

AGENDA
OF THE SIMPSONVILLE CITY
COUNCIL BUSINESS MEETING
September 14, 2021
6:30pm
City Hall – Council Chambers

1. **CALL TO ORDER**..... Mayor Shewmaker
2. **ROLL CALL**..... City Clerk, Phyllis Long
3. **PLEDGE OF ALLEGIANCE**
4. **APPROVAL OF MINUTES** – August 10, 2021
5. **PROCLAMATION** – Constitution Week
6. **CITIZENS COMMENTS**
7. **BUSINESS**
 - a. 2nd Reading of AXZ-2021-05, Proposed Annexation/Rezoning of Properties at 1212 & 27305 W. Georgia Road..... Planner, Jon Derby
 - b. 2nd Reading of Z-2021-01, Proposed Rezoning of Property Located at 506 NE Main Street..... Planner, Jon Derby
 - c. 2nd Reading of TX-2021-02, Misc. Refinements to the City’s Zoning Ordinance..... Jason Knudsen, Planning & Economic Development Director
 - d. 1st Reading of AXZ-2021-06, Property Located on Stokes Road..... Planner, Jon Derby
 - e. 1st Reading of Ordinance #2021-06, Flood Damage Prevention Ordinance Jason Knudsen, Planning & Economic Development Director
 - f. Resolution #2021-06, American Rescue Plan..... City Administrator, Dianna Gracely
 - g. Contract with Frazier Engineering..... City Administrator, Dianna Gracely
Task Order #1 SC RIA Grant Application
Task Order #2 CMOM Program Development
Task Order #3 GIS and Capacity Assurance Plan
 - h. 1st Reading, Ordinance #2021-07, Business License..... City Administrator, Dianna Gracely
 - i. Timed, short-term parking in downtown Simpsonville..... Councilmember, Lou Hutchings
8. **ADJOURN**

PLEASE NOTE: This Agenda is accurate as of the Friday immediately preceding the Council meeting but is subject to change until twenty-four (24) hours prior to the meeting. Please contact the City Clerk the day of the meeting for the latest agenda information.

CITY OF SIMPSONVILLE, SOUTH CAROLINA

TITLE: ORDINANCE NO. TX-2021-01. AN ORDINANCE CONTAINING VARIOUS REFINEMENTS TO THE SIMPSONVILLE ZONING ORDINANCE.

BASIS FOR THE ORDINANCE: TITLE 6, CHAPTER 29, SOUTH CAROLINA CODE OF LAWS

ENACTING CLAUSE: NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SIMPSONVILLE, SOUTH CAROLINA

CITATION OF ORDINANCE REPEALED: None

PROVISION OF ORDINANCE: See provision of ordinance below.

SECTION NUMBERS: See below.

EFFECTIVE DATE OF ORDINANCE: Upon final approval by Council after second reading and signing by the Mayor.

NAME OF PERSON REQUESTING INTRODUCTION OF ORDINANCE: Planning & Economic Development Director, Jason Knudsen.

NOW, THEREFORE BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIMPSONVILLE, SOUTH CAROLINA, AS FOLLOWS:

*NOTE: Language in section 1 of this ordinance that is ~~struck through~~ is language proposed to be deleted, underlined language is language proposed to be added, language that is not ~~struck through~~ or underlined is not to be changed, and *** represents sections of the Zoning Ordinance that have been skipped and remain unchanged.*

SECTION 1. That the City of Simpsonville Zoning Ordinance is hereby amended as follows:

7.2 General Procedures

7.2.4 Public Hearings

Specific applications are subject to public hearing and public notice requirements as set forth in this Section. Upon acceptance of an application that requires a public hearing, the Planning Director shall fix a reasonable date and time for the public hearing. Notice of public hearing requirements are as follows:

- A. Timing of public notice. Public notice as set forth in this Section shall be provided not less than the following number of calendar days prior to the public hearing:

| Application Type | Published Notice | Posted Notice | Mailed Notice |
|---------------------------------|------------------|---------------|---------------|
| Comprehensive Plan Amendment | 30 | -- | -- |
| Zoning Map Amendment | 15 | 15 | 14 |
| Zoning Ordinance Text Amendment | 15 | -- | -- |
| Special Exception | 15 | 15 | 14 |
| Variance | 15 | 15 | 14 |
| ID Master Site Plan | 15 | 15 | -- |
| Street Renaming | 15 | 15 | -- |

- D. Mailed Notice. When required, the applicant shall cause notice of the public hearing to be mailed to adjoining or immediately adjacent property owners to the subject property not less than the number of days prior to the public hearing as specified in the preceding table. Mailing is to be conducted through the United States Post Office. A copy of the notification and certificate of mailing for each mail piece must be provided to the Planning Director. A proof of delivery or signature of receipt is not required.

For this purpose, adjoining or immediately adjacent is defined as properties that share any lot line or point along a lot line, and properties that are separated by a street, right of way, creek, or easement in common. Interstate 385 should be excluded as a right of way in common. Property owner is defined as the current owner(s) of record as listed by the Greenville County Register of Deeds.

- E. Public notice compliance. Excluding mailed notices, failure to comply with the public notice requirements shall result in the removal of an application from the public hearing meeting agenda. Any rescheduled public hearing on an application shall be subject to subsequent compliance with all public notice requirements.

F. *Official public hearing.* Where a public hearing is required by law to be held, the Planning Commission meeting at which the item is taken up for review, and for which adequate notice has been provided in accordance with this Section, shall constitute the official public hearing for that matter. Where final action on a request will be taken by City Council, the Planning Commission shall summarize and convey to City Council the comments received at such public hearing, along with its own recommendation for the action to be taken.

G. *Public hearing procedures.* Public hearings shall follow the rules of procedure adopted by the body which shall conduct the public hearing.

SIGNATURE OF MAYOR:

Paul Shewmaker

ATTEST:

APPROVED AS TO FORM:

Phyllis Long
City Clerk

David W. Holmes
City Attorney

FIRST READING: August 10, 2021
SECOND READING: September 14, 2021

FLOOD DAMAGE PREVENTION ORDINANCE

TITLE: AN TO AMEND THE EXISTING SIMPSONVILLE FLOOD DAMAGE PREVENTION ORDINANCE, CHAPTER 22, FLOODS OF THE CODE OF ORDINANCES BY ADOPTING THE SOUTH CAROLINA MODEL FLOOD DAMAGE PREVENTION ORDINANCE; AND VARIOUS PROVISIONS RELATING THERETO

WHEREAS, the City has a current Flood Damage Prevention Ordinance found in Chapter 22 of the Code of Ordinances; and

WHEREAS, the State has recommended and encouraged municipalities to adopt the 2020 model ordinance version of the Flood Damage Ordinance; and

WHEREAS, the City Council, at the recommendation of the Planning Staff, believes that the City should adopt the model ordinance, it being in the best interests of the City to do so;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SIMPSONVILLE, SOUTH CAROLINA, AS FOLLOWS:

Section 1. Chapter 22, Floods, of the Code of Ordinances of the City of Simpsonville is hereby amended to read as set forth in the model Flood Prevention Ordinance attached hereto as Exhibit A and incorporated herein by reference is hereby adopted as Chapter 22, Floods, of the Code of Ordinances.

Section 2. Authorization. The Mayor, the City Administrator, and the City Clerk, for and on behalf of the City, acting jointly or individually, are fully empowered and authorized to take such further action as may be reasonably necessary to effect the provisions authorized by this Ordinance in accordance with the conditions herein set forth.

Section 3. Severability. The provisions of this Ordinance are hereby declared to be severable and if any section, phrase or provision shall for any reason be declared by a court of competent jurisdiction to be invalid or unenforceable, such declaration shall not affect the validity of the remainder of the sections, phrases and provisions hereunder.

Section 4. Suspension of Conflicting Ordinances, Rules, Orders or Resolutions. All ordinances, rules, orders, resolutions and parts thereof in conflict herewith are, to the extent of such conflict, hereby suspended for the duration of this ordinance.

Section 5. Savings Clause: Nothing in this ordinance hereby adopted shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as stated in Section 3 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

Section 6. Effective Date of the Ordinance. This ordinance shall be effective immediately upon passage.

DONE in meeting duly assembled this _____ day of _____ 2021.

SIGNATURE OF MAYOR:

Paul D. Shewmaker

ATTEST:

APPROVED AS TO FORM:

Phyllis Long
City Clerk

David W. Holmes
City Attorney

FIRST READING: September 14th, 2021
SECOND READING: October 12th, 2021

EXHIBIT A

Flood Damage Prevention Ordinance

Article I. General Standards

A. Statutory Authorization

Municipality The Legislature of the State of South Carolina has in SC Code of Laws, Title 5 and Title 6, and amendments thereto, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Council of Simpsonville, South Carolina does ordain as follows:

- B. Findings of Fact** - The Special Flood Hazard Areas of the City of Simpsonville are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

Furthermore, these flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

- C. Statement of Purpose and Objectives** - It is the purpose of this ordinance to protect human life and health, minimize property damage, and encourage appropriate construction practices to minimize public and private losses due to flood conditions by requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction. Uses of the floodplain which are dangerous to health, safety, and property due to water or erosion hazards, or which increase flood heights, velocities, or erosion are restricted or prohibited. These provisions attempt to control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters, and control filling, grading, dredging and other development which may increase flood damage or erosion. Additionally, the ordinance prevents or regulates the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

The objectives of this ordinance are to protect human life and health, to help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize flood blight areas, and to insure that potential home buyers are notified that property is in a flood area. The provisions of the ordinance are intended to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets and bridges

located in the floodplain, and prolonged business interruptions. Also, an important floodplain management objective of this ordinance is to minimize expenditure of public money for costly flood control projects and rescue and relief efforts associated with flooding.

Floodplains are an important asset to the community. They perform vital natural functions such as temporary storage of floodwaters, moderation of peak flood flows, maintenance of water quality, groundwater recharge, prevention of erosion, habitat for diverse natural wildlife populations, recreational opportunities, and aesthetic quality. These functions are best served if floodplains are kept in their natural state. Wherever possible, the natural characteristics of floodplains and their associated wetlands and water bodies should be preserved and enhanced. Decisions to alter floodplains, especially floodways and stream channels, should be the result of careful planning processes that evaluate resource conditions and human needs.

D. Lands to Which this Ordinance Applies This ordinance shall apply to all areas of special flood hazard within the jurisdiction of the City of Simpsonville as identified by the Federal Emergency Management Agency (FEMA) in its Flood Insurance Study, dated July 8, 2020 with accompanying maps and other supporting data that are hereby adopted by reference and declared to be a part of this ordinance.

Upon annexation any special flood hazard areas identified by the Federal Emergency Management Agency (FEMA) in its Flood Insurance Study for the unincorporated areas of Greenville County, with accompanying map and other data are adopted by reference and declared part of this ordinance.

E. Establishment of Development Permit A Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities.

F. Compliance No structure or land shall hereafter be located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

G. Interpretation In the interpretation and application of this ordinance all provisions shall be considered as minimum requirements, liberally construed in favor of the governing body, and deemed neither to limit nor repeal any other powers granted under State law. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions, shall prevail.

H. Warning and Disclaimer of Liability The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Simpsonville or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

- I. **Penalties for Violation** - Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500.00 or imprisoned for not more than 30 days, or both. Each day the violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Simpsonville from taking such other lawful action as is necessary to prevent or remedy any violation.

Article II. DEFINITIONS

- A. **General** - Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance it's most reasonable application.
 1. **Accessory Structure** (Appurtenant Structure) - structures that are located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory Structures should constitute a minimal investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.
 2. **Addition (to an existing building)**- an extension or increase in the floor area or height of a building or structure. Additions to existing buildings shall comply with the requirements for new construction regardless as to whether the addition is a substantial improvement or not. Where a firewall or load-bearing wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and must comply with the standards for new construction.
 3. **Agricultural structure** - a structure used solely for agricultural purposes in which the use is exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock. Agricultural structures are *not* exempt from the provisions of this ordinance.
 4. **Appeal** - a request for a review of the local floodplain administrator's interpretation of any provision of this ordinance.
 5. **Area of shallow flooding** - a designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.
 6. **Area of special flood hazard** - the land in the floodplain within a community subject to a one percent or greater chance of being equaled or exceeded in any given year.
 7. **Base flood** - the flood having a one percent chance of being equaled or

exceeded in any given year.

8. **Basement** - means any enclosed area of a building that is below grade on all sides.
9. **Building** - see structure
10. **Coastal High Hazard Area** - an area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to velocity wave action from storms or seismic sources.
11. **Critical Development** - development that is critical to the community's public health and safety, is essential to the orderly functioning of a community, store or produce highly volatile, toxic or water-reactive materials, or house occupants that may be insufficiently mobile to avoid loss of life or injury. Examples of critical development include jails, hospitals, schools, fire stations, nursing homes, wastewater treatment facilities, water plants, and gas/oil/propane storage facilities.
12. **Development** - any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.
13. **Elevated building** - a non-basement building built to have the lowest floor elevated above the ground level by means of solid foundation perimeter walls, pilings, columns, piers, or shear walls parallel to the flow of water.
14. **Executive Order 11988 (Floodplain Management)** - Issued by President Carter in 1977, this order requires that no federally assisted activities be conducted in or have the potential to affect identified special flood hazard areas, unless there is no practicable alternative.
15. **Existing construction** - means, for the purposes of determining rates, structures for which the start of construction commenced before _____ (initial FIRM date, *OR* January 1, 1975, for FIRMs effective before that date).
16. **Existing manufactured home park or manufactured home subdivision** - a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before October 12th, 2021.
17. **Expansion to an existing manufactured home park or subdivision** - the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs).

18. **Flood** - a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters, or the unusual and rapid accumulation of runoff of surface waters from any source.
19. **Flood Hazard Boundary Map (FHBM)** - an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as Zone A.
20. **Flood Insurance Rate Map (FIRM)** - an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.
21. **Flood Insurance Study** - the official report provided by the Federal Emergency Management Agency which contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.
22. **Flood-resistant material** - any building material capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbars are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*, dated 8/08, and available from the Federal Emergency Management Agency. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.
23. **Floodway** - the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
24. **Freeboard** - a factor of safety usually expressed in feet above a flood level for purposes of flood plain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.
25. **Functionally dependent use** - a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

26. **Highest Adjacent Grade** - the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.
27. **Historic Structure** - any structure that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of the Interior (DOI)) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a State inventory of historic places; (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified (1) by an approved State program as determined by the Secretary of Interior, or (2) directly by the Secretary of Interior in states without approved programs. Some structures or districts listed on the State or local inventories **MAY NOT** be "Historic" as cited above, but have been included on the inventories because it was believed that the structures or districts have the **potential** for meeting the "Historic" structure criteria of the DOI. In order for these structures to meet NFIP historic structure criteria, it must be demonstrated and evidenced that the South Carolina Department of Archives and History has **individually determined** that the structure or district meets DOI historic structure criteria.
28. **Increased Cost of Compliance (ICC)** - applies to all new and renewed flood insurance policies effective on and after June 1, 1997. The NFIP shall enable the purchase of insurance to cover the cost of compliance with land use and control measures established under Section 1361. It provides coverage for the payment of a claim to help pay for the cost to comply with State or community floodplain management laws or ordinances after a flood event in which a building has been declared substantially or repetitively damaged.
29. **Limited storage** - an area used for storage and intended to be limited to incidental items that can withstand exposure to the elements and have low flood damage potential. Such an area must be of flood resistant or breakaway material, void of utilities except for essential lighting and cannot be temperature controlled. If the area is located below the base flood elevation in an A, AE and A1-A30 zone it must meet the requirements of Article IV.A.4 of this ordinance. If the area is located below the base flood elevation in a V, VE and V1-V30 zone it must meet the requirements of Article IV.F of this ordinance.
30. **Lowest Adjacent Grade (LAG)** - is an elevation of the lowest ground surface that touches any deck support, exterior walls of a building or proposed building walls.
31. **Lowest Floor** - the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the

applicable non-elevation design requirements of this ordinance.

32. **Manufactured home** - a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".
33. **Manufactured Home Park or subdivision** - a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
34. **Mean Sea Level** - means, for the purpose of this ordinance, the Nations Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which the base flood elevations shown on a community's Flood Insurance Rate Maps (FIRM) are shown.
35. **National Geodetic Vertical Datum (NGVD) of 1929** - as corrected in 1929, elevation reference points set by National Geodetic Survey based on mean sea level.
36. **North American Vertical Datum (NAVD) of 1988** - vertical control, as corrected in 1988, used as the reference datum on Flood Insurance Rate Maps.
37. **New construction** - structure for which the start of construction commenced on or after October 12th, 2021. The term also includes any subsequent improvements to such structure.
38. **New manufactured home park or subdivision** - a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs) is completed on or after October 12th, 2021.
39. **Primary Frontal Dune** - a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and subject to erosion and overtopping from high tides and waves during coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.
40. **Recreational vehicle** - a vehicle which is: (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and, (d) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.
41. **Repetitive Loss** - a building covered by a contract for flood insurance that has incurred flood-related damages on 2 occasions during a 10 year period

ending on the date of the event for which a second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25% of the market value of the building at the time of each such flood event.

42. **Section 1316 of the National Flood insurance Act of 1968** - The act provides that no new flood insurance shall be provided for any property found by the Federal Emergency Management Agency to have been declared by a state or local authority to be in violation of state or local ordinances.
43. **Stable Natural Vegetation** - the first place on the oceanfront where plants such as sea oats hold sand in place.
44. **Start of construction** - for other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. 97-348), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for footings, piers or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.
45. **Structure** - a walled and roofed building, a manufactured home, including a gas or liquid storage tank that is principally above ground.
46. **Substantial damage** - damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Such repairs may be undertaken successively and their costs counted cumulatively. Please refer to the definition of "substantial improvement".
47. **Substantial improvement** - any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures that have incurred repetitive loss or substantial damage, regardless of the actual repair work performed. The term does not, however, include either:
 - a) any project of improvement to a structure to correct existing violations of State or local health, sanitary, or safety code

specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or,

- b) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Permits shall be cumulative for a period of five years. If the improvement project is conducted in phases, the total of all costs associated with each phase, beginning with the issuance of the first permit, shall be utilized to determine whether "substantial improvement" will occur.

48. Substantially improved existing manufactured home park or subdivision - where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction, or improvement commenced.

49. Variance - is a grant of relief from a term or terms of this ordinance.

50. Violation - the failure of a structure or other development to be fully compliant with these regulations.

Article III. ADMINISTRATION

A. Designation of Local Floodplain Administrator -The Flood Plain Manager is hereby appointed to administer and implement the provisions of this ordinance.

B. Adoption of Letter of Map Revisions (LOMR) - All LOMRs that are issued in the areas identified in Article I Section D of this ordinance are hereby adopted.

C. Development Permit and Certification Requirements.

1. Development Permit: - Application for a development permit shall be made to the local floodplain administrator on forms furnished by him or her prior to any development activities. The development permit may include, but not be limited to, plans in duplicate drawn to scale showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures; and the location of fill materials, storage areas, and drainage facilities. Specifically, the following information is required:

- a) A plot plan that shows the 100-year floodplain contour or a statement that the entire lot is within the floodplain must be provided by the development permit applicant when the lot is within or appears to be within the floodplain as mapped by the Federal Emergency Management Agency or the floodplain identified pursuant to either the Duties and Responsibilities of the local floodplain administrator of Article III.D.11 or the Standards for Subdivision Proposals of Article IV.B and the Standards for streams without Estimated Base Flood Elevations and Floodways of Article IV.C. The plot plan must be

prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by it. The plot plan must show the floodway, if any, as identified by the Federal Emergency Management Agency or the floodway identified pursuant to either the duties or responsibilities of the local floodplain administrator of Article III.D.11 or the standards for subdivision proposals of Article IV.B.12 and the standards for streams without estimated base flood elevations and floodways of Article IV.C.

- b) Where base flood elevation data is provided as set forth in Article I.D or the duties and responsibilities of the local floodplain administrator of Article III.D.11 the application for a development permit within the flood hazard area shall show:
 - (1) the elevation (in relation to mean sea level) of the lowest floor of all new and substantially improved structures, and
 - (2) if the structure will be floodproofed in accordance with the Non-Residential Construction requirements of Article IV.B.2 the elevation (in relation to mean sea level) to which the structure will be floodproofed.
- c) Where base flood elevation data is not provided as set forth in Article I.D or the duties and responsibilities of the local floodplain administrator of Article III.D.11, then the provisions in the standards for streams without estimated base flood elevations and floodways of Article IV.C must be met.
- d) Alteration of Watercourse: Where any watercourse will be altered or relocated as a result of proposed development, the application for a development permit shall include a description of the extent of watercourse alteration or relocation, an engineering study to demonstrate that the flood-carrying capacity of the altered or relocated watercourse is maintained and a map showing the location of the proposed watercourse alteration or relocation.

2. Certifications

- a) Floodproofing Certification - When a structure is floodproofed, the applicant shall provide certification from a registered, professional engineer or architect that the non-residential, floodproofed structure meets the floodproofing criteria in the non-residential construction requirements of Article IV.B.2 and Article IV.E.2(b).
- b) Certification During Construction - A lowest floor elevation or floodproofing certification is required after the lowest floor is completed. As soon as possible after completion of the lowest floor and before any further vertical construction commences, or floodproofing by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the local floodplain administrator a certification of the elevation of the

lowest floor, or floodproofed elevation, whichever is applicable, as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by it. Any work done prior to submission of the certification shall be at the permit holder's risk. The local floodplain administrator shall review the floor elevation survey data submitted. The permit holder immediately and prior to further progressive work being permitted to proceed shall correct deficiencies detected by such review. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

- c) V-Zone Certification - When a structure is located in Zones V, VE, or V1-30, certification shall be provided from a registered professional engineer or architect, separate from submitted plans, that new construction and substantial improvement meets the criteria for the coastal high hazard areas outlined in Article IV.F.5.
- d) As-built Certification - Upon completion of the development a registered professional engineer, land surveyor or architect, in accordance with SC law, shall certify according to the requirements of Article III.C.2a, 2b, and 2c that the development is built in accordance with the submitted plans and previous pre-development certifications.

D. Duties and Responsibilities of the Local Floodplain Administrator - shall include, but not be limited to:

1. **Permit Review** - Review all development permits to assure that the requirements of this ordinance have been satisfied.
2. **Requirement of Federal and/or state permits** - Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C 1334.
3. **Watercourse alterations** -
 - a) Notify adjacent communities and the South Carolina Department of Natural Resources, Land, Water, and Conservation Division, State Coordinator for the National Flood Insurance Program, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
 - b) In addition to the notifications required watercourse alterations per Article III.D.3a, written reports of maintenance records must be maintained to show that maintenance has been provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained. This maintenance must consist of a comprehensive program of periodic inspections, and routine channel clearing and dredging, or other related functions. The assurance shall

consist of a description of maintenance activities, frequency of performance, and the local official responsible for maintenance performance. Records shall be kept on file for FEMA inspection.

