



County Council Meeting Beaufort County, SC

Council Chambers, Administration Building Beaufort County Government Robert Smalls
Complex 100 Ribaut Road, Beaufort

**Monday, October 23, 2023
5:00 PM**

AGENDA

COUNCIL MEMBERS:

**JOSEPH F. PASSIMENT, CHAIRMAN
DAVID P. BARTHOLOMEW
LOGAN CUNNINGHAM
YORK GLOVER
MARK LAWSON
ANNA MARIA TABERNIK**

**LAWRENCE MCELYNN, VICE CHAIR
PAULA BROWN
GERALD DAWSON
ALICE HOWARD
THOMAS REITZ**

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE AND INVOCATION - Council Member Anna Maria Tabernik
3. PUBLIC NOTIFICATION OF THIS MEETING HAS BEEN PUBLISHED, POSTED, AND DISTRIBUTED IN COMPLIANCE WITH THE SOUTH CAROLINA FREEDOM OF INFORMATION ACT
4. APPROVAL OF AGENDA
5. APPROVAL OF MINUTES - *September 11, 2023 1st meeting at 11:00 A.M.; September 11, 2023 2nd meeting at 1:00 P.M.; September 11, 2023 3rd meeting at 5:00.*
6. ADMINISTRATOR'S REPORT
7. PROCLAMATION PRESENTATION TO THE YOUNG MARINES RECOGNIZING RED RIBBON WEEK - Chairman Passiment
8. PROCLAMATION PRESENTATION TO THE COMMUNITY SERVICES / BEAUFORT COUNTY ALCOHOL AND DRUG ABUSE DIVISION RECOGNIZING RED RIBBON WEEK - Chairman Passiment
9. PROCLAMATION RECOGNIZING THE PENN CENTER'S 39TH ANNUAL HERITAGE DAYS CELEBRATION - Council Member Glover
10. PRESENTATION BY THE COASTAL COMMUNITY DEVELOPMENT CORPORATION (CCDC) WORKFORCE HOUSING FUNDING - *Alan Wolf, Chairman of the CCDC/President of the Serg Restaurant Group & Carletha Frazier, Program Manager for CCDC*

CITIZEN COMMENTS

11. CITIZEN COMMENT PERIOD - 15 MINUTES TOTAL

Anyone who wishes to speak during the Citizen Comment portion of the meeting will limit their comments to AGENDA ITEMS ONLY and speak no longer than three (3) minutes. Speakers will address Council in a respectful manner appropriate to the decorum of the meeting, refraining from the use of profane, abusive, or obscene language. In accordance with Beaufort County's Rules and Procedures, giving of a speaker's time to another is not allowed.

COMMITTEE REPORTS

12. LIASION AND COMMITTEE REPORTS

PUBLIC HEARINGS AND ACTION ITEMS

13. APPROVAL OF CONSENT AGENDA

14. PUBLIC HEARING AND SECOND READING OF AN ORDINANCE AUTHORIZING THE INTERIM COUNTY ADMINISTRATOR TO EXECUTE ANY AND ALL DOCUMENTS NECESSARY TO ACCEPT RIGHT OF WAY ON DIANAH'S DRIVE

Vote at First Reading on October 9, 2023- 8:0

15. PUBLIC HEARING AND SECOND READING OF AN ORDINANCE AUTHORIZING THE INTERIM COUNTY ADMINISTRATOR TO ENTER INTO A LEASE AGREEMENT FOR REAL PROPERTY LOCATED AT 30 HUNTER ROAD WITH EDISON FOARD, INC. **(FISCAL IMPACT: Hilton Head Island Airport will receive income generated through lease revenue --Tenant shall pay \$1,390.00 for office space (814 square feet x \$20.50/12) and \$1,698 for warehouse space (1,406 square feet x \$14.50/12) in monthly base rental payments for premises located at 30 Hunter Rd. These lease rates are in accordance with current Beaufort County lease policies)**

Vote at First Reading on October 9, 2023- 8:0

16. PUBLIC HEARING AND SECOND READING OF AN ORDINANCE AUTHORIZING THE INTERIM COUNTY ADMINISTRATOR TO ENTER INTO A LEASE AGREEMENT FOR REAL PROPERTY LOCATED AT 39 AIRPORT CIRCLE WITH HIGH TIDE AVIATION SCENIC TOURS **(FISCAL IMPACT: Beaufort Executive Airport will receive income generated through fuel sales, the airport's standard 3% operating agreement, and lease revenue --Tenant shall pay \$231.00 (140 square feet x \$19.80/12) in monthly base rental payments for premises located at the Beaufort Executive Airport terminal. These lease rates are in accordance with current Beaufort County lease policies)**

Vote at First Reading on October 9, 2023- 8:0

17. FIRST READING OF AN ORDINANCE TO AMEND BEAUFORT COUNTY'S FISCAL YEAR 2024 BUDGET ORDINANCE (ORDINANCE NO. 2023/22) TO PROVIDE ROLLOVER APPROPRIATIONS IN THE AMOUNT OF \$3,432,768 FROM THE CAPITAL IMPROVEMENT FUND (FUND 1040) FOR CAPITAL IMPROVEMENT PROJECTS APPROVED BUT NOT COMPLETED IN FISCAL YEAR 2023 **(FISCAL IMPACT: This will increase the Capital Improvement Fund's budget from \$21,232,455 to \$24,665,223. There will be a balance of \$703,423 remaining in Fund Balance should 100% of all budgeted line items be expended FY'24)**

18. FIRST READING OF AN ORDINANCE ADOPTING AMENDMENTS TO THE BUSINESS AND PROFESSIONAL LICENSES ORDINANCE CHAPTER 18, ARTICLE III, SECTION 18-67 (A) (B), APPENDIX A&B **(FISCAL IMPACT: Updated Rate Schedule will have a minor fiscal revenue impact.)**

19. FIRST READING OF AN ORDINANCE RATIFYING THE SALARIES FOR VARIOUS ELECTED OFFICIALS AND TO AMEND SECTION 2-347 OF THE BEAUFORT COUNTY CODE OF LAWS ESTABLISHING THE SALARIES FOR

VARIOUS ELECTED AND APPOINTED OFFICIALS (**FISCAL IMPACT: Potential salary amounts owed totals \$45,417.78 to be paid from the payroll contingency account**)

Vote at First Reading on September 25, 2023 - (send back to Finance, Administration, and Economic Development Committee) 6:4

Vote at Finance, Administration, & Economic Development Committee on October 16, 2023- 7:0

- [20.](#) APPROVAL OF A RESOLUTION AUTHORIZING THE INTERIM COUNTY ADMINISTRATOR TO ENTER INTO A MEMORANDUM OF AGREEMENT WITH THE TOWN OF PORT ROYAL FOR MAINTENANCE OF COUNTY OWNED PROPERTY KNOWN AS CHERRY HILL PARK (R112 032 000 0637 0000, R112 032 000 0008 0000 and R112 032 000 0064 0000)
- [21.](#) APPROVAL OF A RESOLUTION TO APPROVE RECOMMENDATIONS TO AWARRD FY24 COMMUNITY SERVICES GRANT PROGRAM FUNDS IN THE AMOUNT OF \$398,000 TO COMMUNITY SERVICES ORGANIZATIONS (**FISCAL IMPACT: Awarding \$398,000 of funds which Council appropriated in FY24 to community services organizations- account 10001598-556600 Together for Beaufort County/Public Welfare Subsidies**)

CITIZEN COMMENTS

22. CITIZEN COMMENT PERIOD- 15 MINUTES TOTAL

Anyone who wishes to speak during the Citizen Comment portion of the meeting will limit their comments and speak no longer than three (3) minutes. Speakers will address Council in a respectful manner appropriate to the decorum of the meeting, refraining from the use of profane, abusive, or obscene language. In accordance with Beaufort County's Rules and Procedures, giving of a speaker's time to another is not allowed.

EXECUTIVE SESSION

- 23. PURSUANT TO S. C. CODE OF LAWS SECTION 30-4-70(A)(2) DISCUSSION OF CONTRACTUAL ARRANGEMENTS AND OTHER MATTERS COVERED BY THE ATTORNEY-CLIENT PRIVILEGE (INQUIRIES AND INVESTIGATIONS PURSUANT TO S. C. CODE SECTION 4-9-660)

END OF EXECUTIVE SESSION

- 24. MATTERS ARISING OUT OF EXECUTIVE SESSION
- 25. ADJOURNMENT

CONSENT AGENDA

Items Originating from the Community Services and Land Use Committee

1. THIRD READING OF AN ORDINANCE FOR A PROPOSED TEXT AMENDMENT TO ARTICLE 7, DIVISION 7.4, SECTION 7.4.50 (PUBLIC HEARING SCHEDULING AND NOTICE) AND SECTION 7.4.70 (PUBLIC HEARING PROCEDURES) TO CLARIFY THAT PUBLIC COMMENT IS NOT TAKEN FOR APPEALS TO THE PLANNING COMMISSION OR THE ZONING BOARD OF APPEALS

Vote at First Reading on September 25, 2023- 11:0

Vote at Public Hearing and Second Reading on October 9, 2023- 8:0

2. THIRD READING OF AN ORDINANCE ADOPTING AMENDMENTS TO CH 38. ARTICLE II. TRASH AND LITTER CONTROL OF THE BEAUFORT COUNTY CODE OF ORDINANCES

Vote at First Reading on September 25, 2023- 11:0

Vote at Public Hearing and Second Reading on October 9, 2023- 8:0

3. THIRD READING OF AN ORDINANCE ADOPTING AMENDMENTS TO CHAPTER 62, SOLID WASTE, BEAUFORT COUNTY CODE OF ORDINANCES

Vote at First Reading on September 25, 2023- 11:0

Vote at Public Hearing and Second Reading on October 9, 2023- 8:0

Items Originating from the Finance, Administration, and Economic Development Committee

4. AGENCIES, BOARDS, AND COMMISSIONS APPOINTMENTS & REAPPOINTMENTS - (Board of Assessment Appeals, Planning Commission, & Disabilities and Special Needs)

END OF CONSENT AGENDA

TO WATCH COMMITTEE OR COUNTY COUNCIL MEETINGS OR FOR A COMPLETE LIST OF AGENDAS AND BACKUP PACKAGES, PLEASE VISIT:

<https://beaufortcountysc.gov/council/council-committee-meetings/index.html>



Special Called Meeting of County Council Beaufort County, SC

Council Chambers, Administration Building Beaufort County Government Robert Smalls
Complex 100 Ribaut Road, Beaufort

Monday, September 11, 2023
11:00 AM

MINUTES

Watch the video stream available on the County's website to hear the Council's discussion of a specific topic or the complete meeting. <https://beaufortcountysc.new.swagit.com/videos/271187>

1. CALL TO ORDER

Chairman Passiment called the meeting to order at 11:00 a.m.

