAS, the City of Walterboro (the "Municipality") is authorized by S.C. Code Section 5-7-30 and Title 6, Chapter 1, Article 3 to impose a business license tax on gross income;

WHEREAS, by Act No. 176 of 2020, known as the South Carolina Business License Tax Standardization Act and codified at S.C. Code Sections 6-1-400 to -420 (the "Standardization Act"), the South Carolina General Assembly imposed additional requirements and conditions on the administration of business license taxes;

WHEREAS, the Standardization Act requires that by December thirty-first of every odd year, each municipality levying a business license tax must adopt, by ordinance, the latest Standardized Business License Class Schedule as recommended by the Municipal Association of South Carolina (the "Association") and adopted by the Director of the Revenue and Fiscal Affairs Office;

WHEREAS, following the enactment of the Standardization Act, the Municipality enacted Ordinance No. 2021-06 on July 6, 2021, in order to comply with the requirements of the Standardization Act (the "Current Business License Ordinance");

WHEREAS, the City Council of the Municipality (the "Council") now wishes to amend the Current Business License Ordinance to adopt the latest Standardized Business License Class Schedule, as required by the Standardization Act, and to make other minor amendments as recommended by the Association;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Walterboro, as follows:

SECTION 1. Amendments to Appendix A. Appendix A to the Current Business License Ordinance, the "Business License Rate Schedule," is hereby amended as follows:

- (a) Class 8.3 is hereby amended by deleting the NAICS Codes and replacing them with NAICS 517111, 517112, 517122 – Telephone Companies.
- (b) Class 8.6 is hereby amended and restated in its entirety to read as follows: "**8.6 NAICS Code Varies – Billiard or Pool Tables**. A business that offers the use of billiard or pool tables shall be subject to business license taxation under its natural class for all gross income of the business excluding the gross income attributable to the billiard or pool tables. In addition, the billiard or pool tables shall require their own separate business licenses pursuant to SC Code § 12-21-2746 and shall be subject to a license tax of \$5.00 per table measuring less than 3½ feet wide and 7 feet long, and \$12.50 per table longer than that."

- (c) The NAICS codes corresponding to Classes 9.41 and 9.42 have been eliminated. Businesses that were previously classified into 9.41 or 9.42 shall be required to apply and pay for a business license per Ordinance 2023-15.

SECTION 2. Amendments to Appendix B. Appendix B to the Current Business License Ordinance, the “Business License Class Schedule,” is hereby amended as follows:

- (a) Classes 1 through 8 in Appendix B to the Current Business License Ordinance, the “Business License Class Schedule,” are hereby amended and restated as set forth on the attached Exhibit A.
- (b) Class 9 in Appendix B to the Current Business License Ordinance, the “Business License Class Schedule,” shall remain in full force and effect as set forth in the Current Business License Ordinance.
- (c) The NAICS codes corresponding to Classes 9.41 and 9.42 have been eliminated. Businesses that were previously classified into 9.41 or 9.42 shall be required to apply and pay for a business license per Ordinance 2023-15.

SECTION 3. Repealer, Effective Date. All ordinances in conflict with this ordinance are hereby repealed. This ordinance shall be effective with respect to the business license year beginning on May 1, 2024.

ENACTED IN REGULAR MEETING, this 5th day of December, 2023.

William T. Young Jr., Mayor

ATTEST:

Adrienne M. Nettles, City Clerk

First reading: November 14, 2023

Public Hearing: December 5, 2023

Final reading: December 5, 2023

**Exhibit A: Amendment to Classes 1 – 8 in Appendix B of the
Current Business License Ordinance**

**APPENDIX B
Classes 1 – 8: Business License Class Schedule by NAICS Codes**

NAICS Sector/Subsector	Industry Sector	Class
11	Agriculture, forestry, hunting and fishing	1
21	Mining	2
22	Utilities	1
31 - 33	Manufacturing	3
42	Wholesale trade	1
44 - 45	Retail trade	1
48 - 49	Transportation and warehousing	1
51	Information	4
52	Finance and insurance	7
53	Real estate and rental and leasing	7
54	Professional, scientific, and technical services	5
55	Management of companies	7
56	Administrative and support and waste management and remediation services	3
61	Educational services	3
62	Health care and social assistance	4
71	Arts, entertainment, and recreation	3
721	Accommodation	1
722	Food services and drinking places	2
81	Other services	4
Class 8	Subclasses	
23	Construction	8.1
482	Rail Transportation	8.2
517111	Wired Telecommunications Carriers	8.3
517112	Wireless Telecommunications Carriers (except Satellite)	8.3
517122	Agents for Wireless Telecommunications Services	8.3
5241	Insurance Carriers	8.4
5242	Insurance Brokers for non-admitted Insurance Carriers	8.4
713120	Amusement Parks and Arcades	8.51
713290	Nonpayout Amusement Machines	8.52
713990	All Other Amusement and Recreational Industries (pool tables)	8.6

2023 Class Schedule is based on a three-year average (2017 - 2019) of IRS statistical data.

ORDINANCE # 2023-15

AN ORDINANCE TO AMEND CHAPTER 8 - BUSINESS AND BUSINESS REGULATIONS, ARTICLE III – SOLICITING; PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS AS REQUIRED BY ACT 176 OF 2020

SECTION I

Chapter 13, Article I of the Code of Ordinances of the City of Walterboro, shall be amended by striking the Title thereof and striking Sections 13.101 through 13.104 in their entirety and substituting therefor the following:

ARTICLE I. SOLICITING - PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

DIVISION 1. GENERALLY

Sec. 13-101. Solicitation of occupants of vehicles.

No solicitation shall be permitted of any occupants of vehicles being operated on any public right-of-way, while such vehicles are either moving, standing or parked.

Sec. 13-102. Records of retailers.

A transient business or temporary business shall keep records in accordance with S.C. Code 1976, § 40-41-710.

DIVISION 2. PEDDLERS*

*State law references: County Licensing of Peddlers, S.C. Code 1976, §40-41-10 et seq.

Subdivision I. In General

Sec. 13-110. Definitions.

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

Peddler means any individual, whether a resident of the city or not, traveling by foot, wagon, automobile, motor truck or any other type of conveyance, from place to place, from house to house, or from street to street, selling, taking or attempting to take orders for the sale of goods, wares and merchandise, or personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not. Any business operating within the city with one or more salespersons or one or more motor vehicles or other type of conveyance shall acquire a permit for each salesperson. This definition provides for such activity on either a short-term or long-term basis within the city and applies to any such mobile sales of goods or services, whether or not operated out of a permanent business location in the city.

Sec. 13-111. Exemption for charitable, educational or religious organizations.

The provisions of this division shall not apply to solicitations, sales or distributions made by charitable, educational or religious organizations.

Sec. 13-112. Entering posted premises.

It shall be unlawful for any peddler to enter upon any private premises when such premises are posted with a sign stating "No Peddlers Allowed" or "No Solicitations Allowed" or other words to such effect.

Sec. 13-113. Refusing to leave premises.

Any peddler who enters upon premises owned, leased or rented by another and who refuses to leave such premises after having been notified by the owner or occupant thereof, or his agent, to leave the premises and not return shall be deemed guilty of a misdemeanor.

Sec. 13-114. Misrepresentation regarding goods or services.

It shall be unlawful for any peddler to make false or fraudulent statements concerning the quality of his goods, wares, merchandise or services for the purpose of inducing another to purchase the goods, wares, merchandise or services.