- c) If the proposed project will modify the configuration of the watercourse, floodway, or base flood elevation for which a detailed Flood Insurance Study has been developed, the applicant shall apply for and must receive approval for a Conditional Letter of Map Revision with the Federal Emergency Management Agency prior to the start of construction.
 - d) Within 60 days of completion of an alteration of a watercourse, referenced in the certification requirements of Article III.C.2.d, the applicant shall submit as-built certification, by a registered professional engineer, to the Federal Emergency Management Agency.
4. **Floodway encroachments** - Prevent encroachments within floodways unless the certification and flood hazard reduction provisions of Article IV.B.5 are met.
 5. **Adjoining Floodplains** - Cooperate with neighboring communities with respect to the management of adjoining floodplains and/or flood-related erosion areas in order to prevent aggravation of existing hazards.
 6. **Notifying Adjacent Communities** - Notify adjacent communities prior to permitting substantial commercial developments and large subdivisions to be undertaken in areas of special flood hazard and/or flood-related erosion hazards.
 7. **Certification requirements** -
 - a) Obtain and review actual elevation (in relation to mean sea level) of the lowest floor of all new or substantially improved structures, in accordance with administrative procedures outlined in Article III.C.2.b or the coastal high hazard area requirements outlined in Article IV.F.5.
 - b) Obtain the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed, in accordance with the floodproofing certification outlined in Article III.C.2.a.
 - c) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the non-residential construction requirements outlined in Article IV.B.2.
 - d) A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions contained in the coastal high hazard area requirements outlined in Article IV.F.4, Article IV.F.6, and Article IV.F.8 of this ordinance.

8. **Map Interpretation** - Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
9. **Prevailing Authority** - Where a map boundary showing an area of special flood hazard and field elevations disagree, the base flood elevations for flood protection elevations (as found on an elevation profile, floodway data table, etc.) shall prevail. The correct information should be submitted to FEMA as per the map maintenance activity requirements outlined in Article IV.B.7.b.
10. **Use Of Best Available Data** - When base flood elevation data and floodway data has not been provided in accordance with Article I.D, obtain, review, and reasonably utilize best available base flood elevation data and floodway data available from a federal, state, or other source, including data developed pursuant to the standards for subdivision proposals outlined in Article IV.B.12, in order to administer the provisions of this ordinance. Data from preliminary, draft, and final Flood Insurance Studies constitutes best available data from a federal, state, or other source. Data must be developed using hydraulic models meeting the minimum requirement of NFIP approved model. If an appeal is pending on the study in accordance with 44 CFR Ch. 1, Part 67.5 and 67.6, the data does not have to be used.
11. **Special Flood hazard Area/topographic Boundaries Conflict** - When the exact location of boundaries of the areas special flood hazards conflict with the current, natural topography information at the site; the site information takes precedence when the lowest adjacent grade is at or above the BFE, the property owner may apply and be approved for a Letter of Map Amendment (LOMA) by FEMA. The local floodplain administrator in the permit file will maintain a copy of the Letter of Map Amendment issued from FEMA.
12. **On-Site inspections** - Make on-site inspections of projects in accordance with the administrative procedures outlined in Article III.E.1.
13. **Administrative Notices** - Serve notices of violations, issue stop-work orders, revoke permits and take corrective actions in accordance with the administrative procedures in Article III.E.
14. **Records Maintenance** - Maintain all records pertaining to the administration of this ordinance and make these records available for public inspection.
15. **Annexations and Detachments** - Notify the South Carolina Department of Natural Resources Land, Water and Conservation Division, State Coordinator for the National Flood Insurance Program within six (6) months, of any annexations or detachments that include special flood hazard areas.
16. **Federally Funded Development** - The President issued *Executive Order 11988, Floodplain Management May 1977*. E.O. 11988 directs federal

agencies to assert a leadership role in reducing flood losses and losses to environmental values served by floodplains. Proposed developments must go through an eight-step review process. Evidence of compliance with the executive order must be submitted as part of the permit review process.

17. **Substantial Damage Determination** – Perform an assessment of damage from any origin to the structure using FEMA’s Residential Substantial Damage Estimator (RSDE) software to determine if the damage equals or exceeds 50 percent of the market value of the structure before the damage occurred.
18. **Substantial Improvement Determinations** – Perform an assessment of permit applications for improvements or repairs to be made to a building or structure that equals or exceeds 50 percent of the market value of the structure before the start of construction. Cost of work counted for determining if and when substantial improvement to a structure occurs shall be cumulative for a period of five years. If the improvement project is conducted in phases, the total of all costs associated with each phase, beginning with the issuance of the first permit, shall be utilized to determine whether “substantial improvement” will occur.

The market values shall be determined by one of the following methods:

- a) the current assessed building value as determined by the county’s assessor’s office or the value of an appraisal performed by a licensed appraiser at the expense of the owner within the past 6 months.
- b) one or more certified appraisals from a registered professional licensed appraiser in accordance with the laws of South Carolina. The appraisal shall indicate actual replacement value of the building or structure in its pre-improvement condition, *less the cost of site improvements and depreciation for functionality and obsolescence.*
- c) Real Estate purchase contract within 6 months prior to the date of the application for a permit.

E. Administrative Procedures

1. **Inspections of Work in Progress** - As the work pursuant to a permit progresses, the local floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the floodplain administrator has a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action.

2. **Stop-Work Orders** - Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the floodplain administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.
3. **Revocation of Permits** - The local floodplain administrator may revoke and require the return of the development permit by notifying the permit holder in writing, stating the reason for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of an applicable state or local law may also be revoked.
4. **Periodic Inspections** - The local floodplain administrator and each member of his/her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
5. **Violations to be Corrected** - When the local floodplain administrator finds violations of applicable state and local laws, it shall be his/her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law on the property he owns.
6. **Actions in Event of Failure to Take Corrective Action:** If the owner of a building or property shall fail to take prompt corrective action, the floodplain administrator shall give him written notice, by certified or registered mail to his last known address or by personal service, that:
 - a) the building or property is in violation of the Flood Damage Prevention Ordinance,
 - b) a hearing will be held before the local floodplain administrator at a designated place and time, not later than 10 days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and,
 - c) following the hearing, the local floodplain administrator may issue such order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.
7. **Order to Take Corrective Action:** If, upon a hearing held pursuant to the notice prescribed above, the floodplain administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he/she shall make an order in writing to the owner, requiring the

owner to remedy the violation within such period, not less than 60 days, the floodplain administrator may prescribe; provided that where the floodplain administrator finds that there is imminent danger to life or other property, he may order that corrective action be taken in such lesser period as may be feasible.

8. **Appeal:** Any owner who has received an order to take corrective action may appeal from the order to the local elected governing body by giving notice of appeal in writing to the floodplain administrator and the clerk within 10 days following issuance of the final order. In the absence of an appeal, the order of the floodplain administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
9. **Failure to Comply with Order:** If the owner of a building or property fails to comply with an order to take corrective action from which no appeal has been taken, or fails to comply with an order of the governing body following an appeal, he shall be guilty of a misdemeanor and shall be punished in the discretion of the court.
10. **Denial of Flood Insurance under the NFIP:** If a structure is declared in violation of this ordinance and after all other penalties are exhausted to achieve compliance with this ordinance then the local floodplain administrator shall notify the Federal Emergency Management Agency (FEMA) to initiate a Section 1316 of the National Flood insurance Act of 1968 action against the structure upon the finding that the violator refuses to bring the violation into compliance with the ordinance. Once a violation has been remedied the local floodplain administrator shall notify FEMA of the remedy and ask that the Section 1316 be rescinded.
11. The following **documents** are incorporated by reference and may be used by the local floodplain administrator to provide further guidance and interpretation of this ordinance as found on FEMA's website at www.fema.gov:
 - a) FEMA 55 Coastal Construction Manual
 - b) All FEMA Technical Bulletins
 - c) All FEMA Floodplain Management Bulletins
 - d) FEMA 348 Protecting Building Utilities from Flood Damage
 - e) FEMA 499 Home Builder's Guide to Coastal Construction Technical Fact Sheets

Article IV. PROVISIONS FOR FLOOD HAZARD REDUCTION

A. General Standards

Development may not occur in the Special Flood Hazard Area (SFHA) where

alternative locations exist due to the inherent hazards and risks involved. Before a permit is issued, the applicant shall demonstrate that new structures cannot be located out of the SFHA and that encroachments onto the SFHA are minimized. In all areas of special flood hazard the following provisions are required:

1. **Reasonably Safe from Flooding** - Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding
2. **Anchoring** - All new construction and substantial improvements shall be anchored to prevent flotation, collapse, and lateral movement of the structure.
3. **Flood Resistant Materials and Equipment** - All new construction and substantial improvements shall be constructed with flood resistant materials and utility equipment resistant to flood damage in accordance with Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*, dated 8/08, and available from the Federal Emergency Management Agency.
4. **Minimize Flood Damage** - All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages,
5. **Critical Development** - shall be elevated to the 500 year flood elevation or be elevated to the highest known historical flood elevation (where records are available), whichever is greater. If no data exists establishing the 500 year flood elevation or the highest known historical flood elevation, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates 500 year flood elevation data,
6. **Utilities** - Electrical, ventilation, plumbing, heating and air conditioning equipment (including ductwork), and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of the base flood plus three feet.
7. **Water Supply Systems** - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system,
8. **Sanitary Sewage Systems** - New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters, On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding,
9. **Gas Or Liquid Storage Tanks** - All gas or liquid storage tanks, either located above ground or buried, shall be anchored to prevent flotation and lateral movement resulting from hydrodynamic and hydrostatic loads.
10. **Alteration, Repair, Reconstruction, Or Improvements** - Any alteration,

repair, reconstruction, or improvement to a structure that is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance. This includes post-FIRM development and structures.

11. **Non-Conforming Buildings or Uses** - Non-conforming buildings or uses may not be enlarged, replaced, or rebuilt unless such enlargement or reconstruction is accomplished in conformance with the provisions of this ordinance. Provided, however, nothing in this ordinance shall prevent the repair, reconstruction, or replacement of an existing building or structure located totally or partially within the floodway, provided that the bulk of the building or structure below base flood elevation in the floodway is not increased and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance,
12. **American with Disabilities Act (ADA)** - A building must meet the specific standards for floodplain construction outlined in Article IV.B, as well as any applicable ADA requirements. The ADA is not justification for issuing a variance or otherwise waiving these requirements. Also, the cost of improvements required to meet the ADA provisions shall be included in the costs of the improvements for calculating substantial improvement.

B. Specific Standards

In all areas of special flood hazard (Zones A, AE, AH, AO, A1-30, V, and VE) where base flood elevation data has been provided, as set forth in Article I.D or outlined in the Duties and Responsibilities of the local floodplain administrator Article III.D., the following provisions are required:

1. **Residential Construction** - New construction and substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor elevated no lower than three feet above the base flood elevation. No basements are permitted. Should solid foundation perimeter walls be used to elevate a structure, flood openings sufficient to automatically equalize hydrostatic flood forces, shall be provided in accordance with the elevated buildings requirements in Article IV B.4.
2. **Non-Residential Construction**
 - a) New construction and substantial improvement of any commercial, industrial, or non-residential structure (including manufactured homes) shall have the lowest floor elevated no lower than three feet above the level of the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, flood openings sufficient to automatically equalize hydrostatic flood forces, shall be provided in accordance with the elevated buildings requirements in Article IV B.4. No basements are permitted. Structures located in A-zones may be floodproofed in lieu of elevation provided that all areas of the structure below the required elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and

hydrodynamic loads and the effect of buoyancy.

- b) A registered, professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certifications shall be provided to the official as set forth in the floodproofing certification requirements in Article III.C.2.a. A variance may be considered for wet-floodproofing agricultural structures in accordance with the criteria outlined in Article V.E of this ordinance. Agricultural structures not meeting the criteria of Article V.E must meet the non-residential construction standards and all other applicable provisions of this ordinance. Structures that are floodproofed are required to have an approved maintenance plan with an annual exercise. The local floodplain administrator must approve the maintenance plan and notification of the annual exercise shall be provided to it.

3. Manufactured Homes

- a) Manufactured homes that are placed or substantially improved on sites outside a manufactured home park or subdivision, in a new manufactured home park or sub-division, in an expansion to an existing manufactured home park or subdivision, or in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, must be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated no lower than three feet above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- b) Manufactured homes that are to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the provisions for residential construction in Article IV.B.1 of this ordinance must be elevated so that the lowest floor of the manufactured home is elevated no lower three feet than above the base flood elevation, and be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement.
- c) Manufactured homes shall be anchored to prevent flotation, collapse, and lateral movement. For the purpose of this requirement, manufactured homes must be anchored to resist flotation, collapse, and lateral movement in accordance with Section 40-29-10 of the *South Carolina Manufactured Housing Board Regulations*, as amended. Additionally, when the elevation requirement would be met by an elevation of the chassis 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above 36 inches in height an engineering certification is required.
- d) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood-prone

areas. This plan shall be filed with and approved by the local floodplain administrator and the local Emergency Preparedness Coordinator.

4. **Elevated Buildings** - New construction and substantial improvements of elevated buildings that include fully enclosed areas below the lowest floor that are usable solely for the parking of vehicles, building access, or limited storage in an area other than a basement, and which are subject to flooding shall be designed to preclude finished space and be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.
 - a) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet or exceed all of the following minimum criteria:
 - (1) Provide a minimum of two openings on different walls having a *total net area* of not less than one square inch for every square foot of enclosed area subject to flooding.
 - (2) The bottom of each opening must be no more than 1 foot above the higher of the interior or exterior grade immediately under the opening,
 - (3) Only the portions of openings that are below the base flood elevation (BFE) can be counted towards the required net open area.
 - (4) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
 - (5) Fill placed around foundation walls must be graded so that the grade inside the enclosed area is equal to or higher than the adjacent grade outside the building on at least one side of the building.
 - b) Hazardous Velocities - Hydrodynamic pressure must be considered in the design of any foundation system where velocity waters or the potential for debris flow exists. If flood velocities are excessive (greater than 5 feet per second), foundation systems other than solid foundations walls should be considered so that obstructions to damaging flood flows are minimized.
 - c) Enclosures Below Lowest Floor
 - (1) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).

- (2) The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, must be void of utilities except for essential lighting as required for safety, and cannot be temperature controlled.
 - (3) One wet location switch and/or outlet connected to a ground fault interrupt breaker may be installed below the required lowest floor elevation specified in the specific standards outlined in Article IV.B.1, 2 and 3.
 - (4) All construction materials below the required lowest floor elevation specified in the specific standards outlined in Article IV.B 1, 2, 3 and 4 should be of flood resistant materials.
5. **Floodways** - Located within areas of special flood hazard established in Article I.D, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris and potential projectiles and has erosion potential. The following provisions shall apply within such areas:
- a) No encroachments, including fill, new construction, substantial improvements, additions, and other developments shall be permitted unless:
 - (1) It has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood. Such certification and technical data shall be presented to the local floodplain administrator.
 - (2) A Conditional Letter of Map revision (CLOMR) has been approved by FEMA. A Letter of Map Revision must be obtained upon completion of the proposed development.
 - b) If Article IV.B.5a is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article IV.
 - c) No manufactured homes shall be permitted, except in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring and the elevation standards of Article IV B.3 and the encroachment standards of Article IV.B.5(a) are met.
 - d) Permissible uses within floodways may include: general farming, pasture, outdoor plant nurseries, horticulture, forestry, wildlife sanctuary, game farm, and other similar agricultural, wildlife, and related uses. Also, lawns, gardens, play areas, picnic grounds, and hiking and horseback riding trails are acceptable uses, provided that they do not employ structures or fill. Substantial development of a

permissible use may require a no-impact certification. The uses listed in this subsection are permissible only if and to the extent that they do not cause any increase in base flood elevations or changes to the floodway configuration.

6. Recreational Vehicles

- a) A recreational vehicle is ready for highway use if it is:
 - (1) on wheels or jacking system
 - (2) attached to the site only by quick-disconnect type utilities and security devices; and
 - (3) has no permanently attached additions
- b) Recreational vehicles placed on sites shall either be:
 - (1) on site for fewer than 180 consecutive days; or
 - (2) be fully licensed and ready for highway use, or *meet* the development permit and certification requirements of Article III.D, general standards outlined in Article IV.A, and manufactured homes standards in Article IV.B.3 and B.4.

7. **Map Maintenance Activities** – The National Flood Insurance Program (NFIP) requires flood data to be reviewed and approved by FEMA. This ensures that flood maps, studies and other data identified in Article I.D accurately represent flooding conditions so appropriate floodplain management criteria are based on current data. The following map maintenance activities are identified:

- a) Requirement to Submit New Technical Data
 - (1) For all development proposals that impact floodway delineations or base flood elevations, the community shall ensure that technical or scientific data reflecting such changes be submitted to FEMA as soon as practicable, but no later than six months of the date such information becomes available. These development proposals include; but not limited to:
 - (a) Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;
 - (b) Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area;
 - (c) Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and

- (d) Subdivision or large scale development proposals requiring the establishment of base flood elevations in accordance with Article IV.C.1.
- (2) It is the responsibility of the applicant to have technical data, required in accordance with Article IV.B.7, prepared in a format required for a Conditional Letter of Map Revision or Letter of Map Revision, and submitted to FEMA. Submittal and processing fees for these map revisions shall also be the responsibility of the applicant.
- (3) The local floodplain administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:
 - (a) Proposed floodway encroachments that increase the base flood elevation; and
 - (b) Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.
- (4) Floodplain development permits issued by the local floodplain administrator shall be conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to Article IV B.7.
- b) Right to Submit New Technical Data - The floodplain administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission shall include appropriate supporting documentation made in writing by the local jurisdiction and may be submitted at any time.

8. Accessory Structures – Detached accessory structures used only for parking of vehicles and storage are permitted at grade if:

- a) In special flood hazard areas other than coastal high hazard areas (Zones A, AE, AH, AO and A1-30), they are not larger than one-story and 600 square feet in area. Walls must have openings in compliance with Article IV.B.4.(a).
- b) In coastal high hazard areas (Zones V, VE, V1-30 and VO) they are not larger than 100 square feet and in compliance with Article IV.F.
- c) Anchored to resist flotation, collapse, and lateral movement.
- d) Flood damage resistant materials used below the base elevation in accordance with Technical Bulletin 2, Flood Damage Resistant Materials Requirement.
- e) Mechanical, electrical, and utility equipment comply with the

requirements of Article IV.A. 6.

- f) Accessory structures shall be designed to have low flood damage potential.
- g) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

9. Swimming Pool Utility Equipment Rooms - If the building cannot be built at or above the BFE, because of functionality of the equipment then a structure to house the utilities for the pool may be built below the BFE with the following provisions:

- a) Meet the requirements for accessory structures in Article IV.B.8
- b) The utilities must be anchored to prevent flotation and shall be designed to prevent water from entering or accumulating within the components during conditions of the base flood.

10. Elevators

- a) Install a float switch system or another system that provides the same level of safety necessary for all elevators where there is a potential for the elevator cab to descend below the BFE during a flood per FEMA's Technical Bulletin 4 Elevator Installation.
- b) All equipment that may have to be installed below the BFE such as counter weight roller guides, compensation cable and pulleys, and oil buffers for traction elevators and the jack assembly for a hydraulic elevator must be constructed using flood-resistant materials where possible per FEMA's Technical Bulletin 4 Elevator Installation.

11. Fill - An applicant shall demonstrate that fill is the only alternative to raising the building to meet the residential and non-residential construction requirements of Article IV B(1) or B (2), and that the amount of fill used will not affect the flood storage capacity or adversely affect adjacent properties. The following provisions shall apply to all fill placed in the special flood hazard area:

- a) Fill may not be placed in the floodway unless it is in accordance with the requirements in Article IV.B.5a.
- b) Fill may not be placed in tidal or non-tidal wetlands without the required state and federal permits.
- c) Fill must consist of soil and rock materials only. A registered professional geotechnical engineer may use dredged material as fill only upon certification of suitability. Landfills, rubble fills, dumps, and sanitary fills are not permitted in the floodplain.
- d) Fill used to support structures must comply with ASTM Standard D-

698, and its suitability to support structures certified by a registered, professional engineer.

- e) Fill slopes shall be no greater than two horizontal to one vertical. Flatter slopes may be required where velocities may result in erosion.
- f) The use of fill shall not increase flooding or cause drainage problems on neighboring properties.
- g) Fill may not be used for structural support in the coastal high hazard areas.
- h) Will meet the requirements of FEMA Technical Bulletin 10-01, *Ensuring That Structures Built On Fill in or Near Special Flood Hazard Areas Are Reasonable Safe from Flooding*.

12. Standards for Subdivision Proposals and other development

- a) All subdivision proposals and other proposed new development shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations.
- b) All subdivision proposals and other proposed new development shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- c) All subdivision proposals and other proposed new development shall have adequate drainage provided to reduce exposure to flood damage.
- d) The applicant shall meet the requirement to submit technical data to FEMA in Article IV B.7 when a hydrologic and hydraulic analysis is completed that generates base flood elevations.

C. Standards for Streams without Established Base Flood Elevations and Floodways - Located within the areas of special flood hazard (Zones A and V) established in Article I.D, are small streams where no base flood data has been provided and where no floodways have been identified. The following provisions apply within such areas:

1. In all areas of special flood hazard where base flood elevation data are not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and other proposed developments containing at least 50 lots or 5 acres, whichever is less.
2. No encroachments, including fill, new construction, substantial improvements and new development shall be permitted within 100 feet of the stream bank unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

3. If Article IV.C.1 is satisfied and base flood elevation data is available from other sources, all new construction and substantial improvements within such areas shall comply with all applicable flood hazard ordinance provisions of Article IV and shall be elevated or floodproofed in accordance with elevations established in accordance with Article III.E.11.
4. Data from preliminary, draft, and final Flood Insurance Studies constitutes best available data. Refer to FEMA Floodplain Management Bulletin 1-98 *Use of Flood Insurance Study (FIS) Data as Available Data*. If an appeal is pending on the study in accordance with 44 CFR Ch. 1, Part 67.5 and 67.6, the data does not have to be used.
5. When base flood elevation (BFE) data is not available from a federal, state, or other source one of the following methods may be used to determine a BFE For further information regarding the methods for determining BFEs listed below, refer to FEMA's manual *Managing Floodplain Development in Approximate Zone A Areas*:
 - a) Contour Interpolation
 - (1) Superimpose approximate Zone A boundaries onto a topographic map and estimate a BFE.
 - (2) Add one-half of the contour interval of the topographic map that is used to the BFE.
 - b) Data Extrapolation - A BFE can be determined if a site within 500 feet upstream of a reach of a stream reach for which a 100-year profile has been computed by detailed methods, and the floodplain and channel bottom slope characteristics are relatively similar to the downstream reaches. No hydraulic structures shall be present.
 - c) Hydrologic and Hydraulic Calculations- Perform hydrologic and hydraulic calculations to determine BFEs using FEMA approved methods and software.