PRESENT

Chairman Joseph F. Passiment
Vice-Chairman Lawrence McElynn
Council Member David P. Bartholomew
Council Member Paula Brown
Council Member Logan Cunningham
Council Member Gerald Dawson
Council Member York Glover
Council Member Alice Howard (arrived late)
Council Member Mark Lawson
Council Member Anna Maria Tabernik
Council Member Thomas Reitz

2. PLEDGE OF ALLEGIANCE

Chairman Passiment led the Pledge of Allegiance.

3. FOIA

Chairman Passiment noted that public notification of this meeting had been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act.

4. APPROVAL OF AGENDA

Motion: It was moved by Council Member Cunningham, seconded by Council Member Bartholomew, to approve the agenda.

The Vote - The motion was approved without objection.

5. PUBLIC HEARING RELATED TO AN EMPLOYEE REGULATED BY COUNTY COUNCIL (ERIC GREENWAY) PURSUANT TO SOUTH CAROLINA CODE OF LAWS SECTION 4-9-620

Please watch the video stream available on the County's website to view the full discussion.

<https://beaufortcountysc.new.swagit.com/videos/271187?ts=118>

Chairman Passiment explained that Section 4-9-620 provides that if the Council determines to remove the County Administrator, he shall be given a written statement of the reasons alleged for the proposed removal and the right to a hearing at a public meeting of the Council.

Chairman Passiment noted that the following documents were placed into the record for the purposes of the public hearing:

1. Council's notice of removal (dated July 28, 2023)
2. Mr. Greenway's request for a public hearing (dated August 3, 2023)
3. Council's notice of specific reasons for termination and offer to propose the public hearing (dated August 14, 2023)
4. Proof of delivery for Council's notice (dated August 14, 2023)
5. Mr. Greenway's request to postpone the public hearing (document dated August 19, 2023; email received by County Attorney Keaveny on August 21, 2023)
6. Mr. Greenway's email requesting postponement (August 21, 2023)
7. Mr. Greenway's signed declaration (dated September 6, 2023)

Chairman Passiment explained that the public hearing is not a forum to review the Council's decision to terminate Mr. Greenway's employment, as the Council does not have a burden of proof at this hearing and is not under an obligation to review the termination decision. Chairman Passiment added that Mr. Greenway has a right to present witnesses and evidence to show the public his version. Chairman Passiment also noted that the Council's August 14 notice provided specific reasons for termination so that Mr. Greenway could fashion a response.

Chairman Passiment listed the reasons for termination provided in the August 14 notice, including the Elementzal LLC Contract and Lisa Lynch's employment. The August 14 notice can be found in the September 11th Special Called Meeting of County Council's agenda packet: <https://www.beaufortcountysc.gov/council/council-committee-meetings/index.html>

Paul Porter provided a presentation on behalf of Mr. Greenway, explaining his September 6th declaration, the procedural timeline, and issues cited for termination. Mr. Porter addressed the hiring of Elementzal LCC, noting that Mr. Greenway relied on experts within County staff for decisions on procurement and hiring and that he did not have a financial interest in the opioid education contract. Mr. Porter also shared praise received by Mr. Greenway during his tenure as County Administrator. The full presentation can be found in the September 11th Special Called Meeting of County Council's agenda packet: <https://www.beaufortcountysc.gov/council/council-committee-meetings/index.html>

Motion: It was moved by Council Member Tabernik, seconded by Council Member Bartholomew to affirm Council's decision of July 28, 2023, to terminate Mr. Greenway with cause for the reasons set forth in Council's letter of August 14, 2023.

The Vote - The motion was approved without objection.

6. ADJOURNMENT

Adjourned: 11:33 a.m.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Joseph F. Passiment, Jr., Chairman

ATTEST:

Sarah W. Brock, Clerk to Council
Ratified:



Special Called Meeting of County Council Beaufort County, SC

Council Chambers, Administration Building Beaufort County Government Robert Smalls
Complex 100 Ribaut Road, Beaufort

Monday, September 11, 2023
1:00 PM

MINUTES

Watch the video stream available on the County's website to hear the Council's discussion of a specific topic or the complete meeting. <https://beaufortcountysc.new.swagit.com/videos/271138>

1. CALL TO ORDER

Chairman Passiment called the meeting to order at 1:00 p.m.

PRESENT

Chairman Joseph F. Passiment
Vice-Chairman Lawrence McElynn
Council Member David P. Bartholomew
Council Member Paula Brown
Council Member Logan Cunningham
Council Member Gerald Dawson (arrived late)
Council Member Alice Howard
Council Member Mark Lawson
Council Member Anna Maria Tabernik
Council Member Thomas Reitz

ABSENT

Council Member York Glover

2. PLEDGE OF ALLEGIANCE

Chairman Passiment led the Pledge of Allegiance.

3. FOIA

Chairman Passiment noted that public notification of this meeting had been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act.

4. APPROVAL OF AGENDA

Motion: It was moved by Vice-Chairman McElynn, seconded by Council Member Cunningham, to approve the agenda.

The Vote - The motion was approved without objection.

5. EXECUTIVE SESSION

PURSUANT TO S. C. CODE OF LAWS SECTION 30-4-70(A)(2) DISCUSSION OF CONTRACTUAL ARRANGEMENTS AND OTHER MATTERS COVERED BY THE ATTORNEY-CLIENT PRIVILEGE (INQUIRIES AND INVESTIGATIONS PURSUANT TO S. C. CODE SECTION 4-9-660)

Motion: It was moved by Vice-Chairman McElynn, seconded by Council Member Tabernik, to enter into an executive session to discuss contractual arrangements and other matters covered by the attorney-client privilege (inquiries and investigations pursuant to S.C. Code Section 4-9-660).

The Vote - The motion was approved without objection.

The executive session took place from 1:02 p.m. to 2:26 p.m.

6. MATTERS ARISING OUT OF EXECUTIVE SESSION

Motion: It was moved by Vice-Chairman McElynn, seconded by Council Member Reitz, to authorize the County Council to engage the Firm of Haynsworth Sinkler Boyd and to sign our letter of engagement.

The Vote - The motion was approved without objection.

7. ADJOURNMENT

Adjourned: 2:28 p.m.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Joseph F. Passiment, Jr., Chairman

ATTEST:

Sarah W. Brock, Clerk to Council
Ratified:



County Council Meeting Beaufort County, SC

Council Chambers, Administration Building Beaufort County Government Robert Smalls
Complex 100 Ribaut Road, Beaufort

Monday, September 11, 2023
5:00 PM

MINUTES

Watch the video stream available on the County's website to hear the Council's discussion of a specific topic or the complete meeting. <https://beaufortcountysc.new.swagit.com/videos/271144>

1. CALL TO ORDER

Chairman Passiment called the meeting to order at 5:00 p.m.

PRESENT

Chairman Joseph F. Passiment
Vice-Chairman Lawrence McElynn
Council Member David P. Bartholomew
Council Member Paula Brown
Council Member Logan Cunningham
Council Member Gerald Dawson
Council Member Alice Howard
Council Member Mark Lawson
Council Member Anna Maria Tabernik
Council Member Thomas Reitz

ABSENT

Council Member York Glover

2. PLEDGE OF ALLEGIANCE AND INVOCATION

Chairman Passiment led the Pledge of Allegiance and the Invocation.

3. FOIA

Chairman Passiment noted that public notification of this meeting had been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act.

4. APPROVAL OF AGENDA

Chairman Passiment commented that item number one on the consent agenda currently states that the \$350,000 the County would use the general fund to pay for the investigations, reviews, and audits, but that it needs to be changes to reflect that the payment will come from the fund balance instead of the general fund.

Motion: It was moved by Council Member Tabernik, seconded by Vice-Chairman McElynn, to amend item number one on the consent agenda to change the words "General Fund" to "fund balance."

The Vote - The motion was approved without objection.

Main Motion: It was moved by Council Member Dawson, seconded by Council Member Brown, to approve the agenda as amended.

The Vote - The motion was approved without objection.

5. APPROVAL OF MINUTES

Motion: It was moved by Council Member Howard, seconded by Council Member Brown, to approve the minutes of July 10, 2023.

The Vote - The motion was approved without objection.

6. ADMINISTRATOR'S REPORT

Please watch the video stream available on the County's website to view the full report.

<https://beaufortcountysc.new.swagit.com/videos/271144?ts=267>

Interim County Administrator Robinson recognized Finance Specialist Vicki Prescott with Disabilities and Special Needs, and Denise Christmas as the new interim Deputy County Administrator. Mr. Robinson also highlighted three new employees, including the Executive Director of the Alcohol and Drug Department Rebecca Burgess, Public Information Officer Hannah Nichols, and Passive Parks Naturalist Destiney Rains.

7. PROCLAMATION RECOGNIZING CONSTITUTION WEEK

Please watch the video stream available on the County's website to view the full presentation.

<https://beaufortcountysc.new.swagit.com/videos/271144?ts=795>

Council Member Bartholomew presented a proclamation recognizing the week of September 17th to 23rd as Constitution Week, which was received by the Thomas Heyward Chapter of the Daughters of the American Revolution (DAR).

8. PROCLAMATION RECOGNIZING NATIONAL ESTUARIES WEEK

Please watch the video stream available on the County's website to view the full presentation.

<https://beaufortcountysc.new.swagit.com/videos/271144?ts=959>

Council Member Bartholomew presented a proclamation recognizing the week of September 16th to 23rd as National Estuaries Week, which was received by a representative from Pritchards Island Living Laboratory.

9. PROCLAMATION FOR NATIONAL RECOVERY MONTH

Please watch the video stream available on the County's website to view the full presentation.

<https://beaufortcountysc.new.swagit.com/videos/271144?ts=1078>

Vice-Chairman McElynn presented a proclamation recognizing September as National Recovery Month.

