

CONSENT AGENDA ITEM SUMMARY
May 22, 2023 City Council Meeting
Item Number: 6A



Presented by: Brandon Williams

Department: Stormwater

ITEM SUMMARY:

Approval of proposal from CaJenn Construction Rehab Services Inc, to install 48 linear feet of 30 inch cured-in-place-pipeline at 18 Depot Street.

SPECIAL CONSIDERATIONS OR CONCERNS:

The existing 30 inch corrugated metal pipe has multiple defects and is need of rehabilitation.

STAFF RECOMMENDATION:

Staff recommends approval of proposal from CaJenn Construction Rehab Services Inc., to rehab the existing corrugated metal pipe with cured-in-place-pipeline. C.I.P.P. is a jointless, seamless pipe lining within an existing pipe and does not require excavation.

FINANCIAL IMPACT:

\$24,004.00

FUNDING SOURCE:

Line Item: 506-5.4970.52.3850 Stormwater Management

ATTACHMENTS:

Proposal from CaJenn Construction Rehab Services Inc.

OTHER DEPARMENTAL REVIEW NEEDED:

☒ Yes

☐ No

OTHER DEPARMENTAL REVIEW

☒ Finance



PROPOSAL

FOR ALL YOUR WATER, STORM WATER, & SANITARY SEWER NEEDS

Date: 4.26.2023
Project: 18 Depot Street
Owner: City of McDonough GA
Bid Date: 4.26.2023

To: Brandon Williams
Asst Public Works Director

We are pleased to provide the following pricing for the subject project. All pricing is based on the Provided Bid Documents and Related Addenda.
Please contact us if you at 678.735.0033 if you have any questions or require additional information.

BID ITEM	DESCRIPTION	UNIT	EST QTY	UNIT PRICE	EXTENDED PRICE
1	Mobilization	LS	1	\$ 3,700.00	\$ 3,700.00
2	CCTV	LF	48	\$ 8.00	\$ 384.00
3	30" CIPP	LF	48	\$ 415.00	\$ 19,920.00
0	0	0	0	\$ -	\$ -
0	0	0	0	\$ -	\$ -
0	0	0	0	\$ -	\$ -
0	0	0	0	\$ -	\$ -
0	0	0	0	\$ -	\$ -
0	0	0	0	\$ -	\$ -
0	0	0	0	\$ -	\$ -
0	0	0	0	\$ -	\$ -
0	0	0	0	\$ -	\$ -
TOTAL ESTIMATED CONTRACT					\$ 24,004.00

Payment Terms: Due upon completion and approved inspection. Cajenn will NOT be subject to retainage. All materials are guaranteed to be as specified. All work to be completed in a workman like manner according to standard practices. Any alteration or deviation from specifications involving extras costs will be executed only upon written orders, and will become an extra charge over and above the estimate. The above prices include one mobilization charge, if additional mobilizations are required due to delays by others, Cajenn will be bill accordingly. All permits, access to work area, traffic control to be provided by the owner/Prime. Cajenn reserves the right to rescind this porposal after 10 Days, if it has not be accepted.

Acceptance of Proposal - The above prices, specifications, and conditions are satisfactory and are hereby accepted. Yor are authorized to perform the work specified.

DATE OF ACCEPTANCE: _____

AUTHORIZED SIGNATURE _____

Cajenn Construction Rehab Services, Inc.
1902 Tucker Industrial Road, Tucker GA 30084
404.379.6800

CONSENT AGENDA ITEM SUMMARY

May 22, 2023 City Council Meeting

Item Number: 6B



Presented by: Jeremy Newton

Department: Waste Water

ITEM SUMMARY:

Request final payment of Sand Filter rehab to AllSouth Constructors. INC

SPECIAL CONSIDERATIONS OR CONCERNS:

Project was approved in the FY 2022/2023 budget.

STAFF RECOMMENDATION:

Staff recommends approval.

FINANCIAL IMPACT:

\$41,981.40

FUNDING SOURCE:

Line Item: 505-5.4335.52.3850

ATTACHMENTS:

AllSouth Constructors INC. Invoice 2215-002

OTHER DEPARTMENTAL REVIEW NEEDED:

☒ Yes

☐ No

OTHER DEPARTMENTAL REVIEW

☒ Finance

GOOD GOVERNANCE

Guiding Principle: Fiscal Responsibility, Accountability, Transparency

ALLSOUTH

CONSTRUCTORS, INC.

P.O. BOX 1616 • COVINGTON, GEORGIA 30015-1616 • (770) 788-8703 • FAX (770) 788-8704

May 15, 2023

Mr. Jeremy Newton
City of McDonough
McDonough, Ga.

Reference: McDonough WWTP ABW Filter rehab

INVOICE 2215-002

Work performed:

Rehab 2 ea ABW Filters

Original Contract amount:	\$209,907.00
Work completed to date and stored on site 100%	\$209,907.00
Less Previous payments:	<u>\$167,925.60</u>
Total Amount Due:	\$ 41,981.40

Terms: Net 10

Make Checks Payable to:
Allsouth Constructors, Inc.
Fed ID No. 58-2167102

AGENDA ITEM SUMMARY
May 22, 2023 City Council Meeting
Item Number: 9



Presented by: Cinderella Bennett

Department: Main Street

ITEM SUMMARY:

The McDonough Main Street Program encourages and supports economic growth through revitalization efforts by involving local business and the citizens of the community. Each year, the McDonough Main Street Program must submit a Memorandum of Understanding to the Georgia Department of Community Affairs in order to retain the program's Main Street accreditation. The McDonough Main Street Program has been in compliance with the items outlined in the Memorandum of Understanding throughout 2022 and will remain in compliance during 2023

SPECIAL CONSIDERATIONS OR CONCERNS:

The Memorandum of Understanding must be signed by the Mayor, Chairman of Main Street Advisory Board and the Main Street Manager. Once signed by all, the document will be sent to the Georgia Department of Community Affairs no later than July 03, 2023

STAFF RECOMMENDATION:

The McDonough Main Street Department Manager and staff recommend approval and signing of the annual Memorandum of Understanding

FINANCIAL IMPACT:

FUNDING SOURCE:

Line Item:

ATTACHMENTS:

2023-2024 MOU

OTHER DEPARTMENTAL REVIEW NEEDED:

☐ Yes

☒ No



2023-2024 Classic Main Street MOU Memorandum of Understanding

5/1/2023

This document should be signed by all local parties
(ACR, Board Chair, and Main Street Program Manager)
by **July 3, 2023**

Please email ellen.hill@dca.ga.gov with any questions.



National Main Street
Center
a subsidiary of the
National Trust for Historic Preservation

GEORGIA CLASSIC MAIN STREETS PROGRAM MEMORANDUM OF UNDERSTANDING

2023 -2024 Program Year

This agreement is entered into and executed by the Georgia Department of Community Affairs Office of Downtown Development (hereinafter referred to as "DCA"), the City/Town of McDonough, Georgia (hereinafter referred to as "Community"), the Local Main Street Program Board of Directors, and the Downtown Manager for the Community. DCA will enter into this agreement with the above parties to provide services in return for active and meaningful participation in the Georgia Classic Main Streets Program by the Community as specified below.

This agreement outlines the necessary requirements set forth by DCA for the Community's participation in the Georgia Classic Main Streets Program for the stated term. DCA is the sponsoring state agency for the Georgia Classic Main Street program and is licensed by the National Main Street Center (hereinafter referred to as "National Program") to designate, assess, and recommend for accreditation Main Street programs within the State of Georgia.