D. Standards for Streams with Established Base Flood Elevations but without Floodways - Along rivers and streams where Base Flood Elevation (BFE) data is provided but no floodway is identified for a Special Flood Hazard Area on the FIRM or in the FIS.

1. No encroachments including fill, new construction, substantial improvements, or other development shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

E. Standards for Areas of Shallow Flooding (AO Zones) - Located within the areas of special flood hazard established in Article 1.D, are areas designated as shallow

flooding. The following provisions shall apply within such areas:

1. All new construction and substantial improvements of residential structures shall have the lowest floor elevated to at least as high as the depth number specified on the Flood Insurance Rate Map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor shall be elevated at least three (3) feet above the highest adjacent grade.
2. All new construction and substantial improvements of non-residential structures shall:
 - a) Have the lowest floor elevated to at least as high as the depth number specified on the Flood Insurance Rate Map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor shall be elevated at least three (3) feet above the highest adjacent grade; or,
 - b) Be completely flood-proofed together with attendant utility and sanitary facilities to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required as stated in Article III.D.
3. All structures on slopes must have drainage paths around them to guide water away from the structures.

Article IV. VARIANCE PROCEDURES

- A. **Establishment of Appeal Board** – The Board of Zoning and Building Appeals, as established by the City of Simpsonville, shall hear and decide requests for variances from the requirements of this ordinance.
- B. **Right to Appeal** - Any person aggrieved by the decision of the appeal board or any taxpayer may appeal such decision to the Court.
- C. **Historic Structures** - Variances may be issued for the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- D. **Functionally Dependent Uses** – Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this Article are met, no reasonable alternative exist, and the development is protected by methods that minimize flood damage and create no additional threat to public safety.
- E. **Accessory Structures and Agricultural Structures** - A variance is authorized to be issued for the construction or substantial improvement of accessory structures and agricultural structures provided the requirements of this section and the following are satisfied:

1. Accessory structures. A determination that the proposed accessory structure:

- a) Represents a minimal investment and has low damage potential (amount of physical damage, contents damage, and loss of function).
- b) Is larger than the size limits specified in Article IV.B.8.
- c) Complies with the wet floodproofing construction requirement of paragraph E.3. below.

2. Agricultural structures. A determination that the proposed agricultural structure:

- a) Is used exclusively in connection with the production, harvesting, storage, raising, or drying of agricultural commodities and livestock, or storage of tools or equipment used in connection with these purposes or uses, and will be restricted to such exclusive uses.
- b) Has low damage potential (amount of physical damage, contents damage, and loss of function).
- c) Does not increase risks and pose a danger to public health, safety, and welfare if flooded and contents are released, including but not limited to the effects of flooding on manure storage, livestock confinement operations, liquified natural gas terminals, and production and storage of highly volatile, toxic, or water-reactive materials.
- d) Complies with the wet floodproofing construction requirements of paragraph E.3. below.

3. Wet floodproofing construction requirements. Wet floodproofed structures shall:

- a) Be anchored to resist flotation, collapse, and lateral movement.
- b) Have flood damage resistant materials below the base flood elevation built in accordance with Technical Bulletin 2, Flood Damage Resistant Materials Requirement.
- c) Have mechanical, electrical, and utility equipment in compliance with the requirements of Article IV.A.6.
- d) In special flood hazards area, have flood openings in compliance with the requirements of Article IV.B.4.(a).

4. Variances shall not be allowed in Coastal High Hazard Areas.

F. Considerations - In passing upon such applications, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

1. The danger that materials may be swept onto other lands to the injury of others;
 2. The danger to life and property due to flooding or erosion damage, and the safety of access to the property in times of flood for ordinary and emergency vehicles;
 3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 4. The importance of the services provided by the proposed facility to the community;
 5. The necessity to the facility of a waterfront location, where applicable;
 6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 7. The compatibility of the proposed use with existing and anticipated development, and the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 8. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
 9. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges; and
 10. Agricultural structures must be located in wide, expansive floodplain areas, where no other alternative location for the agricultural structure exists. The applicant must demonstrate that the entire farm acreage, consisting of a contiguous parcel of land on which the structure is to be located, must be in the Special Flood Hazard Area and no other alternative locations for the structure are available.
- G. Findings** - Findings listed above shall be submitted to the appeal board, in writing, and included in the application for a variance. Additionally, comments from the Department of Natural Resources, Land, Water and Conservation Division, State Coordinator's Office, must be taken into account and included in the permit file.
- H. Floodways** - Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result unless a CLOMR is obtained prior to issuance of the variance. In order to ensure the project is built in compliance with the CLOMR for which the variance is granted the applicant must provide a bond for 100% of the cost to perform the development.
- I. Conditions** - Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of

variances as it deems necessary to further the purposes of this ordinance. The following conditions shall apply to all variances:

1. Variances may not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.
2. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
3. Variances shall only be issued upon a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship, and a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
4. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation (BFE) and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk. Such notification shall be maintained with a record of all variance actions.
5. The local floodplain administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency (FEMA) upon request.
6. Variances shall not be issued for unpermitted development or other development that is not in compliance with the provisions of this ordinance. Violations must be corrected in accordance with Article III.E.5 of this ordinance.

Article VI. LEGAL STATUS PROVISIONS

- A. **Effect on Rights and Liabilities under the Existing Flood Damage Prevention Ordinance** - This Ordinance in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted in 1995 and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued there under are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of the City of Simpsonville enacted in 1995, as amended, which are not reenacted herein, are repealed.
- B. **Effect upon Outstanding Building Permits** - Nothing herein contained shall require any change in the plans, construction, size or designated use of any building, structure or part thereof for which a building permit has been granted by the Chief Building Inspector or his authorized agents before the time of passage of this ordinance; provided, however, that when start of construction has not occurred under such outstanding permit within a period of sixty (60) days subsequent to passage of this ordinance, construction or use shall be in conformity with the provisions of this ordinance.

RESOLUTION 2021-06

DESIGNATING AN AUTHORIZED REPRESENTATIVE AND CONTACT PERSON FOR PURPOSES OF THE
AMERICAN RESCUE PLAN ACT OF 2021 AND APPROPRIATING EXPENDITURES

WHEREAS, the American Rescue Plan Act of 2021 (ARPA) appropriates \$19.53 billion to States for distribution to nonentitlement units of local government (NEUs), which are local governments typically serving a population under 50,000;

WHEREAS, the City of Simpsonville, South Carolina, is an NEU for purposes of ARPA and expects to receive \$12,058,278.55 in funding pursuant to the ARPA appropriation;

WHEREAS, ARPA requires that the Municipality designate an Authorized Representative to approve and sign documents, make certifications required by ARPA, and otherwise act as the Municipality's designated and lawfully appointed agent for purposes of ARPA; and

WHEREAS, ARPA further requires that the Municipality designate a Contact Person to receive official communications and notice related to ARPA;

NOW, THEREFORE, BE IT RESOLVED as follows:

Section 1. Dianna Gracely, the City Administrator of the Municipality, is hereby designated as the Municipality's Authorized Representative pursuant to ARPA. The Authorized Representative is hereby authorized and directed to do all things necessary (including without limitation to sign documents, make certifications, make regular reports to Council and otherwise act on behalf of the Municipality) to receive and expend funds pursuant to an appropriation by Council and ARPA rules. The Authorized Representative's contact information is:

Dianna Gracely
City Administrator
118 NE Main Street
Simpsonville, SC 29681
(864) 967-5404
dianna@simpsonville.com

Section 2. Christine Furino, the Finance Director of the Municipality, is hereby designated as the Municipality's Contact Person pursuant to ARPA. The Contact Person's contact information is:

Christine Furino
Finance Director/City Treasurer
118 NE Main Street
Simpsonville, SC 29681
(864) 967-9526
cfurino@simpsonville.com

Section 3. Projects to be funded with ARPA funds shall be those projects listed on the attached table and approved at the time of this resolution. This list currently represents all available ARPA funding, unless

actual costs are less than estimates provided at the time the list was compiled. Council action shall be required for any additional expenditures not included on this list of projects.

DONE IN MEETING duly assembled this 14th day of September, 2021.

SIGNATURE OF MAYOR:

Paul D. Shewmaker

ATTEST:

APPROVED AS TO FORM:

Phyllis Long
City Clerk

David W. Holmes
City Attorney



American Rescue Plan Act Funding Expenditures

Total Funding Allocated \$12,058,278.55

| Project | Scope | Date Funds Obligated | Date Funds Expended | Total Funding | Budget Forward |
|---------------------------------------------------------|--------------------------------------------------------------------------------------------------------------|-------------------------------|-------------------------------------------------------------------------------------------------------------------------|----------------------|-----------------------|
| Revenue Replacement | Replacement of lost revenues as a result of COVID Based on US Treasury's ARPA Revenue Replacement Calculator | Immediately upon availability | Immediately upon availability Recommend that funds be moved to the Capital Projects Account for future capital needs | \$1,779,701 | \$10,278,577 |
| Downtown Tree Canopy and Green Infrastructure | Establishment of urban tree canopy, installation of permeable pavement | April, 2022 | April, 2024 | \$3,800,000 | \$6,478,577 |
| Ventilation in Public Buildings and Congregate Settings | New HVAC System in City Hall/Police Department FD Headquarters | February, 2022 | December, 2023 | \$2,500,000 | \$3,978,577 |
| Ventilation in Public Buildings and Congregate Settings | New HVAC Units in Fire Stations 2,3,4 Ionization Unit in Station 6 | January, 2022 | June, 2022 | \$65,000 | \$3,913,577 |
| Stormwater Management/Green Infrastructure in City Park | Create Stormwater collection and detention system based on green infrastructure best practices in City Park | July, 2022 | January, 2025 | \$2,782,500 | \$1,131,077 |
| Amphitheatre Water Efficiency Improvements | Correct water pressure issue that prevents toilets from flushing at peak use times | Immediately upon availability | Immediately upon availability | \$60,000 | \$1,071,077 |

| | | | | | |
|----------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|-------------------------------|-----------|-----------|
| Ventilation in Public Buildings and Congregate Settings | Open Potato House to create open air, fully ventilated building for air flow | Immediately upon availability | Immediately upon availability | \$90,000 | \$981,077 |
| Activities that would be eligible under section 603 (c) of the Federal Water Pollution Control Act | Sewer System Improvements to remove septic system from City Park and install public sewer. Various CMOM upgrades to the City's system. | March, 2022 | March, 2023 | \$981,077 | 0 |

31, 2021. The quarterly Project and Expenditure reports will include financial data, information on contracts and subawards over \$50,000, types of projects funded, and other information regarding a recipient's utilization of the award funds.

Nonentitlement unit recipients will be required to submit annual Project and Expenditure reports until the end of the award period. The initial annual Project and Expenditure report for Nonentitlement unit recipients must be submitted to Treasury by October 31, 2021. The subsequent annual reports must be submitted to Treasury by October 31 each year. States, territories, metropolitan cities, and counties with a population that exceeds 250,000 residents will also be required to submit an annual Recovery Plan Performance report to Treasury. The Recovery Plan Performance report will include descriptions of the projects funded and information on the performance indicators and objectives of the award. Each annual Recovery Plan Performance report must be posted on the public-facing website of the recipient. Treasury will provide additional guidance and instructions on the all the reporting requirements outlined above for the Fiscal Recovery Funds program at a later date.

These and related periodic reporting requirements are under consideration and will be submitted to OMB for approval under the PRA emergency provisions in the near future.

Treasury invites comments on all aspects of the reporting and recordkeeping requirements including: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Comments should be sent by the comment deadline to the www.regulations.gov docket with a copy to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, 725 17th Street NW, Washington, DC 20503; or email to oira_submission@omb.eop.gov.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act (RFA) generally requires that when an agency issues a proposed rule, or a final rule

pursuant to section 553(b) of the Administrative Procedure Act or another law, the agency must prepare a regulatory flexibility analysis that meets the requirements of the RFA and publish such analysis in the **Federal Register**. 5 U.S.C. 603, 604.

Rules that are exempt from notice and comment under the APA are also exempt from the RFA requirements, including the requirement to conduct a regulatory flexibility analysis, when among other things the agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest. Since this rule is exempt from the notice and comment requirements of the APA, Treasury is not required to conduct a regulatory flexibility analysis.

List of Subjects in 31 CFR Part 35

Executive compensation, Public health emergency, State and local governments, Tribal governments.

For the reasons stated in the preamble, the Department of the Treasury amends 31 CFR part 35 as follows:

PART 35—PANDEMIC RELIEF PROGRAMS

- 1. The authority citation for part 35 is revised to read as follows:

Authority: 42 U.S.C. 802(f); 42 U.S.C. 803(f); 31 U.S.C. 321; Division N, Title V, Subtitle B, Pub. L. 116–260, 134 Stat. 1182; Section 104A, Pub. L. 103–325, 108 Stat. 2160, as amended (12 U.S.C. 4701 *et seq.*); Pub. L. 117–2, 135 Stat. 4 (42 U.S.C. 802 *et seq.*).

- 2. Revise the part heading to read as set forth above.

- 3. Add subpart A to read as follows:

Subpart A—Coronavirus State and Local Fiscal Recovery Funds

| | |
|-------|--------------------------------------------------------------------------------------------------|
| Sec. | |
| 35.1 | Purpose. |
| 35.2 | Applicability. |
| 35.3 | Definitions. |
| 35.4 | Reservation of authority, reporting. |
| 35.5 | Use of funds. |
| 35.6 | Eligible uses. |
| 35.7 | Pensions. |
| 35.8 | Tax. |
| 35.9 | Compliance with applicable laws. |
| 35.10 | Recoupment. |
| 35.11 | Payments to States. |
| 35.12 | Distributions to nonentitlement units of local government and units of general local government. |

§ 35.1 Purpose.

This subpart implements section 9901 of the American Rescue Plan Act (Subtitle M of Title IX of Pub. L. 117–2), which amends Title VI of the Social Security Act (42 U.S.C. 801 *et*

seq.) by adding sections 602 and 603 to establish the Coronavirus State Fiscal Recovery Fund and Coronavirus Local Fiscal Recovery Fund.

§ 35.2 Applicability.

This subpart applies to States, territories, Tribal governments, metropolitan cities, nonentitlement units of local government, counties, and units of general local government that accept a payment or transfer of funds made under section 602 or 603 of the Social Security Act.

§ 35.3 Definitions.

As used in this subpart:

Baseline means tax revenue of the recipient for its fiscal year ending in 2019, adjusted for inflation in each reporting year using the Bureau of Economic Analysis's Implicit Price Deflator for the gross domestic product of the United States.

County means a county, parish, or other equivalent county division (as defined by the Census Bureau).

Covered benefits include, but are not limited to, the costs of all types of leave (vacation, family-related, sick, military, bereavement, sabbatical, jury duty), employee insurance (health, life, dental, vision), retirement (pensions, 401(k)), unemployment benefit plans (Federal and State), workers' compensation insurance, and Federal Insurance Contributions Act taxes (which includes Social Security and Medicare taxes).

Covered change means a change in law, regulation, or administrative interpretation. A change in law includes any final legislative or regulatory action, a new or changed administrative interpretation, and the phase-in or taking effect of any statute or rule if the phase-in or taking effect was not prescribed prior to the start of the covered period.

Covered period means, with respect to a State, Territory, or Tribal government, the period that:

(1) Begins on March 3, 2021; and

(2) Ends on the last day of the fiscal year of such State, Territory, or Tribal government in which all funds received by the State, Territory, or Tribal government from a payment made under section 602 or 603 of the Social Security Act have been expended or returned to, or recovered by, the Secretary.

COVID-19 means the Coronavirus Disease 2019.

COVID-19 public health emergency means the period beginning on January 27, 2020 and until the termination of the national emergency concerning the COVID-19 outbreak declared pursuant to the National Emergencies Act (50 U.S.C. 1601 *et seq.*).

Deposit means an extraordinary payment of an accrued, unfunded liability. The term deposit does not refer to routine contributions made by an employer to pension funds as part of the employer's obligations related to payroll, such as either a pension contribution consisting of a normal cost component related to current employees or a component addressing the amortization of unfunded liabilities calculated by reference to the employer's payroll costs.

Eligible employer means an employer of an eligible worker who performs essential work.

Eligible workers means workers needed to maintain continuity of operations of essential critical infrastructure sectors, including health care; emergency response; sanitation, disinfection, and cleaning work; maintenance work; grocery stores, restaurants, food production, and food delivery; pharmacy; biomedical research; behavioral health work; medical testing and diagnostics; home- and community-based health care or assistance with activities of daily living; family or child care; social services work; public health work; vital services to Tribes; any work performed by an employee of a State, local, or Tribal government; educational work, school nutrition work, and other work required to operate a school facility; laundry work; elections work; solid waste or hazardous materials management, response, and cleanup work; work requiring physical interaction with patients; dental care work; transportation and warehousing; work at hotel and commercial lodging facilities that are used for COVID-19 mitigation and containment; work in a mortuary; work in critical clinical research, development, and testing necessary for COVID-19 response.

(1) With respect to a recipient that is a metropolitan city, nonentitlement unit of local government, or county, workers in any additional sectors as each chief executive officer of such recipient may designate as critical to protect the health and well-being of the residents of their metropolitan city, nonentitlement unit of local government, or county; or

(2) With respect to a State, Territory, or Tribal government, workers in any additional sectors as each Governor of a State or Territory, or each Tribal government, may designate as critical to protect the health and well-being of the residents of their State, Territory, or Tribal government.

Essential work means work that:

- (1) Is not performed while teleworking from a residence; and
- (2) Involves:

(i) Regular in-person interactions with patients, the public, or coworkers of the individual that is performing the work; or

(ii) Regular physical handling of items that were handled by, or are to be handled by patients, the public, or coworkers of the individual that is performing the work.

Funds means, with respect to a recipient, amounts provided to the recipient pursuant to a payment made under section 602(b) or 603(b) of the Social Security Act or transferred to the recipient pursuant to section 603(c)(4) of the Social Security Act.

General revenue means money that is received from tax revenue, current charges, and miscellaneous general revenue, excluding refunds and other correcting transactions, proceeds from issuance of debt or the sale of investments, agency or private trust transactions, and intergovernmental transfers from the Federal Government, including transfers made pursuant to section 9901 of the American Rescue Plan Act. General revenue does not include revenues from utilities. Revenue from Tribal business enterprises must be included in general revenue.

Intergovernmental transfers means money received from other governments, including grants and shared taxes.

Metropolitan city has the meaning given that term in section 102(a)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(4)) and includes cities that relinquish or defer their status as a metropolitan city for purposes of receiving allocations under section 106 of such Act (42 U.S.C. 5306) for fiscal year 2021.

Net reduction in total spending is measured as the State or Territory's total spending for a given reporting year excluding its spending of funds, subtracted from its total spending for its fiscal year ending in 2019, adjusted for inflation using the Bureau of Economic Analysis's Implicit Price Deflator for the gross domestic product of the United States.

Nonentitlement unit of local government means a "city," as that term is defined in section 102(a)(5) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(5)), that is not a metropolitan city.

Nonprofit means a nonprofit organization that is exempt from Federal income taxation and that is described in section 501(c)(3) of the Internal Revenue Code.

Obligation means an order placed for property and services and entering into

contracts, subawards, and similar transactions that require payment.

Pension fund means a defined benefit plan and does not include a defined contribution plan.

Premium pay means an amount of up to \$13 per hour that is paid to an eligible worker, in addition to wages or remuneration the eligible worker otherwise receives, for all work performed by the eligible worker during the COVID-19 public health emergency. Such amount may not exceed \$25,000 with respect to any single eligible worker. Premium pay will be considered to be in addition to wages or remuneration the eligible worker otherwise receives if, as measured on an hourly rate, the premium pay is:

(1) With regard to work that the eligible worker previously performed, pay and remuneration equal to the sum of all wages and remuneration previously received plus up to \$13 per hour with no reduction, substitution, offset, or other diminishment of the eligible worker's previous, current, or prospective wages or remuneration; or

(2) With regard to work that the eligible worker continues to perform, pay of up to \$13 that is in addition to the eligible worker's regular rate of wages or remuneration, with no reduction, substitution, offset, or other diminishment of the workers' current and prospective wages or remuneration.

Qualified census tract has the same meaning given in 26 U.S.C. 42(d)(5)(B)(ii)(I).

Recipient means a State, Territory, Tribal government, metropolitan city, nonentitlement unit of local government, county, or unit of general local government that receives a payment made under section 602(b) or 603(b) of the Social Security Act or transfer pursuant to section 603(c)(4) of the Social Security Act.

Reporting year means a single year or partial year within the covered period, aligned to the current fiscal year of the State or Territory during the covered period.

Secretary means the Secretary of the Treasury.

State means each of the 50 States and the District of Columbia.

Small business means a business concern or other organization that:

(1) Has no more than 500 employees, or if applicable, the size standard in number of employees established by the Administrator of the Small Business Administration for the industry in which the business concern or organization operates; and

(2) Is a small business concern as defined in section 3 of the Small Business Act (15 U.S.C. 632).

Tax revenue means revenue received from a compulsory contribution that is exacted by a government for public purposes excluding refunds and corrections and, for purposes of § 35.8, intergovernmental transfers. Tax revenue does not include payments for a special privilege granted or service rendered, employee or employer assessments and contributions to finance retirement and social insurance trust systems, or special assessments to pay for capital improvements.

Territory means the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or American Samoa.

Tribal enterprise means a business concern:

(1) That is wholly owned by one or more Tribal governments, or by a corporation that is wholly owned by one or more Tribal governments; or

(2) That is owned in part by one or more Tribal governments, or by a corporation that is wholly owned by one or more Tribal governments, if all other owners are either United States citizens or small business concerns, as these terms are used and consistent with the definitions in 15 U.S.C. 657a(b)(2)(D).

Tribal government means the recognized governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, community, component band, or component reservation, individually identified (including parenthetically) in the list published by the Bureau of Indian Affairs on January 29, 2021, pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131).

Unemployment rate means the U-3 unemployment rate provided by the Bureau of Labor Statistics as part of the Local Area Unemployment Statistics program, measured as total unemployment as a percentage of the civilian labor force.

Unemployment trust fund means an unemployment trust fund established under section 904 of the Social Security Act (42 U.S.C. 1104).