10. CITIZEN COMMENT PERIOD

Please watch the video stream available on the County's website to view the full comments.

<https://beaufortcountysc.new.swagit.com/videos/271144?ts=1371>

1. Grant McClure
2. Hope Cunningham

3. Michael Murphy

11. LIASION AND COMMITTEE REPORTS

Please watch the video stream available on the County's website to view the reports.

<https://beaufortcountysc.new.swagit.com/videos/271144?ts=1768>

Council Member Tabernik commented on the Academy for Career Excellence, which requires twelve million dollars in capital, and Jasper County's concerns about paying for one-third of the Academy's costs while only having eighteen percent of the students. Council Member Tabernik also highlighted the scoring mechanism in the Superintendent's contract and the School Board's referendum meetings about the fund request to be put on the November ballot.

Council Member Cunningham highlighted items on the consent agenda originating from the Public Facilities and Safety Committee, including the purchase of equipment and upgrades for the Hilton Head Island Airport.

12. APPROVAL OF A CONTRACT RENEWAL/EXTENSION AND MODIFICATION WITH HAIG POINT CLUB AND COMMUNITY ASSOCIATION FERRY COMPANY ("HAIG POINT") (FISCAL IMPACT: County Council appropriated \$375,000 to cover the Ferry Service contract for all of FY24 as part of the budget)

Motion: It was moved by Council Member Lawson, seconded by Council Member Howard, to approve a contract renewal/extension and modification with Haig Point Club and Community Association Ferry Company ("Haig Point").

The Vote - Voting Yea: Chairman Passiment, Vice-Chairman McElynn, Council Member Brown, Council Member Howard, Council Member Lawson, and Council Member Reitz. Voting Nay: Council Member Bartholomew, Council Member Cunningham, Council Member Dawson, and Council Member Tabernik. The motion passed by 6:4.

13. APPROVAL OF CONSENT AGENDA

Motion: It was moved by Council Member Cunningham, seconded by Council Member Brown, to approve the consent agenda.

The Vote - The motion was approved without objection.

14. PUBLIC HEARING AND SECOND READING OF AN ORDINANCE AMENDING BEAUFORT COUNTY CODE OF ORDINANCES CHAPTER 38, ARTICLE VII – GREEN SPACE PROGRAM, TO ESTABLISH SECTION 38-200 - GREEN SPACE ADVISORY COMMITTEE (GSAC) PROGRAM CRITERIA AND APPLICATION PROCESS

Please watch the video stream available on the County's website to view the full discussion.

<https://beaufortcountysc.new.swagit.com/videos/271144?ts=2045>

Motion: It was moved by Council Member Howard, seconded by Vice-Chairman McElynn, to approve the public hearing and second reading of an ordinance amending Beaufort County Code of Ordinances Chapter 38, Article VII - Green Space Program, to establish Section 38-200 - Green Space Advisory Committee (GSAC) Program Criteria and Application Process.

Chairman Passiment opened the floor for public comment.

Jessie White, Coastal Conservation League

The Chairman closed the public comment.

Discussion: Council Member Howard thanked County staff, including the Beaufort County Open Land Trust, for their input on the application procedure and the program.

The Vote - The motion was approved without objection.

15. **PUBLIC HEARING AND APPROVAL OF A RESOLUTION AUTHORIZING THE INTERIM COUNTY ADMINISTRATOR TO EXECUTE THE NECESSARY DOCUMENTS AND PROVIDE FUNDING FOR THE FEE SIMPLE PURCHASE OF REAL PROPERTY WITH TMS NUMBER R112-032-000-0637-0000, R112-032-000-0008-0000, AND R112-032-000-0064-0000 ALSO KNOWN AS CHERRY HILL OAK (FISCAL IMPACT: Up to \$1,550,000 plus closing costs - Rural and Critical Program; Account # 4500)**

Please watch the video stream available on the County's website to view the full discussion.

<https://beaufortcountysc.new.swagit.com/videos/271144?ts=2168>

Motion: It was moved by Council Member Howard, seconded by Council Member Bartholomew, to approve the public hearing and a resolution authorizing the Interim County Administrator to execute the necessary documents and provide funding for the fee simple purchase of real property with TMS Number R112-032-000-0637-0000, R112-032-000-0008-0000, and R112-032-000-0064-0000 also known as Cherry Hill Oak.

Chairman Passiment opened the floor for public comment.

Kevin Phillips, Port Royal Town Council

The Chairman closed the public comment.

The Vote - The motion was approved without objection.

16. **APPROVAL OF A RESOLUTION AUTHORIZING THE INTERIM COUNTY ADMINISTRATOR TO ACCEPT A MONETARY DONATION TO BE USED FOR THE MAINTENANCE OF THE PROPERTY KNOWN AS CHERRY HILL OAK**

Motion: It was moved by Council Member Howard, seconded by Council Member Bartholomew, to approve a resolution authorizing the Interim County Administrator to accept a monetary donation to be used for the maintenance of the property known as Cherry Hill Oak.

Discussion: Chairman Passiment noted that the County is purchasing the Cherry Hill Oak property and that the current owners are donating \$50,000 for maintenance.

The Vote - The motion was approved without objection.

17. **FIRST READING OF AN ORDINANCE AUTHORIZING THE HILTON HEAD NO. 1 PUBLIC SERVICE DISTRICT, SOUTH CAROLINA TO ISSUE NOT EXCEEDING \$23,000,000 OF GENERAL OBLIGATION BONDS; AND PROVIDING FOR OTHER MATTERS RELATED THERETO**

Motion: It was moved by Vice-Chairman McElynn, seconded by Council Member Tabernik, to approve the first reading of an ordinance authorizing the Hilton Head No. 1 Public Service District, South Carolina to issue not exceeding \$23,000,000 of general obligation bonds; and providing for other matters related thereto.

The Vote - The motion was approved without objection.

18. **APPROVAL OF A RESOLUTION ORDERING A PUBLIC HEARING TO BE HELD ON THE ISSUANCE OF NOT EXCEEDING \$23,000,000 AGGREGATE PRINCIPAL AMOUNT OF GENERAL OBLIGATION BONDS OF THE HILTON HEAD NO. 1 PUBLIC SERVICE DISTRICT, SOUTH CAROLINA; PROVIDING FOR THE PUBLICATION OF THE NOTICE OF SUCH PUBLIC HEARING; AND OTHER MATTERS RELATING THERETO**

Motion: It was moved by Vice-Chairman McElynn, seconded by Council Member Cunningham, to approve a resolution ordering a public hearing to be held on the issuance of not exceeding \$23,000,000 aggregate principal amount of general obligation bonds of the Hilton Head No1 Public Service District, South Carolina; providing for the publication of the notice of such public hearing; and other matters relating thereto.

The Vote - The motion was approved without objection.

19. APPROVAL OF A RESOLUTION TO APPROVE THE HILTON HEAD ISLAND AIRPORT COST RECOVERY MODEL AND REVISED AIRLINE RATES (*FISCAL IMPACT: \$500,000 positive revenue*)

Motion: It was moved by Council Member Cunningham, seconded by Council Member Reitz, to approve a resolution to approve the Hilton Head Island Airport Cost Recovery Model and Revised Airline Rates.

The Vote - The motion was approved without objection.

20. APPROVAL OF A RESOLUTION TO ACCEPT SC AERONAUTICS COMMISSION GRANT OFFER 23-029 FOR \$12,000,000 FOR HXD TERMINAL IMPROVEMENTS (*FISCAL IMPACT: no fiscal impact*)

Motion: It was moved by Council Member Cunningham, seconded by Council Member Reitz, to approve a resolution to accept SC Aeronautics Commission Grant Offer 23-029 for \$12,000,000 for HXD Terminal Improvements.

The Vote - The motion was approved without objection.

21. APPROVAL OF A RESOLUTION BY THE BEAUFORT COUNTY COUNCIL AUTHORIZING THE BEAUFORT EXECUTIVE AIRPORT FACILITY USE RATE CHANGES (ARW) FACILITY USE RATE CHANGES (*FISCAL IMPACT: Associated Airport Revenue \$71,434.00 FY23 and \$100,000.00 estimated FY24*)

Please watch the video stream available on the County's website to view the full discussion.

<https://beaufortcountysc.new.swagit.com/videos/271144?ts=2451>

Motion: It was moved by Vice-Chairman McElynn, seconded by Council Member Dawson, to approve a resolution by the Beaufort County Council authorizing the Beaufort Executive Airport facility use rate changes (ARW) facility use rate changes.

Discussion: Vice-Chairman McElynn explained the increase in monthly hanger rent and aircraft tie-down rates, which were unanimously approved by the Airport Board.

The Vote - The motion was approved without objection.

22. APPROVAL OF A RESOLUTION AND AN INTERIM LETTER OF AGREEMENT FOR SHUTTLE SERVICES BETWEEN BEAUFORT COUNTY AND THE BEST OF HILTON HEAD (*FISCAL IMPACT: Hilton Head Island Airport will receive a monthly fee of \$1.00 per passenger*)

Motion: It was moved by Council Member Cunningham, seconded by Council Member Reitz, to approve a resolution and an Interim Letter of Agreement for shuttle services between Beaufort County and The Best of Hilton Head.

The Vote - The motion was approved without objection.

23. CITIZEN COMMENT PERIOD

Please watch the video stream available on the County's website to view the full comments.

<https://beaufortcountysc.new.swagit.com/videos/271144?ts=2565>

1. Tony Criscitiello
2. Roy Brown
3. Teresa White
4. Lee Grenade
5. John Schartner

24. EXECUTIVE SESSION

PURSUANT TO S. C. CODE SECTION 30-4-70(A)(2) TO RECEIVE LEGAL ADVICE WHERE THE ADVICE RELATES TO PENDING LITIGATION (BEAUFORT COUNTY V JAMES BECKERT)

PURSUANT TO S. C. CODE SECTION 30-4-70(A)(2) TO RECEIVE LEGAL ADVICE WHERE THE ADVICE RELATES TO PENDING LITIGATION (PINE ISLAND PROPERTY HOLDINGS LLC, ET AL. V BEAUFORT COUNTY)

Motion: It was moved by Council Member Cunningham, seconded by Vice-Chairman McElynn, to enter into an executive session.