In recognition of the agreement by DCA, the Community, the Board of Directors, and the Downtown Manager to maintain an active Local Main Street Program, the parties have agreed to the following:

ARTICLE 1: THE COMMUNITY AGREES TO—

1. Appoint or contract with an entity to serve as the Board of Directors for the local Main Street Program. The city council may not serve as the Main Street Board.
2. Set and review boundaries for the target area of the local Main Street Program.
 - A. A copy of these boundaries should on file with DCA, and uploaded to the Main Street Boundary Map file in your program's shared DCA Dropbox folder at all times.
 - B. The Community should work with the Board of Directors to review boundaries at least once every three years.
3. Employ a full-time paid professional downtown manager responsible for the daily administration of the local Main Street Program.
 - A. The downtown manager must have a job description that identifies at least 75% of their duties that relate directly to the Main Street program. A copy of the job description should remain on file with DCA at all times.
 - B. The downtown manager should be paid a salary consistent with other community and economic development professionals within the state. The program manager's salary must be paid in excess of minimum wage.
 - C. The Community must notify DCA within one week of any downtown manager vacancy and the Community must appoint an interim downtown manager until the position is filled. DCA must have accurate contact information for the downtown manager at all times.
 - D. Provide an annual evaluation of the downtown manager. If the manager is employed by an entity other than the local government, require that entity to provide an annual evaluation and performance review.
4. Provide for local Main Street Program solvency through a variety of direct and in-kind financial support.
 - A. If the downtown manager is an employee of the local Main Street Program and not the Community, the Community assures that the program has the financial means to pay for said manager for the period of this agreement.
 - B. The local Main Street program must maintain an identifiable and publicly accessible office space. DCA recommends this space to be in the local Main Street program area.
 - C. The local Main Street program must have sufficient funding to provide travel and training for the downtown manager and the Board of Directors.
5. Assist the downtown manager in compiling data required as part of the monthly reporting process.
 - A. Provide for a positive relationship between the downtown manager and key city staff to access the following information in a timely manner:
 - i. Business license data
 - ii. Building permit data
 - iii. Property tax data
 - iv. Geographic Information Systems data (mapping support when available)
 - B. Review reported data submitted by the downtown manager to assure accuracy.

6. Use the "Main Street America™" name in accordance with the National Main Street Policy on the use of the name Main Street.
7. Notify DCA in writing prior to any wholesale changes in the local program, including staff changes, major funding changes, change in organizational structure/placement of the program or major turnover in the board of directors. Such notice should be received by DCA one month prior to said changes. Changes may result in program probation, the loss of accreditation or removal of program designation.

ARTICLE 2: THE BOARD OF DIRECTORS AGREES TO—

1. Assist the downtown manager in creating an annual work plan that incorporates incremental and meaningful goals related to the Main Street Approach™ to downtown revitalization: Community Transformation Strategies, Organization, Design, Promotion and Economic Vitality.
 - A. The work plan should include specific tasks, assignments or a point of contact for the task, related budget needs, and a timeline.
 - B. The work plan will serve as a strategic plan for the local program for a period of three years or less.
 - C. A copy of the work plan must be on file and uploaded to the Work Plan and Other Planning Documents file in the program's shared DCA Dropbox folder and updated annually with DCA.
2. Provide opportunities for regular public engagement and support of the Local Main Street Program.
 - A. DCA recommends a public downtown visioning event/town hall meeting annually.
 - B. The Board should identify opportunities for volunteer support and assistance in executing the work plan.
 - C. The Board should actively engage the community for financial and in-kind support of the local program.
3. Conduct, at least, one board training, orientation, or planning retreat per year for the local program.
4. Meet a minimum of 10 times per year and ensure that the minutes of each meeting are maintained and distributed. Such meetings should be open to the public and public notice should be given related to meeting times and agendas.
5. Attend training to become better informed about the Main Street Approach™ and trends for downtown revitalization and to support the downtown manager. All Board Members are required to have at least 2 hours of continuing education annually.
6. All newly appointed Board Members are required to become Main Street 101 certified within their first year of their first term. All current Board Members must be Main Street 101 certified through DCA's online testing system. A copy of each Board Member's Main Street 101 certification must be uploaded to the Training Log file in your program's shared DCA Dropbox folder.
7. Assure the financial solvency and effectiveness of the Local Main Street Program.
 - A. Adopt an annual budget that is adequate to support the annual work plan, maintain an office and support staff, and provide for training and travel.
 - B. Maintain current membership of the Local Main Street Program to the National Main Street Center to be eligible for accreditation.
 - C. Provide for policies to expend funds, enter into debt, and provide programming support for the local Main Street Program.

ARTICLE 3: THE DOWNTOWN MANAGER AGREES TO—

1. Complete all reporting required by DCA to maintain National Accreditation of the local Main Street Program.
 - A. Complete monthly economic and programming activity reports, including portions of said reports that are required as part of the local program assessment process by DCA. These reports must be completed by the 30th of the following month. (Example: March report due by April 30th). Failure to complete monthly reports in a timely manner may result in program probation, the loss of accreditation or removal of program designation.
 - B. Participate in the annual manager's survey provided by DCA. Failure to complete the annual manager's survey by the deadline may result in the loss of accreditation.
 - C. Provide documentation of all meetings, work plans, budgets, job descriptions, and mission/vision statements for the organization.
 - D. Provide documentation to support the work of the organization as it relates to the Main Street Approach™, including information related to historic preservation as required by the National Main Street Center.
 - E. Provide, from time to time, documentation related to local ordinances, plans, codes, and policies that are specific to the Community's downtown area.
2. Participate in training to broaden the impact of the local Main Street Program.
 - A. The downtown manager and/or board members are expected to attend at least one preservation or economic development-related training annually.
 - B. DCA requires managers to attend at least 30 hours of training annually (including webinars, annual trainings,

statewide workshops, etc.) Eligible training hours can come from both DCA and non-DCA hosted training events. Training must be relevant to the field of downtown development, historic preservation, planning, community development and economic development. A record the manager's training hours must be uploaded to the Training Log file in your program's shared DCA Dropbox folder.

3. Respond to requests by DCA in a timely manner.
4. Take advantage of the Georgia Main Street network of professional downtown managers.
5. All newly hired managers must complete Main Street 101 training with DCA within the first 6 months of employment in the local community. All existing downtown managers must be Main Street 101 certified through DCA's online testing system.
6. Provide regular updates between the local Main Street Program and the Community.
 - A. Managers are encouraged to provide at least quarterly reports to the local government.
 - B. Managers are encouraged to provide copies of all minutes, budgets, and work plans to the local government in a timely manner.
7. Maintain and preserve project files. Document downtown projects and other major local program information in a thorough and systematic fashion. All relevant programmatic documentation should be uploaded and stored in the DCA shared Dropbox folder created for your local program, following the organization structure outlined in DCA's "A Visual Guide to Dropbox Management" document which is located in the "Resources" folder of the Georgia Main Street website. This is to help ensure a seamless transfer of project files to city representatives or successor manager in the event of personnel changes.