Unit of general local government has the meaning given to that term in section 102(a)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(1)).

Unserved and underserved households or businesses means one or more households or businesses that are not currently served by a wireline connection that reliably delivers at least 25 Mbps download speed and 3 Mbps of upload speed.

§ 35.4 Reservation of authority, reporting.

(a) *Reservation of authority.* Nothing in this subpart shall limit the authority of the Secretary to take action to enforce conditions or violations of law, including actions necessary to prevent evasions of this subpart.

(b) *Extensions or accelerations of timing.* The Secretary may extend or accelerate any deadline or compliance date of this subpart, including reporting requirements that implement this subpart, if the Secretary determines that such extension or acceleration is appropriate. In determining whether an extension or acceleration is appropriate, the Secretary will consider the period of time that would be extended or accelerated and how the modified timeline would facilitate compliance with this subpart.

(c) *Reporting and requests for other information.* During the covered period, recipients shall provide to the Secretary periodic reports providing detailed accounting of the uses of funds, all modifications to a State or Territory's tax revenue sources, and such other information as the Secretary may require for the administration of this section. In addition to regular reporting requirements, the Secretary may request other additional information as may be necessary or appropriate, including as may be necessary to prevent evasions of the requirements of this subpart. False statements or claims made to the Secretary may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in Federal awards or contracts, and/or any other remedy available by law.

§ 35.5 Use of funds.

(a) *In general.* A recipient may only use funds to cover costs incurred during the period beginning March 3, 2021, and ending December 31, 2024, for one or more of the purposes enumerated in sections 602(c)(1) and 603(c)(1) of the Social Security Act, as applicable, including those enumerated in section § 35.6, subject to the restrictions set forth in sections 602(c)(2) and 603(c)(2) of the Social Security Act, as applicable.

(b) *Costs incurred.* A cost shall be considered to have been incurred for purposes of paragraph (a) of this section if the recipient has incurred an obligation with respect to such cost by December 31, 2024.

(c) *Return of funds.* A recipient must return any funds not obligated by December 31, 2024, and any funds not expended to cover such obligations by December 31, 2026.

§ 35.6 Eligible uses.

(a) *In general.* Subject to §§ 35.7 and 35.8, a recipient may use funds for one or more of the purposes described in paragraphs (b) through (e) of this section.

(b) ~~Responding to the public health emergency or its negative economic impacts.~~ A recipient may use funds to respond to the public health emergency or its negative economic impacts, including for one or more of the following purposes:

(1) *COVID-19 response and prevention.* Expenditures for the mitigation and prevention of COVID-19, including:

(i) Expenses related to COVID-19 vaccination programs and sites, including staffing, acquisition of equipment or supplies, facilities costs, and information technology or other administrative expenses;

(ii) COVID-19-related expenses of public hospitals, clinics, and similar facilities;

(iii) COVID-19 related expenses in congregate living facilities, including skilled nursing facilities, long-term care facilities, incarceration settings, homeless shelters, residential foster care facilities, residential behavioral health treatment, and other group living facilities;

(iv) Expenses of establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity, including related construction costs and other capital investments in public facilities to meet COVID-19-related operational needs;

(v) Expenses of establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity, including related construction costs and other capital investments in public facilities to meet COVID-19-related operational needs;

(vi) Costs of providing COVID-19 testing and monitoring, contact tracing, and monitoring of case trends and genomic sequencing for variants;

(vii) Emergency medical response expenses, including emergency medical transportation, related to COVID-19;

(viii) Expenses for establishing and operating public telemedicine capabilities for COVID-19-related treatment;

(ix) Expenses for communication related to COVID-19 vaccination programs and communication or enforcement by recipients of public health orders related to COVID-19;

(x) Expenses for acquisition and distribution of medical and protective supplies, including sanitizing products and personal protective equipment;

(xi) Expenses for disinfection of public areas and other facilities in

response to the COVID-19 public health emergency;

(xii) Expenses for technical assistance to local authorities or other entities on mitigation of COVID-19-related threats to public health and safety;

(xiii) Expenses for quarantining or isolation of individuals;

(xiv) Expenses of providing paid sick and paid family and medical leave to public employees to enable compliance with COVID-19 public health precautions;

(xv) Expenses for treatment of the long-term symptoms or effects of COVID-19, including post-intensive care syndrome;

(xvi) Expenses for the improvement of ventilation systems in congregate settings, public health facilities, or other public facilities;

(xvii) Expenses related to establishing or enhancing public health data systems; and

(xviii) Mental health treatment, substance misuse treatment, and other behavioral health services.

(2) *Public health and safety staff.* Payroll and covered benefit expenses for public safety, public health, health care, human services, and similar employees to the extent that the employee's time is spent mitigating or responding to the COVID-19 public health emergency.

(3) *Hiring State and local government staff.* Payroll, covered benefit, and other costs associated with the recipient increasing the number of its employees up to the number of employees that it employed on January 27, 2020.

(4) *Assistance to unemployed workers.* Assistance, including job training, for individuals who want and are available for work, including those who have looked for work sometime in the past 12 months or who are employed part time but who want and are available for full-time work.

(5) *Contributions to State unemployment insurance trust funds.* Contributions to an unemployment trust fund up to the level required to restore the unemployment trust fund to its balance on January 27, 2020 or to pay back advances received under Title XII of the Social Security Act (42 U.S.C. 1321) for the payment of benefits between January 27, 2020 and May 17, 2021.

(6) *Small businesses.* Assistance to small businesses, including loans, grants, in-kind assistance, technical assistance or other services, that responds to the negative economic impacts of the COVID-19 public health emergency.

(7) *Nonprofits.* Assistance to nonprofit organizations, including loans, grants, in-kind assistance, technical assistance

or other services, that responds to the negative economic impacts of the COVID-19 public health emergency.

(8) *Assistance to households.* Assistance programs, including cash assistance programs, that respond to the COVID-19 public health emergency.

(9) *Aid to impacted industries.* Aid to tourism, travel, hospitality, and other impacted industries that responds to the negative economic impacts of the COVID-19 public health emergency.

(10) *Expenses to improve efficacy of public health or economic relief programs.* Administrative costs associated with the recipient's COVID-19 public health emergency assistance programs, including services responding to the COVID-19 public health emergency or its negative economic impacts, that are not federally funded.

(11) *Survivor's benefits.* Benefits for the surviving family members of individuals who have died from COVID-19, including cash assistance to widows, widowers, or dependents of individuals who died of COVID-19.

(12) *Disproportionately impacted populations and communities.* A program, service, or other assistance that is provided in a qualified census tract, that is provided to households and populations living in a qualified census tract, that is provided by a Tribal government, or that is provided to other households, businesses, or populations disproportionately impacted by the COVID-19 public health emergency, such as:

(i) Programs or services that facilitate access to health and social services, including:

(A) Assistance accessing or applying for public benefits or services;

(B) Remediation of lead paint or other lead hazards; and

(C) Community violence intervention programs;

(ii) Programs or services that address housing insecurity, lack of affordable housing, or homelessness, including:

(A) Supportive housing or other programs or services to improve access to stable, affordable housing among individuals who are homeless;

(B) Development of affordable housing to increase supply of affordable and high-quality living units; and

(C) Housing vouchers and assistance relocating to neighborhoods with higher levels of economic opportunity and to reduce concentrated areas of low economic opportunity;

(iii) Programs or services that address or mitigate the impacts of the COVID-19 public health emergency on education, including:

(A) New or expanded early learning services;

(B) Assistance to high-poverty school districts to advance equitable funding across districts and geographies; and

(C) Educational and evidence-based services to address the academic, social, emotional, and mental health needs of students; and

(iv) Programs or services that address or mitigate the impacts of the COVID-19 public health emergency on childhood health or welfare, including:

(A) New or expanded childcare;

(B) Programs to provide home visits by health professionals, parent educators, and social service professionals to individuals with young children to provide education and assistance for economic support, health needs, or child development; and

(C) Services for child welfare-involved families and foster youth to provide support and education on child development, positive parenting, coping skills, or recovery for mental health and substance use.

(c) *Providing premium pay to eligible workers.* A recipient may use funds to provide premium pay to eligible workers of the recipient who perform essential work or to provide grants to eligible employers, provided that any premium pay or grants provided under this paragraph (c) must respond to eligible workers performing essential work during the COVID-19 public health emergency. A recipient uses premium pay or grants provided under this paragraph (c) to respond to eligible workers performing essential work during the COVID-19 public health emergency if it prioritizes low- and moderate-income persons. The recipient must provide, whether for themselves or on behalf of a grantee, a written justification to the Secretary of how the premium pay or grant provided under this paragraph (c) responds to eligible workers performing essential work if the premium pay or grant would increase an eligible worker's total wages and remuneration above 150 percent of such eligible worker's residing State's average annual wage for all occupations or their residing county's average annual wage, whichever is higher.

(d) *Providing government services.* For the provision of government services to the extent of a reduction in the recipient's general revenue, calculated according to paragraphs (d)(1) and (2) of this section.

(1) *Frequency.* A recipient must calculate the reduction in its general revenue using information as of December 31, 2020, December 31, 2021, December 31, 2022, and December 31, 2023 (each, a calculation date) and following each calculation date.

(2) *Calculation.* A reduction in a recipient's general revenue equals:

$$\text{Max} \{ [\text{Base Year Revenue} * (1 + \text{Growth Adjustment})^{\frac{n_t}{12}}] - \text{Actual General Revenue}_t; 0 \}$$

Where:

Base Year Revenue is the recipient's general revenue for the most recent full fiscal year prior to the COVID-19 public health emergency;

Growth Adjustment is equal to the greater of 4.1 percent (or 0.041) and the recipient's average annual revenue growth over the three full fiscal years prior to the COVID-19 public health emergency.

n equals the number of months elapsed from the end of the base year to the calculation date.

Actual General Revenue is a recipient's actual general revenue collected during 12-month period ending on each calculation date;

Subscript *t* denotes the specific calculation date.

(e) *To make necessary investments in infrastructure.* A recipient may use funds to make investments in:

(1) *Clean Water State Revolving Fund and Drinking Water State Revolving Fund investments.* Projects or activities of the type that would be eligible under section 603(c) of the Federal Water Pollution Control Act (33 U.S.C. 1383(c)) or section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j-12); or,

(2) *Broadband.* Broadband infrastructure that is designed to provide service to unserved or underserved households and businesses and that is designed to, upon completion:

(i) Reliably meet or exceed symmetrical 100 Mbps download speed and upload speeds; or

(ii) In cases where it is not practicable, because of the excessive cost of the project or geography or topography of the area to be served by the project, to provide service meeting the standards set forth in paragraph (e)(2)(i) of this section:

(A) Reliably meet or exceed 100 Mbps download speed and between at least 20 Mbps and 100 Mbps upload speed; and

(B) Be scalable to a minimum of 100 Mbps download speed and 100 Mbps upload speed.

§ 35.7 Pensions.

A recipient may not use funds for deposit into any pension fund.

§ 35.8 Tax.

(a) *Restriction.* A State or Territory shall not use funds to either directly or indirectly offset a reduction in the net tax revenue of the State or Territory

resulting from a covered change during the covered period.

(b) *Violation.* Treasury will consider a State or Territory to have used funds to offset a reduction in net tax revenue if, during a reporting year:

(1) *Covered change.* The State or Territory has made a covered change that, either based on a reasonable statistical methodology to isolate the impact of the covered change in actual revenue or based on projections that use reasonable assumptions and do not incorporate the effects of macroeconomic growth to reduce or increase the projected impact of the covered change, the State or Territory assesses has had or predicts to have the effect of reducing tax revenue relative to current law;

(2) *Exceeds the de minimis threshold.* The aggregate amount of the measured or predicted reductions in tax revenue caused by covered changes identified under paragraph (b)(1) of this section, in the aggregate, exceeds 1 percent of the State's or Territory's baseline;

(3) *Reduction in net tax revenue.* The State or Territory reports a reduction in net tax revenue, measured as the difference between actual tax revenue and the State's or Territory's baseline, each measured as of the end of the reporting year; and

(4) *Consideration of other changes.* The aggregate amount of measured or predicted reductions in tax revenue caused by covered changes is greater than the sum of the following, in each case, as calculated for the reporting year:

(i) The aggregate amount of the expected increases in tax revenue caused by one or more covered changes that, either based on a reasonable statistical methodology to isolate the impact of the covered change in actual revenue or based on projections that use reasonable assumptions and do not incorporate the effects of macroeconomic growth to reduce or increase the projected impact of the covered change, the State or Territory assesses has had or predicts to have the effect of increasing tax revenue; and

(ii) Reductions in spending, up to the amount of the State's or Territory's net reduction in total spending, that are in:

(A) Departments, agencies, or authorities in which the State or Territory is not using funds; and

(B) Departments, agencies, or authorities in which the State or Territory is using funds, in an amount equal to the value of the spending cuts in those departments, agencies, or authorities, minus funds used.

(c) *Amount and revenue reduction cap.* If a State or Territory is considered to be in violation pursuant to paragraph (b) of this section, the amount used in violation of paragraph (a) of this section is equal to the lesser of:

(1) The reduction in net tax revenue of the State or Territory for the reporting year, measured as the difference between the State's or Territory's baseline and its actual tax revenue, each measured as of the end of the reporting year; and,

(2) The aggregate amount of the reductions in tax revenues caused by covered changes identified in paragraph (b)(1) of this section, minus the sum of the amounts in identified in paragraphs (b)(4)(i) and (ii).

§ 35.9 Compliance with applicable laws.

A recipient must comply with all other applicable Federal statutes, regulations, and Executive orders, and a recipient shall provide for compliance with the American Rescue Plan Act, this subpart, and any interpretive guidance by other parties in any agreements it enters into with other parties relating to these funds.

§ 35.10 Recoupment.

(a) *Identification of violations—(1) In general.* Any amount used in violation of § 35.5, § 35.6, or § 35.7 may be identified at any time prior to December 31, 2026.

(2) *Annual reporting of amounts of violations.* On an annual basis, a recipient that is a State or Territory must calculate and report any amounts used in violation of § 35.8.

(b) *Calculation of amounts subject to recoupment—(1) In general.* Except as provided in paragraph (b)(2) of this section, Treasury will calculate any amounts subject to recoupment resulting from a violation of § 35.5, § 35.6, or § 35.7 as the amounts used in violation of such restrictions.

(2) *Violations of § 35.8.* Treasury will calculate any amounts subject to recoupment resulting from a violation of § 35.8, equal to the lesser of:

(i) The amount set forth in § 35.8(c); and,

(ii) The amount of funds received by such recipient.

(c) *Notice.* If Treasury calculates an amount subject to recoupment under paragraph (b) of this section, Treasury will provide the recipient a written notice of the amount subject to recoupment along with an explanation of such amounts.

(d) *Request for reconsideration.* Unless Treasury extends the time period, within 60 calendar days of receipt of a notice of recoupment provided under paragraph (b) of this section, a recipient may submit a written request to Treasury requesting reconsideration of any amounts subject to recoupment under paragraph (b) of this section. To request reconsideration of any amounts subject to recoupment, a recipient must submit to Treasury a written request that includes:

(1) An explanation of why the recipient believes all or some of the amount should not be subject to recoupment; and

(2) A discussion of supporting reasons, along with any additional information.

(e) *Final amount subject to recoupment.* Unless Treasury extends the time period, within 60 calendar days of receipt of the recipient's request for reconsideration provided pursuant to paragraph (d) of this section, the recipient will be notified of the Secretary's decision to affirm, withdraw, or modify the notice of recoupment. Such notification will include an explanation of the decision, including responses to the recipient's supporting reasons and consideration of additional information provided.

(f) *Repayment of funds.* Unless Treasury extends the time period, a recipient shall repay to the Secretary any amounts subject to recoupment in accordance with instructions provided by Treasury:

(1) Within 120 calendar days of receipt of the notice of recoupment provided under paragraph (c) of this section, in the case of a recipient that does not submit a request for reconsideration in accordance with the

requirements of paragraph (d) of this section; or

(2) Within 120 calendar days of receipt of the Secretary's decision under paragraph (e) of this section, in the case of a recipient that submits a request for reconsideration in accordance with the requirements of paragraph (d) of this section.

§ 35.11 Payments to States.

(a) *In general.* With respect to any State or Territory that has an unemployment rate as of the date that it submits an initial certification for payment of funds pursuant to section 602(d)(1) of the Social Security Act that is less than two percentage points above its unemployment rate in February 2020, the Secretary will withhold 50 percent of the amount of funds allocated under section 602(b) of the Social Security Act to such State or territory until the date that is twelve months from the date such initial certification is provided to the Secretary.

(b) *Payment of withheld amount.* In order to receive the amount withheld under paragraph (a) of this section, the State or Territory must submit to the Secretary at least 30 days prior to the date referenced in paragraph (a) the following information:

(1) A certification, in the form provided by the Secretary, that such State or Territory requires the payment to carry out the activities specified in section 602(c) of the Social Security Act and will use the payment in compliance with section 602(c) of the Social Security Act; and,

(2) Any reports required to be filed by that date pursuant to this subpart that have not yet been filed.

§ 35.12 Distributions to nonentitlement units of local government and units of general local government.

(a) *Nonentitlement units of local government.* Each State or Territory that receives a payment from Treasury pursuant to section 603(b)(2)(B) of the Social Security Act shall distribute the amount of the payment to nonentitlement units of government in such State or Territory in accordance

with the requirements set forth in section 603(b)(2)(C) of the Social Security Act and without offsetting any debt owed by such nonentitlement units of local governments against such payments.

(b) *Budget cap.* A State or Territory may not make a payment to a nonentitlement unit of local government pursuant to section 603(b)(2)(C) of the Social Security Act and paragraph (a) of this section in excess of the amount equal to 75 percent of the most recent budget for the nonentitlement unit of local government as of January 27, 2020. A State or Territory shall permit a nonentitlement unit of local government without a formal budget as of January 27, 2020, to provide a certification from an authorized officer of the nonentitlement unit of local government of its most recent annual expenditures as of January 27, 2020, and a State or Territory may rely on such certification for purposes of complying with this paragraph (b).

(c) *Units of general local government.* Each State or Territory that receives a payment from Treasury pursuant to section 603(b)(3)(B)(ii) of the Social Security Act, in the case of an amount to be paid to a county that is not a unit of general local government, shall distribute the amount of the payment to units of general local government within such county in accordance with the requirements set forth in section 603(b)(3)(B)(ii) of the Social Security Act and without offsetting any debt owed by such units of general local government against such payments.

(d) *Additional conditions.* A State or Territory may not place additional conditions or requirements on distributions to nonentitlement units of local government or units of general local government beyond those required by section 603 of the Social Security Act or this subpart.

Laurie Schaffer,
Acting General Counsel.

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BILLING CODE 4810-AK-P



ARPA Revenue Replacement Calculator

Background Information

| | | |
|---------------------------------|-----------------------------------------|-----------------------------------------------|
| 1) Fiscal Year End | <input type="text" value="June"/> | Notes: |
| Base Year Revenue Period | <input type="text" value="6/30/2019"/> | FY used for base year calculation |
| 2) Calculation Date | <input type="text" value="12/31/2020"/> | |
| Number of Months | <input type="text" value="18"/> | Months between Base Year and Calculation Date |

Estimate Revenue

| | | |
|-------------------------------|--------------------------------------------|--------------------------------------------|
| 3) Base Year Revenue | <input type="text" value="\$ 19,285,493"/> | Use Worksheet to Calculate |
| 4) Growth Rate | <input type="text" value="6.9%"/> | Use Worksheet to Calculate |
| Counterfactual Revenue | <input type="text" value="\$ 21,301,080"/> | Estimated Revenue Without Pandemic |
| 5) Actual Revenue | <input type="text" value="\$ 19,521,379"/> | Use Worksheet to Calculate |

Reduction in Revenue

| | |
|---------------------|-------------------------------------------|
| Revenue Reduction | <input type="text" value="\$ 1,779,701"/> |
| Revenue Reduction % | <input type="text" value="-8.4%"/> |

Fiscal Year Ended 12/31/2020

Base Year Revenue Worksheet



Fiscal Year Ended 6/30/2019

| Revenue Source | Base Revenue (Y/N) | Amount |
|-----------------------------------------------------------------------------------------------------------------------------------------|--------------------|--------------|
| Taxes Amount of tax collections for all taxes imposed by the government. | | |
| Property Tax | | |
| Property Tax | Y | \$ 9,976,558 |
| Sales and Gross Receipts Tax | | |
| General Sales and Use Tax | Y | \$ 1,558,842 |
| Selective Sales Tax | | |
| Alcoholic Beverage | Y | \$ - |
| Amusements Sales Tax | Y | \$ - |
| Motor Fuels Sales Tax | Y | \$ - |
| Parimutuels Tax | Y | \$ - |
| Public Utilities Sales Tax | Y | \$ - |
| Tobacco Products Tax | Y | \$ - |
| Other Sales Tax | Y | \$ - |
| Licensing and Permit Taxes | | |
| Alcoholic Beverage Licensing and Permits | Y | \$ 24,700 |
| Building/Construction Permits | Y | \$ 997,204 |
| Amusements Licensing and Permits | Y | \$ - |
| Motor Vehicles Licensing and Permits | Y | \$ - |
| Public Utilities Licensing and Permits | Y | \$ - |
| Occupation and Business Licensing and Permits | Y | \$ 4,165,273 |
| Other Licensing and Permits | Y | \$ - |
| Income Tax | | |
| Individual Income Tax | Y | \$ - |
| Corporate Income Tax | Y | \$ - |
| License and Permit Tax | | |
| Alcoholic Beverage | Y | \$ - |
| Amusements | Y | \$ - |
| Motor Vehicles | Y | \$ - |
| Public Utilities | Y | \$ - |
| Occupational and Business Licenses | Y | \$ - |
| Other Selective Sales | Y | \$ - |
| Other Taxes | | |
| Death and Gift Tax | Y | \$ - |
| Documentary and Stock Transfer Tax | Y | \$ - |
| Severance Tax | Y | \$ - |
| Other | Y | \$ - |
| Intergovernmental Revenue Amount of revenue in form of grants, share of taxes imposed by others, PILOTS, or reimbursement for | | |
| Intergovernmental Revenue | | |
| From Other Local Governments | Y | \$ 474,365 |
| From the State | Y | \$ 777,854 |
| From the Federal Government | N | \$ - |
| From the State and Financed from Federal Grants | N | \$ 60,739 |
| Other Revenue Amount of other revenue excluding any refunds or transfers between funds | | |
| Utility Sales Revenue | | |
| Water Supply System | N | \$ - |
| Electric Power System | N | \$ - |
| Gas Supply System | N | \$ - |
| Transit or Bus System | N | \$ - |
| User Charges and Fees | | |
| Sewerage Charges | Y | \$ - |
| Refuse Collection, Disposal, and Recycling Charges | Y | \$ 277,722 |
| Parks and Recreation Charges | Y | \$ 437,014 |
| Airports | Y | \$ - |
| Hospital Charges | Y | \$ - |

| | | | |
|---------------------------------------------------------|---|----|-------------------|
| Parking Facilities | Y | \$ | - |
| Housing Project Rentals | Y | \$ | - |
| Highways and Other Roads | Y | \$ | - |
| Sea and Inland Port Facilities | Y | \$ | - |
| Miscellaneous Commercial Activities Operated | Y | \$ | - |
| Other | Y | \$ | 223,007 |
| Other Revenue | | | |
| Special Assessments | Y | \$ | - |
| Receipts from Sale of Property and Other Capital Assets | Y | \$ | 23,399 |
| Proceeds from Issuance of Debt | N | \$ | - |
| Interest Earnings | Y | \$ | 78,690 |
| Fines and Forfeitures | Y | \$ | 143,759 |
| Rents | Y | \$ | - |
| Royalties | Y | \$ | - |
| Private Donations | Y | \$ | 8,780 |
| Sale of Retail or Wholesale Liquor | N | \$ | - |
| Trust Revenue | N | \$ | - |
| Refunds and Other Correcting Transactions | N | \$ | 610,690 |
| Miscellaneous Other Revenue | Y | \$ | 118,326 |
| Total | | \$ | 19,956,922 |
| Total Included in Base Revenue | | \$ | 19,285,493 |