Sec. 13-115. Hours of operation.

It shall be unlawful for any peddler to engage in the business of peddling within the city between the hours of one-half hour before sunset and 9:00 a.m. the following morning, or at any time on Sundays, except by specific appointment with or invitation from the prospective customer.

Sec. 13-116. Mobile vendors.

- (a) This section shall apply to permits issued to vend from any vehicle on public rights-of-way within the city. Such vendors must remain mobile and not violate the intent of the zoning regulations by remaining for extended periods of time at one location or in one neighborhood.
- (b) Such permitted vendors shall be subject to the following regulations:
 - (1) No vendor shall remain stationary on a public street or right-of-way more than thirty (30) minutes in any one location conducting business. After that time such vendor must move at least one block or five hundred (500) feet, whichever is greater, and shall not return to the same block or location within the next six-hour period. No location shall be used more than twice in any one day.
 - (2) Each vendor must maintain a litter receptacle available for patrons' use. Excessive litter caused by product packaging may result in revocation of this permit.

- (3) The permittee must provide to the city, at time of application for a permit, proof of public liability insurance in the currently required amount as set by the city manager. Failure to maintain this insurance will result in immediate revocation of the permit.
- (4) No such vendor shall sound any device which produces an offensive or loud noise to attract customers, and vendors shall not use any public address system on the vehicle to broadcast or advertise products. A bell or musical recording may be sounded for a period not to exceed five minutes to announce the arrival of the vehicle at each location.
- (5) Such unit must be self-contained and not utilize any outside power source.

Subdivision II. Permit

Sec. 13-120. Required.

It shall be unlawful for any person to engage in business as a peddler within the city without first obtaining a permit to do so.

Sec. 13-121. Contents of application.

Applicants for a permit under this subdivision shall file with the city finance director a sworn application in writing, in duplicate, on a form to be furnished by the city finance director, which shall give the following information:

- (1) The name and a description of the applicant;
- (2) The permanent home address and full local address of the applicant;
- (3) A brief description of the nature of the business and the goods to be sold;
- (4) If employed, the name and address of the employer, together with credentials establishing the exact relationship;
- (5) The length of time for which the right to do business is desired;
- (6) The place where the goods or property proposed to be sold, or for which orders are taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time the application is filed, and the proposed method of delivery;
- (7) A photograph of the applicant taken within sixty (60) days immediately prior to the date of filing the application, which photograph shall be two inches by two inches in size, showing the head and shoulders of the applicant in a clear and distinguishing manner;

- (8) A statement as to whether or not the applicant has been convicted of any crime or misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor;
- (9) Whether the applicant, upon any sale or order, shall demand, accept or receive payment or a deposit of money in advance of final delivery;
- (10) The last five municipalities wherein the applicant has worked before coming to this city; and
- (11) Such other relevant information as may be required for the investigation of the applicant.

Sec. 13-122. Presentation of driver's license.

At the time of filing his application for a permit required by this subdivision, the applicant shall present to the city finance director or his designee his driver's license, if he has one, or if he does not have one, a State issued picture identification card, or if he has neither, another form of picture identification deemed acceptable by the city finance director.

Sec. 13-123. Application fee.

At the time of filing an application for a permit required by this subdivision, a fee as fixed from time to time by the council shall be paid to the city finance director to cover the cost of investigating the facts stated therein.

Sec. 13-124. Submitting false information.

It shall be unlawful for any person to give any false or misleading information in connection with his application for a permit required by this subdivision.

Sec. 13-125. Fingerprinting of applicant.

At the time of making application for a permit required by this subdivision, the applicant shall submit to fingerprinting by the chief of police or his designee.

Sec. 13-126. Permit fee.

Before any permit shall be issued under the provisions of this subdivision, the applicant therefor shall pay a fee, based upon the duration he desires to engage in business in the city, in accordance with a schedule as fixed from time to time by the council.

Sec. 13-127. Bond.

- (a) Every applicant for a permit under this subdivision shall file with the city a surety bond running to the city in the currently required amount, with surety acceptable to and approved by the city finance director, conditioned that the applicant shall comply fully

with all the applicable provisions of this Code, the ordinances of the city and state laws regulating and concerning the business of peddling and guaranteeing to any citizen of the city that all money paid as a down payment will be accounted for and applied according to the representations of the peddler, and further guaranteeing to any citizen of the city doing business with such peddler that the property purchased will be delivered according to the representations of such peddler. Action on such bond may be brought in the name of the city to the use or benefit of any aggrieved person(s).

- (b) If the applicant is an agent, employee, canvasser or solicitor of a corporation authorized to do business in this state or registered under the Fictitious Name Act of the state, such corporation or fictitiously named business may furnish one bond in the currently required amount for any and all of its agents, employees, canvassers or solicitors.

Sec. 13-128. Investigation of applicant.

Upon receipt of an application for a permit required by this subdivision, the original shall be referred to the chief of police, who shall cause such investigation of the applicant's business and moral character to be made as he deems necessary for the protection of the public good. The chief of police shall complete his investigation within one week of receiving the application.

Sec. 13-129. Denial.

If, as a result of investigation, the character or business responsibility of the applicant for a permit under this subdivision is found to be unsatisfactory, the chief of police shall endorse on the application his disapproval and his reasons for disapproval, and return the application to the city finance director, who shall notify the applicant that his application is disapproved and that no permit shall be issued.

Sec. 13-130. Issuance.

If, as a result of investigation, the character and business responsibility of the applicant for a permit under this subdivision are found to be satisfactory, the chief of police shall endorse on the application his approval, execute a permit addressed to the applicant for the carrying on of the business applied for, and return the permit along with the application to the city finance director, who shall, upon payment of the required fee, deliver the permit to the applicant. No permit shall be issued until the expiration of sixty (60) days from the written application for the permit is submitted.

Sec. 13-131. Contents.

Each permit issued under this subdivision shall contain the signature and seal of the issuing officer and shall show the name, address and photograph of the permittee, the class of permit issued and the kind of goods to be sold thereunder, the amount of fee paid, the date of issuance, and the length of time the permit shall be operative, as well as the permit number and other identifying description of any vehicle used in such business.

Sec. 13-132. Records.

The city finance director shall keep a permanent record of all permits issued under this subdivision.

Sec. 13-133. Display.

Every peddler having a permit issued under the provisions of this subdivision and doing business within the city shall display his permit upon the request of any person, and failure to do so shall be deemed a misdemeanor.

Sec. 13-134. Term.

Every permit issued under the provisions of this subdivision shall be valid for the period of time stated therein, but in no event shall any such permit be issued for a period of time in excess of twelve (12) months.

Sec. 13-135. Revocation.

Any permit issued under the provisions of this subdivision may be revoked by the city manager for the violation by the permittee of any applicable provision of this Code, state or federal law, or city ordinance, rule or regulation.

Sec. 13-140. Violations.

Any violation of the terms and limits set out in the sworn application which the peddler fills out shall be a misdemeanor. Violations shall include, but not be limited to, operating in places other than those stated on the application, operation on private property without written permission from the appropriate party, operation beyond the time limits stated in such written application, and operation on any public right-of-way.

DIVISION 3. TRANSIENT MERCHANTS

Sec. 13-150. Definitions.

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

Transient merchant means any person who sells or purchases goods, wares, merchandise, or anything of value, and who for himself or as an agent for another, rents, erects, purchases, uses or occupies any room, building or other structure or place, including but not limited to parking lots, shopping centers, sidewalks or any other public area, for the purpose of purchasing, selling or offering for sale anything of value at such location without the intention of establishing a permanent business thereat.