ARTICLE 4: DCA AGREES TO—

1. Supervise all communications between the Community, state government agencies and the National Main Street Center as it relates to the local Main Street Program.
2. Conduct a curriculum of training on an annual basis to assist the downtown manager, the Main Street Board, and the Community with the local downtown revitalization program.
3. Assist local Main Street Programs with organizational issues that may prevent the successful progress of the Community's downtown revitalization strategy.
 - A. DCA may assist communities in selecting candidates for the position of downtown manager as requested.
 - B. DCA may require a local Main Street Program to host an on-site assessment visit if the program has had a major leadership or organization change, is currently in a probationary status, or is in jeopardy of losing accreditation or designation status.
4. Provide timely assistance and guidance to the Community as a result of requests for service, monthly reports, or the annual assessment process.
 - A. DCA may contact a community upon observation of monthly reporting abnormalities, missing data or missing reports. If a community becomes delinquent in multiple reports, DCA may contact the local board chair or city administrator about the delinquency.
 - B. DCA may assist in training local staff or volunteers in the reporting process.
 - C. DCA will provide unlimited telephone consultations with local programs.
 - D. DCA will attempt to provide on-site assistance as feasible.
5. Provide ongoing press coverage of the Georgia Classic Main Streets Program, including social media outreach, to recognize and publicize the work of local programs.
6. Provide access to resource materials, sample codes and ordinances, organizational documents, and templates for local programs.
7. Conduct an annual program assessment for the Community highlighting success and opportunities for improvement.
8. Provide economic development assistance to encourage small business development, real estate development and property rehabilitation within the downtown area.
9. Provide fee based strategic planning assistance to the local program.

ARTICLE 5: ALL PARTIES AGREE THAT—

1. This agreement shall be valid through June 30, 2024.
2. This agreement may be terminated by DCA or the Community by written notice of 60 days. Termination of this agreement by the Community will result in the loss of local Main Street designation. Communities that choose to terminate their Georgia Classic Main Streets Program affiliation will be required to formally apply for and participate in the Start-Up process if they desire to regain their National Accreditation in the future.

3. If the Community, Board of Directors and/or Downtown Manager fail to fulfill their obligations set forth in this agreement, DCA reserves the right to determine a course of action for the local Main Street Program as it deems appropriate. Such course may include probation, loss of accreditation or termination of designation.
4. If at any point during the 2023-2024 program year there is a change in the local program manager, the local program is required to submit a new MOU including the new manager's signature certifying that person's understanding of the requirements of this relationship.
5. Any change in the terms of this agreement must be made in writing and approved by both parties.

####

**GEORGIA CLASSIC MAIN STREET PROGRAM MEMORANDUM
OF UNDERSTANDING: 2023-2024 Program Year**

THIS AGREEMENT IS HEREBY EXECUTED BY AND BETWEEN THE PARTIES BELOW:

LOCAL GOVERNMENT (COMMUNITY): McDonough

Authorized City Representative (ACR) Signature

Date

ACR Name Printed

ACR Title

MAIN STREET BOARD OF DIRECTORS

Board Chair Signature

Date

Board Chair Printed Name

Date Term Expires

DOWNTOWN MANAGER

Manager's Signature

Date

Manager Printed Name

Date Hired

☐ Please check here if this position is vacant.

GEORGIA DEPARTMENT OF COMMUNITY AFFAIRS
OFFICE OF DOWNTOWN DEVELOPMENT
GEORGIA MAIN STREET PROGRAM

ODD Director's Signature

Date

Jessica Worthington
Director, Office of Downtown Development
Georgia Department of Community Affairs
60 Executive Park South, NE
Atlanta, Georgia 30329

Phone: 404-520-4271
Email: Jessica.worthington@dca.ga.gov

AGENDA ITEM SUMMARY
May 22, 2023 City Council Meeting
Item Number: 10



Presented by: Deborah Upshaw and Mike Clark

Department: Finance

ITEM SUMMARY:

Approve Resolution for Final Budget Amendment for the year ended June 30, 2022.

SPECIAL CONSIDERATIONS OR CONCERNS:

The Final Budget Amendment for fiscal year 2021-2022 includes budget adjustments resulting from audit adjustments and reclassifications pursuant to the audit of the financial statements for the year ended June 30, 2022.

STAFF RECOMMENDATION:

Approve the Final Budget Amendment for the fiscal year ended June 30, 2022.

FINANCIAL IMPACT:

None.

FUNDING SOURCE:

None.

ATTACHMENTS:

Exhibit A
Budget Amendment Resolution

OTHER DEPARTMENTAL REVIEW NEEDED:

☐ Yes

☐ No

OTHER DEPARTMENTAL REVIEW

☐ Finance

STATE OF GEORGIA
CITY OF MCDONOUGH

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF MCDONOUGH, GEORGIA AMENDING THE FISCAL YEAR 2021-2022 BUDGET; ADJUSTING, RECLASSIFYING, AND CORRECTING CERTAIN REVENUES AND EXPENDITURES, BY FUND, AS REFLECTED IN THE SCHEDULE OF BUDGET AMENDMENTS:

WHEREAS, The Mayor and Council of the City of McDonough approved transactions and budget adjustments that effect the Annual Budget Document of the City for fiscal year 2021-2022;

WHEREAS, The Annual Budget Document should be amended to reflect the adjustments, reclassifications, and corrections approved by the Mayor and Council of the City of McDonough;

WHEREAS, The Code of Ordinances of the City of McDonough requires amendments to the Annual Budget Document by made by Resolution;

WHEREAS, State law authorizes the City to amend its budget in order to adapt to changing governmental needs, under O.C.G.A. § 36-81-3(d).

NOW, THEREFORE BE IT RESOLVED, as follows:

Section 1. The City of McDonough Budget for the Fiscal Year ending June 30, 2022, is hereby amended to reflect the fund-level adjustments, reclassifications, and corrections as specifically set out in the attached Exhibit "A."

Section 2. All resolutions, ordinances or portions thereof in conflict with the provisions of this Resolution are hereby repealed.

Section 3. This Resolution shall become effective immediately upon adoption.

SO RESOLVED this 15th Day of May 2023.

CITY OF MCDONOUGH, GEORGIA

Sandra Vincent, Mayor

Attest: _____
Christy L. Taylor, City Clerk

CITY OF MCDONOUGH
FY 2021-2022
FINAL BUDGET AMENDMENT

GENERAL FUND

	2021-2022		REQUESTED		FINAL
	BUDGET		ADJUSTMENT		
REVENUES					
100.4.39.1100	\$	99,111	\$	130,000	\$ 229,111
TOTALS	\$	99,111	\$	130,000	\$ 229,111

INCREASE IN BUDGETED UNAPPROPRIATED FUND BALANCE

	2021-2022		REQUESTED		FINAL
	BUDGET		ADJUSTMENT		
EXPENDITURES					
100.5.1512.52.3855		4,500		65,000	69,500
100.5.1512.53.1795		-		65,000	65,000
TOTALS	\$	4,500	\$	130,000	\$ 134,500

PROPERTY TAX COLLECTION FEE AGREEMENT WITH HENRY COUNTY
AUDIT ADJUSTMENT TO RECONCILE PAYROLL TAXES PAID

HOTEL MOTEL TAX FUND

	2021-2022		REQUESTED		FINAL
	BUDGET		ADJUSTMENT		
REVENUES					
275.4.31.4100	\$	2,000,000	\$	274,514	\$ 2,274,514
TOTALS	\$	2,000,000	\$	274,514	\$ 2,274,514

INCREASE IN HOTEL MOTEL TAX COLLECTIONS

	2021-2022		REQUESTED		FINAL
	BUDGET		ADJUSTMENT		
EXPENDITURES					
275.5.7540.57.2165		900,000		94,792	994,792
275.5.7540.61.1500		1,000,000		279,722	1,279,722
TOTALS	\$	1,900,000	\$	374,514	\$ 2,274,514

INCREASE IN CONTRACTUAL PAYMENTS TO HOSPITALITY AND TOURISM
INCREASE IN TRANSFERS FOR TAXES AND PRODUCT DEVELOPMENT

AGENDA ITEM SUMMARY
May 22, 2023 City Council Meeting
Item Number: 11



Presented by: Andrew Baker

Department: Community Development

ITEM SUMMARY:

The request is to satisfy City Code (Chapter 16.12: Procedure, specifically Section 16.12.060: Referral of Preliminary Plat for review), that requires approval by the Mayor and Council for the Preliminary Plat as recommended by Staff, for the subject property recognized as Tax Parcel ID #090-01022000, #090-01223000 & 105-01035000, located on McDonough Pkwy. The property is currently zoned R-75 (Single Family Residential)/R-50 (Single Family Residential) with conditions per ORD #04-03-01009(Z) & #05-03-21001(A)(Z).

