



AGENDA

**Council Chambers
300 Wall Street, Fountain Inn, SC 29644**

FORMAL MEETING OF CITY COUNCIL

Thursday, November 14, 2024 - 6:00 p.m.

Citizens may access the meeting at the following YouTube address:
<https://www.youtube.com/@cityoffountaininn3536>

1. Call to Order
2. Invocation and Pledge of Allegiance
3. Introduce New Employees
 - a. Tarren Patrick, Fire Department
Rodney Crenshaw, Fire Department
Jared Slocum, Police Department
Christopher Moore, Recreation
Myles Prosser, Recreation
4. Recognitions
 - a. 2024 Fountain Inn Civics Academy Graduates
5. Public Forum - Persons wishing to speak may signup 15 minutes prior to the meeting. Signups will be on a first-come, first-served basis. Your remarks will be limited to 3 minutes.
6. Consent Agenda - There will be no discussion of Consent Agenda items unless a Council member so requests in which event the item in question will be considered separately.
 - a. Regularly Scheduled Meeting Minutes October 10, 2024
 - b. Special Called Meeting Minutes November 7, 2024
7. City Administrator's Report - Shawn M. Bell
 - a. Department Reports

Council may enter executive session to discuss any item on the agenda as permitted by S.C. Code Ann. § 30-4-70.

8. Unfinished Business
 - a. Second and Final Reading of Ordinance 2024-09 authorizing the execution and delivery of a franchise agreement between the City and Ripple Fiber; and providing for related matters.
 - b. Second and Final Reading of Ordinance TX-2024-01 to amend appendices A & B of the City of Fountain Inn Code of Ordinances.
9. Executive Session -After coming out of executive session, Council may vote on items discussed during executive session.
10. Adjourn

Council may enter executive session to discuss any item on the agenda as permitted by S.C. Code Ann. § 30-4-70.

FOIA Compliance – Public notification of this meeting has been published, posted, and distributed in compliance with the Freedom of Information Act and the City of Fountain Inn's requirements.



MINUTES FORMAL MEETING OF CITY COUNCIL

Thursday, October 10, 2024 at 6 p.m.

1. Call to Order

Mayor McLeer called the meeting to order at 6 p.m.

The following members of City Council and staff were in attendance: GP McLeer, Jay Thomason, Phil Clemmer, Mack Blackstone, John Don, Shawn Bell, Russ Slatton, and Elizabeth Adams.

2. Invocation and Pledge of Allegiance

3. Presentation

a. Recognition of Timothy "Dreze" Shell

Mayor McLeer presented Mr. Shell with a Key to the City.

4. Public Forum - Persons wishing to speak may signup 15 minutes prior to the meeting. Signups will be on a first-come, first-served basis. Your remarks will be limited to 3 minutes.

Thomas Johnson thanked the City employees during Hurricane Helene and to be mindful of the decisions made about Durbin Road.

Nancy Garrison spoke in opposition of Durbin Road and Jones Road annexation, specifically water and property owners.

Ashley Riddle spoke in opposition of the Jones/Durbin property annexation. Wesley White, engineer for Ridgewater, representative for Barton Hollow project.

5. Consent Agenda- There will be no discussion of Consent Agenda items unless a Council member so requests in which event the item in question will be considered separately.

Motion by Councilman Clemmer, seconded by Mayor Pro Tem Don to approve the Consent Agenda.

The motion carried unanimously 5/0.

a. Council Meeting Minutes September 12, 2024

b. Special Called Council Meeting Minutes September 25, 2024

6. City Administrator's Report- Shawn M. Bell

Mr. Bell covered the following information:

Special thank you to employees during Hurricane Helene

Greenville County contract collecting and transporting debris from 7am to 7pm,
7 days per week, paid by Federal Government

Civics Academy- 15 registered

Jeepers Creepers

Halloween Night- Main Street will be closed from Georgia to Hellams

PD- 336 calls for service 9/27-9/30, Walk for Domestic Violence Awareness,

Coffee with a Cop

Fall sports resumed this week

41st Annual Aunt Het Festival

History Museum Shrimp Boil was postponed

Chapman Foundation Pynkalicious event this Saturday

a. Department Reports

7. Unfinished Business

a. First reading of Ordinance AXZ 2024-04 to provide for the annexation of the property described herein to the city limits of the City of Fountain Inn; to establish a zoning classification therefore; to assign the annexed property to a Council Ward; and other related matters (Durbin, Jones and Happy Valley Roads.)

Motion by Councilman Thomason, second by Councilman Blackstone to enter into discussion for the first reading of Ordinance AXZ 2024-04 to provide for the annexation of the property described herein to the city limits of the City of Fountain Inn; to establish a zoning classification therefore; to assign the annexed property to a Council Ward; and other related matters (Durbin, Jones and Happy Valley Roads.).

A motion by Mayor McLeer, seconded by Councilman Thomason to postpone until March 2025 the first reading of Ordinance AXZ 2024-04 to provide for the annexation of the property described herein to the city limits of the City of Fountain Inn; to establish a zoning classification therefore; to assign the annexed property to a Council Ward; and other related matters (Durbin, Jones and Happy Valley Roads.).

Motion carried unanimously.

- b. Barton Hollow developers requested a major change to the Statement of Intent to allow a self-storage facility on Hwy 651 to be allowed within the commercial area.**

Motion by Councilman Thomason, second by Mayor Pro Tem Don to approve Barton Hollow developers requested a major change to the Statement of Intent to allow a self-storage facility on Hwy 651 to be allowed within the commercial area.

The motion carried unanimously 5/0.

- c. Second and Final Reading of Ordinance 2024-8 amending chapter 11 (licenses and business regulations), article II (business license), specifically section 11-37 (delinquent license taxes, partial payments) of the city code of ordinances of the City of Fountain Inn, South Carolina, 1992, as amended ("City Code") regarding business license penalties, and providing for related matters.**

Motion by Councilman Blackstone, second by Mayor Pro Tem Don to approve Second and Final Reading of Ordinance 2024-8 amending chapter 11 (licenses and business regulations), article II (business license), specifically section 11-37 (delinquent license taxes, partial payments) of the city code of ordinances of the City of Fountain Inn, South Carolina, 1992, as amended ("City Code") regarding business license penalties, and providing for related matters.

The motion carried unanimously 5/0.

8. New Business

- a. First Reading of Ordinance 2024-09 authorizing the execution and delivery of a franchise agreement between the City and []; and providing for related matters.**

Motion by Councilman Blackstone, second by Mayor Pro Tem Don to approve First Reading of Ordinance 2024-09 authorizing the execution and delivery of a franchise agreement between the City and []; and providing for related matters.

The motion carried unanimously 5/0.

- b. First Reading of Ordinance TX-2024-01 to amend appendices A & B of the City of Fountain Inn Code of Ordinances.**

Motion by Mayor McLeer, second by Mayor Pro Tem Don to approve First Reading of Ordinance TX-2024-01 to amend appendices A & B of the City of Fountain Inn Code of Ordinances.

The motion carried unanimously 5/0.

9. Executive Session -After coming out of executive session, Council may vote on items discussed during executive session.

Motion by Councilman Blackstone, seconded by Mayor Pro Tem Don Don to enter into executive session Executive Session.

The motion carried unanimously 5/0.

- a. The receipt of legal advice where the legal advice relates to a pending, threatened, or potential claim or other matters covered by the attorney- client privilege, settlement of legal claims – Parsons Street – SC Code 30-4-70(a)(2).**

10. Adjourn

Mayor McLeer adjourned the meeting.



MINUTES
November 7, 2024
200 N. Main Street Fountain Inn, SC 29644

1. Call to Order

Mayor McLeer called the meeting to order at 5:34 p.m.

The following members of City Council and staff were in attendance: GP McLeer, Phil Clemmer, Mack Blackstone, Jason Sanders, John Don, Joey Garrett, City Administrator, Shawn Bell, Assistant City Administrator, Russ Slatton, Planning and Zoning Director, Jason Knudsen, Jake Petrosky with Stewart, and City Clerk, Elizabeth Adams.

2. Presentation

a. INN the Zone Project Update and Proposed Amendment

Jake Petrosky with Stewart presented the INN the Zone project update and proposed text amendment.

Discussion held.

3. Adjourn

Mayor McLeer adjourned the meeting at 7:24 p.m.

CITY ADMINISTRATOR REPORT



Agenda Date: November 14, 2024

To: Mayor and City Council

From: Shawn M. Bell, ICMA-CM
City Administrator

Administration

- Woodside Streetscape
 - Power to the new streetlights and landscaping are the only items remaining
 - Expected completion by the end of December
- Main Street Streetscape
 - Electrical easement has been obtained and recorded
 - CoTransCo is finalizing the electrical plans and is close to being able to put the project out to bid
 - Project still estimated to go out to bid in late 2024
- Woodside Connector
 - The bridge has been installed, and paving has been completed; misc. items remain
 - Expected completion by the end of December
- Parking Lot revitalizations
 - Phase 2 environmental assessment is underway for the old NG/PW complex
 - The new parking lot will add four ADA spaces and 61 additional parking spaces
- Municipal Complex
 - Surveying work is ongoing
 - Programming meetings have been scheduled

Community Relations

- Upcoming Events
 - Christmas Inn Our Town (December 3rd - 19th)
 - <https://www.mainstreetfountaininn.com/christmas-inn-our-town>
 - Tree Lighting Ceremony on December 3rd at 5:00 p.m.
 - Holiday Carnival and Rudolph Run on December 7th from 2:00 - 10:00 p.m.
 - Carriage and Trolley Rides December 5th - 19th (excluding December 7th and 12th)

Human Resources

- Finance

- Accounting Manager - One vacancy; applications under review
- Fire
 - Part-Time Firefighter – applications under review/interviews conducted
- Natural Gas
 - Gas Tech I-III - One vacancy; reposted 11/11/24
- Planning & Development
 - Code Enforcement Officer – One vacancy; position under review
- Police
 - Patrol Officer - One vacancy; post-offer screenings in process
 - Animal Control - One vacancy; interviews & screenings in process
 - SRO - One vacancy; interviews & screenings in process
 - Dispatch - One vacancy; reposted 11/11/24
- Public Works
 - Public Works Director - One vacancy; executive search agency engaged
- Recreation
 - Recreation Coordinator – One vacancy; position under review
 - Part-time positions - under review

Judicial

- October 2024
 - 218 Total Cases
 - 61 criminal and 157 traffic
 - 174 pending cases
 - 17 cases disposed
- Jury trials are scheduled for January 27-31, 2025

Natural Gas

- Gas Supply
 - Deliveries for October 2024
 - Gas volume of 55,212 Dekatherms
 - Gas consumption for October 2024 was 4.6% lower than October 2023 and 7.6% lower than the October three-year average
- Gas Prices/Rates
 - The price of natural gas for November 2024 settled at \$2.346 per Dekatherm, representing a \$0.239 decrease from October's price
- Operations
 - Key Indicators
 - 4,320 feet of new service lines (68) were installed
 - 34,233 feet (672) installed Y-T-D

- 5,735 feet of new main lines were installed
 - 95,323 feet installed Y-T-D
- Average of 32 hours of training per employee Y-T-D
- 12,209 active customers

Planning & Development

- Building & Codes
 - October 2024
 - 33 permits issued with a total valuation of \$3,439,457
 - 398 inspections
 - 11 residential plan reviews and three commercial plan reviews
 - 53 certificates of occupancy issued

Police

- Key Indicators for October 2024
 - 1,704 calls for service (16,153 Y-T-D)
 - 218 inbound 911 calls
 - 187 citations issued (1,414 Y-T-D)
 - 159 warnings issued (2,033 Y-T-D)
 - 39 collisions (320 Y-T-D)

Recreation

- Fall Sports
 - Golden Strip Tackle Football Playoffs
 - 12U won the Championship
 - 10U were the Runner's Up
- Winter Sports
 - Basketball and Wrestling registration ended October 31st
 - All wrestling practices and matches are held at FIHS
 - Basketball games will begin in January and held at the Activities Center and Trinity United Methodist Church
- 55+
 - Feast For All on November 28th from 11:00 a.m. - 1:00 p.m. at the Activities Center
 - Thrive Upstate Christmas Party on December 6th

Chamber of Commerce

- Annual Christmas Parade sponsored by United Community Bank on December 4th at 5:30 p.m.

Younts Center for Performing Arts

- The Lion King Jr.
 - November 15th at 7:00 p.m.
 - November 16th at 11:00 a.m. and 3:00 p.m.
- Celebrate! Ignite Theatrical: A Concert of Broadway Music
 - November 22nd at 7:30 p.m.
- A Christmas Carol - The Musical
 - December 6th - 7th and December 13th - 14th at 7:30 p.m.
 - December 7th - 8th and December 14th - 15th at 3:00 p.m.

Assistant City Administrator – October 2024

PROJECT HIGHLIGHTS

- **Debris Removal.** Debris removal is Completed. The city and AshBritt removed 13,209 Cubic Yards of storm debris. SCDOT has started picking up debris on state roads in Laurens and Greenville County.
- **Main Street, Street Scope.** We have obtained the easement required to power lights and outlets for the streetscape project. Easement has been recorded, finalizing the electrical plans and very close to putting project out to bid.
- **Woodside Streetscape.** Lights are installed working on power to lights and concrete has been poured where needed. Next step is landscaping, project is planned to be completed by end of December.
- **Woodside Connector.** The bridge and paving are completed, the entire project will be completed by the end of December.
- **Durbin Creek Sewer Rehabilitation.** Lining is ongoing, the project must be completed by July 2026.
- **Parking Lot Revitalization Project.** Have designs for Wall Street parking lot, new parking lot will add 4 ADA accessible spots and approximately 61 additional spots for the downtown area. Working on phase 2 environmental and then project will be able to be put out to bid.
- **Stormwater Model.** The engineering team has developed the watershed map for Fountain Inn for current and future land uses. The Engineering team plans on having a full report by the end of November.
- **Municipal Complex.** Received funding for the Engineering and design of the new municipal complex. Surveyors have started work and core samples have been taken. Next step is the programming phase which is being coordinated.
- **Fire Station #3.** The contract for design and placing the project out to bid is under review.

Main Street

Facebook Impressions

YTD # 24K



Website Impressions

YTD # 117,256



Instagram Impressions

YTD #13K

Website (New) Visitors

YTD #26K

Facebook Followers

YTD #4.7K

Main Street News

Hospitality Tax

- The Local Hospitality Tax Funding Request application has been updated and distributed.

Trade St.

- There is an updated rendering and plan being produced by Randy Wilson at Community Design Solutions.

Stage Cover

- The Stage Cover is complete and the grant reimbursement request is forthcoming this quarter.