Growth Rate Calculation



NOTE: This form is only required if annual revenue growth prior to the pandemic exceeds 4.1%. If not, 4.1% rate of growth will be used

| Revenue Source | Base Revenue (Y/N) | FY Ended 6/30/2016 | FY Ended 6/30/2017 | FY Ended 6/30/2018 | FY Ended 6/30/2019 |
|-----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| Taxes Amount of tax collections for all taxes imposed by the government. | | | | | |
| Property Tax | | | | | |
| Property Tax | Y | \$ 8,558,134 | \$ 9,009,254 | \$ 9,512,599 | \$ 9,976,558 |
| Sales and Gross Receipts Tax | | | | | |
| General Sales and Use Tax | Y | \$ 1,414,408 | \$ 1,419,668 | \$ 1,499,218 | \$ 1,558,842 |
| Selective Sales Tax | | | | | |
| Alcoholic Beverage | Y | | | \$ - | \$ - |
| Amusements Sales Tax | Y | | | \$ - | \$ - |
| Motor Fuels Sales Tax | Y | | | \$ - | \$ - |
| Parimutuels Tax | Y | | | \$ - | \$ - |
| Public Utilities Sales Tax | Y | | | \$ - | \$ - |
| Tobacco Products Tax | Y | | | \$ - | \$ - |
| Other Sales Tax | Y | | | \$ - | \$ - |
| Licensing and Permit Taxes | | | | | |
| Alcoholic Beverage Licensing and Permits | Y | \$ 32,150 | \$ 16,750 | \$ 25,000 | \$ 24,700 |
| Building/Construction Permits | Y | \$ 756,833 | \$ 679,315 | \$ 712,831 | \$ 997,204 |
| Amusements Licensing and Permits | Y | | | \$ - | \$ - |
| Motor Vehicles Licensing and Permits | Y | | | \$ - | \$ - |
| Public Utilities Licensing and Permits | Y | | | \$ - | \$ - |
| Occupation and Business Licensing and Permits | Y | \$ 3,250,303 | \$ 3,424,315 | \$ 3,672,541 | \$ 4,165,273 |
| Other Licensing and Permits | Y | | | \$ - | \$ - |
| Income Tax | | | | | |
| Individual Income Tax | Y | | | \$ - | \$ - |
| Corporate Income Tax | Y | | | \$ - | \$ - |
| License and Permit Tax | | | | | |
| Alcoholic Beverage | Y | | | \$ - | \$ - |
| Amusements | Y | | | \$ - | \$ - |
| Motor Vehicles | Y | | | \$ - | \$ - |
| Public Utilities | Y | | | \$ - | \$ - |
| Occupational and Business Licenses | Y | | | \$ - | \$ - |
| Other Selective Sales | Y | | | \$ - | \$ - |
| Other Taxes | | | | | |
| Death and Gift Tax | Y | | | \$ - | \$ - |
| Documentary and Stock Transfer Tax | Y | | | \$ - | \$ - |
| Severance Tax | Y | | | \$ - | \$ - |
| Other | Y | | | \$ - | \$ - |
| Intergovernmental Revenue Amount of revenue in form of grants, share of taxes imposed by others, PILOTs, or reimbursement for services | | | | | |
| Intergovernmental Revenue | | | | | |
| From Other Local Governments | Y | \$ 215,358 | \$ 533,065 | \$ 324,582 | \$ 474,365 |
| From the State | Y | \$ 553,434 | \$ 600,595 | \$ 630,869 | \$ 777,854 |
| From the Federal Government | N | | | \$ - | \$ - |
| From the State and Financed from Federal Grants | N | \$ 122,320 | \$ 177,132 | \$ 122,058 | \$ 60,739 |
| Other Revenue Amount of other revenue excluding any refunds or transfers between funds | | | | | |
| Utility Sales Revenue | | | | | |
| Water Supply System | N | | | \$ - | \$ - |
| Electric Power System | N | | | \$ - | \$ - |
| Gas Supply System | N | | | \$ - | \$ - |
| Transit or Bus System | N | | | \$ - | \$ - |
| User Charges and Fees | | | | | |
| Sewerage Charges | Y | | | \$ - | \$ - |
| Refuse Collection, Disposal, and Recycling Charges | Y | \$ 206,304 | \$ 174,098 | \$ 263,834 | \$ 277,722 |
| Parks and Recreation Charges | Y | \$ 417,194 | \$ 326,659 | \$ 352,732 | \$ 437,014 |
| Airports | Y | | | \$ - | \$ - |
| Hospital Charges | Y | | | \$ - | \$ - |
| Parking Facilities | Y | | | \$ - | \$ - |
| Housing Project Rentals | Y | | | \$ - | \$ - |
| Highways and Other Roads | Y | | | \$ - | \$ - |
| Sea and Inland Port Facilities | Y | | | \$ - | \$ - |

| | | | | | | | | |
|---------------------------------------------------------|---|----|-------------------|----|-------------------|-------------------------------------------|------|------|
| Miscellaneous Commercial Activities Operated | Y | | | | \$ | - | | |
| Other | Y | \$ | 143,364 | \$ | 157,125 | \$ 170,087 \$ 223,007 | | |
| Other Revenue | | | | | | | | |
| Special Assessments | Y | | | | \$ | - | | |
| Receipts from Sale of Property and Other Capital Assets | Y | \$ | 54,515 | \$ | 128,667 | \$ 134,415 \$ 23,399 | | |
| Proceeds from Issuance of Debt | N | \$ | 2,204,175 | \$ | - | \$ 480,000 \$ - | | |
| Interest Earnings | Y | \$ | 18,960 | \$ | 23,958 | \$ 46,644 \$ 78,690 | | |
| Fines and Forfeitures | Y | \$ | 117,120 | \$ | 120,980 | \$ 190,184 \$ 143,759 | | |
| Rents | Y | | | | \$ | - | | |
| Royalties | Y | | | | \$ | - | | |
| Private Donations | Y | \$ | 12,980 | \$ | 1,833 | \$ 8,142 \$ 8,780 | | |
| Sale of Retail or Wholesale Liquor | N | | | | \$ | - | | |
| Trust Revenue | N | | | | \$ | - | | |
| Refunds and Other Correcting Transactions | N | \$ | 622,544 | \$ | 194,101 | \$ 457,229 \$ 610,690 | | |
| Miscellaneous Other Revenue | Y | \$ | 66,039 | \$ | 335,166 | \$ 121,558 \$ 118,326 | | |
| Total | | \$ | 18,766,135 | \$ | 17,322,681 | \$ 18,724,524 \$ 19,956,922 | | |
| Total Included in Base Revenue | | \$ | 15,817,096 | \$ | 16,951,447 | \$ 17,665,237 \$ 19,285,493 | | |
| Growth Rate | | | | | | 7.2% | 4.2% | 9.2% |

Average Growth Rate 6.9%

Growth Rate Used for Calculation 6.9%

Actual Revenue Worksheet



[Summary](#)

12 Months Period Prior to **12/31/2020**

| Revenue Source | Base Revenue (Y/N) | Amount |
|-----------------------------------------------------------------------------------------------------|--------------------|---------------|
| Taxes | | |
| Amount of tax collections for all taxes imposed by the government. | | |
| Property Tax | | |
| Property Tax | Y | \$ 11,064,504 |
| Sales and Gross Receipts Tax | | |
| General Sales and Use Tax | Y | \$ 1,543,722 |
| Selective Sales Tax | | |
| Alcoholic Beverage | Y | \$ - |
| Amusements Sales Tax | Y | \$ - |
| Motor Fuels Sales Tax | Y | \$ - |
| Parimutuels Tax | Y | \$ - |
| Public Utilities Sales Tax | Y | \$ - |
| Tobacco Products Tax | Y | \$ - |
| Other Sales Tax | Y | \$ - |
| Licensing and Permit Taxes | | |
| Alcoholic Beverage Licensing and Permits | Y | \$ 33,650 |
| Building/Construction Permits | Y | \$ 844,719 |
| Amusements Licensing and Permits | Y | \$ - |
| Motor Vehicles Licensing and Permits | Y | \$ - |
| Public Utilities Licensing and Permits | Y | \$ - |
| Occupation and Business Licensing and Permits | Y | \$ 4,246,153 |
| Other Licensing and Permits | Y | \$ - |
| Income Tax | | |
| Individual Income Tax | Y | \$ - |
| Corporate Income Tax | Y | \$ - |
| License and Permit Tax | | |
| Alcoholic Beverage | Y | \$ - |
| Amusements | Y | \$ - |
| Motor Vehicles | Y | \$ - |
| Public Utilities | Y | \$ - |
| Occupational and Business Licenses | Y | \$ - |
| Other Selective Sales | Y | \$ - |
| Other Taxes | | |
| Death and Gift Tax | Y | \$ - |
| Documentary and Stock Transfer Tax | Y | \$ - |
| Severance Tax | Y | \$ - |
| Other | Y | \$ - |
| Intergovernmental Revenue | | |
| Amount of revenue in form of grants, share of taxes imposed by others, PILOTs, or reimbursement for | | |
| Intergovernmental Revenue | | |
| From Other Local Governments | Y | \$ 481,091 |
| From the State | Y | \$ 595,507 |
| From the Federal Government | N | \$ - |
| From the State and Financed from Federal Grants | N | \$ 264,903 |
| Other Revenue | | |
| Amount of other revenue excluding any refunds or transfers between funds | | |
| Utility Sales Revenue | | |
| Water Supply System | N | \$ - |
| Electric Power System | N | \$ - |
| Gas Supply System | N | \$ - |
| Transit or Bus System | N | \$ - |
| User Charges and Fees | | |
| Sewerage Charges | Y | \$ - |
| Refuse Collection, Disposal, and Recycling Charges | Y | \$ (115,322) |
| Parks and Recreation Charges | Y | \$ 287,623 |

| | | | |
|---------------------------------------------------------|---|----|-------------------|
| Airports | Y | \$ | - |
| Hospital Charges | Y | \$ | - |
| Parking Facilities | Y | \$ | - |
| Housing Project Rentals | Y | \$ | - |
| Highways and Other Roads | Y | \$ | - |
| Sea and Inland Port Facilities | Y | \$ | - |
| Miscellaneous Commercial Activities Operated | Y | \$ | - |
| Other | Y | \$ | 141,090 |
| Other Revenue | | | |
| Special Assessments | Y | \$ | - |
| Receipts from Sale of Property and Other Capital Assets | Y | \$ | 44,966 |
| Proceeds from Issuance of Debt | N | \$ | - |
| Interest Earnings | Y | \$ | 59,190 |
| Fines and Forfeitures | Y | \$ | 99,792 |
| Rents | Y | \$ | - |
| Royalties | Y | \$ | - |
| Private Donations | Y | \$ | 7,574 |
| Sale of Retail or Wholesale Liquor | N | \$ | - |
| Trust Revenue | N | \$ | - |
| Refunds and Other Correcting Transactions | N | \$ | 176,610 |
| Miscellaneous Other Revenue | Y | \$ | 187,120 |
| Total | | \$ | 19,962,892 |
| Total Actual Base Revenue | | \$ | 19,521,379 |

Dianna Gracely

From: Mike Pry <mpry@dp3architects.com>
Sent: Wednesday, August 11, 2021 4:08 PM
To: Dianna Gracely
Cc: Rhonda White
Subject: Simpsonville Municipal Complex - HVAC Costs

Dianna,

Based on our meeting Monday, the cost we determined for the HVAC portion of the total estimated construction cost would be approximately \$2.5 million.

The estimated building construction cost allocation based on our "Estimated Order of Magnitude Project Budget" dated June 23, 2021 is as follows:

City Hall and Police - \$6,150,000 * 20% HVAC = \$1,230,000
Fire Headquarters - \$6,500,000 * 20% HVAC = \$1,300,000

Please let us know if you need any additional information.

Thanks,



Michael T. Pry, AIA, LEED AP
Principal | Community Studio Leader
15 South Main Street, Suite 400
Greenville, SC 29601
(864) 232-8200 Ext. 1030
www.DP3architects.com



Overview of Clean Water State Revolving Fund Eligibilities

May 2016

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Overview of Clean Water State Revolving Fund Eligibilities

Introduction

The Clean Water State Revolving Fund (CWSRF) program can fund a wide variety of water quality protection efforts. The program's flexibility and broad range of project eligibilities enable states to target CWSRF funds to their specific water quality priorities. State innovation and statutory changes have resulted in an evolution of project eligibilities since the program was authorized in 1987 (Figure 1). This paper provides a current overview of CWSRF project eligibilities.

The program was established in 1987 with three statutory eligibilities: the construction of publicly owned treatment works (POTWs), the implementation of a state nonpoint source (NPS) management program, and the development and implementation of a National Estuary Program (NEP) Comprehensive Conservation and Management Plan (CCMP). In 1996, EPA published *The Clean Water State Revolving Fund Funding Framework* (Funding Framework), which articulated a process for identifying and prioritizing nontraditional projects in an effort to move toward a watershed approach. Building on the solid foundation laid by the Funding Framework, EPA completed the final draft of *The Clean Water State Revolving Fund Program: Tapping Its Untapped Potential* (White Paper) in October 2007. The White Paper is a compilation of the many nontraditional CWSRF eligibilities under the original statutory authority. In 2009, the American Recovery and Reinvestment Act (ARRA) created the Green Project Reserve, which increased the focus on green infrastructure, water and energy efficiency, and environmentally innovative projects. Most recently, the CWSRF was amended by the Water Resources Reform and Development Act (WRRDA) of 2014, which further expanded the program's eligibilities.

The 51 state programs have the flexibility to direct funding to their particular environmental needs. In addition, each state program may have its own statutes, rules, and regulations that guide project eligibilities. This paper represents a set of examples of what may be eligible at the national level. Within these parameters, each state program will determine what projects and borrowers are eligible to receive assistance.

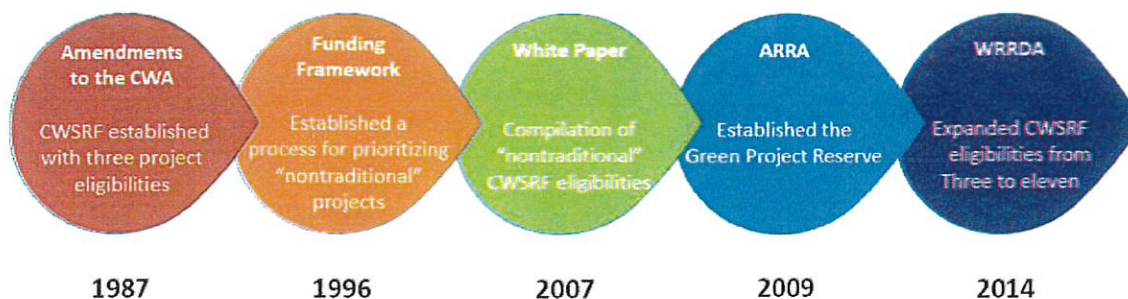


Figure 1: CWSRF eligibilities timeline

How to Use This Paper

- The paper is organized into project categories. Use the table of contents to quickly navigate to the category of interest. Some activities are relevant to more than one project category; however, each activity is only discussed once to avoid repetition. In these situations, there are references to the other relevant sections of the paper.

Water Conservation

Eligible water conservation projects are those that reduce the demand for POTW capacity through reduced water consumption (i.e., water efficiency). Water reuse and precipitation harvesting are also eligible. Water audits and water conservation plans that are reasonably expected to result in a capital project are also eligible (see *Planning Assessments and Monitoring*).

- Examples of eligible projects for a given project category are organized into call out boxes.

| Water Efficiency | Water Reuse and Precipitation Harvesting |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none">Water metersPlumbing fixture retrofits or replacementWater efficient appliancesWater efficient irrigation equipment (e.g., moisture and rain sensing equipment)Education programsIncentive programs (e.g., rebates for installing rain barrels or permeable surfaces) | <ul style="list-style-type: none">Collection and treatment systems (e.g., wastewater, stormwater, and subsurface drainage water collection and treatment)Distribution lines to support water reuse and the use of harvested precipitationTransmission lines, injection wells, and green infrastructure infiltration systems for groundwater rechargeEquipment to reuse reclaimed waterDirect potable reuse |

- The nuances of when projects are eligible based on ownership, regulatory status, and type of borrower are provided in the bulleted list. Information within each project category is organized by eligibility. Because there is overlap between many of the eligibilities, projects are only listed as eligible under the most specific authority to avoid repetition.

Assistance may be provided:

- to any municipality or intermunicipal, interstate, or State agency for publicly owned water conservation projects. *Section 603(c)(1)*
- to any borrower for water conservation projects that implement a Section 319 NPS management program. *Section 603(c)(2)*
- to any borrower for water conservation projects that implement a Section 320 CCMP. *Section 603(c)(2)*
- to any borrower for water conservation projects that recapture stormwater or subsurface drainage water. *Section 603(c)(3)*
- to any municipality or intermunicipal, interstate, or State agency for water conservation projects that reduce the demand for POTW capacity. *Section 603(c)(6)*
- to any municipality or municipal entity for stormwater BMPs in municipal separate storm sewers (MS4s) for the purpose of demonstrating and determining controls that are cost-effective and use innovative technologies. *Section 603(c)(7)*
- to any municipality or municipal entity for efforts of municipalities and property owners to develop or implement watershed partnerships to address nonpoint sources of pollution. *Section 603(c)(7)*
- to any borrower for projects to reuse or recycle wastewater, stormwater, or subsurface drainage water. This includes recycling of nutrient and organic content (e.g., privately owned CHP). *Section 603(c)(9)*
- to any qualified nonprofit entity to assist owners and operators of small and medium POTWs with water conservation projects. This includes construction activities as well as activities necessary to plan, develop, and obtain financing for CWSRF-eligible projects. *Section 603(c)(11)*

CWSRF Program Eligibilities

To be eligible for CWSRF assistance, a project must meet the criteria of one of the eleven CWSRF eligibilities. Section 603(c) of the Clean Water Act (CWA) states that the CWSRF can provide assistance:

- (1) to any municipality, intermunicipal, interstate, or State agency for construction of publicly owned treatment works (as defined in section 212);*
- (2) for the implementation of a management program established under section 319;*
- (3) for the development and implementation of a conservation and management plan under section 320;*
- (4) for the construction, repair, or replacement of decentralized wastewater treatment systems that treat municipal wastewater or domestic sewage;*
- (5) for measures to manage, reduce, treat, or recapture stormwater or subsurface drainage water¹;*
- (6) to any municipality, intermunicipal, interstate, or State agency for measures to reduce the demand for publicly owned treatment works capacity through water conservation, efficiency, or reuse;*
- (7) for the development and implementation of watershed projects meeting the criteria set forth in section 122;*
- (8) to any municipality, intermunicipal, interstate, or State agency for measures to reduce the energy consumption needs for publicly owned treatment works;*
- (9) for reusing or recycling wastewater, stormwater, or subsurface drainage water;*
- (10) for measures to increase the security of publicly owned treatment works*
- (11) to any qualified nonprofit entity, as determined by the Administrator, to provide assistance to owners and operators of small and medium sized publicly owned treatment works*
 - (A) to plan, develop, and obtain financing for eligible projects under this subsection, including planning, design, and associated preconstruction activities; and*
 - (B) to assist such treatment works in achieving compliance with this Act.*

The majority of the eleven eligibilities refer to measures that attain an objective; however four eligibilities reference other sections of the CWA (e.g., Section 212, Section 319, Section 320, and Section 122). Those four eligibilities have additional criteria that must be considered when determining if a project may receive CWSRF assistance. Criteria for those four eligibilities are summarized below.

¹ Subsurface drainage is an underground collection system (e.g., sewer, tile drain, etc.) used to manage overland flow of water (e.g., stormwater, irrigation water, etc.). Depending on the type of collection system, subsurface drainage may be a point source or nonpoint source of pollution.

Section 603(c)(1) Eligibility: Section 212

POTWs, as defined in Section 212 of the CWA, are eligible for CWSRF assistance. The eligibility criteria for Section 603(c)(1) projects are:

- Projects must be consistent with the definition of “treatment works” as set forth in Section 212.
- Projects must be publicly owned, as required by CWA Section 603(c)(1).
- Only capital projects (e.g., construction activities, equipment purchase) are eligible. The CWSRF cannot fund ongoing operation and maintenance activities; however, planning and design for capital projects, as well as broader water quality planning where there is a reasonable expectation that the planning will result in a capital project, are eligible.

Section 603(c)(2) Eligibility: Section 319

Publicly or privately owned projects that implement NPS management programs established under Section 319 of the CWA are eligible. The eligibility criteria for Section 319 projects are:

- Projects must support the implementation of a current EPA approved state NPS management program plan or nine-element watershed based plan.
- Projects can be publicly or privately owned.
- Section 603(c)(2) funding is for the control of NPS pollution; only projects that do not directly implement a final National Pollutant Discharge Elimination System (NPDES) permit are eligible.

EPA encourages CWSRFs to work with their state NPS programs to ensure that projects funded under the Section 319 authority are consistent with the current approved state NPS management program plan.