BACKGROUND INFORMATION

Original Submittal

Developer – Richard Krebs & Civil Engineers (Hovey & Associates)
Preliminary Plat approved: 12-20-2004
Development Plans (LDP) issued: 9-18-2007
of Lots – 249 total (R-75 – 32 lots) & (R-50 - 217 lots)

New Design

Developer – Adam Mitchell (St. Bourke)
of Lots – 234 total (R-75 – 22 lots) & (R-50 - 212 lots)
Subdivision Design per 2004 & 2005 Zoning Ordinances & Conditions

Lot Size Requirements

2004/2005 – R-75 (10,000 sf) & R-50 (6,000 sf)
Current – R-75 (12,000 sf) & R-50 (8,000 sf)

Subdivision will be a Phased Development

Phase 1 – 103 Homes
Phase 2 – 131 homes

Henry County Water & Sewer

SPECIAL CONSIDERATIONS OR CONCERNS:

Said application is to be processed in accord with schedule herein:

- 4/17/2023 City Council Public Review – Postponed to May 4 Workshop
- 05/04/2023 – Postponed to May 22, 2023 City Council Meeting
- **05/22/2023 City Council Public Review**

STAFF RECOMMENDATION:

After a review, the Community Development Department recommends Approval based on compliance with City Code and Zoning Ordinance # 04-03-01009(Z) & #05-03-21001(A)(Z).

FINANCIAL IMPACT: N/A

FUNDING SOURCE: N/A

ATTACHMENTS:

Zoning Ordinance #04-03-01009(Z) & #05-03-21001(A)(Z).

NOTE: Due to the large size of the plat, the documents is located in the Community Development Department. You may visit the office to review this item prior to the meeting.

OTHER DEPARTMENTAL REVIEW NEEDED:

Yes

OTHER DEPARTMENTAL REVIEW

McDonough Police	McDonough Fire	Building & Inspections
City Engineer	Public Works	Stormwater
Water Distribution	Water/Sewer Operations	HC Water & Sewer
HCDOT	HCBOE	HC GIS
HC Environmental Health Dept.	GDOT	Other

Department Name: McDonough Police
Comments: Not a reviewing agency.

Department Name: McDonough Fire
Comments: Approval based on review for code compliance.

Department Name: Building & Inspections
Comments: Approval based on review for code compliance.

Department Name: City Engineer
Comments: Approval based on review for code compliance.

Department Name: Public Works
Comments: No initial comments returned – official plan review required.

Department Name: Stormwater
Comments: Not a reviewing agency.

Department Name: Water Distribution
Comments: Not a reviewing agency.

Department Name: Water/Sewer Operations
Comments: Not a reviewing agency.

Department Name: HC Water & Sewer
Comments: Approval based on review.

Department Name: HCDOT
Comments: Approval based on review.

Department Name: HCBOE
Comments: Not a reviewing agency.

Department Name: HC GIS
Comments: Not a reviewing agency.

Department Name: HC Environmental Health Dept.
Comments: Not a reviewing agency.

Department Name: GDOT
Comments: Not a reviewing agency.

AGENDA ITEM SUMMARY
May 22, 2023 City Council Meeting
Item Number: 12



Presented by: Andrew Baker

Department: Community Development Department

ITEM SUMMARY:

The request for Case #230309 (**Racetrack Rd./Iris Lake Rd. Convenience Store**) is for a rezoning from RA-200 (Residential Agricultural) with conditions per ORD#04-10-04002(A)(Z) to C-3 (Highway Commercial). The subject property is located at 632 Racetrack Rd., and further recognized as Tax Parcel ID #108-01016000.

SPECIAL CONSIDERATIONS OR CONCERNS:

Said application is to be processed in accord with schedule herein:

- 4/11/2023 Municipal Planning Commission Workshop
- 5/4/2023 City Council Workshop
- 5/9/2023 Municipal Planning Commission Public Review
- **5/22/2023 City Council Public Hearing & Vote**

STAFF RECOMMENDATION:

MPC – Latonua Hawkins made motion to recommend denial of the rezoning, Ricky Beauchamp seconded.

➤ **Vote: 6-0 (Motion Passed)**

CDD – Approval with conditions

FINANCIAL IMPACT: N/A

FUNDING SOURCE: N/A

ATTACHMENTS:

- ORD #23-05-22001(Z)
- P/Z Final Staff Report

OTHER DEPARTMENTAL REVIEW NEEDED: YES

Refer to Final Staff Report

STATE OF GEORGIA
CITY OF MCDONOUGH

ORDINANCE NO. 23-05-22001(Z)

AN ORDINANCE, PURSUANT TO MCDONOUGH CODE OF ORDINANCES SECTION 17.104.020(A)(1), AMENDING THE ZONING MAP OF THE CITY OF MCDONOUGH; PROVIDING FOR SEVERABILITY; REPEALING CONFLICTING ORDINANCES; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

NOW THEREFORE BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MCDONOUGH AND IT IS HEREBY ORDAINED BY AUTHORITY HEREOF:

SECTION 1.

This ordinance applies to the following real property per the application filed by **Buddy Kelley for Racetrack Rd.-Iris Lake Rd. Convenience Store:**

All that lot, tract or parcel of land, otherwise known 632 Racetrack Rd. (Parcel #108-01016000), lying and being in Land Lot(s) 168 of the 7th District of Henry County, Georgia, consisting of 3.99 +/- acres and being more particularly described on Exhibit "A," attached hereto and incorporated herein by reference.

SECTION 2.

The above property is hereby zoned C-3 (Highway Commercial), and subject to the new conditions of development contained in Exhibit "B," attached hereto and incorporated herein by reference.

SECTION 3.

The sections, subsections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any section, subsection, paragraph, sentence, clause or phrase shall be declared illegal by the valid judgment or decree of any court of competent jurisdiction, such illegality shall not affect any of the remaining section, subsections, paragraphs, sentences, clauses and phrases of this ordinance.

SECTION 4.

All ordinances and parts of ordinances in conflict herewith are expressly repealed.

632 Racetrack Road, McDonough, Georgia 30252

Legal Description

All that tract or parcel of Land Lot 168 of the 7th District of Henry County, Georgia, containing 4 acres, more or less, and being located at the intersection of the South right of way line of Racetrack Road with the West right of way line of Iris Lake Road, and being bounded on the North by Racetrack road; on the East by Iris Lake Road, on the South by property of Ernest Ricks, and on the West by property of Ernest Ricks.