October 2024 Council Report

Downtown in October



Visits

#127K

Visitors

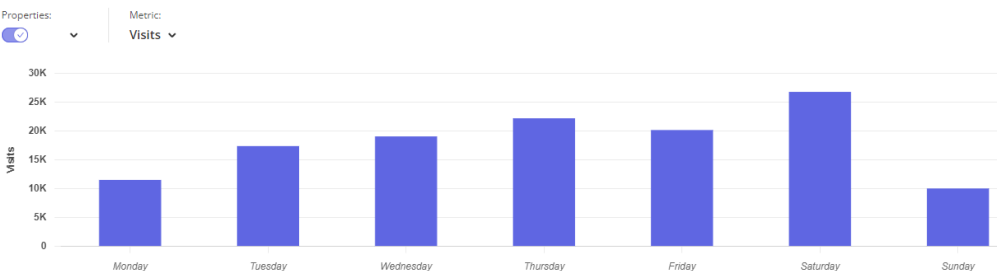
#61.4K

Visit Frequency 2.07

Visitor Information

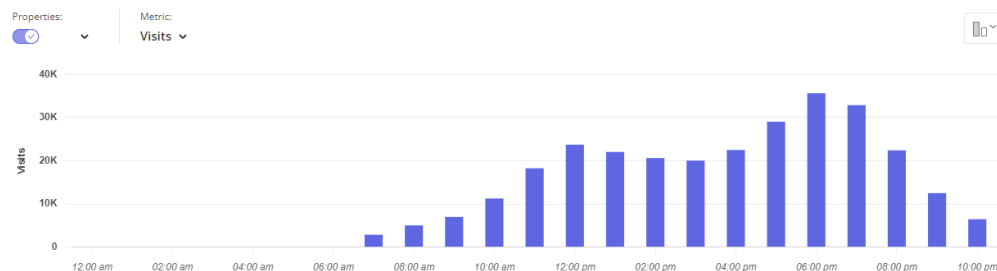
Daily Visits

Daily Visits



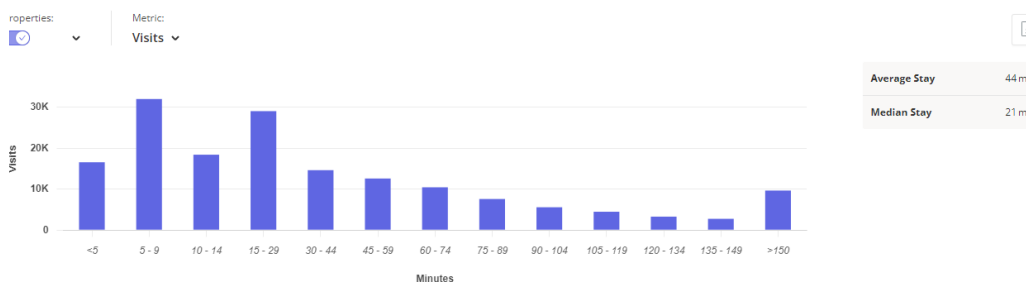
Hourly Visits

Hourly Visits



Length of Stay

Length of Stay



FINANCE – ACCOUNTING DIVISION DEPARTMENT SUMMARY

Monthly Highlights

Annual Audit

Auditors, Mauldin & Jenkins, are scheduled to be on site for FY 24 fieldwork during the week of December 16, 2024. Finance will continue to work toward closing FY2024 and providing the auditors with the needed information.

Other

Finance is currently working with a consultant with MRB Group to review current finance operations. The consultant has many years of experience with the Municipal Association of South Carolina and assisting other local municipalities with multiple aspects of their operations. In particular, the consultant is helping identify potential missed business license and hospitality tax revenue.

Business License

PERFORMANCE INDICATORS	CURRENT	Y-T-D	PRIOR YEAR
TOTAL BUSINESS LICENSES ISSUED	86	208	1,174
TOTAL BUSINESS LICENSE REVENUE	\$34,559	\$181,278	\$1,588,588
HDL – COLLECTED REVENUE	*N/A	\$6,111	\$59,517

**HDL revenue report not available until the 15th of every month*

Hospitality

PERFORMANCE INDICATORS	CURRENT	Y-T-D	PRIOR YEAR
TOTAL COMPANIES/FOOD TRUCKS	49	53	60
TOTAL HOSPITALITY TAX REVENUE	*\$58,919	*\$194,129	\$670,354

**Revenue is collected in the subsequent month. Revenue reported is for transactions through 9/30/2024.*

FINANCE – UTILITY BILLING DIVISION

Monthly Highlights

Since Hurricane Hele came through the upstate, FING has seen an increase in generator usage. We did have a handful damaged gas lines and gas meters due to the storm. We also had some gas lines ripped out of the ground due to the uprooted trees. In the office, we have noticed a surge in gas line installations for gas generators for current and new customers within our system territory.

Service Lines	Current	YTD	Prior Year
New Service Line Applications	26	234	1,062
Service Lines Completed	60	265	906
Total Amount Billed	Current	YTD	Prior Year
Total Gas Billed	\$98,617	\$255,355	\$11,209,147
Aging 30 days	\$3,219	\$3,219	\$799
Aging 60 days	\$183	\$183	\$7,818
Aging 90 days	\$183	\$183	\$-15,083
Aging 120+ days	\$358,576	\$358,576	\$372,323
New Applications	Current	YTD	Prior Year
New Customer Applications	226	797	2,457
Customer Service Statistics	Current	YTD	Prior Year
Incoming Phone Calls	1,380	5,475	24,162
Credit Card Payments	7,628	29,624	88,132
ACH Payments	1,266	5,621	18,182
Cash & Check Payments	9,534	24,353	121,691

(-) A/R balances include unapplied overpayments for customers who take advantage of budget billing

FIRE – FIRE DEPARTMENT SUMMARY

Summary of Monthly Events

- 221 calls for Oct
- Multiple trainings completed
- Open House completed with over 1000 in attendance
- The Grinch made an appearance during Halloween



DEPARTMENT HIGHLIGHTS

Current Projects

- FirstDue RMS being implemented. Currently using the incident module and other modules will be live by Jan 1, 2025
- Multiple plan reviews and building surveys are being completed
- Learning reporting for new RMS to better your knowledge
- Community Connect is being rolled out to our residents. This will allow us to better serve them.

Upcoming

Working on End of Year items
Members preparing for a conference in Columbia in January



Fountain Inn Community Connect

Together, Building a Safer Community Through
Prevention, Preparedness & Response



CREATE OR UPDATE YOUR PROFILE TODAY

1 Create an account

Sign in for free and get started doing your part. It just takes your email, phone number and address.

2 Enter the info that matters most

Enter valuable information that can help us assist more effectively during an emergency.

3 Help your Fire Department when seconds count

That's it. Just keep us updated when things change overtime so we can always be prepared.

WHAT KINDS OF INFORMATION CAN I PROVIDE?

Any information you provide through Community Connect is completely voluntary and based on what you are comfortable sharing. We have made it easy for you to know what may be important by organizing your secure portal into buckets of information you can enter.



Your Property



Your People



Your Needs



Your Pets

HOW SECURE IS MY DATA AND HOW IS IT USED?

Data that you provide Community Connect is secure and is used only for the purpose of better serving you during emergency situations. Your information is never used for any other purpose. All logins are password protected with bank level encryption and security. If you're comfortable logging in to your online bank you'll be comfortable logging in to Community Connect.



Community Connect is
Safe & Secure



Fountain Inn Community Connect

CREATE YOUR HOUSEHOLD LIFE SAFETY PROFILE TODAY

Together, Building a Safer Community Through Prevention,
Preparedness & Response

www.communityconnect.io/info/sc-fountaininn

1 **Create an Account**

Sign in for free and get started doing your part. It just takes your email, phone number and address.

2 **Enter the Info that Matters Most**

Enter valuable information that can help us assist more effectively during an emergency.

3 **Help your First Responders When Seconds Count**

That's it. Just keep us updated when things change overtime so we can always be prepared.

www.communityconnect.io/info/sc-fountaininn





City of Fountain Inn - Human Resources Monthly Report - October 2024

Home Department**	September Headcount	October Hires / Transfers In	October Terms	October Transfers Out	October Headcount	DIVERSITY					
						Asian	Black or African American	Hispanic or Latino	White	Pacific Islander	One or More
000411 / Administration	2	0	0	0	2	0	0	0	2	0	0
000412 / Judicial	5	0	0	0	5	0	0	0	4	1	0
000413 / Council	8	0	0	0	8	0	0	1	7	0	0
000414 / Community Relations	6	0	0	0	6	0	0	0	6	0	0
000416 / Finance	11	0	0	0	11	0	3	0	8	0	0
000417 / Human Resources	2	0	0	0	2	0	0	1	1	0	0
000421 / Police	39	0	1	0	38	0	2	4	31	0	1
000422 / Fire	31	1	1	0	31	0	1	1	29	0	0
000424 / Public Works	3	0	0	0	3	0	1	0	2	0	0
000425 / Planning & Development	3	0	0	0	3	0	0	0	3	0	0
000431 / Parks/Grounds Maintenance	8	0	0	1	7	0	1	0	6	0	0
000432 / Sanitation	9	1	0	0	10	0	4	0	6	0	0
000434 / Sewer	4	0	0	0	4	0	0	0	4	0	0
000451 / Recreation	40	0	0	0	40	0	12	1	27	0	0
000453 / Facilities Maintenance	2	0	0	0	2	0	0	1	1	0	0
000510 / Gas Field	18	0	1	0	17	0	0	1	16	0	0
Totals:	191	2	3	1	189	0	24	10	153	1	1

**Based on Home Departments

FULL TIME 142 / PART TIME 47

Recruitment Status for Open Positions - AS OF 11/11/2024

416 Finance: Accounting Manager (1) Vacancy; applications under review
421 Police: Patrol Officer (1) Vacancy; post offer screenings in process
421 Police: Animal Control (1) Vacancy; interviews & screenings in process
421 Police: SRO (1) Vacancy; interviews & screenings in process
421/422 Dispatch: Dispatcher (1) Vacancy; reposted 11/11/24
422 Fire: Part-Time Firefighter; applications under review / interviews conducted

424 Public Works Director: (1) Vacancy; executive search agency engaged
425 P&D: Codes Enforcement Officer (1) Vacancy; position under review
451 Recreation: Recreation Coordinator (1) Vacancy; position under review
451 Recreation: Part Time positions under review
510 Gas Tech I - III: (1) Vacancy; reposted 11/11/24

OCTOBER NEW HIRES	Department	Title
Patrick, Tarren	000422	Firefighter (B-Shift)
Marcos Bodon (Transferred to Sanitation)	000432	Public Works Driver CDL

Offers Accepted as of 11/11/2024

421 Police Officer - Starting 11/12, 11/26
421 Police Records Technician - Starting 11/18
422 Firefighters - Starting 11/18, 11/24
451 Recreation Supervisor - Started 11/4
510 Gas Tech II - Started 11/4

JUDICIAL DIVISION DEPARTMENT SUMMARY

October Case Status

PERFORMANCE INDICATORS	CRIMINAL	TRAFFIC	TOTALS
CASE TOTALS	61	157	218
TRANSFERRED CASES	19	8	27
DISPOSED CASES	0	17	17
PENDING CASES	42	132	174

DEPARTMENT HIGHLIGHTS

Current Projects:

- Jury trials scheduled for the week of January 27 through 31, 2025.

Fountain Inn Natural Gas

GAS SUPPLY

Gas Volume and Consumption:

- **October Gas Volume:** 55,212 Dths
- **October Consumption:** 4.6% lower than October 2023 and 7.6% lower than the 3-year average for October.

Natural Gas Pricing:

- **November Gas Price:** \$2.346 per Dekatherm
- **Change from October:** Decreased by \$0.239 per Dekatherm.
 - Note: This price reflects the commodity cost only. The final "Cost of Gas" includes additional factors such as transportation which affect FING's monthly billing.

GAS OPERATIONS

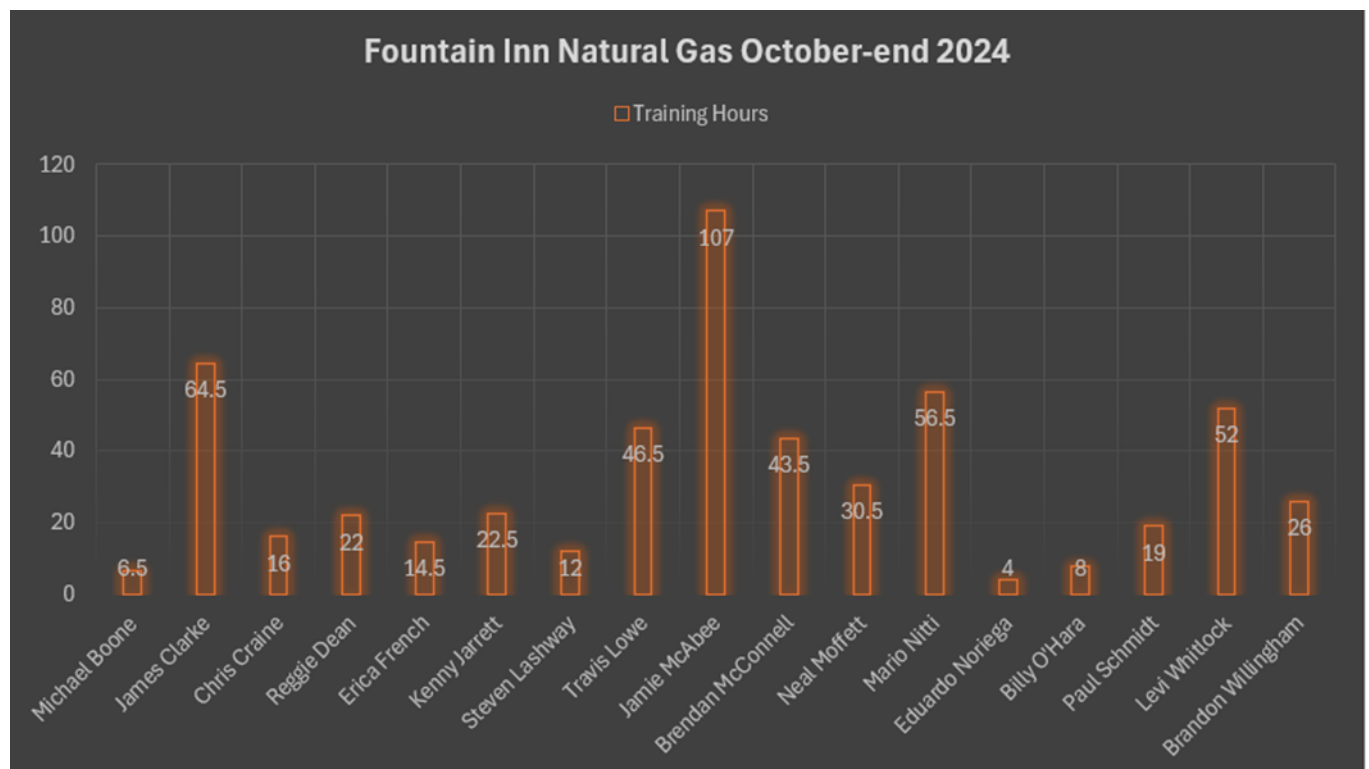
- **Installation Pace:** We are installing gas mains and services at a record-setting pace, with no signs of slowing down. We currently serve 12,209 active customers. See key indicators below.
- **Personnel:** We have hired Jaden Youwakim as a Gas Technician. Jaden brings very valuable gas experience from his previous employer. We still have one Gas Tech. position opened, and we hope to fill the position in the coming weeks.
- We celebrate *National Public Natural Gas Worker Day* with a nice breakfast at the utilities complex.
- Work with the gas billing manager to improve FING's electronic gas bill for those who choose to receive their gas bills by email. The new format is visually appealing and easier to read.
- **Williams/Transco City Gate:** FING's city gate, where we purchase our gas, is outdated and inadequate for the significant growth we've experienced over the past decade. Williams has formally requested our assistance with three key initiatives:
 - Expand the size of the pipeline supplying gas to the FING city gate.
 - Replace the existing metering station with a larger facility.
 - Transfer gas pressure control to FING.