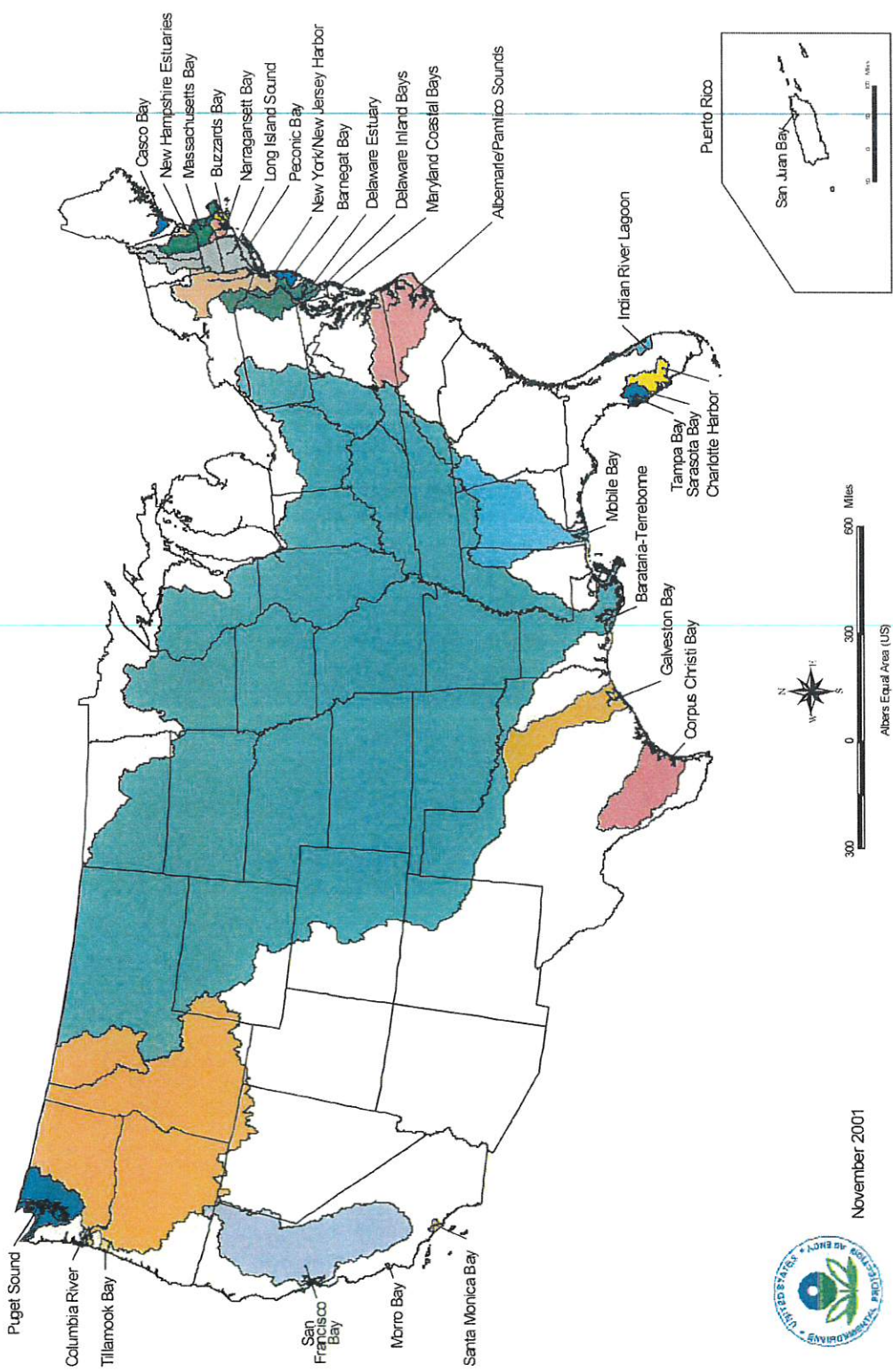
Section 603(c)(3) Eligibility: Section 320

The development and implementation of an estuary CCMP under Section 320 of the CWA is eligible. CCMPs are long-range plans developed by each NEP Management Conference; they contain actions to address water quality, living resources, and habitat challenges in the estuary and the surrounding area called the “study area.” The study area includes the estuary and the land area adjacent to the estuary that is affected by the estuary and/or has a significant effect on the estuary, such as salt marshes, coastal and intertidal areas, bays, harbors, lagoons, inshore waters, and channels. Some NEPs also work in the upland areas of the larger surrounding watershed. Activities located outside the study area, but within the “estuarine zone” or watershed as defined in CWA Section 104(n)(4) and Section 320(k), may have an impact on the water quality of the estuary and may implement the CCMP. The CWSRF can fund projects located within an NEP watershed (Figure 2) so long as the project implements a CCMP. The eligibility criteria for Section 603(c)(3) projects are:

- Projects must develop, amend, or implement a Section 320 CCMP.
- Projects can be publicly or privately owned.

EPA encourages CWSRFs to work with the appropriate NEP to ensure that projects funded under the Section 603(c)(3) eligibility are consistent with the CCMP.

National Estuary Program Watersheds



November 2001

Figure 2: Map of the National Estuary Program watersheds

Section 603(c)(7) Eligibility: Section 122

Projects that develop or implement watershed pilot projects related to at least one of the six areas identified in Section 122 are eligible:

Watershed Management of Wet Weather Discharges

Watershed management of wet weather discharges includes the management of municipal combined sewer overflows (CSOs), sanitary sewer overflows, and stormwater discharges.

Stormwater Best Management Practices (BMPs)

Stormwater BMPs include activities that manage, reduce, treat, recapture, or reuse municipal stormwater.

Watershed Partnerships

Watershed partnerships include efforts to demonstrate cooperative ways to address nonpoint sources of pollution to reduce adverse impacts on water quality.

Integrated Water Resource Planning

An integrated water resource plan facilitates the coordinated management and protection of surface water, ground water, and stormwater resources on a watershed or subwatershed basis to meet the objectives, goals, and policies of the CWA.

Municipality-Wide Stormwater Management Planning

A municipality-wide stormwater management plan identifies the most effective placement of stormwater technologies and management approaches to reduce water quality impairments from stormwater on a municipality-wide basis.

Increased Resilience of Treatment Works

Eligible projects are those that increase the resilience of treatment works to manmade or natural disasters, such as extreme weather events and sea-level rise. This includes efforts to assess future risks and vulnerabilities.

The eligibility criteria for Section 603(c)(7) projects are:

- Projects must meet the criteria set forth in CWA Section 122.
- Assistance may only be provided to a municipality or municipal entity.
- Projects can be publicly or privately owned.

Project Categories

The eleven eligibilities allow CWSRFs to fund a variety of project types. Eligible projects exist under all of the following categories. This list is not meant to be exclusive; it is possible that there are other eligible projects that are not mentioned in this paper.

- Centralized Wastewater Treatment
- Energy Conservation
- Water Conservation
- Stormwater
- Agricultural Best Management Practices
- Decentralized Wastewater Treatment
- Resource Extraction
- Contaminated Sites
- Landfills
- Habitat Protection and Restoration
- Silviculture
- Desalination
- Groundwater Protection and Restoration
- Surface Water Protection and Restoration
- Planning/Assessment

In addition to what is included under each project category, the acquisition of land² is eligible as part of an otherwise eligible project, such as where it is necessary to locate eligible projects or to store equipment and materials during construction. Land integral to a treatment process is also eligible. Any other situation where land acquisition is eligible will be specifically mentioned under the appropriate project category.

² This includes surface and subsurface easements, leasing, and fee simple purchase.

Centralized Wastewater Treatment

Eligible centralized wastewater treatment projects include: primary and secondary treatment, advanced treatment, sewer system, CSO correction, climate resilience³, and security. Eligibilities related to energy and water conservation (e.g., cogeneration systems) are addressed in other sections of the paper (see *Energy Conservation* and *Water Conservation*).

| Primary/Secondary | Advanced | Sewer System | CSO Correction |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> • Upgrade, repair, replacement, or installation/construction of new: <ul style="list-style-type: none"> ○ Headworks ○ Screening systems ○ Grit chambers ○ Clarifiers ○ Biological treatment systems ○ Biosolids dewatering and residuals handling equipment • Pro rata share of capital costs of off-site co-digestion facilities that receive residuals from a treatment works | <ul style="list-style-type: none"> • Upgrade, repair, replacement, or installation/construction of new: <ul style="list-style-type: none"> ○ Nutrient removal processes ○ Filtration systems ○ Disinfection processes | <ul style="list-style-type: none"> • Upgrade, repair, replacement, or installation/construction of new: <ul style="list-style-type: none"> ○ Pipes ○ Pump stations ○ Force mains | <ul style="list-style-type: none"> • Installation of separate sanitary and storm sewers • Downspout disconnection |

| Climate Resilience for Treatment Works | Security |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> • Sea walls • Levies/dykes/berms • Relocation/elevation of certain assets or entire facility above current/projected flood stage • Installation of flood attenuation, diversion, or retention infrastructure within or beyond the footprint of a treatment works that protects the treatment works including floodwater channels/culverts, green infrastructure, and natural systems capable of mitigating a storm surge (e.g., barrier beach and dune systems, tidal wetlands, and living shorelines) • Installation of wind resistant features • Saltwater resistant equipment/components • Backup generators and fuel transport and storage tanks • Portable pumps • Floodwater pumping systems • Physical hardening of electrical systems/equipment • Dry floodproofing of structures • Elevated walls/caps for treatment tanks • Installation of redundant equipment/components • Overflow tanks/tunnels • Regionalization/Interconnections | <ul style="list-style-type: none"> • Fencing • Security cameras • Security lighting • Motion detectors |

³ Projects throughout the paper may be considered climate resilience projects (e.g., green infrastructure, water conservation, etc.). The projects listed in this section are specific to treatment works.

Assistance may be provided:

- to any municipality or intermunicipal, interstate, or State agency for publicly owned centralized wastewater treatment projects. *Section 603(c)(1)*
- to any borrower for centralized wastewater treatment projects that implement a Section 320 CCMP. *Section 603(c)(3)*
- to any municipality or municipal entity for management of municipal wet weather discharges on an integrated watershed or subwatershed basis for the purpose of demonstrating the effectiveness of a unified wet weather approach. *Section 603(c)(7)*
- to any municipality or municipal entity for projects that increase resilience of POTWs. *Section 603(c)(7)*
- to any municipality or intermunicipal, interstate, or State agency for projects that reduce the energy consumption needs of a POTW including projects to correct inflow and infiltration (I/I) of collection systems that result in reduced flow to the POTW⁴ (e.g., privately-owned laterals). *Section 603(c)(8)*
- to any borrower for measures to increase the security of POTWs. *Section 603(c)(10)*
- to any qualified nonprofit entity to assist owners and operators of small and medium POTWs with centralized wastewater treatment projects. This includes construction activities as well as activities necessary to plan, develop, and obtain financing for CWSRF-eligible projects. *Section 603(c)(11)*

⁴ There is no minimum reduction in energy consumption that must be achieved for the project to be eligible. Projects must achieve a 20% reduction in energy consumption to be categorically eligible for the Green Project Reserve.

Energy Conservation

Eligible energy conservation projects are those that reduce the amount of thermoelectric energy used, either through reduced energy consumption or use of renewable energy sources. Both of these activities, in turn, lead to reduced atmospheric deposition (see *Surface Water*). Projects that reduce the volume of water being pumped and treated (e.g., I/I correction and water conservation activities) also result in reduced energy usage, but are not addressed here (for I/I correction see *Centralized Wastewater Treatment* and for water conservation activities see *Water Conservation*). Planning activities, such as energy audits and optimization studies that have a reasonable prospect of resulting in a capital project are also eligible (see *Planning/Assessment*).

| Energy Efficiency | On-site Renewable Energy | Off-site Renewable Energy |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> • Energy efficient equipment and components, including: <ul style="list-style-type: none"> ○ Lighting ○ HVAC ○ Process equipment ○ Electronic systems | <ul style="list-style-type: none"> • Wind and solar • Methane capture and energy conversion equipment • Biosolids drying/dewatering and energy conversion equipment • Co-digestion • Combined heat and power (CHP) systems • Hydroelectric systems that harness wastewater flows to, from, or within a treatment works | <ul style="list-style-type: none"> • Pro rata share of capital costs of offsite clean energy facilities that provide power to a treatment works, including: <ul style="list-style-type: none"> ○ Wind and solar ○ Methane capture and energy conversion equipment ○ Waste to energy systems ○ Micro hydroelectric power generation |

Assistance may be provided:

- to any municipality or intermunicipal, interstate, or State agency for energy conservation projects for POTWs⁵. *Section 603(c)(1)*
- to any borrower for energy conservation projects for treatment works that implement a Section 320 CCMP. *Section 603(c)(3)*
- to any municipality or intermunicipal, interstate, or State agency for the pro rata share of capital costs of energy conservation projects that provide power to a POTW (e.g., landfill gas conversion and waste to energy projects). *Section 603(c)(8)*
- to any borrower for energy conservation projects at water reuse facilities. *Section 603(c)(9)*
- to any borrower for projects to reuse the energy content of wastewater (e.g., privately owned CHP systems) or generate energy from water reuse

Energy Conservation through Water Efficiency

Projects that reduce the volume of water being pumped and treated may result in reduced energy usage. Examples of these types of projects include:

- Inflow and infiltration correction
- Downspout disconnection
- Water conservation activities
- Water meters
- Plumbing fixture retrofits or replacement
- Water efficient appliances

⁵ Renewable energy projects at POTWs are eligible regardless of whether the power is used by the POTW or sold back to the grid.

activities (e.g., micro hydro turbines). *Section 603(c)(9)*

- to any borrower for energy efficient security systems at POTWs. *Section 603(c)(10)*
 - to any qualified nonprofit entity to assist owners and operators of small and medium POTWs with energy conservation projects. This includes construction activities as well as activities necessary to plan, develop, and obtain financing for CWSRF-eligible projects. *Section 603(c)(11)*
-

Water Conservation

Eligible water conservation projects are those that reduce the demand for POTW capacity through reduced water consumption (i.e., water efficiency). Water reuse and precipitation harvesting are also eligible. Water audits and water conservation plans that are reasonably expected to result in a capital project are also eligible (see *Planning/Assessments*).

| Water Efficiency | Water Reuse and Precipitation Harvesting |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none">• Water meters• Plumbing fixture retrofits or replacement• Water efficient appliances• Water efficient irrigation equipment (e.g., moisture and rain sensing equipment)• Education programs• Incentive programs (e.g., rebates for installing rain barrels or permeable surfaces) | <ul style="list-style-type: none">• Collection and treatment systems (e.g., wastewater, stormwater, and subsurface drainage water collection and treatment)• Distribution lines to support water reuse and the use of harvested precipitation• Transmission lines, injection wells, and green infrastructure infiltration systems for groundwater recharge• Equipment to reuse reclaimed water• Direct potable reuse |

Assistance may be provided:

- to any municipality or intermunicipal, interstate, or State agency for publicly owned water conservation projects. *Section 603(c)(1)*
- to any borrower for water conservation projects that implement a Section 319 NPS management program. *Section 603(c)(2)*
- to any borrower for water conservation projects that implement a Section 320 CCMP. *Section 603(c)(3)*
- to any borrower for water conservation projects that recapture stormwater or subsurface drainage water. *Section 603(c)(5)*
- to any municipality or intermunicipal, interstate, or State agency for water conservation projects that reduce the demand for POTW capacity. *Section 603(c)(6)*
- to any municipality or municipal entity for stormwater BMPs in municipal separate storm sewers (MS4s) for the purpose of demonstrating and determining controls that are cost-effective and use innovative technologies. *Section 603(c)(7)*
- to any municipality or municipal entity for efforts of municipalities and property owners to develop or implement watershed partnerships to address nonpoint sources of pollution. *Section 603(c)(7)*
- to any borrower for projects to reuse or recycle wastewater, stormwater, or subsurface drainage water. This includes recycling of nutrient and organic content (e.g., privately owned CHP). *Section 603(c)(9)*
- to any qualified nonprofit entity to assist owners and operators of small and medium POTWs with water conservation projects. This includes construction activities as well as activities necessary to plan, develop, and obtain financing for CWSRF-eligible projects. *Section 603(c)(11)*

Stormwater

Eligible stormwater projects include gray and green infrastructure. Stormwater harvesting and use (see *Water Conservation*) and land conservation/easements (see *Surface Water Protection and Restoration*) are also eligible (see *Water Conservation*). Stormwater projects must have a water quality benefit.

| Gray Infrastructure | Green Infrastructure |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none">• Traditional pipe, storage, and treatment systems• Real-time control systems for CSO management• Sediment controls including:<ul style="list-style-type: none">○ Filter fences○ Storm drain inlet protection○ Street sweepers○ Vacuum trucks | <ul style="list-style-type: none">• Green roofs, green streets, and green walls• Rainwater harvesting collection, storage, management, and distribution systems• Real-time control systems for harvested rainwater• Infiltration basins• Constructed wetlands, including surface flow and subsurface flow (e.g., gravel) wetlands• Bioretention/bioswales (e.g., rain gardens, tree boxes)• Permeable pavement• Wetland/riparian/shoreline creation, protection, and restoration• Establishment/restoration of urban tree canopy• Replacement of gray infrastructure with green infrastructure including purchase and demolition costs |

Assistance may be provided:

- to any municipality or intermunicipal, interstate, or State agency for publicly owned stormwater projects. *Section 603(c)(1)*
- to any borrower for stormwater projects that implement a Section 319 NPS management program. *Section 603(c)(2)*
- to any borrower for stormwater projects that implement a Section 320 CCMP. *Section 603(c)(3)*
- to any borrower for projects that manage, reduce, treat, or recapture stormwater or subsurface drainage water. *Section 603(c)(5)*
- to any municipality or municipal entity for management of municipal wet weather discharges on an integrated watershed or subwatershed basis for the purpose of demonstrating the effectiveness of a unified wet weather approach. *Section 603(c)(7)*
- to any municipality or municipal entity for stormwater BMPs in municipal separate storm sewers (MS4s) for the purpose of demonstrating and determining controls that are cost-effective and use innovative technologies. *Section 603(c)(7)*
- to any municipality or municipal entity for efforts of municipalities and property owners to develop or implement watershed partnerships to address nonpoint sources of pollution. *Section 603(c)(7)*
- to any municipality or municipal entity for the development and implementation of a municipality-wide stormwater management plan. *Section 603(c)(7)*
- to any borrower for projects to reuse stormwater or subsurface drainage water. *Section 603(c)(9)*

Agricultural Best Management Practices

Eligible agricultural BMPs address runoff and erosion from agricultural cropland and animal feeding operations (AFOs). Concentrated animal feeding operations (CAFOs) are a type of AFO. CAFOs are not eligible for assistance under section 603(c)(2) or the watershed partnerships area of 603(c)(7) because they are defined as point sources in section 502(4) of the CWA. Projects at CAFOs are eligible unless otherwise noted.

| Cropland Activities | AFO Activities |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none">• Manure injection equipment• Manure spreaders• Water efficient irrigation equipment• Conservation tillage equipment• Windbreaks• Sediment control basins• Terraces• Diversions• Buffer and filter strips• Rip-rapping• Streambank stabilization• Chemical use reduction (e.g., chemical spray equipment and chemical storage containment structures) | <ul style="list-style-type: none">• Livestock/milk house waste management systems• Manure containment structures• Vessel composters• Manure injection equipment• Well sealing and water diversions to avoid feedlots• Fencing/alternative water supply for animals to keep them out of water bodies |

Assistance may be provided:

- to any borrower for BMPs on agricultural land or at AFOs that implement a Section 319 NPS management program. Projects at CAFOs are not eligible⁶. *Section 603(c)(2)*
- to any borrower to refinance debt undertaken by an AFO⁷ for projects to remove the characteristics that made it a CAFO if the project implements a Section 319 NPS management program. *Section 603(c)(2)*
- to any borrower for agricultural BMPs that implement a Section 320 CCMP. *Section 603(c)(3)*
- to any borrower for projects that manage, reduce, treat, or recapture agricultural stormwater or subsurface drainage water. *Section 603(c)(5)*
- to any municipality or municipal entity for efforts of municipalities and property owners to develop or implement watershed partnerships to address nonpoint sources of pollution. Projects at CAFOs are not eligible. *Section 603(c)(7)*
- to any municipality, intermunicipal, interstate, or State agency to cover the pro rata costs of renewable energy projects at AFOs that provide power to a POTW. *Section 603(c)(8)*
- to any borrower for projects to reuse agricultural wastewater, stormwater, or subsurface drainage water. *Section 603(c)(9)*
- to any borrower for projects to receive and distribute reclaimed water for irrigation systems or other agricultural uses. *Section 603(c)(9)*

⁶ BMPs to treat or make beneficial use of manure that is not under the control of a CAFO are eligible.

⁷ As long as the AFO is no longer a CAFO at the time of the CWSRF binding commitment.

Decentralized Wastewater Treatment

Decentralized wastewater treatment is an onsite⁸ or clustered system⁹ used to collect, treat, and disperse or reclaim wastewater from a small community or service area (e.g., septic systems, cluster systems, lagoons). Eligible decentralized wastewater treatment projects include the upgrade (e.g., nutrient removal), repair, or replacement of existing systems; construction/installation of new systems; costs associated with the establishment of a responsible management entity (RME) (e.g., permitting fees, legal fees, etc.); and septage treatment works and pumper trucks to support the proper maintenance of decentralized systems.

Assistance may be provided:

- to any borrower for decentralized wastewater treatment projects if they implement a Section 319 NPS management program, including privately owned decentralized systems treating non-municipal, non-domestic sewage that correct an existing NPS problem¹⁰ (e.g., direct pipe from residence to waterbody, cesspool). *Section 603(c)(2)*
- to any borrower for the portion of a centralized wastewater treatment works that is associated with the collection and treatment of effluent from properties with failing decentralized systems or properties where no active treatment system is in place (e.g., cesspools), including the house lateral to connect such homes to a centralized treatment works, if the project implements a Section 319 NPS management program. *Section 603(c)(2)*
- to any borrower for decentralized wastewater treatment projects if they implement a Section 320 CCMP. This includes privately owned decentralized systems treating non-municipal, non-domestic sewage. *Section 603(c)(3)*
- to any borrower for decentralized wastewater treatment projects treating municipal or domestic sewage. *Section 603(c)(4)*
- to any municipality or municipal entity for efforts of municipalities and property owners to develop or implement watershed partnerships to address nonpoint sources of pollution. *Section 603(c)(7)*

⁸ A system relying on natural processes and/or mechanical components to collect, treat, and disperse or reclaim wastewater from a single dwelling or building.

⁹ A wastewater collection and treatment system under some form of common ownership that collects wastewater from two or more dwellings or buildings and conveys it to a treatment and dispersal system located on a suitable site near the dwellings or buildings.

¹⁰ Decentralized systems for new construction do not correct an existing NPS problem.