Sec. 13-151. Permit required; fee; exceptions.

- (a) Each transient merchant shall obtain a city transient merchant's permit prior to offering goods, wares, merchandise or anything of value for sale. The fee for the permit shall be fixed from time to time by the city council and is set forth in the fee schedule adopted by council.
- (b) It is unlawful for any person to engage in any activity described in 13-151 (a) herein in any area of the City not zoned Industrial.
- (c) The provisions of this section shall not apply to:
 - (1) Solicitations, sales or distributions by charitable, educational or religious organizations and other eleemosynary organizations exempt from federal income tax under Internal Revenue Code section 501(c), or persons representing such organizations. Nor shall it apply to vendors associated with the Rice Festival, Farmers Market, or any other festival or event sanctioned by the City; provided however, that the organization in charge of said event approves the vendor.
 - (2) Solicitations, sales or distribution of produce grown or prepared by the person displaying them, provided such person certifies to and agrees that his tax records may be audited to verify the certification.

Sec. 13-152. Application for permit.

Applicants for a permit under this division shall file a written sworn application with the city finance director showing:

- (1) The name of the person having the management or supervision of the applicant's business during the time that it is proposed that it will be carried on in the city, the local address of such person while engaged in such business, the permanent address of such person, and the capacity in which such person will act (that is, whether as proprietor, agent or otherwise), and the name and address of the person for whose account the business will be carried on, if any.
- (2) The place in the city where the applicant proposes to carry on business, and the length of time during which it is proposed that the business shall be conducted. The hours of operation shall not include the hours from one-half hour before sunset until 9:00 a.m.
- (3) A statement of the nature, character and quality of the goods, wares or merchandise to be sold or offered for sale by the applicant in the city.
- (4) Whether or not the persons having the management or supervision of the applicant's business have been convicted of a crime, misdemeanor or the violation of any municipal ordinance, the nature of such offense and the punishment assessed therefor.

- (5) Written permission from the manager, supervisor, owner or other appropriate officer or agent of any place of business or private property on which the transient merchant anticipates doing business. The written permission from such officer or agent shall spell out the times and location of such permitted activity.
- (6) No permit shall be issued until the expiration of sixty (60) days from the date the written application for the permit is submitted.

Sec. 13-153. Violations.

Any violation of the terms and limits set out in the sworn application which the transient merchant fills out shall be a misdemeanor. Violations shall include, but not be limited to, operating in places other than those stated on the application, operation on private property without written permission from the appropriate party, operation beyond the time limits stated in such written application, and operation on any public right-of-way.

DIVISION 4. DENIAL, REVOCATION, HEARING AND APPEALS

Sec. 13-180 Notice of denial or revocation; hearing; appeals.

- (a) Notice. Where grounds exist to deny or revoke a permit under this article, the city financial officer shall provide written notice to the permittee or applicant setting forth the grounds, revoking the permit or denying the application effective 45 days from the date of the notice, and advising the permittee or applicant of appeal procedures.
- (b) Hearing. The applicant or permittee may, within five working days from the date of the notice, request a hearing to contest the grounds or request an extension of time to cease the permitted activity. The hearing shall be held within 15 days unless additional time is allowed by the city manager. The hearing officer shall be a city judge or supervisory employee designated by the city manager. The permittee or applicant may be represented by an attorney and may present witnesses, affidavits and any relevant documentary evidence. The permittee or applicant may view and copy any documentary evidence prior to the hearing. Formal rules of evidence shall not apply. The hearing officer shall prepare a summarized report of the hearing, to include his findings and recommendations, which shall be submitted to the city manager, who shall take final administrative action, notifying the permittee or applicant in writing. Unless extended in writing by the city manager, any revocation is effective 45 days from the date of the original notice to the or permittee.
- (c) Appeals. An appeal, which shall not stay the revocation, may be taken upon the written record to the city council. Notice of such appeal shall be served upon the city clerk within five days from the final action by the city manager, specifying the grounds for the appeal and the action requested. The record shall consist of the report of the hearing officer, any documentary evidence presented at the hearing, and the written appeal. The council may, in its discretion, hear oral arguments on the appeal.

SECTION II

The following fee schedule is adopted:

Peddlers (Door to Door)	\$250 for the first \$2,000 in sales and \$3.10/\$1,000 over the first \$2,000 in sales (not more than two sales periods of not more than three days each per year). Separate license required for each sale period.
Transient Merchants (Restricted Area)	\$250 for the first \$2,000 in sales and \$3.10/\$1,000 over the first \$2,000 in sales (more than two sales periods of more than three days each per year)

SECTION III

This ordinance shall take effect after final adoption by City Council.

ADOPTED BY THE MAYOR AND CITY COUNCIL, IN COUNCIL ASSEMBLED, this 5th day of December, 2023.

William T. Young, Jr., Mayor

ATTEST:

Adrienne M. Nettles
City Clerk

First Reading: November 14, 2023

Public Hearing: December 5, 2023

Second Reading: December 5, 2023

ORDINANCE # 2023-15

AN ORDINANCE TO AMEND CHAPTER 8 - BUSINESS AND BUSINESS REGULATIONS, ARTICLE III – SOLICITING; PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS AS REQUIRED BY ACT 176 OF 2020

SECTION I

Chapter 13, Article I of the Code of Ordinances of the City of Walterboro, shall be amended by striking the Title thereof and striking Sections 13.101 through 13.104 in their entirety and substituting therefor the following:

ARTICLE I. SOLICITING - PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

DIVISION 1. GENERALLY

Sec. 13-101. Solicitation of occupants of vehicles.

No solicitation shall be permitted of any occupants of vehicles being operated on any public right-of-way, while such vehicles are either moving, standing or parked.

Sec. 13-102. Records of retailers.

A transient business or temporary business shall keep records in accordance with S.C. Code 1976, § 40-41-710.

DIVISION 2. PEDDLERS*

*State law references: County Licensing of Peddlers, S.C. Code 1976, §40-41-10 et seq.

Subdivision I. In General

Sec. 13-110. Definitions.

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

Peddler means any individual, whether a resident of the city or not, traveling by foot, wagon, automobile, motor truck or any other type of conveyance, from place to place, from house to house, or from street to street, selling, taking or attempting to take orders for the sale of goods, wares and merchandise, or personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not. Any business operating within the city with one or more salespersons or one or more motor vehicles or other type of conveyance shall acquire a permit for each salesperson. This definition provides for such activity on either a short-term or long-term basis within the city and applies to any such mobile sales of goods or services, whether or not operated out of a permanent business location in the city.

Sec. 13-111. Exemption for charitable, educational or religious organizations.

The provisions of this division shall not apply to solicitations, sales or distributions made by charitable, educational or religious organizations.

Sec. 13-112. Entering posted premises.

It shall be unlawful for any peddler to enter upon any private premises when such premises are posted with a sign stating "No Peddlers Allowed" or "No Solicitations Allowed" or other words to such effect.

Sec. 13-113. Refusing to leave premises.

Any peddler who enters upon premises owned, leased or rented by another and who refuses to leave such premises after having been notified by the owner or occupant thereof, or his agent, to leave the premises and not return shall be deemed guilty of a misdemeanor.

Sec. 13-114. Misrepresentation regarding goods or services.