This rebuild involves many moving parts and will require meticulous planning and a substantial financial commitment from FING. We are still assessing costs and expect to have preliminary figures in the coming weeks.

The replacement of the station is tentatively scheduled for spring/summer 2026.

KEY INDICATORS

PERFORMANCE INDICATORS	CURRENT	Y-T-D
NEW MAIN LINES INSTALLED	5,735 ft.	95,323 ft.
NEW SERVICE LINES INSTALLED	68 SL; 4,320 ft.	672 SL; 34,233 ft.
AVERAGE HOURS OF EMPLOYEE TRAINING		32 hours



SC/NC RESIDENCIAL GAS RATES

- Below are the names and rates of other gas providers in the Carolinas for a comparison. Please note that every company has a completely different rate structure, fixed costs, and other factors that make it challenging to make an exact comparison.

SOUTH CAROLINA/NORTH CAROLINA GAS RATE COMPARISONS					
October 2024					
COMPANY	SERVICE CLASS	METER CHARGE PER MONTH	AVEWRAGE RATE PER THERM	AVG. USAGE THERMS	TOTAL COST PER MONTH
LANCASTER COUNTY, SC	Residential	\$5.00	\$1.10000	7.00	\$12.70
PIEDMONT, SC	Residential	\$8.00	\$1.01863	7.00	\$15.13
CITY OF SHELBY, NC	Residential	\$8.50	\$0.95637	7.00	\$15.19
CITY OF MONROE, NC	Residential	\$10.00	\$0.80368	7.00	\$15.63
CHESTER COUNTY, SC	Residential	\$6.50	\$1.31012	7.00	\$15.67
CITY OF DANVILLE, VA	Residential	\$12.15	\$0.68531	7.00	\$16.95
DOMINION, NC	Residential	\$10.00	\$0.99369	7.00	\$16.96
GREENWOOD CPW, SC	Residential	\$10.00	\$0.99950	7.00	\$17.00
FORT HILL NATURAL GAS, SC	Residential	\$10.00	\$1.00000	7.00	\$17.00
YORK NATURAL GAS, SC	Residential	\$9.25	\$1.15005	7.00	\$17.30
CITY OF ORANGEBURG, SC	Residential	\$11.50	\$0.89767	7.00	\$17.78
FOUNTAIN INN, SC	Residential	\$10.00	\$1.23900	7.00	\$18.67
PIEDMONT, NC	Residential	\$10.00	\$1.51008	7.00	\$20.57
DOMINION, SC	Residential	\$10.90	\$1.69019	7.00	\$22.73
GREENVILLE UTILITIES, NC	Residential	\$14.00	\$1.39500	7.00	\$23.77
CLINTON-NEWBERRY, SC	Residential	\$12.15	n/a	7.00	VALUE!
GREER CPW, SC	Residential	\$10.00	n/a	7.00	VALUE!
LAURENCE CPW	Residential	\$10.00	n/a		VALUE!
CITY OF LEXINGTON, NC	Residential	\$10.00	n/a		VALUE!
PUBLIC SERVICE OF NC	Residential	\$10.00	n/a		VALUE!

PLANNING & ZONING

Zoning Ordinance & Land Development Regulations Rewrite

The consultants held a workshop with Council on November 7th.

Boards & Commissions

Planning Commission (October 24th)

- PA-2024-01
Request: Sign Approval in the POD District
TMS: 0344000200600
Location: 407 N Main St
Current Zoning: POD, Planned Office District
Vote: 3-0, for approval

Board of Zoning Appeals (October 21st)

- SE-2024-01
Request: Use by Special Exception
TMS: 0352000100100
Location: 413 Quillen Ave
Current Zoning: R-15, Residential
Vote: 5-0, for approval
- VAR-2024-03
Request: Variances
TMS: 0350000100111 & 0350000100110
Location: HWY 418 & South Woods Dr
Current Zoning: C-2 Commercial District, Gateway Corridor Overlay District
Vote: 5-0, for approval

BUILDING AND CODES

INSPECTIONS	OCTOBER	SEPTEMBER
ALL CONSTRUCTION	398	350
REINSPECTIONS	2	3
TOTAL INSPECTIONS	398	350
PERMITS ISSUED	33	23
SUBMITTED PERMITS	38	36
NEW SINGLE FAMILY	8	18
NEW MULTI-FAMILY (UNITS)	0	0
NEW COMMERCIAL	1	0
CERTIFICATES OF OCCUPANCY-ISSUED	53	44
REMODEL/ADD. RESIDENTIAL	1	1
REMODEL/ADD. COMMERCIAL	2	2
SIGN/ROOFING/SOLAR/MISC TRADE	26	14
COMMERCIAL PLAN REVIEWS	3	3
RESIDENTIAL PLAN REVIEWS	11	20

CODE COMPLIANCE

BUILDING CODE COMPLAINTS	OCTOBER	SEPTEMBER
VEHICLES/OTHER	3	7
BUILDING – UNSAFE CONDITIONS	1	3
PROPERTY MAINTENANCE	3	6
TOTAL COMPLAINTS	7	16

FINANCIAL SUMMARY

FINANCIAL STATISTICS	OCTOBER	SEPTEMBER
TOTAL VALUATION	\$3,439,457	\$9,766,370
TOTAL PERMIT FEES COLLECTED	\$29,281.22	\$25,737
TOTAL PLAN REVIEW REVENUE	\$13,110	\$12,490



City of Fountain Inn

Police Department *October 2024 Monthly Report*



2nd Annual Domestic Violence Walk





Aunt Het Police Booth



Jeepers Creepers



Pynkalycious (COFI and PD Sponsors)





Inaugural Coffee with a Cop Sponsored by Steam Coffee and Cream





Community Engagement





Sgt. Austin and Sgt. Rivera completed 120 hours of Supervisory Training through FBI-LEEDA.





Officer Wilcox SCCJA Graduation

Officer Wilcox Swearing-In Ceremony

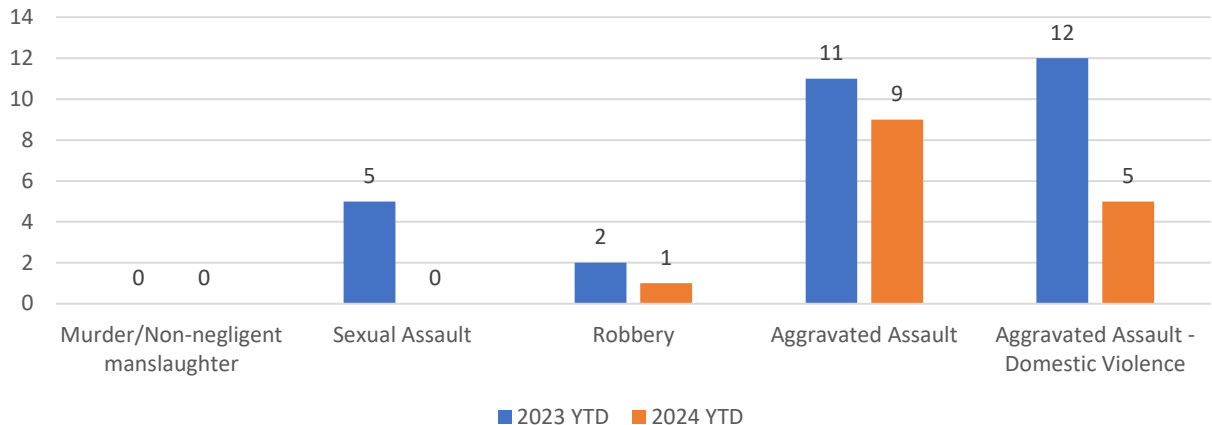




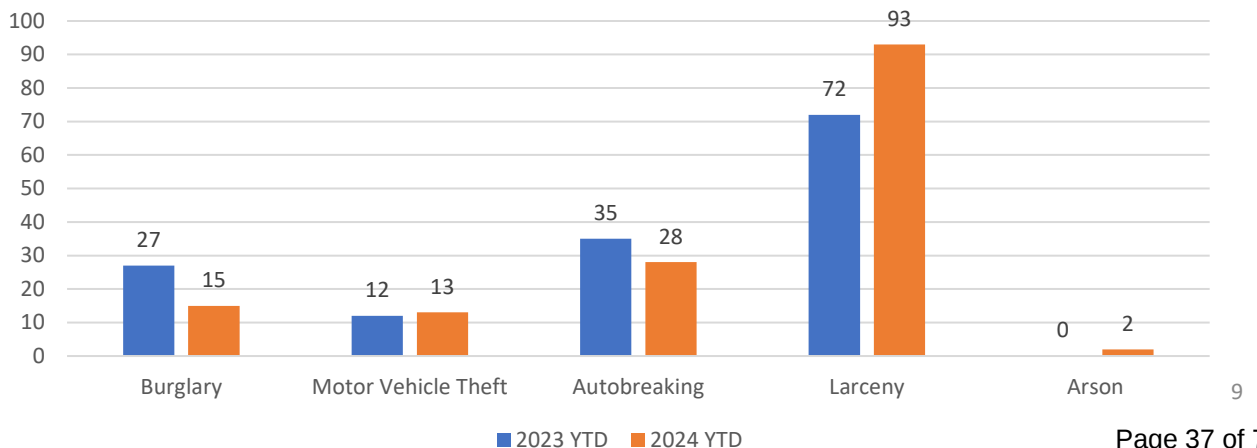
Violent Crime						
Crime Type	Oct 2023	Oct 2024	Difference	2023 YTD	2024 YTD	Difference
Murder/Non-negligent manslaughter	0	0	0	0	0	0
Sexual Assault	0	0	0	5	0	-5
Robbery	0	0	0	2	1	-1
Aggravated Assault	2	4	2	11	9	-2
Aggravated Assault - Domestic Violence	0	0	0	12	5	-7
Total Violent Crime	2	4	2	30	15	-15
Property Crime						
Crime Type	Oct 2023	Oct 2024	Difference	2023 YTD	2024 YTD	Difference
Burglary	1	0	-1	27	15	-12
Motor Vehicle Theft	2	1	-1	12	13	1
Autobreaking	1	1	0	35	28	-7
Larceny	6	15	9	72	93	21
Arson	0	0	0	0	2	2
Total Property Crime	10	17	7	146	151	5
Total Part I Crime	12	21	9	176	166	-10