Resource Extraction

Resource extraction includes mining, quarrying, hydraulic fracturing, and oil/gas operations. Eligible water quality projects that remediate or prevent contamination from these sites, whether active or abandoned, include projects to treat drainage (e.g., acid mine drainage) and wastewater (e.g., fracking wastewater), prevent aquifer contamination, excavate and remediate contaminated soil at the site, remove contamination from water or soil that is not part of the site (e.g., removal of mine tailings from stream beds), or prevent runoff. Runoff control projects include discharge diversion, runoff dispersion, sediment control and collection, grading and capping of contaminated sources, backfilling site openings, and soil stabilization.

Assistance may be provided:

- to any municipality or intermunicipal, interstate, or State agency for publicly owned water quality projects that remediate or prevent contamination from resource extraction sites. *Section 603(c)(1)*
- to any borrower for water quality projects that remediate or prevent contamination from resource extraction sites if they implement a Section 319 NPS management program. *Section 603(c)(2)*
- to any borrower for water quality projects that remediate or prevent contamination from resource extraction sites if they implement a Section 320 CCMP. *Section 603(c)(3)*
- to any municipality or municipal entity for efforts of municipalities and property owners to develop or implement watershed partnerships to address nonpoint sources of pollution. *Section 603(c)(7)*
- to any borrower for projects to reuse wastewater generated by resource extraction activities (e.g., hydraulic fracturing wastewater). *Section 603(c)(9)*

Contaminated Sites

Contaminated sites include brownfields, Superfund sites, and sites of current or former aboveground or underground storage tanks.¹¹ Eligible projects include those that remediate or prevent contamination from these sites.

| Brownfields/Superfund | Storage Tanks |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none">• Site assessments• Excavation, removal, and disposal of contaminated sediment/soil• Cleanup of contaminated groundwater or surface water• Capping of wells• Environmental insurance premiums¹²• Collection/remediation of stormwater generated at the site | <ul style="list-style-type: none">• Site assessments• Excavation, removal, and disposal of leaking storage tanks• Replacement storage tanks that meet federal leak prevention standards• Excavation, removal, and disposal of contaminated sediment/soil• Cleanup of contaminated groundwater or surface water• Capping of wells• Environmental insurance premiums¹² |

Assistance may be provided:

- to any borrower for water quality projects to clean up contaminated sites if they implement a Section 319 NPS management program. *Section 603(c)(2)*
- to any borrower for water quality projects to clean up contaminated sites if they implement a Section 320 CCMP. *Section 603(c)(3)*
- to any municipality or municipal entity for efforts of municipalities and property owners to develop or implement watershed partnerships to address nonpoint sources of pollution. *Section 603(c)(7)*

¹¹ For information about eligible projects at abandoned mines, see *Resource Extraction*.

¹² Eligible as a cost of construction if both the construction and insurance policy are for water quality related projects. Not eligible as a stand-alone CWSRF project, and payments of premiums may only be made during the construction period.

Landfills

Eligible landfill projects include landfill closure and landfill leachate collection and treatment. For information on landfill projects as a source of renewable energy for POTWs, see *Energy Conservation*.

Landfill Closure

- Capping systems (gas venting layer, geosynthetics, barrier layer, top cover, etc.)
- Leachate collection, storage, and treatment systems (onsite or off-site)
- Side slope seepage prevention and control systems
- Gas condensation systems
- Monitoring wells and equipment
- Stormwater runoff controls

Landfill Leachate Collection and Treatment

- Landfill liner systems
 - Drainage blankets and geomembranes
 - Landfill liners and sumps
 - Perforated pipe networks
 - Filter layers
- Leachate removal or collection systems
- Toe drains and cut-off walls
- Onsite leachate treatment facilities
- Barge shelters, containment booms, litter fences

Assistance may be provided:

- to any municipality or intermunicipal, interstate, or State agency for projects that prevent or reduce leachate pollution from publicly owned landfills. *Section 603(c)(1)*
- to any borrower for water quality projects that reduce NPS pollution from landfills if they implement a Section 319 NPS management program. *Section 603(c)(2)*
- to any borrower for water quality projects that prevent or reduce pollution from landfills if they implement a Section 320 CCMP. *Section 603(c)(3)*
- to any municipality or municipal entity for efforts of municipalities and property owners to develop or implement watershed partnerships to address nonpoint sources of pollution. *Section 603(c)(7)*
- to any borrower for projects to reuse landfill leachate. *Section 603(c)(9)*
- to any qualified nonprofit entity to assist owners and operators of small and medium publicly owned landfills with projects that prevent or reduce leachate pollutions. This includes construction activities as well as activities necessary to plan, develop, and obtain financing for CWSRF-eligible projects. *Section 603(c)(11)*

Habitat Protection and Restoration

Eligible habitat protection and restoration projects include shoreline activities, instream activities, and capital costs associated with the control of invasive vegetative and aquatic species.

The purchase of water rights to support fish and aquatic life habitat is also eligible (see *Surface Water Protection and Restoration*).

| Shoreline Activities | Instream Activities | Invasive Species Control |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none">• Re-establishing riparian vegetation• Wetlands development or restoration• Living shorelines• Swales• Filter Strips• Barrier beach and dune systems | <ul style="list-style-type: none">• Re-establishing aquatic vegetation• Restoring oyster/mussel beds• Artificial reef establishment• Fisheries and shellfish restocking and restoration• Fish ladders• Removal of contaminated sediments• Water control structures for flow regime and salinity• Dam removal• Culvert removal | <ul style="list-style-type: none">• Equipment to remove or prevent the spread of invasive species |

Assistance may be provided:

- to any borrower for habitat protection and restoration projects that implement a Section 319 NPS management program. *Section 603(c)(2)*
- to any borrower for habitat protection and restoration projects that implement a Section 320 CCMP. *Section 603(c)(3)*
- to any municipality or municipal entity for efforts of municipalities and property owners to develop or implement watershed partnerships to address nonpoint sources of pollution. *Section 603(c)(7)*

Silviculture

Silviculture includes forestry activities such as removal of streamside vegetation, road construction and use, timber thinning and harvesting, and site preparation for the planting of trees. Eligible water quality projects that remediate or prevent pollution from silviculture activities include capital projects, or portions of projects, that control erosion from access roads, maintain the stability of stream banks, ensure the revegetation of harvested areas, and control the introduction of pesticides and fertilizers into waterways. The purchase of forested land for water quality purposes is also eligible (see *Surface Water Protection and Restoration*).

Assistance may be provided:

- to any borrower for water quality projects that remediate or prevent pollution from silviculture activities if they implement a Section 319 NPS management program. *Section 603(c)(2)*
- to any borrower for water quality projects that remediate or prevent pollution from silviculture activities if they implement a Section 320 CCMP. *Section 603(c)(3)*
- to any municipality or municipal entity for efforts of municipalities and property owners to develop or implement watershed partnerships to address nonpoint sources of pollution. *Section 603(c)(7)*

Desalination

Desalination projects are eligible where there is a water quality benefit. Projects include treatment and disposal of brine, desalination of brackish water to augment water supply, aquifer recharge using desalinated sea water, and treatment/reinjection of brackish groundwater.

Assistance may be provided:

- to any municipality or intermunicipal, interstate, or State agency for treatment and disposal of brine from the desalination process. *Section 603(c)(1)*
- to any borrower for desalination projects that decrease the burden on aquifers where there is causal relationship between aquifer withdrawals and saltwater intrusion¹³ if the projects implement a Section 319 NPS management program. This could include projects in which desalinated seawater is injected into the aquifer to mitigate or prevent salt water intrusion, as well as projects in which brackish water is removed from an aquifer, desalinated, and returned to the aquifer. *Section 603(c)(2)*
- to any borrower for the treatment and disposal of brine from the desalination process. Eligibility may extend to other parts of the desalination process, if the project implements a Section 320 CCMP. *Section 603(c)(3)*
- to any municipality or municipal entity for efforts of municipalities and property owners to develop or implement watershed partnerships to address nonpoint sources of pollution. *Section 603(c)(7)*

¹³ In cases where only a portion of the project will mitigate or prevent salt water intrusion, the CWSRF may finance the eligible projects costs on a pro rata basis.

Groundwater Protection and Restoration

Eligible groundwater projects include those that protect and restore aquifers. This includes pump and treat projects, aquifer recharge projects, and projects that decrease aquifer withdrawals through rainwater harvesting, water conservation, or water reuse. Other projects that protect groundwater include leachate control and septic system replacement; however, these are addressed in other sections of the paper (see *Decentralized Wastewater Systems* and *Surface Water*).

Assistance may be provided:

- to any borrower for groundwater projects that implement a Section 319 NPS management program. *Section 603(c)(2)*
- to any borrower for groundwater projects that implement a Section 320 CCMP. *Section 603(c)(3)*
- to any municipality or municipal entity for efforts of municipalities and property owners to develop or implement watershed partnerships to address nonpoint sources of pollution. *Section 603(c)(7)*
- to any borrower for treatment, transmission, and injection of wastewater, stormwater, and subsurface drainage water for aquifer recharge. *Section 603(c)(9)*

Surface Water Protection and Restoration

Many of the activities described in this paper result in the protection or restoration of surface water, such as stormwater management and habitat restoration. In addition to the activities already covered, eligible surface water projects include land¹⁴ and water rights acquisition to protect water quality and activities that reduce atmospheric deposition of pollutants.

Land and Water Rights to Protect Water Quality

- Purchase of land¹⁵
 - Leasing
 - Fee-simple purchase
 - Easement
- Purchase of water rights

Atmospheric Deposition

- Air pollution reducing technologies
 - Scrubbers
- Activities that reduce the use of thermoelectric power
 - Energy efficient upgrades (e.g., appliances, HVAC, insulation, etc.)
 - Renewable energy generation projects

Assistance may be provided:

- to any borrower for surface water projects that implement a Section 319 NPS management program. *Section 603(c)(2)*
- to any borrower for surface water projects that implement a Section 320 CCMP. *Section 603(c)(3)*
- to any municipality or municipal entity for efforts of municipalities and property owners to develop or implement watershed partnerships to address nonpoint sources of pollution. *Section 603(c)(7)*

¹⁴ Land for water quality purposes need not be prorated. States should include deed restrictions to protect water quality with a caveat that they be permanent unless the original purpose for which the land or easement was purchased is unobtainable or the land is no longer needed for water quality protection.

¹⁵ Includes amenities that improve water quality on purchased land (e.g., water quality related signage, pervious trails, etc.).

Planning/Assessment

There are many eligible activities that fall within the scope of planning/assessment. Planning activities that have a reasonable prospect of resulting in a capital project are eligible. The CWSRF can fund the water quality portion of planning/assessment activities on a pro rata basis. Routine water quality monitoring is not eligible.

Planning/Assessment

- Asset management/fiscal sustainability plans
- Cost and effectiveness analyses
- Capital improvement plans
- Integrated planning
- Long term control plans
- Water/energy audits and conservation plans
- Wastewater and stormwater management plans
- Facility plans
- Treatment works security plans/safety plans
- Planning activities that assess a POTW's vulnerability to extreme weather and climate change
 - Risk/vulnerability assessments
 - Emergency preparedness, response, and recovery plans
 - Drought management plans
 - Climate adaptation plans
- Environmental management systems
- Watershed management plans
- TMDL implementation plans
- Assessment of project effectiveness:
 - Equipment (e.g., sensors, meters, gauges, hardware and software used to store and interpret data)
 - Activities (e.g., sampling, lab work, data analysis)^{16, 17}

Assistance may be provided:

- to any municipality or intermunicipal, interstate, or State agency for planning/assessment for POTWs that can reasonably be expected to lead to an eligible capital project. *Section 603(c)(1)*
- to any borrower for planning/assessment activities that implement a Section 319 NPS management program as long as the activity is not required by a permit. *Section 603(c)(2)*
- to any borrower for planning/assessment activities that implement a Section 320 CCMP. *Section 603(c)(3)*
- to any borrower for development or amendment of a Section 320 CCMP. *Section 603(c)(3)*
- to any borrower for planning/assessment for decentralized wastewater treatment systems that can reasonably be expected to lead to a capital project. *Section 603(c)(4)*

¹⁶ The length of time these activities may need to be done will depend upon the type of project and should be based upon the best professional judgement of the state CWSRF project engineer/project manager.

¹⁷ Under Sections 603(c)(1) and 603(c)(4), activities to assess project effectiveness are not eligible. Only the purchase of equipment to assess project effectiveness is eligible.

- to any borrower for planning/assessment necessary to manage, reduce, treat, or recapture stormwater or subsurface drainage water. *Section 603(c)(5)*
- to any municipality or intermunicipal, interstate, or State agency for planning/assessment aimed at reducing the demand for POTW capacity through water conservation, efficiency, or reuse. *Section 603(c)(6)*
- to any municipality or municipal entity for the development and implementation of an integrated water resource plan or municipality-wide stormwater management plan. *Section 603(c)(7)*
- to any municipality or intermunicipal, interstate, or State agency for planning/assessment aimed at reducing the energy consumption needs of a POTW. *Section 603(c)(8)*
- to any borrower for planning/assessment necessary to reuse or recycle wastewater or subsurface drainage water. *Section 603(c)(9)*
- to any borrower for planning/assessment to increase the security of POTWs. *Section 603(c)(10)*
- to any qualified nonprofit entity for planning/assessment to assist owners and operators of small and medium POTWs comply with the CWA. This includes construction activities as well as activities necessary to plan, develop, and obtain financing for CWSRF-eligible projects. *Section 603(c)(11)*

BUSINESS LICENSE ORDINANCE

Section 1. License Required. Every person engaged or intending to engage in any business, calling, occupation, profession, or activity engaged in with the object of gain, benefit, or advantage, in whole or in part within the limits of the City of Simpsonville, South Carolina, is required to pay an annual license tax for the privilege of doing business and obtain a business license as herein provided.

Section 2. Definitions. The following words, terms, and phrases, when used in this ordinance, shall have the meaning ascribed herein. Defined terms are not capitalized when used in this ordinance unless the context otherwise requires.

“Business” means any business, calling, occupation, profession, or activity engaged in with the object of gain, benefit, or advantage, either directly or indirectly.

“Charitable Organization” means an organization that is determined by the Internal Revenue Service to be exempt from Federal income taxes under 26 U.S.C. Section 501(c)(3), (4), (6), (7), (8), (10) or (19).

“Charitable Purpose” means a benevolent, philanthropic, patriotic, or eleemosynary purpose that does not result in personal gain to a sponsor, organizer, officer, director, trustee, or person with ultimate control of the organization.

“Classification” means that division of businesses by NAICS codes subject to the same license rate as determined by a calculated index of ability to pay based on national averages, benefits, equalization of tax burden, relationships of services, or other basis deemed appropriate by the Council.

“Council” means the City Council of the City of Simpsonville.

“Domicile” means a principal place from which the trade or business of a licensee is conducted, directed, or managed. For purposes of this ordinance, a licensee may be deemed to have more than one domicile.

“Gross Income” means the gross receipts or gross revenue of a business, received or accrued, for one calendar or fiscal year collected or to be collected from business done within the Municipality. If the licensee has a domicile within the Municipality, business done within the Municipality shall include all gross receipts or revenue received or accrued by such licensee. If the licensee does not have a domicile within the Municipality, business done within the Municipality shall include only gross receipts or revenue received or accrued within the Municipality. In all cases, if the licensee pays a business license tax to another county or municipality, then the licensee’s gross income for the purpose of computing the tax within the Municipality must be reduced by the amount of revenues or receipts taxed in the other county or municipality and fully reported to the Municipality. Gross income for business license tax purposes shall not include taxes collected for a governmental entity, escrow funds, or funds that are the property of a third party. The value of bartered goods or trade-in merchandise shall be included in gross income. The gross receipts or gross revenues for business license purposes may be verified by inspection of returns and reports filed with the Internal Revenue Service, the South

Carolina Department of Revenue, the South Carolina Department of Insurance, or other government agencies. In calculating gross income for certain businesses, the following rules shall apply:

- A. Gross income for agents shall be calculated on gross commissions received or retained, unless otherwise specified. If commissions are divided with other brokers or agents, then only the amount retained by the broker or agent is considered gross income.
- B. Except as specifically required by S.C. Code § 38-7-20, gross income for insurance companies shall be calculated on gross premiums written.
- C. Gross income for manufacturers of goods or materials with a location in the Municipality shall be calculated on the lesser of (i) gross revenues or receipts received or accrued from business done at the location, (ii) the amount of income allocated and apportioned to that location by the business for purposes of the business's state income tax return, or (iii) the amount of expenses attributable to the location as a cost center of the business. Licensees reporting gross income under this provision shall have the burden to establish the amount and method of calculation by satisfactory records and proof. Manufacturers include those taxpayers reporting a manufacturing principal business activity code on their federal income tax returns.

"License Official" means a person designated to administer this ordinance. Notwithstanding the designation of a primary license official, the Municipality may designate one or more alternate license officials to administer particular types of business licenses, including without limitation for business licenses issued to businesses subject to business license taxes under Article 20, Chapter 9, Title 58, and Chapters 7 and 45, Title 38, of the South Carolina Code.

"Licensee" means the business, the person applying for the license on behalf of the business, an agent or legal representative of the business, a person who receives any part of the net profit of the business, or a person who owns or exercises control of the business.

"Municipality" means the City of Simpsonville, South Carolina.

"NAICS" means the North American Industry Classification System for the United States published under the auspices of the Federal Office of Management and Budget.

"Person" means any individual, firm, partnership, limited liability partnership, limited liability company, cooperative non-profit membership, corporation, joint venture, association, estate, trust, business trust, receiver, syndicate, holding company, or other group or combination acting as a unit, in the singular or plural, and the agent or employee having charge or control of a business in the absence of the principal.

Section 3. Purpose and Duration. The business license required by this ordinance is for the purpose of providing such regulation as may be required for the business subject thereto and for the purpose of raising revenue for the general fund through a privilege tax. Except as set forth below for business licenses issued to contractors with respect to specific construction projects, each yearly license shall be issued for the twelve-month period of May 1 to April 30. A business license issued for a construction contract may, at the request of the licensee, be stated to expire at the completion of the construction project; *provided*, any such business license may require

that the licensee file, by each April 30 during the continuation of the construction project, a statement of compliance, including but not limited to a revised estimate of the value of the contract. If any revised estimate of the final value of such project exceeds the amount for which the business license was issued, the licensee shall be required to pay a license fee at the then-prevailing rate on the excess amount. The provisions of this ordinance and the rates herein shall remain in effect from year to year as amended by the Council.

Section 4. Business License Tax, Refund.

- A. The required business license tax shall be paid for each business subject hereto according to the applicable rate classification on or before the due date of the 30th day of April in each year, except for those businesses in Rate Class 8 for which a different due date is specified. Late payments shall be subject to penalties as set forth in Section 12 hereof, except that admitted insurance companies may pay before June 1 without penalty.
- B. A separate license shall be required for each place of business and for each classification or business conducted at one place. If gross income cannot be separated for classifications at one location, the business license tax shall be computed on the combined gross income for the classification requiring the highest rate. The business license tax must be computed based on the licensee's gross income for the calendar year preceding the due date, for the licensee's twelve-month fiscal year preceding the due date, or on a twelve-month projected income based on the monthly average for a business in operation for less than one year. The business license tax for a new business must be computed on the estimated probable gross income for the balance of the license year. A business license related to construction contract projects may be issued on a per-project basis, at the option of the taxpayer. No refund shall be made for a business that is discontinued.
- C. A licensee that submits a payment greater than the amount owed may request a refund. To be considered, a refund request must be submitted in writing to the Municipality before the June 1 immediately following the April 30 on which the payment was due and must be supported by adequate documentation supporting the refund request. The Municipality shall approve or deny the refund request, and if approved shall issue the refund to the business, within thirty days after receipt of the request.

Section 5. Registration Required.

- A. The owner, agent, or legal representative of every business subject to this ordinance, whether listed in the classification index or not, shall register the business and make application for a business license on or before the due date of each year; *provided*, a new business shall be required to have a business license prior to operation within the Municipality, and an annexed business shall be required to have a business license within thirty (30) days of the annexation. A license for a bar (NAICS 722410) must be issued in the name of the individual who has been issued the corresponding state alcohol, beer, or wine permit or license and will have actual control and management of the business.
- B. Application shall be on the then-current standard business license application as established and provided by the Director of the South Carolina Revenue and Fiscal Affairs

Office and shall be accompanied by all information about the applicant, the licensee, and the business deemed appropriate to carry out the purpose of this ordinance by the license official. Applicants may be required to submit copies of portions of state and federal income tax returns reflecting gross receipts and gross revenue figures.

- C. The applicant shall certify under oath that the information given in the application is true, that the gross income is accurately reported (or estimated for a new business) without any unauthorized deductions, and that all assessments, personal property taxes on business property, and other monies due and payable to the Municipality have been paid.
- D. The Municipality shall allow application, reporting, calculation, and payment of business license taxes through the business license tax portal hosted and managed by the South Carolina Revenue and Fiscal Affairs Office, subject to the availability and capability thereof. Any limitations in portal availability or capability do not relieve the applicant or Licensee from existing business license or business license tax obligations.

Section 6. Deductions, Exemptions, and Charitable Organizations.

- A. No deductions from gross income shall be made except income earned outside of the Municipality on which a license tax is paid by the business to some other municipality or county and fully reported to the Municipality, taxes collected for a governmental entity, or income which cannot be included for computation of the tax pursuant to state or federal law. Properly apportioned income from business in interstate commerce shall be included in the calculation of gross income and is not exempted. The applicant shall have the burden to establish the right to exempt income by satisfactory records and proof.
- B. No person shall be exempt from the requirements of the ordinance by reason of the lack of an established place of business within the Municipality, unless exempted by state or federal law. The license official shall determine the appropriate classification for each business in accordance with the latest issue of NAICS. No person shall be exempt from this ordinance by reason of the payment of any other tax, unless exempted by state law, and no person shall be relieved of liability for payment of any other tax or fee by reason of application of this ordinance.
- C. Wholesalers are exempt from business license taxes unless they maintain warehouses or distribution establishments within the Municipality. A wholesale transaction involves a sale to an individual who will resell the goods and includes delivery of the goods to the reseller. It does not include a sale of goods to a user or consumer.
- D. A charitable organization shall be exempt from the business license tax on its gross income unless it is deemed a business subject to a business license tax on all or part of its gross income as provided in this section. A charitable organization, or any affiliate of a charitable organization, that reports income from for-profit activities or unrelated business income for federal income tax purposes to the Internal Revenue Service shall be deemed a business subject to a business license tax on the part of its gross income from such for-profit activities or unrelated business income.