The Vote - The motion was approved without objection.

25. MATTERS ARISING OUT OF EXECUTIVE SESSION

<https://beaufortcountysc.new.swagit.com/videos/271144?ts=3460>

No matters arose out of the executive session.

Skip Hoagland was provided three minutes to speak.

26. ADJOURNMENT

Adjourned: 6:48 p.m.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Joseph F. Passiment, Jr., Chairman

ATTEST:

Sarah W. Brock, Clerk to Council
Ratified:

~ Proclamation ~

Whereas, communities across America have been plagued by the numerous problems associated with illicit drug use and those that traffic in them; and

Whereas, there is hope in winning the war on drugs, and that hope lies in education and drug demand reduction, coupled with the hard work and determination of organizations such as the Young Marines of the Marine Corps League

Whereas, one of the pillars of the Young Marine program is to lead positive, drug-free lifestyles and to educate and encourage others to do the same; and

Whereas, Young Marine units are mandated to teach a standardized curriculum that focuses on Gateway Drugs but also stays current with drugs that affect our youth; and

Whereas, Young Marines participate year-round in community projects and events that focus on reducing and eliminating drug abuse by our youth; and

Whereas, governments and community leaders know that citizen support is one of the most effective tools in the effort to reduce the use of illicit drugs in our communities; and

Whereas, the red ribbon has been chosen as a symbol commemorating the work of Enrique "Kiki" Camarena, a Drug Enforcement Administration agent who was murdered in the line of duty, and represents the belief that one person can make a difference; and

Whereas, the Red Ribbon Campaign was established by Congress in 1988 to encourage a drug-free lifestyle and involvement in drug prevention and reduction efforts; and

Whereas, October 23-31 has been designated National Red Ribbon Week, which encourages Americans to wear a red ribbon to show their support for a drug-free environment;

Now, therefore, be it resolved, that Beaufort County Council recognizes the Young Marines during Red Ribbon Week for their efforts in educating the youth all year long through various events and community projects.



Dated this 23rd day of October 2023.

A handwritten signature in blue ink that reads "Joseph F. Passiment".

Joseph F Passiment, Chairman
Beaufort County Council

~ Proclamation ~

Whereas, alcohol and drug abuse affect individuals, families, and communities across the nation; and

Whereas, it is imperative that visible, unified efforts by community members be launched to prevent drug abuse; and

Whereas, there is hope in winning the war on drugs, and that hope lies in education and drug demand reduction, coupled with the hard work and determination of organizations such as the Beaufort County Alcohol and Drug Abuse's Prevention Department to foster a healthy, drug-free lifestyle; and

Whereas, governments and community leaders know that citizen support is one of the most effective tools in the effort to reduce the use of illicit drugs and other drug misuse in our communities; and

Whereas, the red ribbon has been chosen as a symbol commemorating the work of Enrique "Kiki" Camarena, a Drug Enforcement Administration agent who was murdered in the line of duty, and represents the belief that one person can make a difference; and

Whereas, the Red Ribbon Campaign was established by Congress in 1988 to encourage a drug-free lifestyle and involvement in drug prevention and misuse reduction efforts; and

Whereas, October 23-31 has been designated National Red Ribbon Week, which encourages Americans to wear a red ribbon to show their support for a drug-free environment; and

Now, therefore be it resolved, that Beaufort County Council hereby proclaim October 23-31, 2023, and encourage citizens of Beaufort County to participate in drug prevention education activities, not only during Red Ribbon Week, but also throughout the year, making a visible statement that we are strongly committed to a drug-free lifestyle.



"Red Ribbon Week"

Dated this 23rd Day of October 2023

Joseph F. Passiment, Chairman
Beaufort County Council

[Handwritten signature]

~ Proclamation ~

Whereas, the idea of a Penn Center Heritage Days Celebration was born in August of 1981 because many individuals and institutions of Beaufort County's Sea Islands have been touched by the activities of Penn School, now Penn Center, and because Penn Center has been instrumental in preserving and strengthening the Sea Island culture; and

Whereas, Penn Center Heritage Days has become a significant event, drawing more than 12,000 visitors; and

Whereas, Penn Center Heritage Days Celebration is an effort to expose the public to Penn School, Sea Islands' history and culture, and various African traditions that continue today; and

Whereas, Penn Center Heritage Days Celebration has grown from a one-day event to three days of festive songs, food, performances, and exhibits; and

Whereas, in 1983, the Heritage Parade from St. Helena Elementary School to the Penn Center Historic Landmark District was established.

Whereas, the theme for this year is "Honoring Our Past, Inspiring Our Future, Stand Up for Justice" and celebrating the legacy of St. Helena's own Sam Doyle; and

Whereas, Sam Doyle was born in 1906 in Wallace Plantation on St. Helena Island, South Carolina, and passed away in 1985 in Beaufort, South Carolina; and

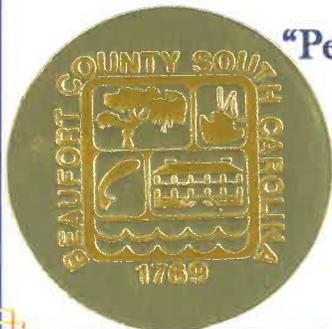
Whereas, Sam Doyle attended the Penn Center School, and despite his artistic talent, he dropped out of school in ninth grade to find work; and

Whereas, after retiring and dedicating himself to painting in the 1970s, Sam Doyle came to national attention with the Black Folk Art in America, 1930-1980 exhibition in 1982; and

Whereas, Sam Doyle is known for his paintings on pieces of roofing tin, painted mostly in enamel house paint, depicting accomplishments of the first black doctor, policeman, or embalmer.

Now, therefore, be it resolved, Beaufort County Council proclaims November 9th through November 11th as

"Penn Center 39th Heritage Days Celebration Week"



Dated this 23rd day of October 2023.

Joseph Passiment

 Joseph Passiment, Chairman
 Beaufort County Council



<https://ccdc-sc.org/>

WHO
We Are



WHAT
we are doing.

Coastal Community Development Corporation Mission

The Coastal Community Development Corporation (CCDC) seeks to increase the availability of homes for our local and regional workforce by preserving existing housing, redeveloping existing property and developing new property to meet the demand of our region while serving working residents.

Mechanisms to Serve Workforce



Targeted rents that serve 50%-150% AMI



Units will be deed restricted for 99 years



Application process will ensure workers have first access to CCDC owned housing inventory in the community they work in



No short term rentals, i.e. AIR BnB



WHY
we are
doing it.

The Challenge:

Resident quality of life on throughout the Lowcountry is at risk due to workforce housing.

Ensuring Resident Quality of Life



Housing Needs Assessment

- Released in April 2018
- Identified the necessary additional rental units in Beaufort County markets
- Broke out 2017-2022 and 2017-2027 targets

Beaufort County, South Carolina Housing Needs Assessment

FINAL

Prepared For:

Beaufort County Purchasing Department
106 Industrial Village Road, Building #2
Beaufort, SC 29906-4291

Prepared By:

Bowen National Research
Author: Patrick M. Bowen, President
155 E. Columbus Street, Ste. 220
Pickerington, Ohio 43147
(614) 833-9300
patrickb@bowennational.com

Effective Date

April 6, 2018
Revised: May 24, 2018

Long-Term (2017-2027) Rental Demand Projections

Item 10.

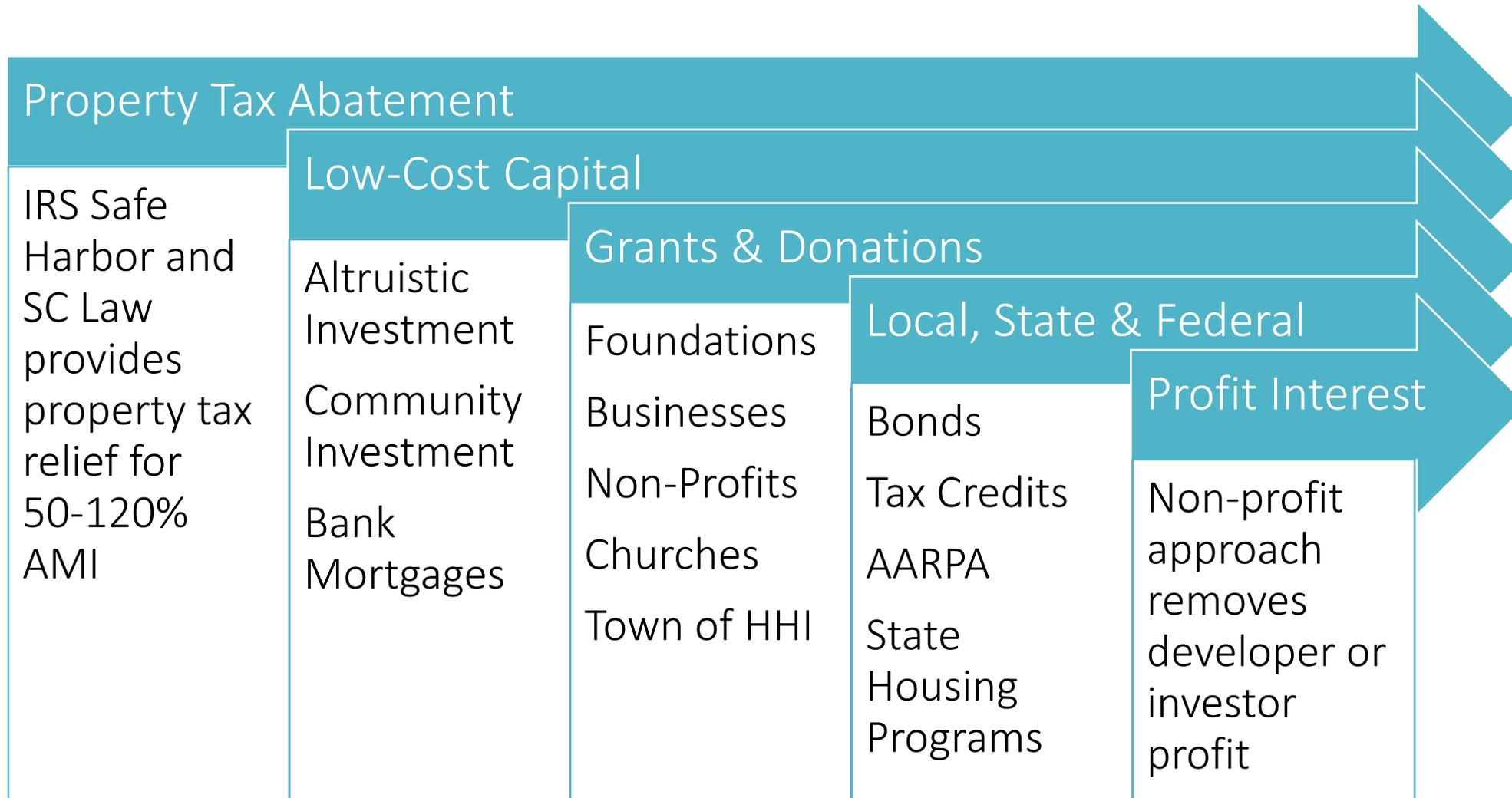
2017 - 2027 Rental Demand Potential by Income Level & Rent Beaufort County, South Carolina Primary Study Area