Unfounded Cases Removed / Source: Vconnect

Violent Crime - YTD Comparison



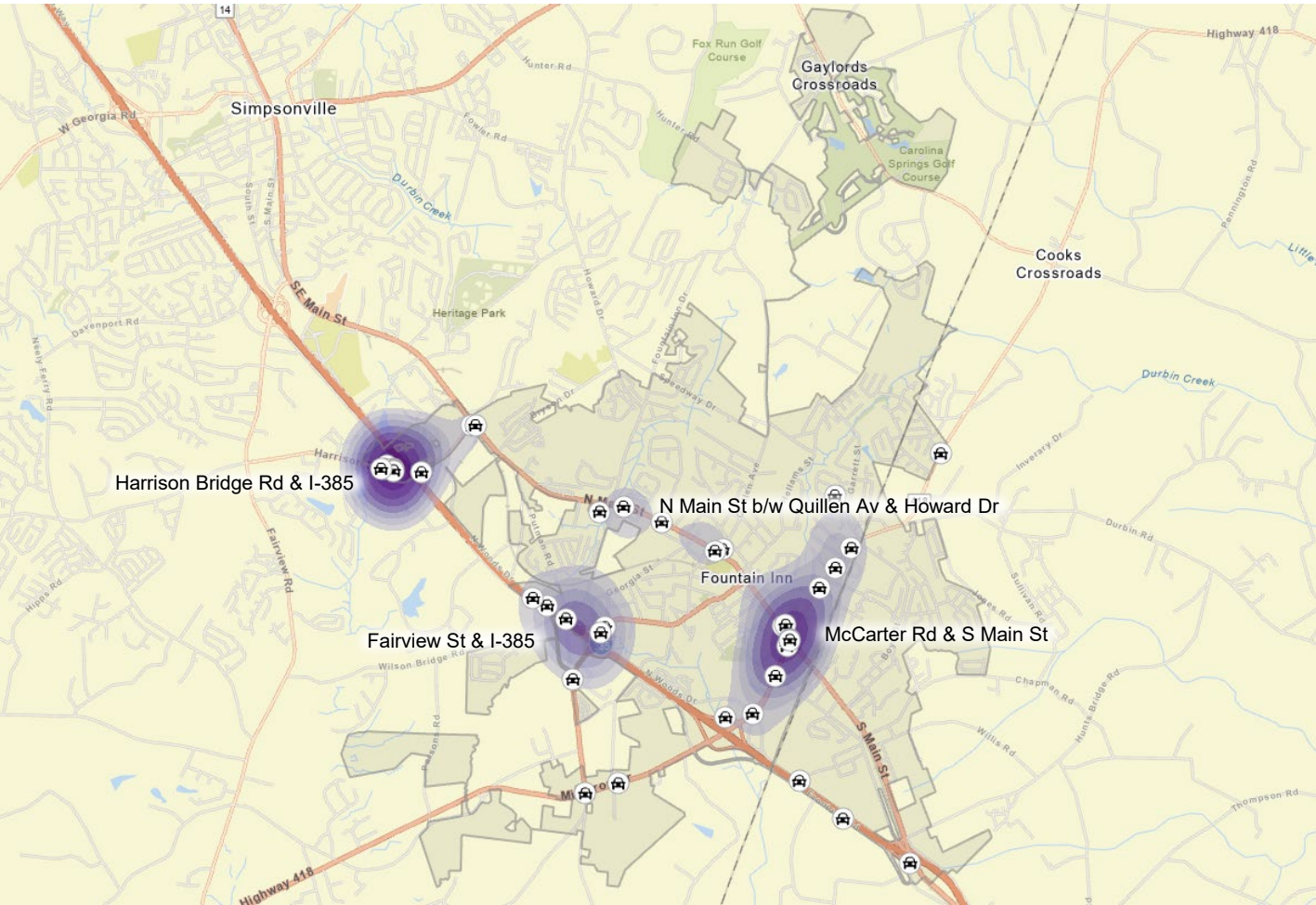
Property Crime - YTD Comparison



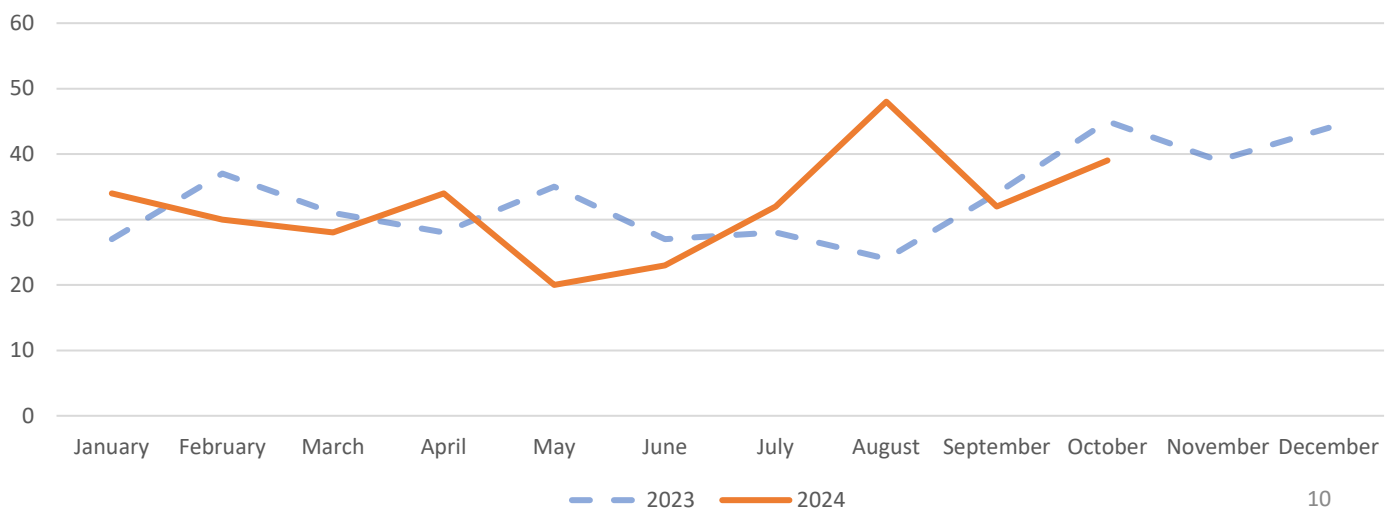


Collision Statistics/Map

Collisions	Oct 2023	Oct 2024	Difference	2023 YTD	2024 YTD	Difference
Count	45	39	-6	316	320	4



Collisions by Month - 2023/2024





Collisions by Day of Week and Hour - October 2024								
Hour	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Grand Total
1 AM	1		1					2
4 AM					1			1
6 AM	1	1	2				1	5
7 AM			2	2			1	5
11 AM			2		1	1		4
12 PM			2	1		1	1	5
1 PM	1				2		1	4
2 PM				1				1
3 PM					1			1
4 PM	1	1			1			3
5 PM				1	2	1		4
6 PM	1							1
7 PM				1		1		2
8 PM				1				1
Grand Total	5	2	9	7	8	4	4	39

Hot Day for Collisions in October

Tuesdays – 9 collisions

Hot Time Range for Collisions in October

0600-0759 and 1200-1259

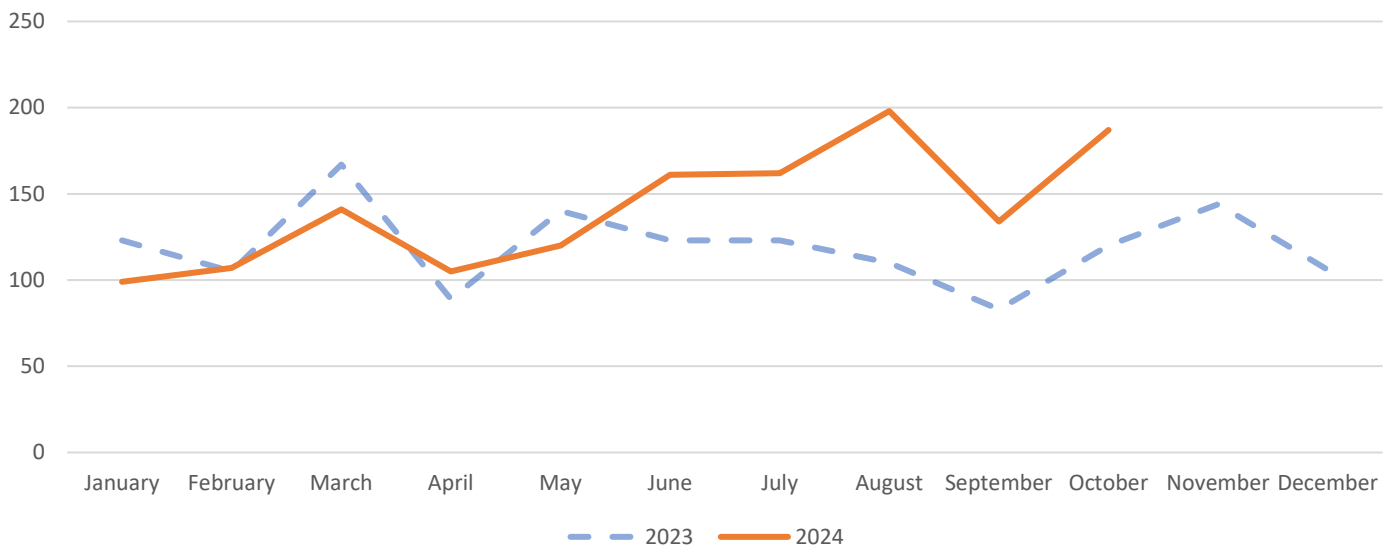
Primary Contributing Factor	Count
Failed to Yield Right of Way	11
Followed Too Closely	10
Animal in Road	3
Driving Too Fast for Conditions	3
Ran off Road	2
Distracted / Inattention	1
Unknown (driver)	1
Wrong Side or Wrong Way	1
Obstruction	1
Improper Lane Usage / Change	1
Grand Total	34

**Does not include 5 private property collisions*

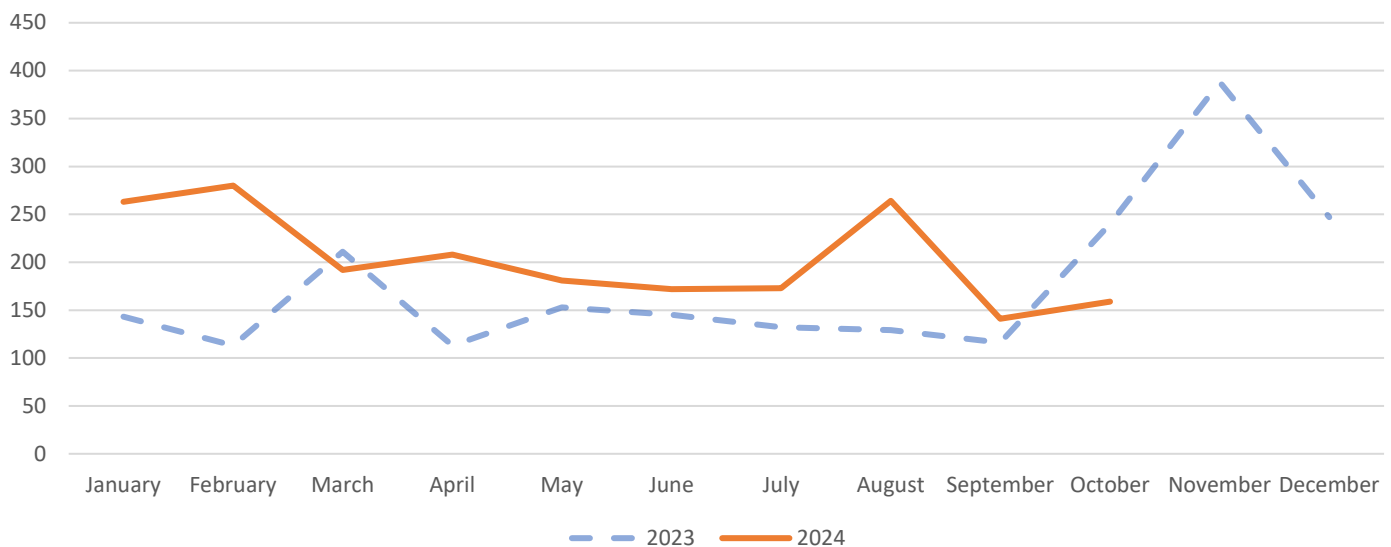


Contact Type	Oct 2023	Oct 2024	Difference	2023 YTD	2024 YTD	Difference
Citations	120	187	67	1,183	1,414	231
Warnings	240	159	-81	1,495	2,033	538

Citations by Month - 2023/2024



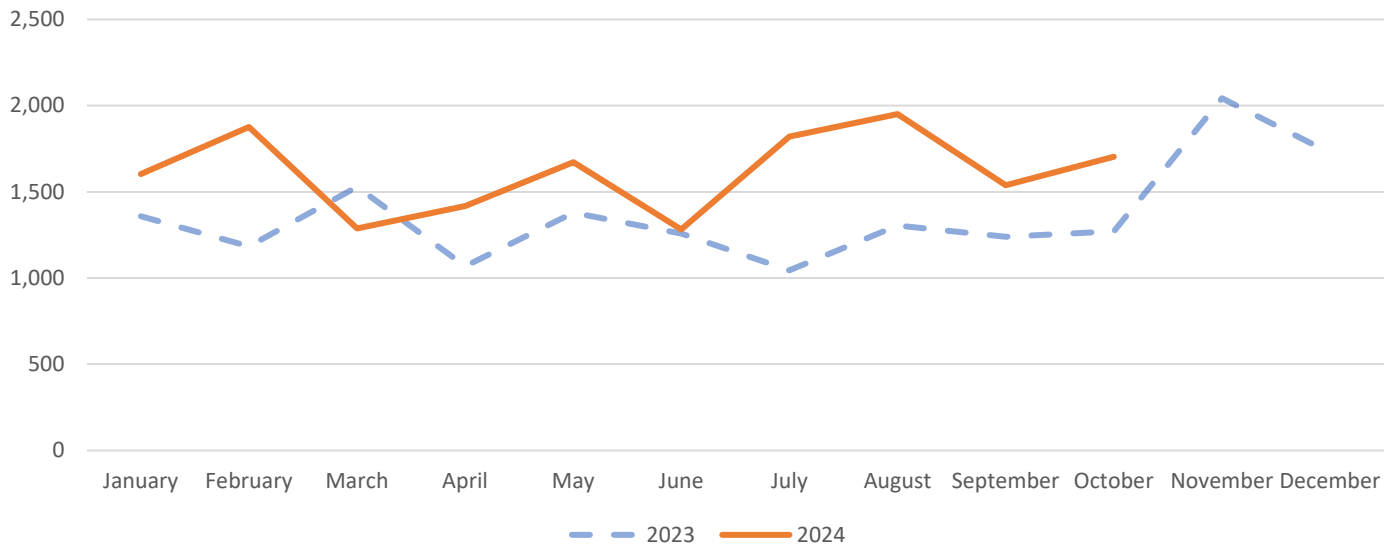
Warnings by Month - 2023/2024





Calls for Service Comparison					
Oct 2023	Oct 2024	Difference	2023 YTD	2024 YTD	Difference
1,271	1,704	433	12,636	16,153	3,517

Calls for Service by Month - 2023/2024



Communications Call Summary Report

October Call Summary				
Call Type		Oct 2023	Oct 2024	% Change
911	Inbound	323	281	-13.0%
	Inbound	1,504	1,619	7.6%
	Outbound	522	793	51.9%

November Council Report

Staff News

- We welcome the return of Beth Anne Zivitski as our Customer Service Coordinator.
- And we are equally excited about the hiring of Myles Prosser, Recreation Supervisor.

Sports News

Registration for Basketball and Wrestling – Ended on 10/31/24. Both programs have exceeded registration expectations.

- All wrestling practices and matches are held FIHS.
- Basketball games will begin in January with games held at the (Activities Center & TUMC)

Golden Strip Tackle Football Playoffs Update

- **Our 12U team won the Championship**
- **Our 10U team were the Runners-Ups**

SCAP Tackle Football All-Star Playoffs- City of Fountain Inn will be represented in the 10U, & 12U Divisions. Playoffs begin November 9th. Mauldin will host the following 1st round matchups at **St Joes High School, 100 St. Joseph's Drive, Greenville, SC 29607**

Game Times

- **9:00 AM** - 12U Mauldin vs. Fountain Inn
- **10:30 AM** - 10U Mauldin vs Fountain Inn

55+ NEWS

11/5 - Closed for Election Day

11/8 - Veterans Day Program & Tribute @ 11:00a - 2:00pm (see attached flyer for more info)

11/11 - Closed in observance of Veterans Day

11/12 - Fall Inn to Fitness - Aerobics in Commerce Park

11/12 - Birthday Celebration

11/14 - Nutrition Class - Topic: What's Trending in the Nutrition World?