It shall be unlawful for any peddler to make false or fraudulent statements concerning the quality of his goods, wares, merchandise or services for the purpose of inducing another to purchase the goods, wares, merchandise or services.

Sec. 13-115. Hours of operation.

It shall be unlawful for any peddler to engage in the business of peddling within the city between the hours of one-half hour before sunset and 9:00 a.m. the following morning, or at any time on Sundays, except by specific appointment with or invitation from the prospective customer.

Sec. 13-116. Mobile vendors.

- (a) This section shall apply to permits issued to vend from any vehicle on public rights-of-way within the city. Such vendors must remain mobile and not violate the intent of the zoning regulations by remaining for extended periods of time at one location or in one neighborhood.
- (b) Such permitted vendors shall be subject to the following regulations:
 - (1) No vendor shall remain stationary on a public street or right-of-way more than thirty (30) minutes in any one location conducting business. After that time such vendor must move at least one block or five hundred (500) feet, whichever is greater, and shall not return to the same block or location within the next six-hour period. No location shall be used more than twice in any one day.
 - (2) Each vendor must maintain a litter receptacle available for patrons' use. Excessive litter caused by product packaging may result in revocation of this permit.

- (3) The permittee must provide to the city, at time of application for a permit, proof of public liability insurance in the currently required amount as set by the city manager. Failure to maintain this insurance will result in immediate revocation of the permit.
- (4) No such vendor shall sound any device which produces an offensive or loud noise to attract customers, and vendors shall not use any public address system on the vehicle to broadcast or advertise products. A bell or musical recording may be sounded for a period not to exceed five minutes to announce the arrival of the vehicle at each location.
- (5) Such unit must be self-contained and not utilize any outside power source.

Subdivision II. Permit

Sec. 13-120. Required.

It shall be unlawful for any person to engage in business as a peddler within the city without first obtaining a permit to do so.

Sec. 13-121. Contents of application.

Applicants for a permit under this subdivision shall file with the city finance director a sworn application in writing, in duplicate, on a form to be furnished by the city finance director, which shall give the following information:

- (1) The name and a description of the applicant;
- (2) The permanent home address and full local address of the applicant;
- (3) A brief description of the nature of the business and the goods to be sold;
- (4) If employed, the name and address of the employer, together with credentials establishing the exact relationship;
- (5) The length of time for which the right to do business is desired;
- (6) The place where the goods or property proposed to be sold, or for which orders are taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time the application is filed, and the proposed method of delivery;
- (7) A photograph of the applicant taken within sixty (60) days immediately prior to the date of filing the application, which photograph shall be two inches by two inches in size, showing the head and shoulders of the applicant in a clear and distinguishing manner;

- (8) A statement as to whether or not the applicant has been convicted of any crime or misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor;
- (9) Whether the applicant, upon any sale or order, shall demand, accept or receive payment or a deposit of money in advance of final delivery;
- (10) The last five municipalities wherein the applicant has worked before coming to this city; and
- (11) Such other relevant information as may be required for the investigation of the applicant.

Sec. 13-122. Presentation of driver's license.

At the time of filing his application for a permit required by this subdivision, the applicant shall present to the city finance director or his designee his driver's license, if he has one, or if he does not have one, a State issued picture identification card, or if he has neither, another form of picture identification deemed acceptable by the city finance director.

Sec. 13-123. Application fee.

At the time of filing an application for a permit required by this subdivision, a fee as fixed from time to time by the council shall be paid to the city finance director to cover the cost of investigating the facts stated therein.

Sec. 13-124. Submitting false information.

It shall be unlawful for any person to give any false or misleading information in connection with his application for a permit required by this subdivision.

Sec. 13-125. Fingerprinting of applicant.

At the time of making application for a permit required by this subdivision, the applicant shall submit to fingerprinting by the chief of police or his designee.

Sec. 13-126. Permit fee.

Before any permit shall be issued under the provisions of this subdivision, the applicant therefor shall pay a fee, based upon the duration he desires to engage in business in the city, in accordance with a schedule as fixed from time to time by the council.

Sec. 13-127. Bond.

- (a) Every applicant for a permit under this subdivision shall file with the city a surety bond running to the city in the currently required amount, with surety acceptable to and approved by the city finance director, conditioned that the applicant shall comply fully

with all the applicable provisions of this Code, the ordinances of the city and state laws regulating and concerning the business of peddling and guaranteeing to any citizen of the city that all money paid as a down payment will be accounted for and applied according to the representations of the peddler, and further guaranteeing to any citizen of the city doing business with such peddler that the property purchased will be delivered according to the representations of such peddler. Action on such bond may be brought in the name of the city to the use or benefit of any aggrieved person(s).

- (b) If the applicant is an agent, employee, canvasser or solicitor of a corporation authorized to do business in this state or registered under the Fictitious Name Act of the state, such corporation or fictitiously named business may furnish one bond in the currently required amount for any and all of its agents, employees, canvassers or solicitors.

Sec. 13-128. Investigation of applicant.

Upon receipt of an application for a permit required by this subdivision, the original shall be referred to the chief of police, who shall cause such investigation of the applicant's business and moral character to be made as he deems necessary for the protection of the public good. The chief of police shall complete his investigation within one week of receiving the application.

Sec. 13-129. Denial.

If, as a result of investigation, the character or business responsibility of the applicant for a permit under this subdivision is found to be unsatisfactory, the chief of police shall endorse on the application his disapproval and his reasons for disapproval, and return the application to the city finance director, who shall notify the applicant that his application is disapproved and that no permit shall be issued.

Sec. 13-130. Issuance.

If, as a result of investigation, the character and business responsibility of the applicant for a permit under this subdivision are found to be satisfactory, the chief of police shall endorse on the application his approval, execute a permit addressed to the applicant for the carrying on of the business applied for, and return the permit along with the application to the city finance director, who shall, upon payment of the required fee, deliver the permit to the applicant. No permit shall be issued until the expiration of sixty (60) days from the written application for the permit is submitted.

Sec. 13-131. Contents.

Each permit issued under this subdivision shall contain the signature and seal of the issuing officer and shall show the name, address and photograph of the permittee, the class of permit issued and the kind of goods to be sold thereunder, the amount of fee paid, the date of issuance, and the length of time the permit shall be operative, as well as the permit number and other identifying description of any vehicle used in such business.

Sec. 13-132. Records.

The city finance director shall keep a permanent record of all permits issued under this subdivision.

Sec. 13-133. Display.

Every peddler having a permit issued under the provisions of this subdivision and doing business within the city shall display his permit upon the request of any person, and failure to do so shall be deemed a misdemeanor.

Sec. 13-134. Term.

Every permit issued under the provisions of this subdivision shall be valid for the period of time stated therein, but in no event shall any such permit be issued for a period of time in excess of twelve (12) months.

Sec. 13-135. Revocation.

Any permit issued under the provisions of this subdivision may be revoked by the city manager for the violation by the permittee of any applicable provision of this Code, state or federal law, or city ordinance, rule or regulation.

Sec. 13-140. Violations.

Any violation of the terms and limits set out in the sworn application which the peddler fills out shall be a misdemeanor. Violations shall include, but not be limited to, operating in places other than those stated on the application, operation on private property without written permission from the appropriate party, operation beyond the time limits stated in such written application, and operation on any public right-of-way.

DIVISION 3. TRANSIENT MERCHANTS

Sec. 13-150. Definitions.