Household Income Range	< \$20k	\$20k-\$34k	\$35k-\$59k	\$60k-\$84k	\$85k+
Rent Affordability	< \$500	\$500-\$874	\$875-\$1,474	\$1,475-\$2,099	\$2,100+
I. Growth Demand (Household-Based):					
2017 Renter Households	4,079	4,115	6,381	4,020	3,650
2027 Total Estimated Renter Households	4,965	4,285	7,359	4,978	4,872
New Renter Household Growth Over Projection Period (10 Years)	886	170	978	958	1,222
II. Total Units Needed For Balanced Market					
2017 Occupied Rental Housing Units	4,079	4,115	6,381	4,020	3,650
Percent of Vacant Units Required to Reach a Balanced Market	3.0%	5.0%	5.0%	5.0%	5.0%
Estimated Vacant Units for Balanced Market	126	217	336	212	192
Estimated Vacant Units Currently in Market*	0	0	84	132	121
Additional/Fewer Rental Housing Units Needed for Balanced Market	126	217	252	80	71
III. New Household Formations					
Total Occupied Rental Units in 2017	4,079	4,115	6,381	4,020	3,650
Estimated Share of Overcrowded or Multigenerational Housing**	6.0%	6.0%	6.0%	6.0%	6.0%
Total Potential Household Formation	245	247	383	241	219
IV. Replacement Housing					
Total Occupied Rental Units in 2017	4,079	4,115	6,381	4,020	3,650
Percent of Replacement Housing Needed ***	3.3%	3.3%	3.3%	3.3%	3.3%
Total Replacement Housing Needed	135	136	211	133	121
V. External Market Support					
Total Internal Market Demand (From II to IV)	506	600	846	454	411
Percent of Housing Support Expected to Originate Outside of PSA^	10%	10%	10%	10%	10%
Total Potential External Market Support for Rental Housing	51	60	85	45	41
VI. Housing Needs Summary					
New Income-Qualified Renter Household	886	170	978	958	1,222
Units Needed for Balanced Market	126	217	252	80	71
New Household Formations	245	247	383	241	219
Replacement Housing Needed	135	136	211	133	121
Total External Market Support	51	60	85	45	41
Gross Demand of Units Needed	1,443	830	1,909	1,457	1,014
Units in the Development Pipeline (Planned Projects)	-19	-201	-565	-599	650
Total Potential PSA (Beaufort County) Support for New Units	1,424	629	1,344	858	1,014



HOW
we are
doing it.

Cost Curve Bending Strategies



Phased Approach

Phase One – 13 Units on Hilton Head Island

- Focus on purchase of Naturally Occurring Affordable Housing (NOAH)
 - This product is already in the market with high demand for rental units
 - Utilize local community partners in proof-of-concept effort

Phase Two – BJHT 42 Units across Beaufort / Jasper County

- Utilize local community partners and private investment in a Social Impact Fund

Phase Three – 25 Units on Hilton Head Island

- Utilize local community partners and private investment in a Social Impact Fund

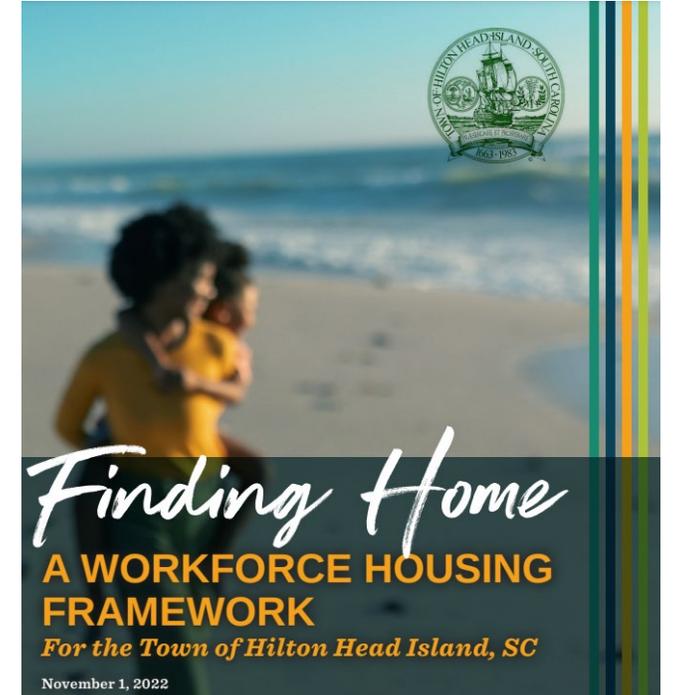
Phase Four

- Work towards increasing capital sources and begin purchasing existing apartment complexes, additional stand alone units and raw land for development
- Maximize balance sheet strength to seek out larger projects with more varied sources of capital
- Expand sources of capital through state, federal and private enterprise

CCDC Phased Approach

Phase One – 13 Units on Hilton Head Island

- Submitted formal request for \$600K of funds
- Targeting 13 units on Hilton Head Island
- \$3.0m total budget for acquisition



Phase 1 Details: Hilton Head Island

Item 10.

	MLS	Community	Address	Address 2	BR	Full Bath	Half Bath	Year Built	List Price	Sale Price	Down Payment 40%	Mortgage 60%	Annual Loan Payment P&I
1	432932	The Oaks	400 Wm Hltn Pkwy	#4	1	1	0		\$ 175,000.00	\$ 166,250.00	\$ 66,500.00	\$ 99,750.00	\$6,425.75
2	431720	Marsh Side	5 Gumtree Rd	#D8	1	1	0	1984	\$ 224,000.00	\$ 212,800.00	\$ 85,120.00	\$ 127,680.00	\$8,224.97
3	430181	Woodlake	96 Mathews Dr #216	#452B	2	2	1	1982	\$ 230,000.00	\$ 218,500.00	\$ 87,400.00	\$ 131,100.00	\$8,445.28
4	430729	Woodlake	96 Mathews Dr #207	#324B	2	2	0	1982	\$ 275,000.00	\$ 261,250.00	\$ 104,500.00	\$ 156,750.00	\$10,097.61
5	431526	Woodlake	96 Mathews Dr #74	#240C	2	2	1	1982	\$ 230,000.00	\$ 218,500.00	\$ 87,400.00	\$ 131,100.00	\$8,445.28
6	431692	Woodlake	96 Mathews Dr #45	#016B	2	2	0	1982	\$ 230,000.00	\$ 218,500.00	\$ 87,400.00	\$ 131,100.00	\$8,445.28
7	432325	Cotton Hope	155 Dillon Road #242	#2427	2	2	1	1979	\$ 249,000.00	\$ 236,550.00	\$ 94,620.00	\$ 141,930.00	\$9,142.93
8	430215	Cordillo Courts	104 Cordillo Pkwy	#B5	2	1	1	1979	\$ 224,000.00	\$ 212,800.00	\$ 85,120.00	\$ 127,680.00	\$8,224.97
9	432685	Woodlake	96 Mathews Dr #154	#217A	2	2	0	1982	\$ 225,600.00	\$ 214,320.00	\$ 85,728.00	\$ 128,592.00	\$8,283.72
10	432978	Woodlake	96 Mathews Dr #114	#245C	2	2	0	1982	\$ 239,900.00	\$ 227,905.00	\$ 91,162.00	\$ 136,743.00	\$8,808.79
11	431351	Forest Cove	110 Broad Creek Land	#110	2	2	0		\$ 255,000.00	\$ 242,250.00	\$ 96,900.00	\$ 145,350.00	\$9,363.24
12	433238	Forest Cove	110 Broad Creek Land	#41	2	2	0		\$ 285,000.00	\$ 270,750.00	\$ 108,300.00	\$ 162,450.00	\$10,464.80
13	432113	Marsh Side	5 Gumtree Rd	#M-17	2	2	0	1984	\$ 295,000.00	\$ 280,250.00	\$ 112,100.00	\$ 168,150.00	\$10,831.99
					24				\$ 3,137,500.00	\$ 2,980,625.00	\$ 1,192,250.00	\$ 1,788,375.00	\$115,204.60