11/19 - Italian Bingo - Sponsored by Debra Gosier with Enlightened Home Care, LLC

11/21 - Fall Inn to Fitness - 2nd Annual Turkey Trot

11/26 - Diabetes Support Group - Speaker: Julia Mesawich, Pharmacist with Prisma Health

11/28 - Feast For All- 11:00a - 1:00p (Free event put on by several area churches and held at the Center)

11/28 & 29 - Facility closed for Thanksgiving



Nov24
Newsletter.pdf



VetDayFlyer.pdf

 FOUNTAIN INN est 1886	REQUEST FOR COUNCIL ACTION City of Fountain Inn, South Carolina To: Mayor and Members of City Council From: Shawn M. Bell, City Administrator	November 14, 2024 Regular City Council Meeting
☐ Ordinance/First Reading ☒ Ordinance/Second Reading ☐ Resolution/First & Final Reading		
Agenda Date Requested: November 14, 2024 Summary Background: Ripple Fiber has requested that Fountain Inn enter into a Franchise Agreement. This agreement will set procedures, standards, and grant authority for the installation of fiber internet within Fountain Inn rights-of-way. The agreement includes a 5% franchise fee to be paid annually to the city. Impact If Denied: Ripple Fiber would not be granted approval to install fiber internet lines within Fountain Inn Impact If Approved: Ripple Fiber would be permitted to install fiber internet within the city limits. This will allow for competition in the market which can lead to better pricing, improved service quality, and greater innovation. The city will receive a franchise fee of 5% of the gross revenues derived from the Company’s operations in the city limits annually.		



AGENDA

November 14, 2024

To: City Council
From: Planning & Development Director, Jason Knudsen
Subject: Ordinance 2024-09, Cable Franchise Agreement
Meeting Date: November 14, 2024
Type of Agenda Item: Ordinance
Attachments: Proposed Ordinance & Agreement

REQUEST

Ripple Fiber has requested that Fountain Inn enter into a Franchise Agreement. This agreement will set procedures, standards, and grant authority for the installation of fiber internet within Fountain Inn rights-of-way. The agreement includes an annual franchise fee of 5% of the gross revenues derived from the Company's operations within the city.

STAFF COMMENTS

As our city continues to grow, ensuring access to reliable and high-speed internet is critical for both residents and businesses. Having multiple internet service providers (ISPs) in the community fosters competition, which can lead to better pricing, improved service quality, and greater innovation. A diverse ISP market also strengthens the city's economic development efforts by attracting new businesses that require robust digital infrastructure. Additionally, it enhances redundancy and resilience, ensuring that in the event of an outage, there are alternative options available to minimize disruption. Promoting competition among ISPs aligns with the city's goals of fostering economic growth, digital equity, and enhanced quality of life for all residents.

**CITY OF FOUNTAIN INN, SOUTH CAROLINA
ORDINANCE 2024-09**

**AUTHORIZING THE EXECUTION AND DELIVERY OF A
FRANCHISE AGREEMENT BETWEEN THE CITY AND RIPPLE
FIBER LLC; AND PROVIDING FOR RELATED MATTERS.**

WHEREAS, according to South Carolina Code Annotated sections 5-7-30 and 5-7-260, the City is authorized to grant, renew, or extend a franchise by ordinance;

WHEREAS, Ripple Fiber LLC, as franchisee (“Franchisee”) seeks to enter into a franchise agreement with the City to allow Franchisee to construct, install, operate, use, maintain, repair, replace, upgrade, and remove certain internet-only facilities in the City owned right-of-way;

WHEREAS, Franchisee is considered an internet-only service provider (not a telecommunications company) according to the definition of “telecommunications company” under South Carolina Code Annotated section 58-9-10(15);

WHEREAS, Franchisee holds a certificate of public convenience and necessity granted by the Public Service Commission of the State of South Carolina;

WHEREAS, the City manages its public rights-of-way on a competitively neutral and nondiscriminatory basis and is entitled to impose a fair and reasonable franchise or consent fee on any entity for the use of the public streets, public rights-of-way, and public property on a nondiscriminatory basis, to provide internet-only (not telecommunications) services unless the entity has an existing contractual, constitutional, statutory, or other right to contract or operate in the public streets, public rights-of-way, and public property;

WHEREAS, pursuant to Section 2-103 of the City of Fountain Inn Code of Ordinances, prior to the introduction of this Ordinance, Franchisee published a notice in three issues of a newspaper having a general circulation in the City stating the nature of the franchise sought and the date on which the application is to be presented to City Council, which was no less than one week after the last published notice;

WHEREAS, the purpose of this franchise is to allow Franchisee the right to install, operate, use, maintain, upgrade, repair, replace and remove certain network facilities for internet-only (not telecommunications) services within and through the City;

WHEREAS, the City desires to enter into the franchise agreement, the substantially final form of which is attached to this Ordinance as Exhibit A, the terms of which are incorporated herein by reference as if set forth verbatim herein (“Franchise Agreement”); and

WHEREAS, the Mayor and City Council find that it is in the best interests of the City to enter into the Franchise Agreement with such modifications as are not materially adverse to the City.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the City of Fountain Inn, that the City Administrator is hereby authorized, empowered, and directed to finalize, execute, acknowledge, and deliver the Franchise Agreement.

Section 1. *Incorporation of Findings.* The City hereby adopts and incorporates the findings contained in the “WHEREAS” clauses above.

Section 2. *General Repealer.* Each order, resolution, ordinance, or part of the same in conflict with this Ordinance, is, to the extent of that conflict, repealed.

Section 3. *Effective Date.* This Ordinance is effective at its approval following second reading.

[ONE SIGNATURE PAGE AND TWO EXHIBITS FOLLOW]
[REMAINDER OF PAGE INTENTIONALLY BLANK]

CITY OF FOUNTAIN INN, SOUTH CAROLINA

George Patrick McLeer, Jr., Mayor

[CITY SEAL]

ATTEST:

Elizabeth Adams, City Clerk

APPROVED AS TO FORM:

Michael E. Kozlarek, Esq.
King Kozlarek Root Law LLC

Publication Dates:

First Reading:

October 10, 2024

Second Reading / Final Approval:

November 14, 2024

EXHIBIT A
FORM OF FRANCHISE AGREEMENT

CITY OF FOUNTAIN INN, SOUTH CAROLINA
FRANCHISE AGREEMENT
WITH RIPPLE FIBER, LLC

This Franchise Agreement (“Agreement”) is made and entered into as of 11 14, 2024 (“Effective Date”), by and between the CITY OF FOUNTAIN INN, a South Carolina municipal corporation (“City” or “Grantor”) and Ripple Fiber, LLC, a limited liability company, (“[]” or “Grantee”), having its principal office at 6000 Fairview Road, Suite 300, Charlotte, NC 28210.

WHEREAS, GRANTEE is a limited liability company duly organized and existing under the laws of South Carolina;

WHEREAS, GRANTEE desires to use and occupy the streets and public rights-of-way located within the City for the purposes of constructing, installing, operating, using, maintaining, upgrading, repairing, replacing, and removing certain network facilities for internet-only (not telecommunications) services within and through the City;

WHEREAS, pursuant to South Carolina Code Annotated section 5-7-30, GRANTOR has the authority to grant franchises and other authorizations for the use and occupancy of the streets and public rights-of-way;

WHEREAS, [] holds a certificate of public convenience and necessity granted by the Public Service Commission of the State of South Carolina; and

WHEREAS, GRANTOR is agreeable to allowing GRANTEE to use the streets and public rights-of-way, subject to the terms and conditions hereinafter set forth and subject to any and all lawful telecommunications regulatory ordinances that may be adopted by GRANTOR in the future;

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, GRANTOR and GRANTEE agree as follows:

Section 1. Grant of Authority.

(a) Subject to the terms of this Agreement, GRANTOR hereby grants to GRANTEE the non-exclusive, non-permanent right to construct, install, maintain, locate, move, operate, place, protect, reconstruct, reinstall, relocate, remove, and replace fiber optic or other cable and related facilities for the provision of internet-only (not telecommunications) service in the public streets and public rights-of-way in the City. GRANTEE shall be solely responsible for obtaining any required consents from State agencies or private parties to the extent that its operations affect State or private property.

(b) GRANTEE acknowledges that this grant of authority is for the benefit of GRANTEE only, and that GRANTEE is not authorized to lease, sublease, assign or otherwise allow other providers to use or occupy the public rights-of-way except in accordance with provisions of this Agreement.

(c) GRANTEE acknowledges that, to the extent allowed by State and Federal law, GRANTOR has the authority to adopt ordinances regulating the use of the public rights-of-way, so long as such ordinances apply equally to all certificated providers of internet-only (not telecommunications) services and are related to using the public streets and public rights-of-way in the City. GRANTEE agrees to be bound by all such future lawful ordinances so long as it operates internet-only (not telecommunications) services or has property or equipment within the public streets or rights-of-way located in the City.

(d) This Agreement is not a grant by GRANTOR of any fee simple or other property interest except as expressly contemplated by this Agreement, is not a grant of a franchise to provide “telecommunications services” as that term is defined in South Carolina Code Annotated section 58-9-10(15), but rather is a franchise to provide internet-only services, and is made subject and subordinate to the South Carolina

Constitution, other applicable state law and judicial precedent, and the prior and continuing right of GRANTOR to use the public streets and public rights-of-way occupied by GRANTEE for the purpose of laying, installing, maintaining, repairing, protecting, replacing, and removing sanitary sewer infrastructure, water infrastructure, storm water infrastructure, natural gas infrastructure, poles and other equipment for municipal uses and with the right of ingress and egress, along, above, over, across and in said public streets and public rights-of-way.

(e) This Agreement shall be in full force and effect from and after the date of its approval by GRANTOR's governing body; provided, however, that notwithstanding such approval, this Agreement shall not become effective until all required bonds, certificates of insurance, and other instruments required by this Agreement have been filed with, and accepted and approved by GRANTOR, which acceptance and approval shall be in GRANTOR's sole and unfettered discretion.

Section 2. Definitions. For the purpose of this Agreement, and the interpretation and enforcement thereof, the following words and phrases shall have the following meanings, unless the context of the sentence in which they are used shall indicate otherwise:

"Affiliate" means a person or entity that directly, or indirectly, through one or more intermediaries, owns, controls, is owned or controlled by, or is under common ownership or control with another person or entity.

"City" means the City of Fountain Inn, South Carolina, and where appropriate to the context, its officers, agents, employees, and volunteers.

"City Attorney" means the City Attorney or his designee.

"City Council" means the City Council of the City of Fountain Inn.

"City Engineer" means the City Engineer or his designee.

"City Administrator" means the City Administrator or his designee.

"City Property" means and includes all real property owned by the City, including all property held in a proprietary capacity by the City.

"Conduit" means any materials, such as metal or plastic pipe, that protects wire, cable, lines, fiber optic cable, or other technology for the provision of internet-only (not telecommunications) service.

"Duct" means a pipe, tube, channel, or similar item for carrying wires, lines, cables, fiber optic cable, or other technology for the provision of internet-only (not telecommunications) service.

"Facilities" means the plant, equipment, and property, including, but not limited to, the poles, pipes, mains, conduits, ducts, fiber optic and other cables, circuits, and wires, and any other equipment and property used by GRANTEE to provide internet-only (not telecommunications) service.

"Fiber optic or other cable and related facilities" means fiber optic cables or other cables, facilities, conduits, converters, splice boxes, handholds, manholes, vaults, equipment, drains, surface location markers, appurtenances and related facilities located or to be located by GRANTEE in the public streets and public rights-of-way of the City used or useful for the transmission of internet-only services.

"Internet-only services" means the providing or offering for rent, sale, or lease, or in exchange for other value received, the transmittal of signals, including but not limited to, voice, data, image, graphic or video or other programming information, except and excluding cable television service and any other services that might be construed as "telecommunication services," between or among points by wire, lines, cable, fiber optics, circuits, laser or infrared, microwave, radio, satellite, or other facilities, but not including cable television service or any other services that might be construed as "telecommunication services."

"GRANTEE" or "[]" means Ripple Fiber, LLC.

“GRANTOR” means the City of Fountain Inn.

“*Public streets and public rights-of-way*” or “*public ways*” include the surface of, and the space above and below, any public street, road, highway, avenue, sidewalk, way, bridge, viaduct, alley or other public right-of-way, including unimproved surfaces, now or hereafter held by GRANTOR for the purpose of public travel, communications, alarm, street lighting, power distribution, water or sewer service or other public use, whether present or future, to the extent of GRANTOR’s right, title, interest or authority to grant a franchise to occupy and use such streets and easements for the purpose of providing internet-only (not telecommunications) services.

“*Public works project or public improvements*” include, without limitation, the construction, realignment, paving or repaving, or other work on any public street or public right-of-way, change of grade or alignment of any public street or public right-of-way, the construction or reconstruction of any water, sanitary sewer, storm sewer, force main, drainage or communications facility of the City.

Section 3. Term of Agreement. The term of this Agreement shall be for an initial term of ten years, commencing on the Effective Date (“Initial Term”). Unless either party gives 90 days written notice of its intention to terminate the Agreement prior to the end of the Initial Term, the Agreement shall thereafter automatically renew for up to three additional five-year terms, for a maximum of 25 years (each, “Renewal Term”); however, such renewal shall not automatically occur if a material, uncured breach has not been remedied and the non-breaching party provides 90 days’ written notice prior to the end of a Renewal Term. Upon termination of this Agreement as herein provided, and unless the parties are in active good faith negotiation of a replacement agreement or otherwise agree in writing to an extension, GRANTEE shall be prohibited from further access to the public rights-of-way in the City.

Section 4. Compliance With Applicable Law. GRANTEE shall at all times during the term of this Agreement, including any renewal period, comply with all applicable federal, state, and local laws, ordinances, and regulations. Expressly reserved to GRANTOR is the right to adopt, in addition to the provisions of this Agreement and existing laws, such additional ordinances and regulations as are necessary for the lawful exercise of its police power for the benefit and safety of the public.

Section 5. Construction; Location or Relocation of Facilities. All GRANTEE facilities shall be constructed, installed, and located according to the terms and conditions contained herein, unless otherwise specified by GRANTOR.

5.1. Grantee shall place facilities underground when commercially reasonable and subject to the rights and obligations set forth in Sections 5.8 and 5.9 below. Commercially reasonable means, with respect to any action required to be made, attempted or taken by GRANTEE under this Section 5.1, the level of effort in light of the facts known to GRANTEE at the time a decision is made that: (a) can reasonably be expected to accomplish the desired action without a material increase in costs incurred by GRANTEE; (b) is consistent with industry practices; and (c) takes into consideration the amount of advance notice required to take such action, the duration and type of action, and the competitive environment in which such action occurs.

5.2. Whenever all existing electric utilities, cable facilities or Facilities are located underground within a particular segment of a street or public right-of-way of the City, GRANTEE shall also install its Facilities underground.

5.3. Whenever existing overhead electric utilities, cable facilities or Facilities are relocated underground within a particular segment of a street or public right-of-way of the City, GRANTEE shall relocate its facilities underground within a reasonable amount of time after notification by the City that such facilities must be relocated. Absent extraordinary circumstances or undue hardship as reasonably determined by the City, such relocation shall be made concurrently to minimize the disruption of the public streets and public rights-of-way.