Exhibit B
Conditions of Development

REFER TO FINAL STAFF REPORT



City of McDonough, GA

Community Development Department

Rezoning Staff Report

For Recommendation Only

Case Petition: #230309

Applicant: Buddy Kelley
Address/Location: 632 Racetrack Rd.
Council District: #3 Scott Reeves
Request: Rezoning to C-3 (Highway Commercial) for a convenience store/gas station with drive-thru restaurant

Land Lot District: 168 of the 7th District
Tract Size: Approximately 3.99 +/-
Parcel: #108-01016000

Meetings

4/11/2023 Planning Commission Workshop
5/4/2023 City Council Workshop
5/9/2023 Planning Commission "Public Review"
5/22/2023 **City Council "Public Hearing"**

Background Information

Current Zoning: RA-200 (Residential Agricultural) with conditions per ORD #04-10-04002(A)(Z)



North Boundary

Zoned: C-3 [Highway Commercial]
Land Use: Gas Station

East Boundary

Zoned: County
Land Use: Residential

South Boundary

Zoned: County
Land Use: Residential

West Boundary

Zoned: County
Land Use : Vacant



City of McDonough, GA
Community Development Department
Rezoning Staff Report
For Recommendation Only

Staff Analysis:

Section 17.104.048 Standards of Review for Rezoning

▶ Isolated district	No
▶ Possible overtaxing load on public facilities	No
▶ Cost increase to the City(<i>Public Utilities, schools streets, other public safety measures</i>)	No
▶ Impact to environment	No
▶ Amendment will be a deterrent to adjacent properties	No
▶ Current zoning may be used for the purpose intended	No
The property must be rezoned to C-3 to allow the convenience store/gas station with drive-thru restaurant	
▶ Property to stay compatible with adjacent properties	Yes
▶ Property is consistent with FLUM Highway Activities Center	Yes
▶ Any character change to the Zoning District	No
▶ Does the amendment follow the zoning regulations	Yes
▶ Applicant submitted all information	Yes
▶ Any impact to neighboring residential properties	No
▶ Buffers have been adhered to	Yes

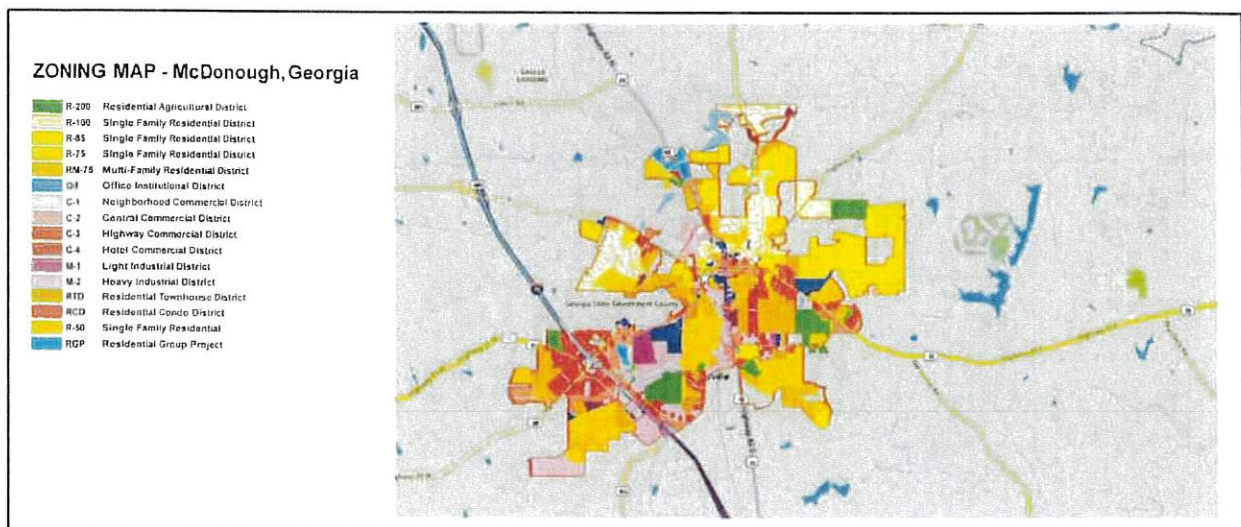
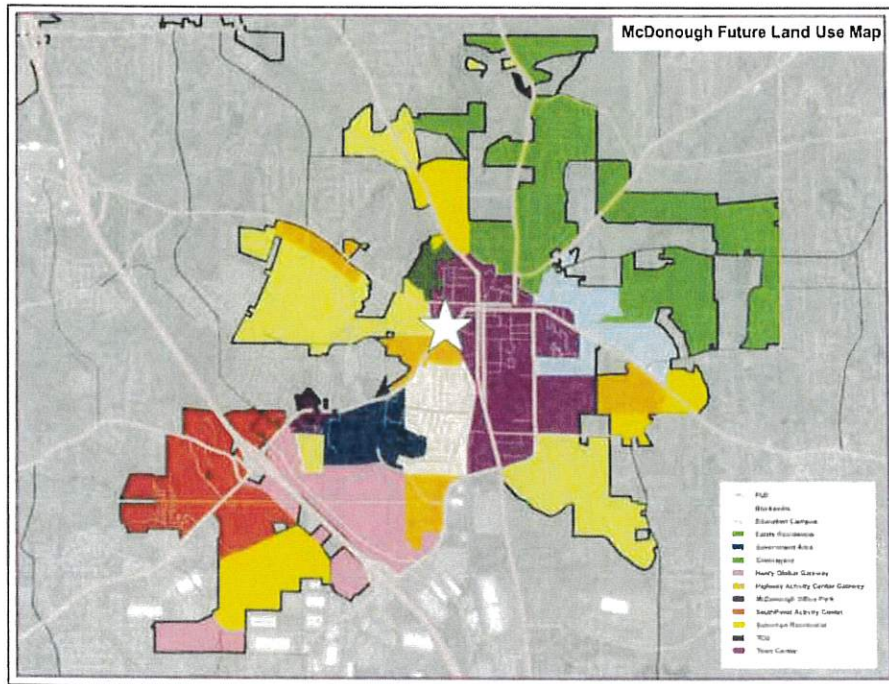


City of McDonough, GA

Community Development Department

Rezoning Staff Report

For Recommendation Only





City of McDonough, GA
Community Development Department
Rezoning Staff Report
For Recommendation Only

Professional Staff (City/Henry County/State) Analysis:

Department Name: McDonough Police

Comments: Ken Noble-Not a reviewing agency.

Department Name: McDonough Fire

Comments: Dave Williams-Approval based on review for code compliance.

Department Name: Building & Inspections

Comments: Mark Dobson-Approval based on review for code compliance.

Department Name: City Engineer

Comments: Mark Whitley - *Additional R/W may be needed to accommodate sidewalk, deceleration lanes, utilities, etc. and determined during civil plan review for LDP; Driveway requirements to be addressed during civil plan review for LDP to determine full service or restricted ingress/egress due to proximity of the Round About and intersection; Deceleration Lanes will be addressed during civil plan review for LDP to determine requirements for each driveway.*

Department Name: Public Works [Stormwater, Water Distribution, Water/Sewer

Operations] **Comments:** William VonDenBosch– *Sewer is currently not available for this lot; a line extension under or around the new round-about would be required. This has not been approved by the City and I don't see it on the plans.*

Department Name: HC Water & Sewer

Comments: Fritz Jacques-Not a reviewing agency.