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

Transient merchant means any person who sells or purchases goods, wares, merchandise, or anything of value, and who for himself or as an agent for another, rents, erects, purchases, uses or occupies any room, building or other structure or place, including but not limited to parking lots, shopping centers, sidewalks or any other public area, for the purpose of purchasing, selling or offering for sale anything of value at such location without the intention of establishing a permanent business thereat.

Sec. 13-151. Permit required; fee; exceptions.

- (a) Each transient merchant shall obtain a city transient merchant's permit prior to offering goods, wares, merchandise or anything of value for sale. The fee for the permit shall be fixed from time to time by the city council and is set forth in the fee schedule adopted by council.
- (b) It is unlawful for any person to engage in any activity described in 13-151 (a) herein in any area of the City not zoned Industrial.
- (c) The provisions of this section shall not apply to:
 - (1) Solicitations, sales or distributions by charitable, educational or religious organizations and other eleemosynary organizations exempt from federal income tax under Internal Revenue Code section 501(c), or persons representing such organizations. Nor shall it apply to vendors associated with the Rice Festival, Farmers Market, or any other festival or event sanctioned by the City; provided however, that the organization in charge of said event approves the vendor.
 - (2) Solicitations, sales or distribution of produce grown or prepared by the person displaying them, provided such person certifies to and agrees that his tax records may be audited to verify the certification.

Sec. 13-152. Application for permit.

Applicants for a permit under this division shall file a written sworn application with the city finance director showing:

- (1) The name of the person having the management or supervision of the applicant's business during the time that it is proposed that it will be carried on in the city, the local address of such person while engaged in such business, the permanent address of such person, and the capacity in which such person will act (that is, whether as proprietor, agent or otherwise), and the name and address of the person for whose account the business will be carried on, if any.
- (2) The place in the city where the applicant proposes to carry on business, and the length of time during which it is proposed that the business shall be conducted. The hours of operation shall not include the hours from one-half hour before sunset until 9:00 a.m.
- (3) A statement of the nature, character and quality of the goods, wares or merchandise to be sold or offered for sale by the applicant in the city.
- (4) Whether or not the persons having the management or supervision of the applicant's business have been convicted of a crime, misdemeanor or the violation of any municipal ordinance, the nature of such offense and the punishment assessed therefor.

- (5) Written permission from the manager, supervisor, owner or other appropriate officer or agent of any place of business or private property on which the transient merchant anticipates doing business. The written permission from such officer or agent shall spell out the times and location of such permitted activity.
- (6) No permit shall be issued until the expiration of sixty (60) days from the date the written application for the permit is submitted.

Sec. 13-153. Violations.

Any violation of the terms and limits set out in the sworn application which the transient merchant fills out shall be a misdemeanor. Violations shall include, but not be limited to, operating in places other than those stated on the application, operation on private property without written permission from the appropriate party, operation beyond the time limits stated in such written application, and operation on any public right-of-way.

DIVISION 4. DENIAL, REVOCATION, HEARING AND APPEALS

Sec. 13-180 Notice of denial or revocation; hearing; appeals.

- (a) Notice. Where grounds exist to deny or revoke a permit under this article, the city financial officer shall provide written notice to the permittee or applicant setting forth the grounds, revoking the permit or denying the application effective 45 days from the date of the notice, and advising the permittee or applicant of appeal procedures.
- (b) Hearing. The applicant or permittee may, within five working days from the date of the notice, request a hearing to contest the grounds or request an extension of time to cease the permitted activity. The hearing shall be held within 15 days unless additional time is allowed by the city manager. The hearing officer shall be a city judge or supervisory employee designated by the city manager. The permittee or applicant may be represented by an attorney and may present witnesses, affidavits and any relevant documentary evidence. The permittee or applicant may view and copy any documentary evidence prior to the hearing. Formal rules of evidence shall not apply. The hearing officer shall prepare a summarized report of the hearing, to include his findings and recommendations, which shall be submitted to the city manager, who shall take final administrative action, notifying the permittee or applicant in writing. Unless extended in writing by the city manager, any revocation is effective 45 days from the date of the original notice to the or permittee.
- (c) Appeals. An appeal, which shall not stay the revocation, may be taken upon the written record to the city council. Notice of such appeal shall be served upon the city clerk within five days from the final action by the city manager, specifying the grounds for the appeal and the action requested. The record shall consist of the report of the hearing officer, any documentary evidence presented at the hearing, and the written appeal. The council may, in its discretion, hear oral arguments on the appeal.

SECTION II

The following fee schedule is adopted:

Peddlers (Door to Door)	\$250 for the first \$2,000 in sales and \$3.10/\$1,000 over the first \$2,000 in sales (not more than two sales periods of not more than three days each per year). Separate license required for each sale period.
Transient Merchants (Restricted Area)	\$250 for the first \$2,000 in sales and \$3.10/\$1,000 over the first \$2,000 in sales (more than two sales periods of more than three days each per year). Map attached.

SECTION III

This ordinance shall take effect after final adoption by City Council.

ADOPTED BY THE MAYOR AND CITY COUNCIL, IN COUNCIL ASSEMBLED, this 5th day of December, 2023.

William T. Young, Jr., Mayor

ATTEST:

Adrienne M. Nettles
City Clerk

First Reading: November 14, 2023

Public Hearing: December 5, 2023

Second Reading: December 5, 2023



JEFFRIES

LUCAS

MEMORIAL

SANDERS ST

PERMITTED AREA

MARVIN DR

MOORE ST

ORDINANCE #2023-16

AN ORDINANCE OF THE CITY OF WALTERBORO, SOUTH CAROLINA, AMENDING THE COMPREHENSIVE FEE SCHEDULE FOR THE UTILITY SUPPORT DEPARTMENT

WHEREAS, the City of Walterboro from time to time must review its fees and charges and make adjustments as necessary; and

WHEREAS, the need to maintain a comprehensive fee schedule for all City of Walterboro fees is necessary; and

WHEREAS, the fees recommended by the Mayor and Walterboro City Council are as follows:

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Walterboro, the following fees are amended or adopted:

WATER FEES

A. Minimum bi-monthly charges

<u>Service Size</u>	<u>In City</u>	<u>Out of City</u>
¾"	\$ 25.65	\$ 51.30
1"	\$ 59.26	\$ 118.52
1¼"	\$ 115.18	\$ 230.36
1½"	\$ 115.18	\$ 230.36
2"	\$ 185.73	\$ 371.46
3"	\$ 369.91	\$ 739.82
4"	\$ 594.11	\$1,188.22
6"	\$1,186.67	\$2,373.34
8"	\$2,052.17	\$4,104.34

*Minimum charge included first 4,000 gallons

*City hall fire hydrant water is sold in increments of 4,000 gals at the ¾" rate

*Fire protection sprinklers \$0.16 per head

*#31 Fire hydrant \$12.82

*#32 Fire hydrant \$36.92

B. Usage Rates – Per Thousand

	<u>In City</u>	<u>Out of City</u>
First 4,000 gals	Included in minimum charge	
Next 36,000 gals	\$1.65	\$3.30
Next 160,000 gals	\$1.65	\$3.30
All over 200,000 gals	\$1.63	\$3.26

C. CONNECTION/CAPACITY FEES

<u>Service Size</u>	<u>Connection Fee</u>	<u>Capacity Fee</u>
¾"	\$2,320.00	\$ 2,560.00
1"	\$2,594.00	\$ 6,400.00
1½"	\$4,942.00	\$ 12,800.00
2"	\$5,958.00	\$ 20,480.00
3"	Cost plus 20% (refer to Director)	\$ 40,960.00
4"	Cost plus 20% (refer to Director)	\$ 64,000.00
6"	Cost plus 20% (refer to Director)	\$128,000.00
8"	Cost plus 20% (refer to Director)	\$204,800.00
Road Bore	\$3,000.00	\$3,000.00