5.4. GRANTEE shall obtain all required permits for the construction or installation of its facilities as required in this Agreement, provided, however, that nothing in this Agreement shall prohibit the City

and GRANTEE from agreeing to an alternative plan to review permit and construction procedures, provided such alternative procedures provide substantially equivalent safeguards for responsible construction practices.

5.5. In the performance and exercise of its rights and obligations under this Agreement, GRANTEE shall not interfere in any manner with the existence and operation of any public street and public or private right-of-way, sanitary sewer infrastructure, water infrastructure, storm water infrastructure, natural gas infrastructure, poles, overhead or underground wires, television cables, public works, facilities of other service providers, or City Property, without the prior approval of the City.

5.6. Except as may be expressly provided herein, nothing in this Agreement shall be construed to abrogate or limit the right of the City to perform any public works or public improvements. If any facilities of GRANTEE interfere with the construction, operation, maintenance, repair or removal of such public works or public improvements, within 90 days after written notice by the City (or such other period of time set forth in Section 5.7 or as may be agreed upon in writing by the City and GRANTEE), GRANTEE shall, at its own expense protect, alter, remove or relocate facilities, as directed by the City Administrator or City Engineer. If GRANTEE fails to so protect, alter, remove, or relocate equipment within such period, the City may break through, remove, alter, or relocate the facilities of GRANTEE without any liability to City, and GRANTEE shall pay to the City the costs incurred in connection with such breaking through, removal, alteration, or relocation. GRANTEE shall also reimburse the City for or bear any additional cost actually incurred by the City as a result of GRANTEE's failure to comply with the City's request to protect, alter or remove equipment under this Agreement. The City may collect such costs, and any reasonable expenses and attorney fees incurred in collecting such costs, as debts owed to the City, by bringing action in any court of competent jurisdiction or exercising the City's rights to draw on bonds or in any other lawful manner, individually or in combination.

5.7. The City retains the right and privilege to cut or move any Facilities located within the public ways or other areas of the City as the City may determine to be necessary, appropriate, or useful in response to any life-threatening emergency. The City will endeavor to provide prior notice to GRANTEE of such emergencies which may impact its Facilities. If City is unable to provide prior notice of the life-threatening emergency as described above, City shall notify GRANTEE within 24 hours of the occurrence of such emergency.

5.8. The facilities of GRANTEE shall be located so as not to interfere with public safety or, to the extent possible, with the convenience of persons using the public streets and public rights-of-way. GRANTEE shall construct, maintain, and locate its system so as not to interfere with the construction, location and maintenance of sewer, water, drainage, electrical, signal, and fiber optic facilities of the City.

5.9. The City shall have the right to specifically designate the location of the facilities of GRANTEE with reference to sewer and water mains, drainage facilities, fiber optic cable, signal poles and lines and similar services, other facilities, such as public telephone utilities, public electric utilities, cable television facilities, and railway, communication, and power lines, in such a manner as to protect the public safety and public and private property. Failure by the City to designate the location of GRANTEE's facilities shall not relieve GRANTEE of its responsibilities in matters of public safety, as provided in this Agreement.

5.10. Except in the cases of emergencies, GRANTEE shall not move, alter, change, or extend any of its system in any public street or public right-of-way unless prior written notice of its intention to do so is given to the City Administrator and permission in writing to do so is granted, or such requirement is waived, by the City Administrator. The City Administrator shall either approve or deny GRANTEE's request to relocate its facilities within five days of receipt of GRANTEE's request. Such permission shall not be unreasonably withheld by the City Administrator City Administrator and shall be conditioned upon compliance with the terms and conditions of this Agreement, with such other terms and conditions as will preserve, protect and promote the safety of the public using the public ways, and as will prevent undue interference with or obstruction of the use of the public ways by the public, the City or by any other public utility, public service corporation or cable operator for their respective purposes and functions. Such work

by GRANTEE shall also be coordinated with the City's annual paving program through the Office of the City Engineer.

5.11. GRANTEE shall not open, disturb or obstruct, at any time, any more of the public streets and public rights-of-way than is reasonably necessary to enable it to proceed in laying or repairing its system. GRANTEE shall not permit any public street or public right-of-way so opened, disturbed, or obstructed by it to remain open, disturbed, or obstructed for a longer period of time than shall be reasonably necessary. In all cases where any public street or public right-of-way is excavated, disturbed, or obstructed by GRANTEE, GRANTEE shall take all precautions necessary or proper for the protection of the public and shall maintain adequate warning signs, barricades, signals, and other devices necessary or proper to adequately give notice, protection, and warning to, the public of the existence of all actual conditions present.

5.12. After the installation, removal, relocation, construction, or maintenance of the fiber optic or other cable and related facilities is completed, GRANTEE shall, at its own cost, repair and return the public streets and public rights-of-way to a minimum of the same or similar condition existing before such installation, removal, relocation, construction, or maintenance, in a manner as may be reasonably specified by the City and to the reasonable satisfaction of the City. GRANTEE shall be responsible for damage to City street pavements, existing utilities, curbs, gutters, and sidewalks due to GRANTEE's installation, construction, maintenance, repair, or removal of its Facilities in the public streets, public rights-of-way, and shall repair, replace, and restore in kind, the said damaged property at its sole expense. Upon failure of GRANTEE to repair, replace and restore said damaged property, in a manner as may be reasonably specified by the City and to the reasonable satisfaction of the City, after 60 days' notice in writing shall have been given by the City, the City may cause such necessary repairs to be made and may collect the costs incurred from GRANTEE, including but not limited to, exercising the City's rights to draw on bonds. The City may collect such costs, and any expenses and attorney fees incurred in collecting such costs, as debts owed to the City, by bringing an action in any court of competent jurisdiction or in any manner allowed by law.

5.13. Neither GRANTEE, nor any person acting on GRANTEE's behalf, shall take any action or permit any action to be done which may impair or damage any City Property more than is reasonably necessary to enable it to install or repair its system, including, but not limited to, any public street, public right-of-way or other property located in, on or adjacent thereto.

5.14. In the event of an unexpected repair or emergency, GRANTEE may commence such repair and emergency response work as required under the circumstances, provided GRANTEE shall notify the City as promptly as possible, before such repair or emergency work is started or as soon thereafter as possible if advance notice is not practicable.

5.15. GRANTEE shall maintain its facilities in good and safe condition and in a manner that complies with all applicable federal, state and local requirements, laws, ordinances, and regulations.

5.16. GRANTEE shall at all times employ a high standard of care and shall install and maintain and use approved methods and devices for preventing failure or accidents which are likely to cause damages, injuries, or nuisances to the public.

5.17. GRANTEE shall obtain all required permits from the City and any other governmental entity having jurisdiction prior to commencing work of any nature and shall comply with all terms and conditions of any such permit. GRANTEE shall furnish detailed plans of the work and other required information prior to issuance of a permit. GRANTEE shall comply with all applicable ordinances and permitting requirements.

A single permit may be issued for multiple excavations to be made in public streets and public rights-of-way. Exceptions to the requirement for a written permit may be allowed in cases of emergencies involving public safety or restoration of service. In the case of emergency excavations made in a public street or public right-of-way without a permit, GRANTEE shall make a report of each such excavation to the City within two working days. Any permit application and inspection related to repair of excavations shall be promptly acted upon by

the City so as not to unreasonably delay GRANTEE in efficiently discharging its public service obligation and in any event shall be granted or denied within 30 days from submission and, if denied, accompanied by a written explanation of the reasons the permit was denied and the actions required to cure the denial.

5.18. (a) Promptly after installation, repair or extension of the system or any portion thereof or any pavement cut by GRANTEE in any public way of the City, the incidental trenches or excavations shall be refilled by GRANTEE in a manner acceptable to the City Administrator. Pavement, sidewalks, curbs, gutters or any other portions of public ways damaged, disturbed or destroyed by such work shall be promptly restored and replaced with like materials to their former condition by GRANTEE at its own expense; however, where it is necessary, and if authorized by the City, in order to achieve the former conditions, GRANTEE shall use materials whose type, specification and quantities exceed or are different from those used in the installation, then GRANTEE at its own expense shall provide such different materials. Where a cut or disturbance is made in a section of sidewalk or paving, rather than replacing only the area actually cut, GRANTEE shall replace the full width of the existing sidewalk or appropriate sections of paving as determined by the City Engineer and the full length of the section or sections cut, a section being defined as that area marked by expansion joints or scoring or as determined by the City Engineer. GRANTEE shall maintain, repair, and keep in good condition for a period of one (1) year following such disturbance all portions of public ways disturbed by GRANTEE, provided such maintenance and repair shall be necessary because of defective workmanship or materials supplied by GRANTEE.

(b) All trees, landscaping and grounds removed, damaged, or disturbed as a result of the construction, installation maintenance, repair or replacement of Facilities shall be replaced or restored, as nearly as may be practicable, to the condition existing prior to performance of work. All restoration work within the public ways or other areas shall be done in accordance with landscape plans approved by the City.

5.19. (a) GRANTEE shall promptly remove or correct any obstruction, damage, or defect in any public street or public right-of-way caused by GRANTEE in the installation, operation, maintenance, or extension of GRANTEE's system. Any such obstruction, damage, or defect which is not promptly removed, repaired, or corrected by GRANTEE after 30 days' notice to do so, given by the City to GRANTEE, may be removed or corrected by the City, and the cost thereof shall be charged against GRANTEE and payable on demand. Any expense, cost, or damages incurred for repair, relocation, or replacement to GRANTOR water, sanitary sewer, storm sewer, storm drainage, communication facilities (of whatever kind or nature) or other property resulting from construction or maintenance of GRANTEE shall be borne by GRANTEE and any and all expense and cost incurred in connection therewith by the City shall be fully reimbursed by GRANTEE to the City.

(b) If weather or other conditions do not permit the complete restoration required by this Section, GRANTEE shall temporarily restore the affected property. Such temporary restoration shall be at GRANTEE's sole expense and GRANTEE shall only be required to make reasonable, temporary restorations based on the conditions. GRANTEE shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration.

(c) GRANTEE or other person acting on its behalf shall use suitable barricades, flags, flaggers, lights, flares and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person, vehicle or property by reason of such work in or affecting such ways or property and shall comply with all federal, state, and local laws and regulations, including, but not limited to, the flagging requirements of the South Carolina Department of Transportation.

5.20. Except in the case of the City's negligence or intentional or willful misconduct, the City, its officers, agents, or employees, shall not be liable for any damage to or loss of any of GRANTEE's internet-only (not telecommunications) services or Facilities within the public ways or any other areas of the City as a result of or in connection with any public works, public improvements, construction, excavation, grading, filling, or work or activity or lack of any activity of any kind by or on behalf of the City.

5.21. GRANTEE shall cooperate with the City in coordinating its construction activities as follows:

(a) GRANTEE shall provide the City with a schedule of its proposed construction activities prior to commencing any expansion of GRANTEE's system;

(b) Upon request, GRANTEE shall meet with the City and other users of the public ways to coordinate construction in the public ways;

(c) All construction locations, activities and schedules shall be coordinated, as directed by the City Engineer, to minimize public inconvenience, disruption, or damages. GRANTEE shall submit a written construction schedule to the City Engineer at least ten (10) working days before commencing any work in or about the public streets and public rights-of-way. GRANTEE shall further notify the City Engineer not less than five (5) working days in advance of such excavation or work and shall comply with the provisions of the South Carolina Underground Facility Damage Prevention Act, South Carolina Title 58, Chapter 36;

(d) GRANTEE shall provide written notice to all abutting parcels through mailing to occupants and owners at the last known address, use of "door hangers," placement of flyers (without use of mail receptacles), and/or by other similar means, no less than 30 days prior to commencement of moving, alteration, changing, or extension of GRANTEE's system; and

(e) All construction locations and construction-related activities, and installation and installation-related activities and those individuals providing the same shall be appropriately and clearly marked and otherwise identified through sufficient signage and badging to reflect the entity(ies) operating at such location and/or providing such activities. Failure to provide such identification shall be grounds for the City Administrator immediately to stop work by written cease work order and shall be a material breach of this Agreement.

Section 6. Mapping. (a) GRANTEE shall maintain an accurate map of its Facilities in the City. GRANTEE shall provide the City with "as built" drawings and an accurate map or maps showing the location of its facilities, including pole lines and conduit lines and any other facilities requested by the City, to include a digitized map(s) in both printed and electronic form. GRANTEE shall, upon request, provide updated maps annually of Facilities in the City.

(b) If any of the requested information of GRANTEE in this Agreement is considered proprietary, confidential, or a trade secret, GRANTEE will notify the City of this opinion, and the City will keep such information confidential to the extent permitted by the South Carolina Freedom of Information Act (South Carolina Code Title 30 Chapter 4) or other any successor statute or law. As for new installations, after the Effective Date, GRANTEE shall submit the proposed Mapping of its plans for new construction to the City prior to any construction. As-built drawings of any new construction of facilities shall be furnished to the City within 60 days of completion of such construction. All as-built maps and drawings shall be drawn to scale and reference to a physical City benchmark to the extent the physical benchmark is in reasonable proximity to GRANTEE new installation. All mapping shall be provided in a format compatible to the City's present and future mapping systems. Alternatively, GRANTEE will pay for the cost of making the mapping compatible.

(c) Prior to its installation of any Facilities in the public streets and public rights-of-way and after GRANTEE provides the City with its proposed plans for the Facilities, the City may in its reasonable discretion designate certain locations to be excluded from use by GRANTEE for its Facilities, including, but not limited to, ornamental or similar specially designed streets lights or other facilities or locations which, in the reasonable judgment of the City Engineer, do not have electrical service adequate for or appropriate for GRANTEE's facilities or cannot safely bear the weight or wind loading thereof, or any other facility or location that in the reasonable judgment of the City Engineer is incompatible with the proposed Facilities or would be rendered unsafe or unstable by the installation. The City Engineer may further exclude certain other facilities that have been designated or planned for other use or are not otherwise proprietary, legal, or other limitations or restrictions as may be reasonably determined by the City. In the event such exclusions conflict with reasonable requirements of GRANTEE, the City will cooperate in good faith with GRANTEE to attempt to find suitable alternatives, if available, provided that the City shall not be required to incur financial costs nor require the City to acquire new locations for GRANTEE. GRANTEE shall, prior to any excavation or installation within the public streets and public

rights-of-way, provide sufficient notification and joint installation opportunity on a shared cost basis to potential users of the public streets and public rights-of-way as may be provided for by a separate City policy. Such notification and adopted policies shall be designed to maximize co-location of providers to minimize the disturbance to the public streets and public rights-of-way and maximize its useable capacity.