Department Name: HCDOT

Comments: David Simmons-Not a reviewing agency.

Department Name: GDOT

Comments: Donald Wilkerson – Not a reviewing agency.

Department Name: HCBOE

Comments: Jim Jones-Not a reviewing agency.

Department Name: HC GIS

Comments: Herb Dillion-Not a reviewing agency.

Department Name: HC Environmental Health Dept.

Comments: Glenda Scot - Not a reviewing agency.



City of McDonough, GA
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Infrastructure:	Water Service:	City of McDonough
	Sewer Service:	City of McDonough
	Electricity:	Snapping Shoals EMC
	Telephone:	AT & T
	Cable Television:	Spectrum
	Schools:	Henry County Schools

Final Staff Recommendation by: Andrew Baker Community Development Director (Interim)

Building Elevation- The proposed structure utilizes brick with stucco accents for a pleasing exterior. There are the typical gas pumps and canopy and two monument signs with complimentary building materials. **Landscape** – the project proposes a 20 ft. landscape strip along the public ROW and will have to accommodate side walks/bike path. **Traffic Circulation-** The proposed development shows two access points (one on Race Track and one on Iris Lake Road) The site plan does indicated a new traffic circle at the intersection of Iris Lake Road which will be coordinated with GDOT. Parking appears adequate with ADA compliant. Public works had no objection to the use, but noted that during the LDP state additional R/W may be needed to accommodate sidewalk,, deceleration lanes, utilities, The elevations lack the drive through as part of the restaurant and during the LDP, the circulation will have to be adequately addressed. Buffer – the proposed development provides a 50 foot buffer along the southern property line to mitigate any negative impacts on the adjacent neighborhood. A sidewalk/bike path will be constructed along the public ROW adjacent to the development.

Approval with Conditions as noted on the following page.

GENERAL CODE COMPLIANCE DISCLAIMER

The proposed project shall be developed consistent with the conditions in this report, all codes and ordinances of the City of McDonough, the State of Georgia and all other applicable regulatory agencies.

NOTE: All Concept Plans are accepted as an illustrative drawing to represent an idea only and are not approved during the rezoning process as an official review and approval by Staff showing compliance with City Codes, State Laws, and Zoning conditions which are required during the plan review process.



City of McDonough, GA

Community Development Department

Rezoning Staff Report

For Recommendation Only

FLUM & Comprehensive Plan

- *The subject parcel was annexed by City Council October 4, 2004 (04-10-04002 (A) and #04-04002 (Z) changing from RA (County) to RA-200 with conditions per a development agreement (City). The property was adjacent to an area designated for Village Retail Development as part of the Racetrack Road/Iris Lake Road Neighborhood Village Activity Center.*

Water & Sewer

- No development shall commence without connection to public water and sewer.

Right of Way

- No curb cuts shall be permitted onto the Racetrack Road ROW or within one hundred feet of the intersection of Racetrack Road and Iris Lake Road.
- GDOT road widening and Highway Overlay sidewalk to be shown on construction documents

Sidewalks

- Provide ten-foot sidewalks and bicycle path the entire length of the subject parcel adjacent to Racetrack Road and Iris Lake Road which shall include a uniform two (2) foot wide planted groundcover strip between the curb and the sidewalk/bicycle path. Decorative stamped inserts shall be approved upon review and approval by the Community Development Director and/or designee.
- Architectural designed street lights per review and approval by the Community Development Director and/or designee

Landscaped Areas

- Main Entrance- extensive landscaping on either side of entrance
- All disturbed areas to be within a planting bed or sodded.
- All planted areas shall have irrigation and shall maintain healthy growth of plant material year round in perpetuity
- TREES- Shall be 3" caliper at time of installation and at a minimum 6' height
- SHRUBS- Shall be 3 gallon minimum with full head at time of installation

Note: If plant material is planted within the winter months and if any plants that die-off or are producing new material at a reduced rate, the plant(s) shall be immediately replaced during the spring planting season.

Buffer

- 20 foot landscape buffer along entire length of Racetrack Road and Iris Lake Road with exception to entrances/exist vision cone. Buffer does not have to be continuous and should be a mix of evergreen trees (no Pine trees), native hardwood trees, and native shrubs. All plant material should be selected to meet the size and space to be filled without any pruning.
- 50 foot undisturbed landscape buffer along residential property to the south. The buffer shall be enhanced with evergreen trees, ornamental trees, and native shrubs. All plant material should be selected to meet the size and space to be filled without any pruning.



City of McDonough, GA
Community Development Department
Rezoning Staff Report
For Recommendation Only

Built

- Structures shall be constructed of four (4) sided brick and/or stone and/or glass. Glass surfaces shall not be permitted within three (3) feet of the finished floor unless an ingress/egress door. Glass surfaces shall be either true-divided or true divide effect. Neon and neon ascents shall be prohibited.
- Primary parking for commercial establishments shall be located along Racetrack Road, with as few parking spaces as possible along the proposed Iris Lake Road. Where feasible, parking should be provided in the rear of the commercial building.
- Parking shall require a linear planting island, minimum of five (5) feet in width to separate spaces.
- Ground mounted signs shall be monument style, maximum twelve (12) feet in height with a reader board, with the property address identified in minimum eight (8) inch copy. Only one monument sign shall be permitted per public road frontage regardless of the number of subdivided commercial parcels.
- Wall signage shall be limited to one (1) sign per tenant elevation of the heated exterior wall and shall not face residentially zoned properties. Additional signage shall comply with all sign regulations.
- Outdoor storage and display of vehicles, supplies, products and equipment shall be prohibited.

Outdoor speakers

- Shall be prohibited given proximity to residential properties

Street Lights

- Street lights to be placed along both property lines (Racetrack and Iris Lake Road) for optimum illumination. (Down casting lights only). In addition, adequate public lighting shall be provided internal to the site for public safety. Consideration shall be given to architectural lighting as approved by the Community Development Director and/or designee.
- Dumpster enclosure(s) shall be required and shall be constructed of three (3) sided brick construction with solid steel gates, heavy duty hardware and cane bolt hooks. Roof and drain structure shall be required for restaurant use(s). Grease trap.

Detention Ponds

- All detention ponds shall be enclosed with a black 6' wrought iron fence and extensively landscaped with a evergreen screening: trees to be 6' in height and 3" caliper with a full canopy at time of installation and native shrubs sized at 3 gallon with a full-head canopy.

All other conditions of development will be in accordance with the development ordinances of the City.

STATE OF GEORGIA
CITY OF MCDONOUGH

ORDINANCE NO. _____

AN ORDINANCE PROMOTING THE PUBLIC HEALTH AND SAFETY OF THE CITY, AMENDING TITLE 5, BUSINESS OCCUPATION TAXES, ADMINISTRATIVE FEES AND REGULATORY FEES, OF THE CITY CODE OF ORDINANCES; REGULATING MOBILE FOOD VENDORS AND FOR OTHER LAWFUL PURPOSES

WHEREAS, the City of McDonough ("City") is a municipal corporation duly organized and existing under the laws of the State of Georgia;

WHEREAS, the duly elected governing authority of the City are the Mayor and Council ("City Council") thereof;

WHEREAS, the City is authorized pursuant to Section 2.17(b) of the City Charter to adopt ordinances, resolutions, rules and regulations deemed necessary, expedient, or helpful for the good order, welfare, prosperity and well-being of the City;

WHEREAS, the City finds it desirable and to the benefit of the public health and safety to provide for the licensing, operation and regulation of mobile food vendors whether through mobile food trucks or pushcarts; and

WHEREAS, the City Council finds this Ordinance to be in the best interest of the health, safety and welfare of the City.