SEWER FEES

A. Usage Rates

	<u>In City</u>	<u>Out of City</u>
Rate per Thousand	\$5.51	\$11.02
Facility Charge	\$6.65	\$13.30

B. CONNECTION/CAPACITY FEES

<u>Service Type</u>	<u>Connection Fee</u>	<u>Capacity Fee By Service Size</u>
Residential	\$3,306.00	\$ 2,450.00 ¾"
Business	\$5,262.00	\$ 6,125.00 1"
Restaurant	\$7,589.40	\$ 12,250.00 1½"
Motel/Apartments	\$5,262.00 1 st unit	\$ 19,600.00 2"
	\$ 218.00 each additional	\$ 39,200.00 3"
		\$ 61,250.00 4"
		\$122,500.00 6"
		\$196,000.00 8"

SANITATION FEES

Residential rollout	\$30.00
Commercial rollout	\$40.00

ADMINISTRATIVE FEES

Service deposit	\$100.00	Tampering fee	\$ 100.00
Turn on/off service fee	\$ 5.00	DHEC H2O	\$ 0.75
Missed appointment fee 2 nd visit	\$ 25.00	DHEC Sewer	\$ 1.00
Late fee	\$ 10.00	Certified letter fee	\$ 10.00
Processing cut-off/on	\$ 30.00	Non refund hydrant deposit	\$ 150.00
Water meter removal/replacement	\$ 50.00	Offsite hydrant perm/yearly	\$1,500.00
Terminate/restore tap fee	\$400.00	Hydrant tampering/each	\$ 500.00

This ordinance shall be effective December 5, 2023.

DONE, this 5th day of December, 2023.

William T. Young, Jr.
Mayor

ATTEST:

Adrienne Nettles
City Clerk

First Reading: November 14, 2023
Public Hearing: December 5, 2023
Second Reading: December 5, 2023

ORDINANCE # 2023-17

AN ORDINANCE

AMENDING THAT CERTAIN AMENDED AND RESTATED BOND ORDINANCE ENTITLED “AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF WATERWORKS AND SEWER SYSTEM REVENUE BONDS OF THE CITY OF WALTERBORO, SOUTH CAROLINA, AND OTHER MATTERS RELATING THERETO” ENACTED ON NOVEMBER 1, 2016; AND OTHER MATTERS RELATING THERETO.

FIRST AMENDMENT TO 2016 BOND ORDINANCE

December 5, 2023

BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF WALTERBORO, SOUTH CAROLINA, IN MEETING DULY ASSEMBLED, AS FOLLOWS:

ARTICLE I

FINDINGS OF FACT

Section 1.01 Recitals and Statements of Purpose.

Incident to the enactment of this Ordinance (this “**Ordinance**”), the City Council of the City of Walterboro (the “**City Council**”), the governing body of the City of Walterboro, South Carolina (the “**City**”), has made the following findings:

(A) On November 1, 2016, the City Council enacted an Amended and Restated Bond Ordinance entitled “AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF WATERWORKS AND SEWER SYSTEM REVENUE BONDS OF THE CITY OF WALTERBORO, SOUTH CAROLINA, AND OTHER MATTERS RELATING THERETO” (the “**Bond Ordinance**”). Capitalized terms used and not otherwise defined herein have the meanings given to such terms in the Bond Ordinance.

(B) As of the date hereof, the City has Outstanding the following Series of Bonds (the “**Outstanding Bonds**”):

- (1) \$3,062,830 final principal amount Waterworks and Sewer System Improvement Revenue Bond, Series 2009 (State Water Pollution Control Revolving Fund, Loan Number S1-122-09-441-06), dated August 14, 2009 (the “**2009 Bond**”);
- (2) \$1,480,000 final principal amount Waterworks and Sewer System Improvement Revenue Bond, Series 2017 (State Water Pollution Control Revolving Fund, Loan Number X1-181-16-441-08), dated January 31, 2017 (the “**2017 Bond**” and together with the 2009 Bond, the “**SRF Loans**”); and
- (3) \$7,000,000 original principal amount Waterworks and Sewer System Improvement Revenue Bond, Series 2021, dated March 11, 2021 (the “**2021 Bond**”).

(C) Since the enactment of the Bond Ordinance, the City has determined that in order to structure a financing that will allow the City to access \$25.7 million of grant funding (with a City match of approximately \$12.82 million) to expand the City’s wastewater treatment plant (the “**Project**”), certain amendments to the Bond Ordinance are necessary. Specifically, the City needs to issue a relatively short-term Series of Bonds that will allow for the grant funding to flow to the Project on a reimbursement basis. Accordingly, the Bond Ordinance should be amended to: (i) restate and add certain definitions to include the concept of Partially Amortizing Bonds and to incorporate appropriate mechanics to integrate such concept, and (ii) restate the provisions of the additional bonds test covenant (collectively, the “**Amendments**”).

ARTICLE II

AUTHORIZATION FOR AMENDMENTS

Section 2.01 Amendments of Bond Ordinance.

Under the Bond Ordinance, the City is not authorized to amend the Bond Ordinance except in accordance with the provisions of Article XII, entitled "Modification of Ordinance." Pursuant to Article XII of the Bond Ordinance, the proposed Amendments require the consent of all Holders of the Outstanding Bonds.

Section 2.02 Consents of Holders of Outstanding Bonds and Acknowledgment of Trustee; Effective Date.

The SRF Loans are currently held by the South Carolina Water Quality Revolving Fund Authority (the "***Water Quality Authority***"). As holder of the SRF Loans, the Water Quality Authority has executed a consent letter, dated the date of the enactment of this Ordinance, authorizing the modification to the Bond Ordinance by the Amendments. The 2021 Bond is currently held by Truist Bank. Truist Bank has executed a consent letter, dated the date of the enactment of this Ordinance, authorizing the modification to the Bond Ordinance by the Amendments. Each consent is attached hereto as Exhibit A.

Under Section 12.03 of the Bond Ordinance, the Amendments are not effective until certain requirements are met, including the acknowledgement of The Bank of New York Mellon Trust Company, N.A., the Trustee for the Outstanding Bonds (the "***Trustee Acknowledgment***"). The form of the Trustee Acknowledgment is attached hereto as Exhibit B.

ARTICLE III

AMENDMENTS TO BOND ORDINANCE

Section 3.01 Amendments to the Bond Ordinance.