Section 7. Insurance Requirements. At all times during the term of this Agreement and any renewal period, GRANTEE shall, at its expense, maintain the following insurance policies. Any required insurance shall be in a form and with an insurance company authorized to do business in South Carolina and have a rating of no less than A-VII by A.M. Best Co.

(a) *Commercial General Liability.* Commercial General Liability insurance coverage on an occurrence basis insuring against all claims, loss, cost, damage, expense, or liability from loss of life or damage or injury to persons or property arising out of any of the work or activity under or by virtue of this Agreement. The minimum limit of liability for such coverage shall be \$2,000,000 combined single limit for any one occurrence. However, the parties acknowledge that GRANTEE may meet the policy limit in this section by combination of GRANTEE's General Commercial Liability Policy and GRANTEE's Umbrella or Excess Liability Policy.

(b) *Contractual Liability.* Broad form Contractual Liability insurance, including the indemnification obligations of GRANTEE set forth in this Agreement.

(c) *Workers' Compensation.* Workers' Compensation insurance covering GRANTEE's statutory obligation under the laws of South Carolina and Employer's Liability insurance for all its employees engaged in work under this Agreement.

(d) *Automobile Liability.* Automobile Liability insurance having minimum limits of liability of \$1,000,000 combined single limit applicable to owned or non-owned vehicles used in the performance of any work under this Agreement.

(e) *Pollution Liability Insurance.* GRANTEE shall maintain during the life of this Agreement Pollution Liability Insurance in the amount of \$1,000,000 for each occurrence. Coverage shall be provided for bodily injury and property damage resulting from pollutants which are discharged suddenly and accidentally. Such insurance shall also provide coverage for cleanup costs.

(f) *Umbrella Coverage.* The insurance coverages and amounts set forth in this Section may be met by an umbrella liability policy following the form of the underlying primary coverage in a minimum amount of 5,000,000.

(g) Prior to commencing construction pursuant to this Agreement or within 10 days after the granting of the franchise contemplated by this Agreement, whichever is sooner, GRANTEE shall provide the City with a memorandum certificate or certificates of insurance, showing the type, amount, effective dates, and date of expiration of the policies, and thereafter prior to the expiration of any such policy or change in the amount or conditions, of coverage. Such certificate or certificates and evidence of insurance shall include the City, its officers, agents, and employees as additional insureds. GRANTEE shall obtain a written obligation on the part of each insurance company to notify GRANTEE at least 30 days before cancellation or a material change of any such insurance. Upon receipt of such notice from GRANTEE's insurance company, GRANTEE will immediately notify the City of any of the required coverages that are not replaced.

Section 8. Surety.

(a) Within 10 days after the Effective Date, and prior to the commencement of any construction by GRANTEE, GRANTEE shall furnish and file with the City an irrevocable bond, in a form and by a surety authorized to do business in South Carolina, in the amount of \$50,000 securing its faithful performance of the terms and conditions of this Agreement. GRANTEE shall maintain such bond for the duration of this Agreement, unless otherwise agreed to in writing by the City. Failure to maintain the bond shall be deemed a material default by GRANTEE of this Agreement.

The bond shall guarantee GRANTEE's faithful performance of the terms and conditions of this

Agreement, including, but not limited to: (1) the timely completion of construction; (2) compliance with applicable plans, permits, technical codes and standards; (3) proper location of the facilities as specified by the City; (4) restoration of the public ways and other property affected by the construction as required by this Agreement; (5) the submission of “as-built” drawings after completion of the work as required by this Agreement; (6) timely payment and satisfaction of all claims, demands or liens for labor, material or services provided in connection with the work; and (7) the payment by GRANTEE of all lawful liens, taxes, damages, claims, costs or expenses which the City has been compelled to pay or has incurred by reason of any act or default of GRANTEE under this Agreement and all other payments due the City from GRANTEE pursuant to this Agreement.

(b) Whenever the City determines that GRANTEE has violated one or more terms, conditions, or provisions of this Agreement for which relief is available against the bond, a written notice shall be given to GRANTEE. The written notice shall describe in reasonable detail the violation so as to afford GRANTEE an opportunity to remedy the violation. GRANTEE shall have 30 days subsequent to receipt of the notice in which to correct the violation before the City may make demand upon the bond. Failure to maintain the bond shall be a martial default under this Agreement.

(c) Such bond shall be in addition to any performance, defect bond, or other surety required by the City in connection with the issuance of any construction or any successor ordinance.

Section 9. Indemnification. GRANTEE agrees to indemnify, defend and hold harmless the City, its officers, employees and agents from and against all claims, demands, losses, damages, liabilities, fines, and penalties, and all costs and expenses incurred in connection therewith, including, without limitation, reasonable attorney’s fees and costs of defense (collectively, the losses), arising out of any breach by GRANTEE of the terms and conditions of this Agreement, except to the extent proximately caused by the negligence or willful misconduct of the City, its officers, employees and agents. In addition, GRANTEE shall protect, indemnify, and hold harmless the City, its officers, agents, and employees, from any and all demands for fees, claims, suits, actions, causes of action, or judgments based on the alleged infringement or violation of any patent, invention, article, arrangement, or other apparatus that may be used in the performance of any work or activity arising out of the use of any Telecommunication facilities or the provision of Telecommunication service, except to the extent proximately caused by the negligence or willful misconduct of the City, its officers, employees or agents.

The City is a governmental entity and political subdivision of the State of South Carolina and enjoys sovereign immunity, as well as the imposition of duties and protections afforded by the South Carolina Tort Claims Act. Although the City cannot, by law, hold harmless and indemnify any contracting party, subject to the application of the aforementioned laws and to the limits of its insurance, the City agrees that GRANTEE shall not be liable from and against all claims, liabilities, penalties, fines, costs, damages, losses, causes of action, suits, demands, judgments and expenses (including, court costs and attorney’s fees) of any nature, kind or description of any acts of negligence by the City, or its employees and agents, related to the City’s breach of the terms and conditions of this Agreement.

Section 10. Hazardous Substances. In its performance of this Agreement, GRANTEE shall not transport, dispose of, or release any hazardous substance, material, or waste, except as necessary in performance of its work under this Agreement, and in any event GRANTEE shall comply with all federal, state, and local laws, rules, regulations, and ordinances controlling air, water, noise, solid wastes, and other pollution, and relating to the storage, transport, release, or disposal of hazardous material, substances, or waste. Regardless of the City’s acquiescence, GRANTEE shall indemnify and hold the City, its officers, agents, employees, and volunteers harmless from all costs, claims, damages, causes of action, liabilities, fines, or penalties, including reasonable attorney’s fees, resulting from GRANTEE’s violation of this section and agrees to reimburse City for all costs and expenses incurred by the City in eliminating or remedying such violations. GRANTEE also agrees to reimburse the City and hold the City, its officers, agents, employees, and volunteers harmless from any and all costs, expenses, attorney’s fees and all penalties or civil judgments obtained against any of them as a result of GRANTEE’s use or release of any hazardous substance or waste onto the ground, or into the water or air from, near or upon the City’s premises. For purposes of this Section, the following definitions shall apply:

“Hazardous Substances” means asbestos and any and all pollutants, dangerous substances, toxic substances, hazardous wastes, hazardous materials and hazardous substances as referenced or defined in, or

pursuant to, any federal, state, local or other applicable environmental law, statute, ordinance, rule, order, regulation or standard in effect on the date hereof including, without limitation, the Resource Conservation and Recovery Act (42 U.S.C. 6901, *et seq.*), as amended, the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136, *et seq.*), as amended, the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601, *et seq.*), as amended, and the Toxic Substances Control Act (15 U.S.C. 2601, *et seq.*), as amended.

As used in this Section, “release” includes the placing, releasing, depositing, spilling, leaking, pumping, emitting, emptying, discharging, injecting, escaping, leaching, disposing, or dumping of any substance.

Section 11. Fees

(a) In consideration of the grant of authority to utilize the streets and public places of the City for the provision of Internet-only (not telecommunications) service, and in accordance with applicable law and ordinances, GRANTEE shall pay such franchise fees, business license taxes, and administrative fees as are presently permitted by Article 20 of Chapter 9 of Title 58 of the 1976 Code of Laws of South Carolina, as enacted in 1999, and as may be enacted and imposed by the City. GRANTEE shall also pay all such ad valorem taxes, service fees, sales taxes, or other taxes and fees as may now or hereafter be lawfully imposed on other businesses within the City. Provided, however, that in the event that Article 20 of Chapter 9 of Title 58 of the 1976 Code of Laws of South Carolina, as enacted in 1999, or other laws governing franchise fees, business license taxes and/or other fees with respect to Internet-only (not telecommunications) service shall be substantially modified by subsequent legislation or court decision, the provisions herein contained shall be brought into conformity with the changes in the applicable law by appropriate amendment to this ordinance. If the limitations on the amount of franchise fees, administrative fees, and business license taxes on Internet-only (not telecommunications) service providers presently contained in said statute shall be removed or modified, the City will be free, by amendment to this ordinance, to impose such fair, reasonable, competitively neutral, and non-discriminatory fees and taxes as may then be permitted by that statute or by such applicable law as may then govern; GRANTEE will be free to challenge any fee structure not in compliance with applicable law.

(b) For the use of the public streets and public rights-of-way to provide Internet-only (not telecommunications) service, GRANTEE shall pay to the City a franchise fee of 5% of the gross revenues derived from the Company’s operations in the same manner and time as provided in the City Code.

(c) Interest will be charged on any late payment at the maximum rate permitted under state law, or if there is no such rate, the interest will be 1.5% per month a payment is late.

Section 12. General provisions.

(a) *Authority.* GRANTEE warrants and represents that it has obtained all necessary and appropriate authority and approval from all applicable federal and state agencies or authorities to provide all Facilities and services it intends to provide within the City, and upon request by the City will provide evidence of such authority.

(b) *Other remedies.* Nothing in this Agreement shall be construed as waiving or limiting any rights or remedies that the City or GRANTEE may have at law or in equity, for enforcement of this Agreement.

(c) *Severability.* If any section, subsection, sentence, clause, phrase, or other portion of this Agreement, or its application to any person, is, for any reason, declared invalid, in whole or in part by any court or agency of competent jurisdiction, said decision shall not affect the validity of the remaining portions hereof.

(d) *Nonenforcement.* Neither party shall be excused from complying with any of the provisions of this Agreement by any failure of the other party, upon any one or more occasions, to insist upon strict performance of this Agreement or to seek the other party’s compliance with any one or more of such terms or conditions of this Agreement.

(e) *Conflicts of law.* If there is a conflict between the provisions of this Agreement and any law, whether

federal, state, or City, including all future laws and ordinances, the law and conflicting Agreement provision will, to the extent reasonably possible, be construed so as to be consistent with each other and if such construction is not reasonably possible, the conflicting provision of this Agreement shall be deemed superseded by such law and have no effect, notwithstanding the contract clause of the United States Constitution.

(f) *Controlling law and venue.* By virtue of entering into this Agreement, GRANTEE agrees and submits itself to a court of competent jurisdiction in the City, South Carolina or in the United States District Court for the District of South Carolina, and further agrees that this Agreement is controlled by the laws of South Carolina or any applicable federal laws and that all claims, disputes and other matters shall be decided only by such court according to the laws of South Carolina or any applicable federal laws or by any regulatory body with jurisdiction, including the Federal Communications Commission.

(g) *Captions.* The section captions and headings in this Agreement are for convenience and reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

(h) *Nondiscrimination.* During the performance of this Agreement, GRANTEE agrees that it will not discriminate against any employee or applicant for employment on the basis of race, religion, color, sex, handicap, or national origin. GRANTEE agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. GRANTEE, in all solicitations or advertisements for employees placed by or on behalf of GRANTEE, will state that GRANTEE is an equal opportunity employer. Notices, advertisements, and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements herein.

(i) *Notices.* (a) Notices given pursuant to this Agreement shall be in writing and addressed as follows:

To the City:	City Administrator 200 N Main Street Fountain Inn, South Carolina 29644
With a Copy to:	Michael E. Kozlarek City Attorney King Kozlarek Root Law LLC P.O. Box 565 Greenville, South Carolina 29602-0565
To GRANTEE:	Ripple Fiber LLC 6000 Fairview Road Suite 300 Charlotte, NC 28210

Either party may change the address at which it will receive notices by providing written notice of the change to the other party.

(j) *Assignment.* GRANTEE may assign or transfer this Agreement or any interest therein with the City's written consent, which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, this Agreement may be assigned by GRANTEE without City's written consent to any entity that purchases substantially all of the assets or ownership interests of the GRANTEE; any entity that results from a merger, consolidation, or restructuring of the GRANTEE; or, any entity that assumes control of the GRANTEE. Upon such assignment by [], the successor entity assuming the Agreement shall execute a written document that the successor entity shall fully perform the obligations of [] under this Agreement and shall be entitled to all of []'s rights herein ("Assignment and Assumption Agreement"). [] shall provide City with a copy of the executed Assignment and Assumption Agreement.

[ONE SIGNATURE PAGE FOLLOWS]
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IN WITNESS WHEREOF, the parties have duly executed this Agreement.

	REQUEST FOR COUNCIL ACTION City of Fountain Inn, South Carolina To: Mayor and Members of City Council From: Shawn M. Bell, City Administrator	November 14, 2024 Regular City Council Meeting
☐ Ordinance/First Reading ☒ Ordinance/Second Reading ☐ Resolution/First & Final Reading		
Agenda Date Requested: November 14, 2024 Summary Background: Most of the new residential development has been utilizing the open space option permitted by the Zoning Ordinance. As these developments have gone for review via the Planning Commission and Council, it has become apparent that the end results do not meet the intent of this option. Working with the consultants at Stewart, Inc., the attached ordinance proposes changes to remove the second open space option, increase the percentage of open space from 15% to 40%, encourage amenities, and reduce the density allowed per acre. Careful consideration should be given to further restrictions as they may disincentivize the use of the option and push development to a traditional subdivision design. For those developments choosing traditional subdivision design, the attached ordinance proposes an open space requirement of 15%. This will help to reduce the harsh impact of mass grading and potentially create areas for amenities. Impact If Denied: Developers will be able to choose between the two current open space options for residential development. Impact If Approved: There will only be one open space option with an increased open space requirement of 40% that encourages amenities and reduces the density allowed per acre. For those developments choosing traditional subdivision design, 15% open space will be required.		

AGENDA

November 14, 2024

To: City Council
From: Planning & Development Director, Jason Knudsen
Subject: TX-2024-01, Zoning Ordinance Text Amendment
Meeting Date: November 14, 2024
Type of Agenda Item: Text Amendment to the Zoning Ordinance
Attachments: Proposed Ordinance

REQUEST

While reviewing current ordinances, the City has identified an immediate need to amend sections of the Zoning Ordinance and Land Development Regulations as they pertain to open space development. These requested changes are outlined below.