THE COUNCIL OF THE CITY OF MCDONOUGH HEREBY ORDAINS as follows:

Section 1. Title 5, Business Occupation Taxes, Administrative Fees and Regulatory Fees, of the City of McDonough Code of Ordinances is hereby amended by adding Chapter 5.26, Mobile Food Vendors, to read as follows:

TITLE 5 - BUSINESS OCCUPATION TAXES, ADMINISTRATIVE FEES AND REGULATORY FEES

CHAPTER 5.26 - MOBILE FOOD VENDORS

Sec. 5.26.010. Purpose.

- (a) The general purpose of this article is to promote the health, safety, and general welfare of the citizens of the city by requiring that new and existing mobile food vendors provide residents and customers with a level of cleanliness, quality and safety.
- (b) It is also the intent of this article to establish reasonable guidelines and restrictions for mobile food vendors in relationship to established restaurant businesses, and ensure the safe and convenient use of the public rights-of-way.

43 **Sec. 5.26.020. Definitions.**

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

46 *Commissary* means an approved catering establishment, restaurant, or other approved place
47 in which food, containers or supplies are kept, handled, prepared, packaged or stored.

48 *Ice cream truck* means a motor vehicle in which pre-packaged ice cream, popsicles, ice
49 sherbets or other frozen desserts of any kind are carried for the purpose of retail sale on the
50 streets of the city. For the purpose of this article, the term "ice cream truck" shall not include
51 vendors who prepare ice cream, popsicles, ice sherbets or other frozen desserts of any kind.

52 *Mobile food vendor* means a retail food establishment that reports to and operates from a
53 commissary and is readily moveable, is a motorized wheeled vehicle, or a towed wheeled vehicle
54 designed and equipped to prepare and serve food.

55 *Pushcart* means a non-self-propelled vehicle limited to serving commissary prepared or
56 prepackaged food and non-potentially-hazardous food, unless the equipment is commercially
57 designed and approved to handle food preparation and service. Pushcarts shall not be required to
58 comply with mobile vehicular safety requirements.

59 *Restaurant* means an establishment where food and drink are prepared, served, and
60 consumed primarily within the principal building.

61 *Temporary food establishment* means a retail food establishment, other than a city permitted
62 mobile food vendor or pushcart, that is not intended to be permanent and that operates at a fixed
63 location for a period of time of not more than 14 consecutive days in conjunction with a single
64 event or celebration.

65 **Sec. 5.26.030. License and insurance required.**

66 (a) **License required.** It shall be unlawful for any person to sell, or offer for sale, food of any
67 type from a commissary, mobile retail food establishment vendor, ice cream truck, pushcart
68 or temporary food establishment without a permit first having been granted under this
69 section, except as part of a city-sponsored or city sanctioned special event.

70 (b) An application for a permit hereunder shall be submitted to the community development
71 director or his designee setting forth all information required hereunder and in compliance
72 with this chapter. The community development director or his designee shall develop a form
73 of application for the purpose of compliance with this article.

74 (c) **Mobile food vendor/push cart permits.** The following information shall be provided with
75 each application for a mobile food vendor, or push cart permit:

- 76 (1) Name of the mobile food vendor;
- 77 (2) Make, model, and license plate number of the vending unit;
- 78 (3) Owner's contact information;
- 79 (4) Operator's contact information;
- 80 (5) Type of vendor (street vending unit or sidewalk vending unit);

- (6) Copy of the approved permit from the county health department;
- (7) List of operating locations and times;
- (8) Signatures from property owners indicating consent for the use of their property;
- (9) Signature of the applicant indicating agreement to the listed requirements.
- (10) *Insurance requirement specific to mobile food vendors prior to issuance of permit.*
A mobile food vendor shall maintain a \$1,000,000.00 liability insurance policy as a condition of holding a city issued mobile food vendor permit. Proof of current liability insurance, issued by an insurance company licensed to do business in Georgia, protecting the mobile food vendor, the public and the city from all claims for damage to property and bodily injury, including death, which may arise from operation under or in connection with the permit. Such insurance shall name the city as an additional insured and shall provide that the policy shall not terminate or be canceled prior to the expiration date without 30 days advanced written notice to the city.

(d) **Ice cream truck permit.** The following information shall be provided with each application for an ice cream truck permit:

- (1) Name of the mobile food vendor;
- (2) Owner's contact information;
- (3) Operator's contact information;
- (4) Type of vendor (street vending unit or sidewalk vending unit);
- (5) Copy of the approved permit from the state department of agriculture;
- (6) Signatures from property owners indicating consent for the use of their property, if applicable;
- (7) Signature of the applicant indicating agreement to the listed requirements.

Sec. 5.26.030. Prohibited conduct and requirements.

(a) *Right-of-way prohibition.* Except for ice cream trucks, no mobile food vendor shall conduct business or operate in the public right-of-way, except as part of a city-sponsored or city sanctioned special event.

(b) *Private property.* Operation from private property.

- (1) A mobile food vendor shall not operate on any private property without the prior written consent of the owner.
- (2) Except for mobile food vendors operating on the premises of a licensed restaurant or as may be allowed as part of a city-issued special event permit, mobile food vendors are permitted on a given property no more than eight days in any calendar month. A minimum of two calendar days must transpire between operating periods on any given property.
- (3) Except as may be allowed as part of a city-issued special event permit, no more than two mobile food vendors may operate on any single property at any one time.

- (4) Except for mobile food vendors operating on the premises of a licensed restaurant or as may be allowed as part of a city-issued special event permit, mobile food vendors may occupy no more than ten percent of the designated parking spaces on a given property, and at no time shall the operation of a mobile food vendor reduce the number of parking spaces on a property below the minimum required by city code.
- (5) Vending structures shall not be left unattended or stored at any time on the open vending site when vending is not taking place or during restricted hours of operation.
- (c) *Noise restrictions.* Except for ice cream trucks, a mobile food vendor shall not make sounds or announcements to call attention to the mobile food vehicle either while traveling on the public rights-of-way or when stationary. At all times said mobile food vendor, ice cream truck, or push cart shall be in compliance with the city noise ordinance.
- (d) *License visibility.* The permit under which a mobile food vendor, ice cream truck, or push cart is operating must be firmly attached and visible on the mobile food vendor or pushcart at all times.
- (e) *State license required.* Any driver of a mobile food vendor or ice cream truck motorized vehicle must possess a valid state driver's license.
- (f) *Residential district limitations.* Except for ice cream trucks, mobile food vendors are allowed only in commercial zoning districts, except as part of a special event sponsored by the city, a homeowners' association or similar official neighborhood organization.
- (g) *Crosswalk/intersections.* Mobile food vendors shall not be located within 15 feet of any street intersection or pedestrian crosswalk or ten feet of any driveway, except as part of a city-sponsored or city sanctioned special event.
- (h) *Operation limitations near licensed restaurants.* Mobile food vendors shall not operate within 200 feet of any licensed restaurant except as part of a city-sponsored or city sanctioned special event, with the exception that mobile food vendors may operate within 200 feet of a licensed restaurant, consistent with this chapter: 1) while exclusively on the premises of a licensed restaurant, or 2) with signed written consent from all licensed restaurants within 200 feet of the mobile food vendors' operation. This distance will be measured from the serving window in a straight line to the property line of the nearest licensed restaurant.
- (i) *Operation limitations near city events.* Mobile food vendors shall not operate within 200 feet of any city-sponsored or city sanctioned special event, except while exclusively on the premises of a licensed restaurant.
- (j) *Hours of operation.* Except as may be allowed as part of a city-issued special event permit), a mobile food vendor may operate from any given property or within any given city block only between the hours of 7:00 a.m. and 9:00 a.m. and/or 10:30 a.m. until 2:30 p.m.
- (k) *Dairy and related products.* No sale or offer for sale of ice cream, frozen milk, frozen dairy or ice confection products shall be made from a mobile food vendor unless each side of the vehicle is marked, in letters and numbers at least three inches in height, with the name and address of the mobile food vendor permittee.