(A) Upon the Effective Date (as defined herein), the definition of Annual Principal and Interest Requirement in Section 2.02 of the Bond Ordinance shall read as set forth below and shall be amended to include the following language and delete certain prior language (*new replacement language in italics*):

"Annual Principal and Interest Requirement" shall mean, 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 (1) all interest payable on such Series of Bonds during such Fiscal Year, plus (2) any Principal Installment of such Series of Bonds during such Fiscal Year, minus (3) any Interest

Payment Subsidies received by the City 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 Partially Amortizing Bonds, the amount of principal which would be payable in such Fiscal Year if the principal of such Partially Amortizing Bonds to be amortized in succeeding Fiscal Years were amortized from the date of incurrence of such Partially Amortizing Bonds over a period of 30 years (or such shorter period as the City 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 City 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 Partially Amortizing Bonds issued as Variable Rate Bonds); provided, however, that if the date of calculation is within 12 months of the stated maturity of such Partially Amortizing Bonds, the full amount of principal payable at maturity shall be included in such calculation unless (1) a binding commitment to refinance such Partially Amortizing Bonds shall be in effect, in which case the amortization schedule established by such commitment shall apply or (2) the City has received a letter from an Independent Consultant to the effect that such firm has evaluated the creditworthiness of the City and concluded that it is reasonable to assume that the City will have access to the debt markets at prevailing 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 any Revolving Credit Facility, the amount of principal which would be payable in such Fiscal Year if the principal of such Revolving Credit Facility as limited to the Maximum Credit Amount Outstanding under such Revolving Credit Facility amortized in succeeding Fiscal Years were amortized over a period of 30 years (or such shorter period as the City may choose) on a level debt service basis at an interest rate set forth in the certificate or opinion of an Independent Consultant (as of the date of such reborrowing) as the interest rate at which the City 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 Revolving Credit Facility issued as Variable Rate Bonds); provided, however, that if the date of calculation is within 12 months of the stated maturity of such Revolving Credit Facility, the full amount of outstanding principal payable at maturity (not to exceed the Maximum Credit Amount Outstanding) shall be included in such calculation unless (1) a binding commitment to refinance such Revolving Credit Facility shall be in effect, in which case the amortization schedule established by such commitment shall apply or (2) the City has received a letter from an Independent Consultant to the effect that such firm has evaluated the creditworthiness of the City and concluded that it is reasonable to assume that the*

City will have access to the debt markets at prevailing 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.

(c) *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.*

(d) 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.

(B) Upon the Effective Date, the definition of "Independent Consultant" in Section 2.02 of the Bond Ordinance shall be amended and restated in its entirety, as follows:

"Independent Consultant" shall mean such firm or firms, professional engineers, architects, rate consultants, financial advisors 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 City and shall be engaged by the City to perform the tasks set forth to be performed by such Independent Consultant under the provisions of this Bond Ordinance.

(C) Upon the Effective Date, the definition of "Partially Amortizing Bonds" shall be added to and included in Section 2.02 of the Bond Ordinance and shall read as set forth below:

"Partially Amortizing Bonds" 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.

(D) Upon the Effective Date, the definition of “Maximum Credit Amount” shall be added to and included in Section 2.02 of the Bond Ordinance and shall read as set forth below:

“**Maximum Credit Amount**” means the maximum amount of funds to be borrowed and reborrowed under a Revolving Credit Facility as authorized in a Series Ordinance.

(E) Upon the Effective Date, the definition of “Maximum Outstanding Amount” shall be added to and included in Section 2.02 of the Bond Ordinance and shall read as set forth below:

“**Maximum Outstanding Credit Amount**” means the maximum amount of borrowed funds that may be outstanding under a Revolving Credit Facility at any one time.

(F) Upon the Effective Date, the definition of “Revolving Credit Facility” shall be added to and included in Section 2.02 of the Bond Ordinance and shall read as set forth below:

“**Revolving Credit Facility**” means a Series of Partially Amortizing Bonds that are issued on a revolving basis such that such Partially Amortizing Bonds can be initially or subsequently borrowed, repaid and borrowed again in an amount not to exceed the Maximum Credit Amount so long as the amount outstanding at any one time does not exceed the Maximum Outstanding Credit Amount.

(G) Upon the Effective Date, the additional bonds test requirement in Section 4.02(6) of the Bond Ordinance shall be amended and restated in its entirety as set forth below:

(6) Except in the case in the case of any Series of Bonds issued for the purpose of refunding Bonds, or in the event no Bonds are Outstanding, the City may issue additional Series of 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 120% 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; 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 120% 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) shall 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 City 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.

(H) Upon the Effective Date, the Bond Ordinance shall be amended to add Section 4.06(11) as set forth below:

(11) Except for the initial or first Revolving Credit Facility issued under the terms of this Bond Ordinance, which is expressly authorized and not subject to the limitations in this Section 4.02(11), any Revolving Credit Facility issued under this Bond Ordinance shall be subject to the written consent and approval of the Holders of all Series of Bonds then Outstanding.

Section 3.02 Effective Date.

Subject to the receipt of the Trustee Acknowledgment, the Amendments shall be effective upon the enactment of this Ordinance; however, if the Trustee Acknowledgment is not received prior to the enactment of the Ordinance, the date of the receipt of the executed Trustee Acknowledgment shall be considered the effective date of the Amendments. Upon such effective date, the Amendments shall be applicable to the Outstanding Bonds, and any future Series of Bonds issued under the Bond Ordinance, including any Series of Bonds issued under the terms of that Series Ordinance entitled "A SERIES ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF WATERWORKS AND SEWER SYSTEM IMPROVEMENT REVENUE BONDS OF THE CITY OF WALTERBORO, SOUTH CAROLINA IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT EXCEEDING THIRTEEN MILLION FIVE HUNDRED THOUSAND DOLLARS (\$13,500,000), OR THE MAXIMUM CREDIT AMOUNT, AS APPLICABLE; AND OTHER MATTERS RELATING THERETO" dated December 5, 2023.

Section 3.03 Continuing Effect.

Except as modified hereby, the Bond Ordinance shall remain in full force and effect according to its terms.

Section 3.04 Review by City Attorney; Public Hearing.

(A) This Ordinance has been reviewed by the City Attorney as to legality and form.

(B) The City Council made arrangements for a public hearing to be held prior to the enactment of this Ordinance. Notice of the public hearing(s) shall be in substantially the form set forth in Exhibit C attached hereto, and shall be published in a newspaper of general circulation in the City at least 15 days prior to such public hearing or as may otherwise be permitted by Section 15-29-40 of the South Carolina Code.

[Remainder of Page Intentionally Left Blank]

DONE, RATIFIED AND ENACTED this 5th day of December 2023.

CITY OF WALTERBORO, SOUTH CAROLINA

(SEAL)

Mayor

Attest:

City Clerk

First Reading:	November 14, 2023
Public Hearing:	December 5, 2023
Second Reading:	December 5, 2023

EXHIBIT A
CONSENTS OF THE HOLDERS

**CONSENT OF SOUTH CAROLINA WATER QUALITY
REVOLVING FUND AUTHORITY**

The undersigned hereby certifies that she is authorized to execute and deliver this Consent on behalf of the South Carolina Water Quality Revolving Fund Authority (the “**Authority**”) as holder of the

- (1) \$3,061,830 final principal amount City of Walterboro, South Carolina Waterworks and Sewer System Improvement Revenue Bond, Series 2009 (State Water Pollution Control Revolving Fund, Loan Number S1-122-09-441-06), dated August 14, 2009 (the “**2009 Bond**”); and
- (2) \$1,480,000 final principal amount City of Walterboro, South Carolina Waterworks and Sewer System Improvement Revenue Bond, Series 2017 (State Water Pollution Control Revolving Fund, Loan Number X1-181-16-441-08), dated January 31, 2017 (the “**2017 Bond**” and together with the 2009 Bond, the “**SRF Loans**”).