	MLS	Community	Address	Monthly Regime	Annual Regime	Proposed Monthly Rent	Annual Gross Rent	Rent/BR	MAX AMI	# In Family	Annual MGT Fee 10%
1	432932	The Oaks	400 Wm Hltn Pkwy	\$ 309.00	\$ 3,708.00	\$ 1,383.00	\$ 16,596.00	\$ 1,383.00	80%	1	\$ 1,659.60
2	431720	Marsh Side	5 Gumtree Rd	\$ 452.00	\$ 5,424.00	\$ 1,605.00	\$ 19,260.00	\$ 1,605.00	80%	2	\$ 1,926.00
3	430181	Woodlake	96 Mathews Dr #216	\$ 619.00	\$ 7,428.00	\$ 938.00	\$ 11,256.00	\$ 469.00	50%	2	\$ 1,125.60
4	430729	Woodlake	96 Mathews Dr #207	\$ 619.00	\$ 7,428.00	\$ 1,041.00	\$ 12,492.00	\$ 520.50	50%	3	\$ 1,249.20
5	431526	Woodlake	96 Mathews Dr #74	\$ 619.00	\$ 7,428.00	\$ 1,179.00	\$ 14,148.00	\$ 589.50	50%	4	\$ 1,414.80
6	431692	Woodlake	96 Mathews Dr #45	\$ 619.00	\$ 7,428.00	\$ 1,234.00	\$ 14,808.00	\$ 617.00	50%	5	\$ 1,480.80
7	432325	Cotton Hope	155 Dillon Road #2427	\$ 410.00	\$ 4,920.00	\$ 1,600.00	\$ 19,200.00	\$ 800.00	80%	2	\$ 1,920.00
8	430215	Cordillo Courts	104 Cordillo Pkwy	\$ 395.00	\$ 4,740.00	\$ 1,700.00	\$ 20,400.00	\$ 850.00	80%	3	\$ 2,040.00
9	432685	Woodlake	96 Mathews Dr #154	\$ 619.00	\$ 7,428.00	\$ 2,000.00	\$ 24,000.00	\$ 1,000.00	80%	4	\$ 2,400.00
10	432978	Woodlake	96 Mathews Dr #114	\$ 619.00	\$ 7,428.00	\$ 2,100.00	\$ 25,200.00	\$ 1,050.00	80%	5	\$ 2,520.00
11	431351	Forest Cove	110 Broad Creek Landir	\$ 402.00	\$ 4,824.00	\$ 2,400.00	\$ 28,800.00	\$ 1,200.00	120%	2	\$ 2,880.00
12	433238	Forest Cove	110 Broad Creek Landir	\$ 402.00	\$ 4,824.00	\$ 2,600.00	\$ 31,200.00	\$ 1,300.00	120%	3	\$ 3,120.00
13	432113	Marsh Side	5 Gumtree Rd	\$ 477.00	\$ 5,724.00	\$ 2,800.00	\$ 33,600.00	\$ 1,400.00	120%	4	\$ 3,360.00
				\$ 6,561.00	\$ 78,732.00	\$ 22,580.00	\$ 270,960.00				\$ 27,096.00

Sample of MLS listings of for sale units on Hilton Head Island over past 6 months.

12

Phase 1 Hilton Head 13 Unit Model

				Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Item 10.
Cash Receipts														
	Gross Rent	Increase	4.17%	\$ 240,853	\$ 282,259	\$ 294,029	\$ 306,290	\$ 319,063	\$ 332,367	\$ 346,227	\$ 360,665	\$ 375,705	\$ 391,371	
	Interest on Available Cash		2.00%	\$ -	\$ -	\$ 142	\$ 200	\$ 168	\$ 223	\$ 368	\$ 608	\$ 947	\$ 1,390	
Total Cash Receipts				\$ 240,853	\$ 282,259	\$ 294,171	\$ 306,490	\$ 319,231	\$ 332,590	\$ 346,595	\$ 361,273	\$ 376,652	\$ 392,762	
Cash Disbursements for Expenses														
	MGT Fee	Fixed	10.00%	\$ 24,085	\$ 28,226	\$ 29,403	\$ 30,629	\$ 31,906	\$ 33,237	\$ 34,623	\$ 36,066	\$ 37,570	\$ 39,137	
	CCDC Admin Fee	Fixed	2.00%	\$ 4,817	\$ 5,645	\$ 5,881	\$ 6,126	\$ 6,381	\$ 6,647	\$ 6,925	\$ 7,213	\$ 7,514	\$ 7,827	
	Repairs & Maintenance	Fixed	12.00%	\$ 7,226	\$ 16,936	\$ 26,463	\$ 36,755	\$ 38,288	\$ 39,884	\$ 41,547	\$ 43,280	\$ 45,085	\$ 46,965	
	(Y1@3%, Y2@6%, Y3@9%, Y4-Y10@12%)													
	Owners Insurance Units	Increase	7.50%	\$ 8,436	\$ 9,069	\$ 9,749	\$ 10,480	\$ 11,266	\$ 12,111	\$ 13,019	\$ 13,996	\$ 15,045	\$ 16,174	
	Regime	Increase	5.00%	\$ 78,732	\$ 82,669	\$ 86,802	\$ 91,142	\$ 95,699	\$ 100,484	\$ 105,508	\$ 110,784	\$ 116,323	\$ 122,139	
	Principal & Interest Payment	Rate	6.00%	\$ 99,451	\$ 115,205	\$ 115,205	\$ 115,205	\$ 115,205	\$ 115,205	\$ 115,205	\$ 115,205	\$ 115,205	\$ 115,205	
Total Cash Disbursements for Expenses				\$ 222,747	\$ 257,749	\$ 273,502	\$ 290,336	\$ 298,745	\$ 307,568	\$ 316,827	\$ 326,544	\$ 336,742	\$ 347,447	
Cash Flow				\$ 18,106	\$ 24,511	\$ 20,670	\$ 16,154	\$ 20,486	\$ 25,022	\$ 29,768	\$ 34,729	\$ 39,910	\$ 45,315	\$ 274,669
Return to Investors (Annual Distribution at Year End)			3.00%	\$ 17,760	\$ 17,760	\$ 17,760	\$ 17,760	\$ 17,760	\$ 17,760	\$ 17,760	\$ 17,760	\$ 17,760	\$ 17,760	\$ 177,600
Net Available Cash After Return to Investors				\$ 346	\$ 7,096	\$ 10,006	\$ 8,400	\$ 11,126	\$ 18,388	\$ 30,396	\$ 47,365	\$ 69,514	\$ 97,069	
Principal Paydown				\$ 26,918	\$ 28,263	\$ 29,677	\$ 31,160	\$ 32,719	\$ 34,354	\$ 36,072	\$ 37,876	\$ 39,770	\$ 41,758	\$ 338,567
Annual Net Investment Equity			Fix to Y1	\$ 27,263	\$ 35,360	\$ 50,346	\$ 47,314	\$ 53,204	\$ 59,376	\$ 65,840	\$ 72,605	\$ 79,679	\$ 87,073	
Compound Net Investment Equity				\$ 27,263	\$ 62,623	\$ 112,970	\$ 160,284	\$ 213,488	\$ 272,865	\$ 338,705	\$ 411,310	\$ 490,989	\$ 578,062	\$ 578,062
Housing Unit Appreciation		20 yr avg	4.17%	\$ 124,292	\$ 129,475	\$ 134,874	\$ 140,498	\$ 146,357	\$ 152,460	\$ 158,818	\$ 165,441	\$ 172,339	\$ 179,526	\$ 1,504,081

Phase 1 HHI 13 Unit Model

Phase 1 HHI 13 Unit Model

Source of Funds			
	Town of Hilton Head	\$	600,000
	Investors (CFL)	\$	592,000
	Bank Loan	\$	<u>1,788,375</u>
	Total	\$	2,980,375
Recapitalization Table at End of Year 10	Original Loan	\$	1,788,375
	Plus:		
	Principal Return to Investor	\$	600,000
	Appreciation Return to Investor	\$	131,397
	Less:		
	Principal Paydown	\$	(338,567)
	Available Cash	\$	<u>(97,069)</u>
	New Loan for Years 11-20	\$	2,084,135
	Max Loan Amount End of Year 10 that Year 11 Can Find & Maintain Positive Cash Flow (Maintaining Working Capital Minimum of \$20K in Year 11)	\$	2,200,000

CCDC Phased Approach

Phase Two – 42 Units Beaufort/Jasper County

- Submitted letter of intent with request for \$2m of funds paid back at 3% over 10 year period
- Targeting 42 units across Beaufort & Jasper counties
- \$10m total budget for acquisition



CCDC Phased Approach

Future Phases – 50 Units per year

- \$15m total budget for acquisition
- 20% requested through municipal support
- *\$3 million*
- 80% will be contributed privately

Phase Three can be scaled across Beaufort



- Matching Grant of \$100,000 from CFL along with \$125,000 in donations has provided administrative operating funds for first year.
- Closed on 3 units on Hilton Head Island
 - Two Woodlake 2 Bedroom Units
 - One Marshside 1 Bedroom Unit
- Welcome Carletha Frazier Project Manager

[Tenant Testimonial Video](#)

WHAT
we have
accomplished.



Take a leadership role in our region by supporting our effort with annual source of funding via

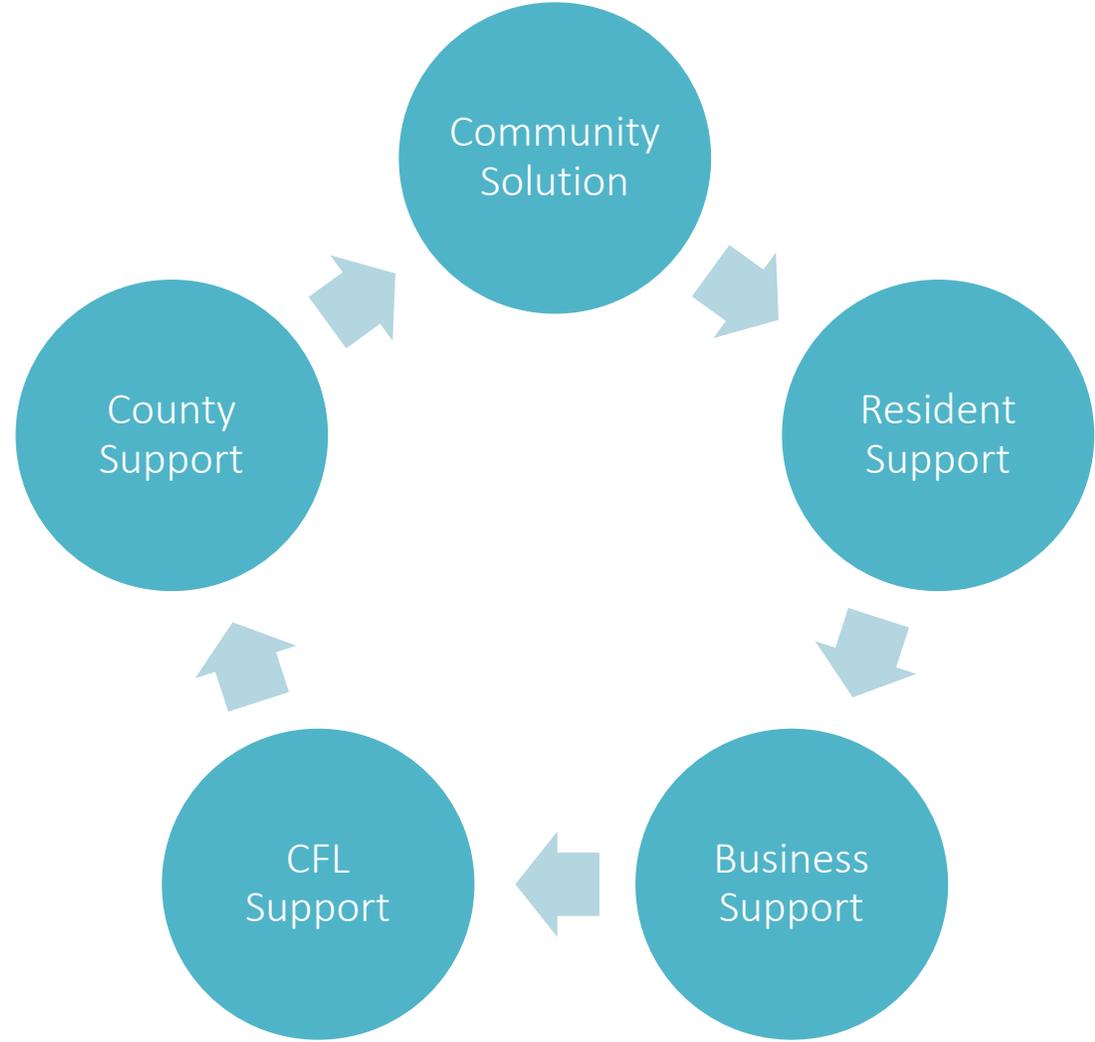
- A-tax allocation via S-284
- Bonding capacity
- Land for leaseback and development