- (l) *Compliance with public health and related authorities.* The mobile food vendor shall comply with all state, federal and local ordinances, laws, and health and safety regulations, and shall obtain and maintain any and all licenses required by any other health organization or governmental organization having jurisdiction over this subject matter.
- (m) *Motorized, wheeled vehicle requirements.* Except as otherwise allowed and described within this section, a mobile food vendor must operate from a motorized, wheeled vehicle that may lawfully be driven upon streets and roadways within the state.
- (1) The owner of a licensed restaurant located within the city may, with a valid city mobile food vendor permit, engage in mobile food vending from a wheeled mobile trailer, pushcart, or motorized vehicle as an ancillary location of said restaurant, provided that all other provisions of this article are met and adhered to.
- (2) As allowed by a city-issued special event permit, a mobile food vendor that holds a valid city mobile food vendor permit may operate from a wheeled mobile trailer, pushcart, or motorized vehicle.
- (n) *Self-propelled vehicles.* The following safety regulations shall apply to any and all vehicles operating under this article or used for mobile retail food establishments:
- (1) Every self-propelled vehicle shall be equipped with a reverse gear signal alarm with a sound distinguishable from the surrounding noise level.
- (2) Every self-propelled vehicle shall be equipped with two rear-vision mirrors, one at each side, firmly attached to the outside of the motor vehicle, and so located as to reflect to the driver a view of the highway to the rear, along both sides of the vehicle.
- (o) *Alcohol sales restricted.* The mobile food vendor may sell food and non-alcoholic beverage items only. Additionally, no person or entity may serve alcohol without a city issued alcohol license.

Sec. 5.26.040. Indemnity.

As part of the permitting process set forth herein, any person or entity receiving a permit under this chapter shall execute an indemnity agreement indemnifying and releasing the city, its agents, employees and elected officials from any and all liability against any and all claims, actions and suits of any type whatsoever arising from their operations.

Sec. 5.26.050. Revocation and suspension.

- (a) The director of community development shall have the right to suspend or revoke a mobile food vendor permit under the conditions set forth in this section. In the event the director of community development seeks to suspend or to revoke a permit, the director of community development shall give written notification to the permittee of such action and such notice shall contain a specification of the violation or violations for which cause the action is being taken.
- (b) The director of community development shall be authorized to suspend or revoke a permit in the event of any one or more of the following:

- (1) A permittee gave false or misleading information in the original application or renewal process;
- (2) A permittee has knowingly allowed a violation of this mobile food vendor article to occur or did not make a reasonable effort to prevent any such occurrence;
- (3) A permittee failed to pay any fee, permit fee, or other amount of money due to the city under this article or any other licensing ordinance of the city.

(c) In the event that the director of community development determines that a permit violation has occurred, such permit shall be suspended for 30 days for the first violation. For a second violation occurring within any consecutive 12-month period, the permit shall be suspended for 90 days. Any permit that has been suspended two times within any consecutive 12-month period that is determined to have committed a subsequent permit violation within 24 months of the second suspension shall be revoked. Provided, however, that the permittee shall be authorized to continue its business operations until the date of the hearing scheduled in accordance with subsection (e) of this section. Should a permit be revoked, the owner and/or operator shall not be eligible to apply for a mobile food vendor permit for a period of three years from the date of revocation.

(d) In the event of a revocation by the director of community development, the permittee may appeal the decision of the director of community development to the city administrator by filing a written notice of appeal with the director of community development within ten business days from the date of the effective date of the written notice received by the permittee in accordance with subsection (a) of this section. The notice of appeal shall be accompanied by a memorandum or other writing setting out fully the grounds for such appeal and all arguments in support thereof. The director of community development may submit a memorandum in response to the memorandum filed by the permittee on appeal to the city administrator. The director of community development's decision shall be final unless an appeal is timely filed. An appeal shall stay the director of community development's decision until the appeal is heard or withdrawn.

(e) When an appeal is received, the city administrator shall, within ten business days from the date on which the notice of appeal is received by the director of community development, take either of the following actions:

- (1) Set a hearing date before the city administrator and instruct the director of community development to give such notice of hearing as may be required by law; or
- (2) Appoint a hearing officer and fix the time and place of hearing. The director of community development shall assume responsibility for such publication of notice as may be required by law.

In either event, the hearing shall be held within 30 calendar days of the director of community development's action, unless a continuance of such date is agreed to by the permittee and the director of community development.

(f) The city administrator or assigned hearing officer may sustain, overrule, or modify the action of the director of community development. The decision of the city administrator or hearing officer shall be final.

242 **Sec. 5.26.060. Fees.**

243 The fee for permits under this chapter are as follows:

244

245

Permit Type	One time	Annual
Mobile food vendor	\$100	\$500
Temporary food establishment	\$100	N/A
Pushcart	\$15	\$50
Ice cream truck	\$15	\$50

246

247

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250 *****

251 **Section 2.** It is hereby declared to be the intention of the City Council that:

- 252 (a) All sections, paragraphs, sentences and phrases of this Ordinance are or were, upon their
- 253 enactment, believed by the City Council to be fully valid, enforceable and constitutional.
- 254 (b) To the greatest extent allowed by law, each and every section, paragraph, sentence,
- 255 clause or phrase of this Ordinance is severable from every other section, paragraph,
- 256 sentence, clause or phrase of this Ordinance. No section, paragraph, sentence, clause or
- 257 phrase of this Ordinance is mutually dependent upon any other section, paragraph,
- 258 sentence, clause or phrase of this Ordinance.
- 259 (c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance
- 260 shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise
- 261 unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is
- 262 the express intent of the City Council that such invalidity, unconstitutionality or
- 263 unenforceability shall, to the greatest extent allowed by law, not render invalid,
- 264 unconstitutional or otherwise unenforceable any of the remaining phrases, clauses,
- 265 sentences, paragraphs or sections of the Ordinance.
- 266

267 **Section 3.** The City Attorney and City Clerk are authorized to make non-substantive editing

268 and renumbering revisions to this Ordinance for proofing and renumbering purposes.

269

270 **Section 4.** The effective date of this Ordinance shall be the date of adoption, unless provided

271 otherwise by the City Charter, state and/or federal law.

272

273

274 **BE IT SO ORDAINED**, this ____ day of _____, 2023.

275

276 ATTEST:

CITY OF MCDONOUGH, GEORGIA:

277

278

279

280 Christy L. Taylor, City Clerk

281

282 APPROVED AS TO FORM:

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284

285

286 Emilia C. Walker, City Attorney

Sandra Vincent, Mayor