The Authority hereby consents to the terms and conditions set forth in “AN ORDINANCE AMENDING THAT CERTAIN AMENDED AND RESTATED BOND ORDINANCE ENTITLED ‘AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF WATERWORKS AND SEWER SYSTEM REVENUE BONDS OF THE CITY OF WALTERBORO, SOUTH CAROLINA, AND OTHER MATTERS RELATING THERETO’ ENACTED ON NOVEMBER 1, 2016; AND OTHER MATTERS RELATING THERETO” dated December 5, 2023 (the “**Bond Ordinance Amendment**”), the provisions of which (A) revise the definition of “Annual Principal and Interest Requirement” to allow for Partially Amortizing Bonds and Revolving Credit Facilities to be amortized over 30 years for the purposes of measuring (i) debt service coverage ratios for the additional bonds test and (ii) ongoing rate covenant compliance; (B) add or revise certain other definitions; and (C) amend and restate the additional bonds test covenant.

By granting this consent, the Authority expressly authorizes the SRF Loans to be governed by the terms of the Bond Ordinance Amendment. Further, the Authority expresses no opinion as to whether the consent of any other person is required for the Bond Ordinance Amendment.

SOUTH CAROLINA WATER QUALITY
REVOLVING FUND AUTHORITY

By: _____
Bonnie Ammons, Director
Office of Local Government
Rural Infrastructure Authority

Dated: _____, 2023

EXHIBIT A
CONSENTS OF THE HOLDERS

CONSENT OF TRUIST BANK

The undersigned hereby certifies that he is authorized to execute and deliver this consent on behalf of Truist Bank (the “**Bank**”) as holder of the \$7,000,000 original principal amount City of Walterboro, South Carolina Waterworks and Sewer System Improvement Revenue Bond, Series 2021, dated March 11, 2021 (the “**2021 Bond**”).

The Bank hereby consents to the terms and conditions set forth in “AN ORDINANCE AMENDING THAT CERTAIN AMENDED AND RESTATED BOND ORDINANCE ENTITLED ‘AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF WATERWORKS AND SEWER SYSTEM REVENUE BONDS OF THE CITY OF WALTERBORO, SOUTH CAROLINA, AND OTHER MATTERS RELATING THERETO’ ENACTED ON NOVEMBER 1, 2016; AND OTHER MATTERS RELATING THERETO” dated December 5, 2023 (the “**Bond Ordinance Amendment**”), the provisions of which (A) revise the definition of “Annual Principal and Interest Requirement” to allow for Partially Amortizing Bonds and Revolving Credit Facilities to be amortized over 30 years for the purposes of measuring (i) debt service coverage ratios for the additional bonds test and (ii) ongoing rate covenant compliance; (B) add or revise certain other definitions; and (C) amend and restate the additional bonds test covenant.

By granting this consent, the Bank expressly authorizes the 2021 Bond to be governed by the terms of the Bond Ordinance Amendment. Further, the Bank expresses no opinion as to whether the consent of any other person is required for the Bond Ordinance Amendment.

TRUIST BANK

By: _____
Name: _____
Its: _____

Dated: _____, 2023

EXHIBIT B
ACKNOWLEDGEMENT OF TRUSTEE

ACKNOWLEDGEMENT OF AMENDMENTS

The undersigned hereby certifies that he is authorized to execute and deliver this acknowledgement on behalf of The Bank of New York Mellon Trust Company, N.A., as Trustee (the “**Trustee**”) for the City of Walterboro, South Carolina (the “**City**”), under the Bond Ordinance enacted by the City Council of the City of Walterboro (the “**City Council**”) on November 1, 2016 (the “**Bond Ordinance**”). The Trustee currently serves as Trustee for the following Series of Bonds Outstanding under the Bond Ordinance:

- (1) \$3,061,830 final principal amount Waterworks and Sewer System Improvement Revenue Bond, Series 2009 (State Water Pollution Control Revolving Fund, Loan Number S1-122-09-441-06), dated August 14, 2009;
- (2) \$1,480,000 final principal amount Waterworks and Sewer System Improvement Revenue Bond, Series 2017 (State Water Pollution Control Revolving Fund, Loan Number X1-181-16-441-08), dated January 31, 2017; and
- (3) \$7,000,000 original principal amount Waterworks and Sewer System Improvement Revenue Bond, Series 2021, dated March 11, 2021.

The City Council has enacted “AN ORDINANCE AMENDING THAT CERTAIN AMENDED AND RESTATED BOND ORDINANCE ENTITLED ‘AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF WATERWORKS AND SEWER SYSTEM REVENUE BONDS OF THE CITY OF WALTERBORO, SOUTH CAROLINA, AND OTHER MATTERS RELATING THERETO’ ENACTED ON NOVEMBER 1, 2016; AND OTHER MATTERS RELATING THERETO” dated December 5, 2023 (the “**Bond Ordinance Amendment**”), the provisions of which (A) revise the definition of “Annual Principal and Interest Requirement” to allow for Partially Amortizing Bonds and Revolving Credit Facilities to be amortized over 30 years for the purposes of measuring (i) debt service coverage ratios for the additional bonds test and (ii) ongoing rate covenant compliance; (B) add or revise certain other definitions; and (C) amend and restate the additional bonds test covenant.

The Bond Ordinance Amendment requires consent of the Holders of all Outstanding Bonds under Section 12.02 of the Bond Ordinance. Under Section 12.03 of the Bond Ordinance, the Bond Ordinance Amendment is not effective until certain requirements are met. As of the date hereof, the Trustee certifies that it is in receipt of (i) proof of filing of a certified copy of the Bond Ordinance Amendment with the Clerk of Court for Colleton County, South Carolina, (ii) executed consents to the Bond Ordinance Amendment by the South Carolina Water Quality Revolving Fund Authority and Truist Bank, the Holders of all Outstanding Bonds, each executed on or prior to December 5, 2023, and (iii) an opinion of counsel that the Bond Ordinance Amendment is permitted under the Bond Ordinance. Accordingly, under Section 12.03 of the Bond Ordinance, and as stated in the opinion of counsel, the Bond Ordinance Amendment is effective as of the date hereof.

EXHIBIT B
ACKNOWLEDGEMENT OF TRUSTEE

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of _____ 2023.

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.

By: _____

Name: _____

Its: _____

EXHIBIT C
NOTICE OF PUBLIC HEARING

NOTICE OF PUBLIC HEARING

The City Council of the City of Walterboro (the “City Council”), the governing body of the City of Walterboro, South Carolina (the “City”), will hold a public hearing on Tuesday, December 5, 2023 at 6:15 p.m. (or as soon thereafter as time permits) (the “Hearing”). The City Council is considering the enactment of “AN ORDINANCE AMENDING THAT CERTAIN AMENDED AND RESTATED BOND ORDINANCE ENTITLED ‘AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF WATERWORKS AND SEWER SYSTEM REVENUE BONDS OF THE CITY OF WALTERBORO, SOUTH CAROLINA, AND OTHER MATTERS RELATING THERETO’ ENACTED ON NOVEMBER 1, 2016; AND OTHER MATTERS RELATING THERETO,” the provisions of which amend that certain ordinance entitled “AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF WATERWORKS AND SEWER SYSTEM REVENUE BONDS OF THE CITY OF WALTERBORO, SOUTH CAROLINA, AND OTHER MATTERS RELATING THERETO” dated November 1, 2016.

The Hearing will occur during the City Council’s regularly scheduled meeting. Further information on the Hearing will be provided in the City’s agenda, which shall be publicly available no less than 24-hours in advance of the meeting on December 5, 2023. The Hearing shall otherwise be conducted in accordance with all other rules and procedures of the City Council. The Hearing shall be conducted publicly and both proponents and opponents of the proposed action shall be given full opportunity to be heard in person or by counsel.