WHERE
do you fit in?

Why Partner with



- Immediate Preservation of Workforce Housing
- Strategy Supports Growth Management
- 99 Year Covenants Tied to AMI
- Prioritizes Home Ownership
- Community Solution



CITIZEN COMMENTS 2ND PORTION

COUNTY COUNCIL

October 23, 2023

CITIZEN COMMENT PERIOD- 15 MINUTES TOTAL

Anyone who wishes to speak during the Citizen Comment portion of the meeting will limit their comments and speak no longer than three (3) minutes. Speakers will address Council in a respectful manner appropriate to the decorum of the meeting, refraining from the use of profane, abusive, or obscene language.

In accordance with Beaufort County's Rules and Procedures, page 7(D4): 1) Each speaker is limited to three minutes 2) Only one speaker limit at microphone, and 3) Giving of a speaker's time is not allowed.

BY SIGNING UP FOR PUBLIC COMMENT, YOU ACKNOWLEDGE THE ABOVE RULES AND WILL COMPLY.

FULL NAME (PLEASE PRINT LEGIBLY)

Topic

Skip HOAGLAND

PUBLIC FUNDS

LYNN GREELEY

AUDITS

Don Timms

Funds & Audits

CITIZEN COMMENTS 1ST PORTION (AGENDA ITEMS ONLY)

COUNTY COUNCIL
October 23, 2023

CITIZEN COMMENT PERIOD- 15 MINUTES TOTAL

Anyone who wishes to speak during the Citizen Comment portion of the meeting will limit their comments and speak no longer than three (3) minutes. Speakers will address Council in a respectful manner appropriate to the decorum of the meeting, refraining from the use of profane, abusive, or obscene language.

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BY SIGNING UP FOR PUBLIC COMMENT, YOU ACKNOWLEDGE THE ABOVE RULES AND WILL COMPLY.

FULL NAME (PLEASE PRINT LEGIBLY)

Topic

SKIP HOAGLAND

AUDITS



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
RECOMMEND APPROVAL OF AN ORDINANCE AUTHORIZING THE INTERIM COUNTY ADMINISTRATOR TO EXECUTE ANY AND ALL DOCUMENTS NECESSARY TO ACCEPT RIGHT OF WAY ON DIANAH’S DRIVE
MEETING NAME AND DATE:
Public Facilities & Safety Committee Meeting September 25,2023
PRESENTER INFORMATION:
Jared Fralix, P.E., Assistant County Administrator, Infrastructure Eric Claussen, Director of Engineering (5 Minutes)
ITEM BACKGROUND:
The County paved Dianah’s Drive in 2006 as part of Contract 24. Parcel R510 011 000 0128 0000 had a platted 30’ wide section of the road on which the County claimed a prescriptive easement based on recorded plats. The County acquired a 50’ ROW from abutting property owners along Dianah’s Drive but did not request a formal conveyance of ROW from the owner of parcel R510 011 000 0128 0000. Now the owner of parcel R510 011 000 0128 0000 is working with the Town of Hilton Head on development associated with parcel R510 011 000 0128 0000.
PROJECT / ITEM NARRATIVE:
The property owner of parcel R510 011 000 0128 0000 would like to deed their interest in a 30’ ROW for the section of the road that traverses their parcel. They are working with the Town of Hilton Head Island planning department and the Town will approve their design plans if the County accepts the 30’ ROW for this section of Dianah’s Drive. County Engineers have performed a site visit and have approved the requested 30’ ROW which will formalize the County’s ROW interest in Dianah’s Drive.
FISCAL IMPACT:
None
STAFF RECOMMENDATIONS TO COUNCIL:
Staff recommends acceptance of 30’ ROW from owner of parcel R510 011 000 0128 0000
OPTIONS FOR COUNCIL MOTION:
Motion to approve/deny an ordinance authorizing the county administrator to execute any and all documents necessary to accept right of way on Dianah’s drive. A Majority Vote for acceptance by Committee would move item to County Council for three readings and a public hearing to approve the ordinance.

Dianah's Drive Location Map

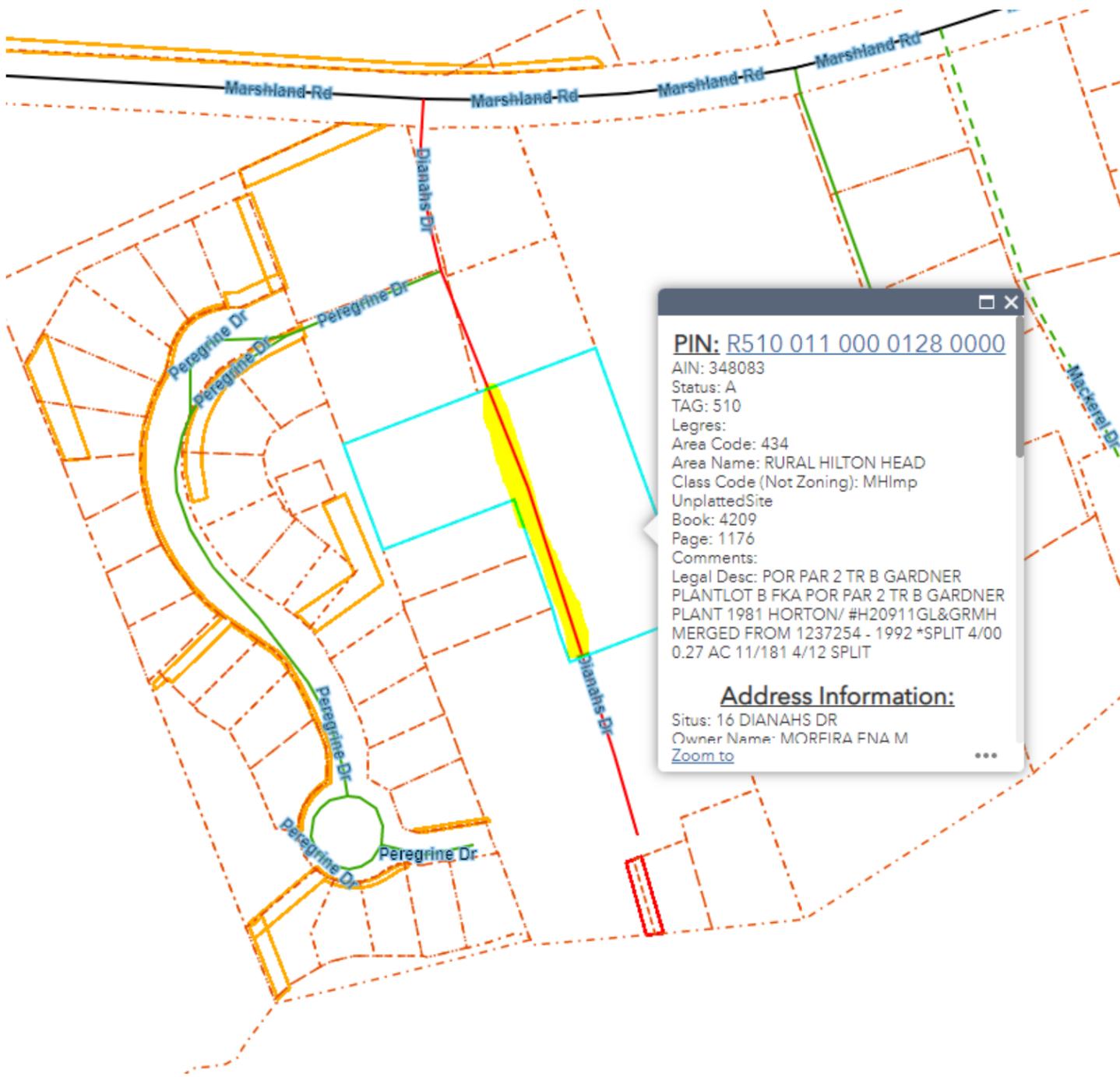




Exhibit "A"

SOME OR ALL AREAS ON THIS PLAT ARE FLOOD HAZARD AREAS AND HAVE BEEN IDENTIFIED AS HAVING AT LEAST A ONE PERCENT CHANCE OF BEING FLOODED IN ANY GIVEN YEAR BY RISING TIDAL WATERS ASSOCIATED WITH POSSIBLE HURRICANES. LOCAL REGULATIONS REQUIRE THAT CERTAIN FLOOD HAZARD PROTECTIVE MEASURES BE INCORPORATED IN THE DESIGN AND CONSTRUCTION OF STRUCTURES IN THESE DESIGNATED AREAS. REFERENCE SHALL BE MADE TO THE DEVELOPMENT COVENANTS AND RESTRICTIONS OF THIS DEVELOPMENT AND REQUIREMENTS OF THE TOWN BUILDING OFFICIAL. IN ADDITION, FEDERAL LAW REQUIRES MANDATORY PURCHASE OF FLOOD INSURANCE AS A PREREQUISITE TO FEDERALLY INSURED MORTGAGE FINANCING IN THESE DESIGNATED FLOOD HAZARD AREAS.