- E. A charitable organization shall be deemed a business subject to a business license tax on its total gross income if (1) any net proceeds of operation, after necessary expenses of operation, inure to the benefit of any individual or any entity that is not itself a charitable organization as defined in this ordinance, or (2) any net proceeds of operation, after necessary expenses of operation, are used for a purpose other than a charitable purpose as defined in this ordinance. Excess benefits or compensation in any form beyond fair market value to a sponsor, organizer, officer, director, trustee, or person with ultimate control of the organization shall not be deemed a necessary expense of operation.

Section 7. False Application Unlawful. It shall be unlawful for any person subject to the provisions of this ordinance to make a false application for a business license or to give or file, or direct the giving or filing of, any false information with respect to the license or tax required by this ordinance.

Section 8. Display and Transfer.

- A. All persons shall display the license issued to them on the original form provided by the license official in a conspicuous place in the business establishment at the address shown on the license. A transient or non-resident shall carry the license upon his person or in a vehicle used in the business readily available for inspection by any authorized agent of the Municipality.
- B. A change of address must be reported to the license official within ten (10) days after removal of the business to a new location and the license will be valid at the new address upon written notification by the license official and compliance with zoning and building codes. Failure to obtain the approval of the license official for a change of address shall invalidate the license and subject the licensee to prosecution for doing business without a license. A business license shall not be transferable, and a transfer of controlling interest shall be considered a termination of the old business and the establishment of a new business requiring a new business license, based on old business income.

Section 9. Administration of Ordinance. The license official shall administer the provisions of this ordinance, collect business license taxes, issue licenses, make or initiate investigations and audits to ensure compliance, initiate denial or suspension and revocation procedures, report violations to the municipal attorney, assist in prosecution of violators, produce forms, undertake reasonable procedures relating to the administration of this ordinance, and perform such other duties as may be duly assigned.

Section 10. Inspection and Audits.

- A. For the purpose of enforcing the provisions of this ordinance, the license official or other authorized agent of the Municipality is empowered to enter upon the premises of any person subject to this ordinance to make inspections and to examine and audit books and records. It shall be unlawful for any such person to fail or refuse to make available the necessary books and records. In the event an audit or inspection reveals that the licensee has filed false information, the costs of the audit shall be added to the correct business license tax and late penalties in addition to other penalties provided herein. Each day of failure to pay the proper amount of business license tax shall constitute a separate offense.
- B. The license official shall have the authority to make inspections and conduct audits of businesses to ensure compliance with the ordinance. Financial information obtained by inspections and audits shall not be deemed public records, and the license official shall not release the amount of business license taxes paid or the reported gross income of any person by name without written permission of the licensee, except as authorized by this ordinance, state or federal law, or proper judicial order. Statistics compiled by classifications are public records.

Section 11. Assessments, Payment under Protest, Appeal.

- A. Assessments, payments under protest, and appeals of assessment shall be allowed and conducted by the Municipality pursuant to the provisions of S.C. Code § 6-1-410, as amended. In preparing an assessment, the license official may examine such records of the business or any other available records as may be appropriate and conduct such investigations and statistical surveys as the license official may deem appropriate to assess a business license tax and penalties as provided herein.
- B. The license official shall establish a uniform local procedure consistent with S.C. Code § 6-1-410 for hearing an application for adjustment of assessment and issuing a notice of final assessment; provided that for particular types of business licenses, including without limitation for business licenses issued to businesses subject to business license taxes under Article 20, Chapter 9, Title 58, and Chapters 7 and 45, Title 38, of the South Carolina Code, the Municipality, by separate ordinance, may establish a different procedure and may delegate one or more rights, duties, and functions hereunder to the Municipal Association of South Carolina.

Section 12. Delinquent License Taxes, Partial Payment.

- A. For non-payment of all or any part of the correct business license tax, the license official shall impose and collect a late penalty of five (5%) percent of the unpaid tax for each month or portion thereof after the due date until paid. Penalties shall not be waived. If any business license tax remains unpaid for sixty (60) days after its due date, the license official shall report it to the municipal attorney for appropriate legal action.
- B. Partial payment may be accepted by the license official to toll imposition of penalties on the portion paid; *provided*, however, no business license shall be issued or renewed until the full amount of the tax due, with penalties, has been paid.

Section 13. Notices. The license official may, but shall not be required to, mail written notices that business license taxes are due. If notices are not mailed, there shall be published a notice of the due date in a newspaper of general circulation within the Municipality three (3) times prior to the due date in each year. Failure to receive notice shall not constitute a defense to prosecution for failure to pay the tax due or grounds for waiver of penalties.

Section 14. Denial of License. The license official may deny a license to an applicant when the license official determines:

- A. The application is incomplete or contains a misrepresentation, false or misleading statement, or evasion or suppression of a material fact;
- B. The activity for which a license is sought is unlawful or constitutes a public nuisance *per se* or *per accidens*;
- C. The applicant, licensee, prior licensee, or the person in control of the business has been convicted within the previous ten years of an offense under a law or ordinance regulating business, a crime involving dishonest conduct or moral turpitude related to a business or a subject of a business, or an unlawful sale of merchandise or prohibited goods;
- D. The applicant, licensee, prior licensee, or the person in control of the business has engaged in an unlawful activity or nuisance related to the business or to a similar business in the Municipality or in another jurisdiction;
- E. The applicant, licensee, prior licensee, or the person in control of the business is delinquent in the payment to the Municipality of any tax or fee;
- F. A licensee has actual knowledge or notice, or based on the circumstances reasonably should have knowledge or notice, that any person or employee of the licensee has committed a crime of moral turpitude on the business premises, or has permitted any person or employee of the licensee to engage in the unlawful sale of merchandise or prohibited goods on the business premises and has not taken remedial measures necessary to correct such activity; or
- G. The license for the business or for a similar business of the licensee in the Municipality or another jurisdiction has been denied, suspended, or revoked in the previous license year.

A decision of the license official shall be subject to appeal as herein provided. Denial shall be written with reasons stated.

Section 15. Suspension or Revocation of License. When the license official determines:

- A. A license has been mistakenly or improperly issued or issued contrary to law;
- B. A licensee has breached any condition upon which the license was issued or has failed to comply with the provisions of this ordinance;
- C. A licensee has obtained a license through a fraud, misrepresentation, a false or misleading statement, or evasion or suppression of a material fact in the license application;
- D. A licensee has been convicted within the previous ten years of an offense under a law or ordinance regulating business, a crime involving dishonest conduct or moral turpitude

related to a business or a subject of a business, or an unlawful sale of merchandise or prohibited goods;

E. A licensee has engaged in an unlawful activity or nuisance related to the business; or

F. A licensee is delinquent in the payment to the Municipality of any tax or fee,

the license official may give written notice to the licensee or the person in control of the business within the Municipality by personal service or mail that the license is suspended pending a single hearing before Council or its designee for the purpose of determining whether the suspension should be upheld and the license should be revoked.

The written notice of suspension and proposed revocation shall state the time and place at which the hearing is to be held, and shall contain a brief statement of the reasons for the suspension and proposed revocation and a copy of the applicable provisions of this ordinance.

Section 16. Appeals to Council or its Designee.

- A. Except with respect to appeals of assessments under Section 11 hereof, which are governed by S.C. Code § 6-1-410, any person aggrieved by a determination, denial, or suspension and proposed revocation of a business license by the license official may appeal the decision to the Council or its designee by written request stating the reasons for appeal, filed with the license official within ten (10) days after service by mail or personal service of the notice of determination, denial, or suspension and proposed revocation.
- B. A hearing on an appeal from a license denial or other determination of the license official and a hearing on a suspension and proposed revocation shall be held by the Council or its designee within ten (10) business days after receipt of a request for appeal or service of a notice of suspension and proposed revocation. The hearing shall be held upon written notice at a regular or special meeting of the Council, or, if by designee of the Council, at a hearing to be scheduled by the designee. The hearing may be continued to another date by agreement of all parties. At the hearing, all parties shall have the right to be represented by counsel, to present testimony and evidence, and to cross-examine witnesses. The proceedings shall be recorded and transcribed at the expense of the party so requesting. The rules of evidence and procedure prescribed by Council or its designee shall govern the hearing. Following the hearing, the Council by majority vote of its members present, or the designee of Council if the hearing is held by the designee, shall render a written decision based on findings of fact and conclusions on application of the standards herein. The written decision shall be served, by personal service or by mail, upon all parties or their representatives and shall constitute the final decision of the Municipality.
- C. Timely appeal of a decision of Council or its designee does not effectuate a stay of that decision. The decision of the Council or its designee shall be binding and enforceable unless overturned by an applicable appellate court after a due and timely appeal.

- D. For business licenses issued to businesses subject to business license taxes under Article 20, Chapter 9, Title 58, and Chapters 7 and 45, Title 38, of the South Carolina Code, the Municipality may establish a different procedure by ordinance.

Section 17. Consent, franchise, or license required for use of streets.

- A. It shall be unlawful for any person to construct, install, maintain, or operate in, on, above, or under any street or public place under control of the Municipality any line, pipe, cable, pole, structure, or facility for utilities, communications, cablevision, or other purposes without a consent agreement or franchise agreement issued by the Council by ordinance that prescribes the term, fees, and conditions for use.
- B. The annual fee for use of streets or public places authorized by a consent agreement or franchise agreement shall be set by the ordinance approving the agreement and shall be consistent with limits set by state law. Existing franchise agreements shall continue in effect until expiration dates in the agreements. Franchise and consent fees shall not be in lieu of or be credited against business license taxes unless specifically provided by the franchise or consent agreement.

Section 18. Confidentiality. Except in accordance with proper judicial order or as otherwise provided by law, no official or employee of the Municipality may divulge or make known in any manner the amount of income or any financial particulars set forth or disclosed in any report or return required under this ordinance. Nothing in this section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns. Any license data may be shared with other public officials or employees in the performance of their duties, whether or not those duties relate to enforcement of this ordinance.

Section 19. Violations. Any person violating any provision of this ordinance shall be deemed guilty of an offense and shall be subject to a fine of up to \$500.00 or imprisonment for not more than thirty (30) days or both, upon conviction. Each day of violation shall be considered a separate offense. Punishment for violation shall not relieve the offender of liability for delinquent taxes, penalties, and costs provided for in this ordinance.

Section 20. Severability. A determination that any portion of this ordinance is invalid or unenforceable shall not affect the remaining portions. To the extent of any conflict between the provisions of this ordinance and the provisions of the South Carolina Business License Tax Standardization Act, as codified at S.C. Code §§ 6-1-400 *et seq.*, the standardization act shall control.

Section 21. Classification and Rates.

- A. The business license tax for each class of businesses subject to this ordinance shall be computed in accordance with the current business license rate schedule, designated as Appendix A to this ordinance, which may be amended from time to time by the Council.
- B. The current business license class schedule is attached hereto as Appendix B. Hereafter, no later than December 31 of each odd year, the Municipality shall adopt, by ordinance, the latest standardized business license class schedule as recommended by the Municipal Association of South Carolina and adopted by the Director of the South Carolina Revenue

and Fiscal Affairs Office. Upon adoption by the Municipality, the revised business license class schedule shall then be appended to this ordinance as a replacement Appendix B.

C. The classifications included in each rate class are listed with NAICS codes, by sector, sub-sector, group, or industry. The business license class schedule (Appendix B) is a tool for classification and not a limitation on businesses subject to a business license tax. The classification in the most recent version of the business license class schedule adopted by the Council that most specifically identifies the subject business shall be applied to the business. The license official shall have the authority to make the determination of the classification most specifically applicable to a subject business.

D. A copy of the class schedule and rate schedule shall be filed in the office of the municipal clerk.

Section 22. Effective Date. This ordinance shall take effect on January 1, 2022.

Done in meeting duly assembled this ____ day of ____, 2021

SIGNATURE OF MAYOR:

Paul D. Shewmaker

ATTEST:

APPROVED AS TO FORM:

Phyllis Long

City Clerk

David W. Holmes

City Attorney

FIRST READING: _____

SECOND READING: _____

APPENDIX A: BUSINESS LICENSE RATE SCHEDULE

| RATE CLASS | <u>BASE RATE</u> INCOME: \$0-\$1,000 MINIMUM FEE | <u>INSIDE CITY</u> INCOME: OVER \$1,000 RATE PER 1,000 OR FRACTION THEREOF | <u>OUTSIDE CITY</u> INCOME: OVER \$1,000 RATE PER 1,000 OR FRACTION THEREOF |
|-------------------|-----------------------------------------------------------------|-----------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------|
| 1 | \$60.00 | \$.90 | \$1.80 |
| 2 | \$60.00 | \$1.00 | \$2.00 |
| 3 | \$60.00 | \$1.10 | \$2.20 |
| 4 | \$60.00 | \$1.20 | \$2.40 |
| 5 | \$60.00 | \$1.30 | \$2.60 |
| 6 | \$60.00 | \$1.40 | \$2.80 |
| 7 | \$60.00 | \$1.50 | \$3.00 |

| | | | |
|-------------|--------------------------------------------------------|---------------|---------------|
| 8.1 | \$60.00 | \$1.75 | \$3.50 |
| 8.2 | Set by State Statute | | |
| 8.3 | MASC Telecommunications | | |
| 8.4 | MASC Insurance | | |
| 8.51 | \$12.50 + \$12.50 per machine | | |
| 8.52 | \$12.50 + \$180.00 per machine | | |
| 8.6 | \$60.00 plus \$5.00- or - \$12.50 per table | \$1.10 | N/A |

NON-RESIDENT RATES

Unless otherwise specifically provided, all taxes and rates shall be doubled for nonresidents and itinerants having no fixed principal place of business within the Municipality.

CLASS 8 RATES

Each NAICS number designates a separate subclassification. The businesses in this section are treated as separate and individual subclasses due to provisions of state law, regulatory requirements, service burdens, tax equalization considerations, and other factors that are deemed sufficient to require individually determined rates. In accordance with state law, the Municipality also may provide for reasonable subclassifications for rates, described by an NAICS sector, subsector, or industry, that are based on particularized considerations as needed for economic stimulus or for the enhanced or disproportionate demands on municipal services or infrastructure.

Non-resident rates do not apply except where indicated.

8.1 NAICS 230000 – Contractors, Construction, All Types [Non-resident rates apply].

Resident rates, for contractors having a permanent place of business within the Municipality:

| | |
|--------------------------------|---------------|
| Minimum on first \$1,000 | \$ 60.00 PLUS |
| Each additional 1,000..... | \$ 1.75 |

Non-resident rates apply to contractors that do not have a permanent place of business within the Municipality. A trailer at the construction site or structure in which the contractor temporarily resides is not a permanent place of business under this ordinance.

No contractor shall be issued a business license until all state and municipal qualification examination and trade license requirements have been met. Each contractor shall post a sign in plain view on each job identifying the contractor with the job.

Sub-contractors shall be licensed on the same basis as general or prime contractors for the same job. No deductions shall be made by a general or prime contractor for value of work performed by a sub-contractor.

No contractor shall be issued a business license until all performance and indemnity bonds required by the Building Code have been filed and approved. Zoning permits must be obtained when required by the Zoning Ordinance.

Each prime contractor shall file with the License Official a list of sub-contractors furnishing labor or materials for each project.

For licenses issued on a per-job basis, the total tax for the full amount of the contract shall be paid prior to commencement of work and shall entitle the contractor to complete the job without regard to the normal license expiration date. An amended report shall be filed for each new job and the appropriate additional license fee per \$1,000 of the contract amount shall be paid prior to commencement of new work. Only one base tax shall be paid in a license year. Licensees holding a per-job license shall file, by each April 30 during the continuation of the construction project, a statement of compliance, including but not limited to a revised estimate of the value

of the contract. If any revised estimate of the final value of such project exceeds the amount for which the business license was issued, the licensee shall be required to pay a license fee at the then-prevailing rate on the excess amount.

8.2 NAICS 482 – Railroad Companies (See S.C. Code § 12-23-210).

8.3 NAICS 517311, 517312 – Telephone Companies.

With respect to “retail telecommunications services” as defined in S. C. Code § 58-9-2200, the Municipality participates in a collections program administered by the Municipal Association of South Carolina. The Municipality has approved participation in the collections program by separate ordinance (the “Telecommunications Collections Ordinance”). The rates, terms, conditions, dates, penalties, appeals process, and other details of the business license applicable to retail telecommunications services are set forth in the Telecommunications Collections Ordinance.

8.4 NAICS 5241 and 5242 – Insurance Companies and Brokers:

Independent agents and their employees are subject to a business license tax based on their natural class. With respect to insurers subject to license fees and taxes under Chapter 7 of Title 38 and to brokers under Chapter 45 of Title 38, the Municipality participates in a collections program administered by the Municipal Association of South Carolina. The Municipality has approved participation in the collections program by separate ordinance (the “Insurers and Brokers Collections Ordinance”). The rates, terms, conditions, dates, penalties, appeals process, and other details of the business license applicable to insurers and brokers are set forth in the Insurers and Brokers Collections Ordinance.

8.51 NAICS 713120 – Amusement Machines, coin operated (except gambling). Music machines, juke boxes, kiddie rides, video games, pin tables with levers, and other amusement machines with or without free play feature licensed by SC Department of Revenue pursuant to S.C. Code §12-21-2720(A)(1) and (A)(2) [Type I and Type II].

For operation of all machines (not on gross income), pursuant to S.C. Code §12-21-2746:

| | |
|------------------------|--------------|
| Per Machine | \$12.50 PLUS |
| Business license | \$12.50 |

Distributors that sell or lease machines and are not licensed by the state as an operator pursuant to §12-21-2728 are not subject to Subclass 8.51.

8.52 NAICS 713290 – Amusement Machines, coin operated, non-payout. Amusement machines of the non-payout type or in-line pin game licensed by SC Department of Revenue pursuant to S.C. Code §12-21-2720(A)(3) [Type III].

For operation of all machines (not on gross income), pursuant to S.C. Code §12-21-2720(B):

Per Machine \$180.00 PLUS
Business license \$12.50

Distributors that sell or lease machines and are not licensed by the state as an operator pursuant to §12-21-2728 are not subject to Subclass 8.52.

8.6 NAICS 713990 – Billiard or Pool Rooms, all types. (A) Pursuant to SC Code § 12-21-2746, 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; PLUS, (B) with respect to gross income from the entire business in addition to the tax authorized by state law for each table:

Minimum on first \$1,000 \$60.00 PLUS
Per \$1,000, or fraction, over \$1,000..... \$1.10

MUNICIPAL ASSOCIATION OF SOUTH CAROLINA
BUSINESS LICENSE STANDARDIZATION CLASS NINE SUPPLEMENT

Under S.C. Code Section 6-1-400(G)(2), municipalities may provide for additional reasonable subclassifications based upon particularized considerations as needed for economic stimulus or the enhanced or disproportionate demands by specific business subclassifications on taxing jurisdiction services or infrastructure.

9.3 NAICS 4411, 4412 – Automotive, Motor Vehicles, Boats, Farm Machinery or Retail.

(except auto supply stores - see 4413)

Minimum on first \$1,000 \$60.00 PLUS
Per \$1,000, or fraction, over \$1,000..... \$.90

One sales lot not more than 400 feet from the main showroom may be operated under this license provided that proceeds from sales at the lot are included in gross receipts at the main office when both are operated under the same name and ownership.

Gross receipts for this classification shall include value of trade-ins. Dealer transfers or internal repairs on resale items shall not be included in gross income.

NAICS 454390 – Peddlers, Solicitors, Canvassers, Door-To-Door Sales.

Direct retail sales of merchandise. [Non-resident rates apply]

9.41 Regular activities [more than two sale periods of more than three days each per year]

Minimum on first \$1,000 \$100.00 PLUS

Per \$1,000, or fraction, over \$1,000..... \$3.50

9.42 Seasonal activities [not more than two sale periods of not more than three days each year, separate license required for each sale period]

Minimum on first \$1,000 \$100.00 PLUS

Per \$1,000, or fraction, over \$1,000..... \$3.50

Applicants for a license to sell on private property must provide written authorization from the property owner to use the intended location.

9.8 **Manufacturing Rates** [*All Classifications of manufacturers shall pay as follows*]

Minimum on first \$1,000 \$250.00 PLUS

Per \$1,000, or fraction, over \$1,000..... \$0.25

Business License Class Schedule by NAICS Code
Appendix B

This appendix will be updated every odd year based on the latest available IRS statistics.

APPENDIX B
2021 BUSINESS LICENSE CLASS SCHEDULE BY NAICS CODE

| NAICS Sector/Subsector | Industry Sector | Class |
|------------------------|--------------------------------------------------------------------|-------|
| 11 | Agriculture, forestry, hunting and fishing | 2.00 |
| 21 | Mining | 4.00 |
| 31 | Manufacturing | 2.00 |
| 32 | Manufacturing | 2.00 |
| 33 | Manufacturing | 2.00 |
| 42 | Wholesale trade | 1.00 |
| 44 | Retail trade | 1.00 |
| 45 | Retail trade | 1.00 |
| 48 | Transportation and warehousing | 2.00 |
| 49 | Transportation and warehousing | 2.00 |
| 51 | Information | 4.00 |
| 52 | Finance and insurance | 7.00 |
| 53 | Real estate and rental and leasing | 7.00 |
| 54 | Professional, scientific, and technical services | 5.00 |
| 55 | Management of companies | 7.00 |
| 56 | Administrative and support and waste management and remediation se | 4.00 |
| 61 | Educational services | 4.00 |
| 62 | Health care and social assistance | 4.00 |
| 71 | Arts, entertainment, and recreation | 3.00 |
| 721 | Accommodation | 3.00 |
| 722 | Food services and drinking places | 1.00 |
| 81 | Other services | 5.00 |
| | | |
| Class 8 | Mandatory or Recommended Subclasses | |
| 23 | Construction | 8.10 |
| 482 | Rail Transportation | 8.20 |
| 517311 | Wired Telecommunications Carriers | 8.30 |
| 517312 | Wireless Telecommunications Carriers (except Satellite) | 8.30 |
| 5241 | Insurance Carriers | 8.40 |
| 5242 | Insurance Brokers for non-admitted Insurance Carriers | 8.40 |
| 713120 | Amusement Parks and Arcades (per machine) | 8.51 |
| 713290 | Nonpayout Amusement Machines (per machine) | 8.52 |
| 713990 | All Other Amusement and Recreational Industries (pool tables) | 8.60 |
| | | |
| Class 9 | Optional Subclasses | |
| 4411 | Automobile Dealers | 9.30 |
| 4412 | Other Motor Vehicle Dealers | 9.30 |
| 454390 | Other Direct Selling Establishments (Regular Peddlers) | 9.41 |
| 454390 | Other Direct Selling Establishments (Seasonal Peddlers) | 9.42 |
| 31 | Manufacturing | 9.80 |
| 32 | Manufacturing | 9.80 |
| 33 | Manufacturing | 9.80 |

Note: Class Schedule is based on 2017 IRS data.