Appendix A Zoning

- Article 7
 - 7:16:2 – Remove the statement that the developer will be able to build the same number of homes.
 - 7:16:2.3-2.4 - Delete reference to Open Space Residential Development Option #1 (only 1 option now)
 - 7:16:2.5-2 – Correct title of section. Should read Setbacks, not Minimum Lot Width
 - 7:16:2.5-5 – Remove reference to Option #2 (only 1 option now)
 - 7:16:2.5-6
 - Remove reference to Option #2 (only 1 option now). Add the requirement that 50% of open space is developable. This was in Option #1 but not Option #2.
 - Add allowance for recreational structures (i.e. shelters or playgrounds)
 - Add accessibility requirement: At least 50% of the required common open space shall be accessible and have at least 50 feet of frontage on at least one public street within the development.
 - Changed to allow for amenities such as swimming pools and clubhouses in open space calculation.
 - Table 7.1 – Reduce overall gross density allowance for Open Space Residential Option by zoning district. Overall density is reduced by about a third.
 - Table 7.2 – Remove Option #1 and make corrections in table heading. Increase open space requirement from 15 and 30% to 40%.

Appendix B Land Development Regulations

- Article 9
 - Add 9.8 Minimum Open Space Requirements
 - Add requirements for all subdivisions with over 10 lots and an overall density of greater than 1 dwelling unit per acre to provide 15% open space.
 - Included in this section are basic requirements for the open space.

PUBLIC HEARING PROCEEDING

A public hearing regarding this petition was conducted on October 3, 2024, before the body of the Fountain Inn Planning Commission. Comments were given by 2 people expressing concern that the new restrictions may push developers to not use the open space option.

PLANNING COMMISSION REVIEW

The Fountain Inn Planning Commission has reviewed this request at their October 3, 2024, meeting. By a vote of 7-0, the Planning Commission recommends approval of the requested text amendment for Ordinance TX-2024-01.

STAFF COMMENTS

Most of the new residential development has been utilizing the open space option permitted by the Zoning Ordinance. As these developments have gone for review via the Planning Commission and Council, it has become apparent that the end results do not meet the intent of this option.

Working with the consultants at Stewart, Inc., the attached ordinance proposes changes to remove the second open space option, increase the percentage of open space from 15% to 40%, encourage amenities, and reduce the density allowed per acre. Careful consideration should be given to further restrictions as they may disincentivize the use of the option and push development to a traditional subdivision design.

For those developments choosing traditional subdivision design, the attached ordinance proposes an open space requirement of 15%. This will help to reduce the harsh impact of mass grading and potentially create areas for amenities.

CITY OF FOUNTAIN INN, SOUTH CAROLINA

**AN ORDINANCE TO AMEND APPENDICES A & B OF THE CITY OF
FOUNTAIN INN CODE OF ORDINANCES**

WHEREAS, the Fountain Inn City Council reviews the city ordinances at various times to make necessary improvements and/or changes; and,

WHEREAS, City of Fountain Inn has determined that amendments to its code of ordinances are needed to reduce the number of options, and increase standards, for open space development; and,

WHEREAS, the City of Fountain Inn finds that these revisions will increase the quality of open space developments and better meet the intent of open space development; and,

WHEREAS, the City of Fountain Inn Code of Ordinances may be amended from time to time as circumstances and the best interests of the community have required; and,

WHEREAS, the City of Fountain Inn Planning Commission recommended approval of the text amendments contained herein at a public hearing on September 26, 2024 after due notice for the purpose of considering the proposed amendments to the City of Fountain Code of Ordinances.

WHEREAS, the Mayor and City Council, after considering all of the facts and circumstances surrounding the proposed amendments to the City of Fountain Inn Code of Ordinances, do hereby find that the amendments as set forth herein are in the best interests of the City of Fountain Inn.

NOW, THEREFORE BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF FOUNTAIN INN, 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 Code of Ordinances that have been skipped and remain unchanged.*

SECTION 1. That the City of Fountain Inn Code of Ordinances is hereby amended as follows:

Appendix A, Zoning

Article 7, General Provisions

Section 7:16, Residential Density and Dimensional Standards

7:16:2, Open Space Residential Development

7:16:2.1. Intent. An open space residential development is a residential subdivision in which dwellings are situated on the most developable portion of the site in exchange for the preservation of substantial amounts of open space for recreational, environmental, and ecological reasons. The purpose of open space development is to provide a method of land development that permits variation in lot sizes without an increase in the overall density of population or development. This allows the subdivision of land into lots of varying sizes which will provide home buyers a choice of lot sizes according to their needs, while at the same time, preserving open space, tree cover, scenic vistas, natural drainage ways, and outstanding natural topography. Such measures prevent soil erosion and flooding by allowing development to occur according to the nature of the terrain; provide larger open areas with greater utility for rest and recreation; and encourage the development of more attractive and economical site design.

The developer, ~~while still building the same number of homes,~~ is able to provide a more economical product to the consumer by reducing the overall cost of required sewer, roads, and other infrastructure. Open space development facilitates the economical and efficient provision of public services as well. The resultant subdivision benefits from the open, recreational space and by the placement of houses in a manner more conducive to better social interactions among neighbors.

~~7:16:2.3. Open Space Development Options. Two open space development options are available for developers to choose from. The requirements for each of the two options are listed herein.~~

~~7:16:2.4. Open Space Residential Development, Option #1.~~

~~7:16:2.4 1. Minimum Areas. The minimum tract area for an open space residential development shall be two acres. The minimum area shall consist of contiguous parcels, not divided by an existing public or private road or a recreational or navigable body of water.~~

~~7:16:2.4 2. Minimum Lot Width. No structure shall be erected within 25 feet from any external lot line of any open space residential development, however, where land uses within an open space residential development are the same as uses permitted in the adjoining properties outside the open space residential development, a lesser setback that is consistent with the zoning on the adjoining properties may be permitted. Front setbacks from existing roads will be consistent with the requirements outlined in the appropriate zoning district and listed in Section 7:3, Table 7.4.~~

~~7:16:2.4 3. Permitted Uses.~~

~~Single Family Detached Dwellings~~

Single Family Zero Lot Line Dwellings

Single Family Attached Dwellings

7:16:2.4 4. Single Family Attached. Single family attached dwellings are permitted subject to the following requirements:

A. A maximum of 15 percent of the total number of dwelling units may be single family attached (duplex, triplex and quadraplex). Any attached unit must be a townhouse and excludes condominiums.

B. Attached units must be contained within the subdivision and not part of any exterior lot except in those areas where exterior lots are adjacent to land zoned for commercial, office or multifamily development.

C. Attached units may be a duplex, triplex, or quadraplex and shall not exceed more than four attached units per structure.

D. Attached units shall not be located on preexisting platted lots within a subdivision.

7:16:2.4 5. Permitted Density. The overall number of dwellings allowed in an open space development under Option #1 may be found in Table 7.1.

7:16:2.4 6. Required Open Space. In an open space development under Option #1, a minimum percentage of the total acreage must be designated as open space. The required open space may include both developable and undevelopable land, as defined in Article 4, Definitions. Of that land dedicated for open space in the R-M, R-6, R-7.5, R-10, R-12, and R-15 districts, a minimum of 50 percent of the total open space must be considered developable land, as defined in Article 4, Definitions.

Not more than 20 percent of the required common open space may be used for active recreation; playgrounds, and multi-use ball fields. With the exception of paved walking paths, the active recreation areas used to meet the common open space requirements may not contain impervious surfaces.

Land dedicated as open space shall be of meaningful proportions and dimensions so as to be consistent with the purpose and intent of this section. The open space shall be contiguous to the extent practicable. Land dedicated to open space shall not include land dedicated for uses such as community swimming pool(s), clubhouse(s), and similar uses. Recreational lakes or ponds used for storm water management may be included in the land designated as open space. Fenced detention or retention areas used for storm water management shall not be included in the calculation of required open space.

7:16:2.5. Open Space Residential Development, ~~Option #2~~ Requirements.

7:16:2.5-2. ~~Minimum Lot Width~~ Setbacks. No structure shall be erected within 25 feet from any external lot line of any open space residential development, however, where land uses within an open space residential development are the same as uses permitted in the adjoining properties outside the open space residential development, a lesser setback that is consistent with the zoning on the adjoining properties may be permitted. Front setbacks will be consistent with the requirements outlined in the appropriate zoning district and listed in Section 7:3, Table 7.4.

7:16:2.5-3. *Permitted Uses*.

Single-Family Detached Dwellings

Single-Family Zero Lot Line Dwellings

Single-Family Attached Dwellings, except in R-15 and R-12 Residential Districts

7:16:2.5-5. *Permitted Density*. The overall number of dwellings allowed in an Open Space Development ~~under Option #2~~ may be found in Table 7.1.

7:16:2.5-6. *Required Common Open Space*. In an ~~common~~ open space development ~~under Option #2~~, a minimum percentage of the total acreage must be designated as open space. The required open space in may include both developable and undevelopable land, as defined in Article 4, Definitions. Of that land dedicated for open space in the R-M, R-6, R-7.5, R-10, R-12, and R-15 districts, a minimum of 50 percent of the total open space must be considered developable land, as defined in Article 4, Definitions.

Not more than 50 percent of the required common open space may be used for active recreation; including uses such as playgrounds, golf courses, and multi-use ball fields, pickleball courts, community swimming pools, clubhouses and similar uses. ~~With the exception of paved walking paths, the active~~ Recreation areas (passive or active) used to meet the common open space requirements may not contain more than 5% impervious surfaces (e.g. paved walking paths, decks, and recreational structures including shelters, concrete pads, etc.).

Land dedicated as common open space shall be of meaningful proportions and dimensions so as to be consistent with the purpose and intent of this section. The common open space shall be contiguous to the extent practicable. At least 50% of the required common open space shall be accessible and have at least 50 feet of frontage on at least one public street within the development. ~~Land dedicated to common open space shall not include land dedicated for uses such as community swimming pool(s), clubhouse(s), and similar uses.~~ Recreational lakes or ponds used for storm water management may be included in the land designated as common open space. Fenced detention or retention areas used for storm water management shall not be included in the calculation of required common open space.

7:16:2.6. Minimum Lot Area/Permitted Densities for Single-Family Residential. The minimum lot area for conventional zoning, and densities (units/acre) provided for in each open space development option may be found in the following table. All densities are based on the total number of dwelling units divided by the total number of acres (both developed land and undeveloped land).

Table 7.1 Minimum Lot Area/Permitted Densities for Single-Family Residential			
		Density Based Residential	
District	Conventional Development	Open Space Development Option #1	Open Space Development Option #2
	Minimum Lot Size	Units/Acre	Units/Acre
R-7.5	7,500	5.8 per acre	5.8 3.5 per acre
R-10	10,000	4.4 per acre	4.4 3 per acre
R-12	12,000	3.6 per acre	3.6 2.5 per acre
R-15	15,000	2.9 per acre	2.9 2 per acre
R-M	7,500	N/A	N/A
R-MHP	2 acres	N/A	N/A

Table 7.2 Open Space Residential Development Options		
	Required Common Open Space <u>Zoning Districts</u>	Single-Family Detached = S-FD Single-Family Attached = S-FA

	R-M	R-7.5	R-10	R-12	R-15	Min. Tract Area	Min. Lot Area	Unit Types Permitted
Option #1	15%	15%	15%	15%	15%	2 acres	N	S-FD and S-FA 15% of total units
Option #2 Required Common Open Space	430%	430%	430%	430%	430%	5 acres	N	S-FD and S-FA 20% of total units*

*S-FA is not permitted in R-15 and R-12 Residential Districts

Appendix B, Land Development Regulations

Section 2

Article 9, General Subdivision Design Standards

9.8, Minimum Open Space Requirements

All subdivision developments with over 10 lots and an overall density of greater than 1 dwelling unit per acre shall provide 15% of the total acreage to be set aside as permanent open space. The required open space may include both developable and undevelopable land, as defined in Appendix A, Article 4.

Not more than 50 percent of the required common open space may be used for active recreation, including playgrounds, golf courses, multi-use ball fields, pickleball courts, community swimming pools, clubhouses and similar uses.

Recreation areas (passive or active) used to meet the common open space requirements may not contain more than 5% impervious surfaces (e.g. paved walking paths, decks and recreational structures including shelters, concrete pads, etc.).

Land dedicated as open space shall be of meaningful proportions and dimensions so as to be consistent with the purpose and intent of this section. The open space shall be contiguous to the extent practicable. At least 50% of the required common open space shall be accessible and have at least 50 feet of frontage on at least one public street within the development. Recreational lakes or ponds used for stormwater management may be included in the land designated as open space. Fenced detention or retention areas used for stormwater management shall not be included in the calculation for required open space.

Open Space Ownership, Dedication, and Management.

A. Ownership of open space. The owner and developer, or subdivider, shall select land dedicated for open space purposes and type of ownership. Type of ownership may include, but is not necessarily limited to, the following:

1. Other public jurisdictions or agencies, subject to their acceptance;
2. Non-profit or quasi-public organizations committed to the protection and conservation of open space, subject to their acceptance;
3. Homeowner or cooperative associations or organizations; or
4. Shared, undivided interest by all property owners within the subdivision.

SECTION 2. CODIFICATION. The City shall codify the contents of this Ordinance, online as soon as practicable and in print as part of the City’s next, regular, re-codification of the City Code as and if next codified.

SECTION 3. RESERVATION TO CITY. The City reserves the right to repeal or amend this Ordinance, at any time, from time to time, as often as the City, in its sole discretion, deems appropriate.

SECTION 4. SEVERABILITY. If any part of this Ordinances is unenforceable for any reason, then the remainder of this Ordinance remains in full force and effect.

SECTION 5. PENDING ORDINANCE DOCTRINE; Effective Date. The “Pending Ordinance Doctrine,” as described and applied by the South Carolina Supreme Court in *Sherman vs. Reavis*, 273 S.C. 542, 257 S.E.2d 735 (1979), and as adopted and applied by South Carolina courts in other decisions, is adopted and declared to be in full force and effect in the City with respect to application of any City planning, zoning, and development matters, including the matters contained in this Ordinance. As a result, this Ordinance shall be deemed to be applicable at and after first reading.

CITY OF FOUNTAIN INN, SOUTH CAROLINA

George Patrick McLeer, Jr., Mayor

[CITY SEAL]

ATTEST:

Elizabeth Adams, City Clerk

APPROVED AS TO FORM:

Michael E. Kozlarek,
Esq.
King Kozlarek Root
Law LLC

First Reading: October 10, 2024
Second Reading / Final Approval: November 14, 2024