R510 011 000 022C 0000
ROLLERS TRAILER PARK LLC
3699 INVERNESS WAY
MARTINEZ GA 30907



LINE	LENGTH	BEARING
L1	42.05'	N12°21'31"W
L2	29.59'	N19°20'10"W
L3	15.70'	N19°20'10"W
L4	35.02'	N19°20'10"W
L5	18.31'	N20°06'46"W
L6	33.47'	N20°06'46"W
L7	35.53'	N20°06'46"W
L8	51.28'	N20°06'46"W
L9	1.69'	N20°06'46"W
L10	85.13'	N18°48'18"W
L11	86.23'	N18°48'18"W
L12	140.13'	N20°06'46"W
L13	82.34'	N19°20'10"W
L14	39.01'	N12°21'31"W

AREA TABLE	
TOTAL AREA	1.82 AC. 79,120 S.F.
ACQUISITION AREA	0.24 AC. 10,431 S.F.
REMAINDER	1.58 AC. 68,690 S.F.

LEGEND & SYMBOLS:	
3" CMF □	3" CONCRETE MONUMENT FOUND
3/4" IPFF ○	3/4" IRON PIPE FOUND
1/2" IPF ○	1/2" IRON PIN FOUND
1/2" IPS ○	1/2" IRON PIN SET
⊕	ELECTRIC TRANSFORMER
☎	TELEPHONE SERVICE
Ⓜ	TELEVISION SERVICE
⚡	UTILITY POLE
→	GUY
Ⓜ	WATER METER
⊕	ELECTRIC SERVICE
Ⓜ	SANITARY MANHOLE
⊕	STORM MANHOLE
Ⓜ	SFMPR LATERAL
Ⓜ	FIBER OPTIC

REFERENCE PLAT
1) A RECOMBINATION PLAT OF LOTS B & C, DIANAHS DRIVE, HILTON HEAD ISLAND, BEAUFORT COUNTY, SOUTH CAROLINA. DRAWN: 10/06/10. HELD IN DEED BOOK 3087, PAGE 317, DATED 9/28/11. ROD. BEAUFORT COUNTY, SC. BY: MACK W. THOMAS III S.C.R.L.C. # 14531

PROPERTY AREA = 1.82 AC. 79,120 S.F.
ADDRESS: 16 DIANAHS DRIVE
DISTRICT: 510, MAP: 11, PARCEL: 128
THIS PROPERTY LIES IN F.E.M.A. ZONE X & X SHADED BASE FLOOD ELEVATION = NO MINIMUM ELEVATION
COMMUNITY NO. 450250, PANEL: 0453G, DATED: 3/23/2021

- NOTES:**
- 1) UNDERGROUND UTILITIES NOT LOCATED EXCEPT AS SHOWN.
 - 2) SUBJECT PROPERTY DOES NOT APPEAR TO BE AFFECTED BY THE BEACHFRONT SETBACK REQUIREMENTS OF THE S.C. BEACH PROTECTION ACT OF JULY 1, 1988.
 - 3) HORIZONTAL DATUM IS SOUTH CAROLINA STATE PLAIN NAD 83.
 - 4) BUILDING SETBACKS, WHETHER SHOWN OR NOT, SHOULD BE VERIFIED BY THE LOCAL BUILDING AUTHORITY OR ARCHITECTURAL REVIEW BOARD.
 - 5) THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A COMPLETE TITLE SEARCH AND IS SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
 - 6) THIS SURVEY DOES NOT CERTIFY TO THE EXISTENCE OR ABSENCE OF FRESHWATER WETLANDS.
 - 7) THE ONLY ACTIVITIES PERMITTED IN THE EXTERIOR SUBDIVISION BUFFER AS LABELED ON THIS PLAN SHALL BE THOSE LISTED IN PERMITTED ACTIVITY IN OTHER BUFFER AREA AS PER THE LMO.

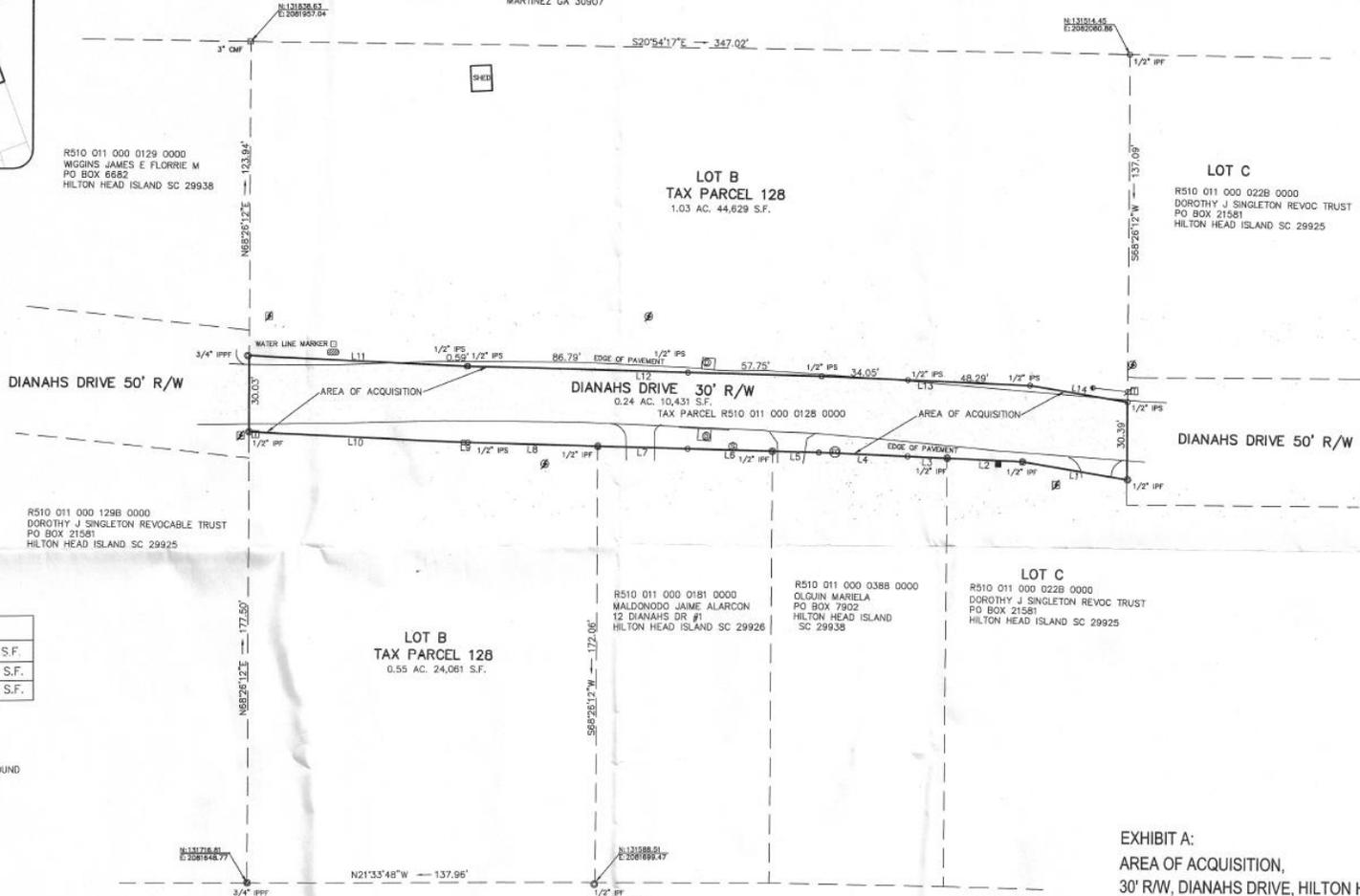


EXHIBIT A:
AREA OF ACQUISITION,
30' R/W, DIANAHS DRIVE, HILTON HEAD ISLAND,
BEAUFORT COUNTY, SOUTH CAROLINA
PREPARED FOR: ENA MOREIRA &
BEAUFORT COUNTY
DATE: 6/21/2023 **SCALE: 1" = 30'**



d.b.a. Sea Island Land Survey, Inc.
10 Oak Park Drive, Unit C1,
Hilton Head Island, SC 29926
Tel (843) 681-3248
Fax (843) 689-3871
E-mail: admin@nandinainc.com
FILE No. : 07322.4 DWG No. : 5-07322.4 RIGHT OF WAY
COPYRIGHT © BY NANDINA, INC. CAD: BA, PLOD: GJ, AW



ORDINANCE 2023/_____

AN ORDINANCE AUTHORIZING THE INTERIM COUNTY ADMINISTRATOR TO EXECUTE ANY AND ALL DOCUMENTS NECESSARY TO ACCEPT RIGHT OF WAY ON DIANAH'S DRIVE

WHEREAS, Beaufort County (“County”) paved Dianah’s Drive in 2006 as part of Contract 24. The County does not hold title to any part of a parcel designated as Parcel R510 011 000 0128 0000 but it maintains (and in 2006, paved) a 30’ wide section of the parcel pursuant to a claim of a prescriptive easement; and

WHEREAS, the aforementioned property owner is currently working with the Town of Hilton Head Island (“Town”) on design plans . The County is told that the Town will approve the property owner’s proposed design plans if the County accepts conveyance of a 30’ ROW. The property owner now desires to convey their interest in a 30’ wide ROW to Beaufort County as shown on attached Exhibit “A” and the County wishes to accept it; and

WHEREAS, it is in the best interest of the Dianah’s Drive community and the County to accept the property from the property owner to perfect the right of way.

NOW, THEREFORE, BE IT RESOLVED that Beaufort County Council hereby authorizes the Interim County Administrator to execute any and all documents necessary to accept conveyance of a 30’ wide ROW on the above referenced parcel on Dianah’s Drive.

ADOPTED this _____ day of _____, 20____.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Joseph Passiment, Chairman

ATTEST:

Sarah W. Brock,
Clerk to Council



BEAUFORT COUNTY COUNCIL

AGENDA ITEM SUMMARY

ITEM TITLE:
An ordinance to approve a lease agreement between Beaufort County and Edison Foard, Inc., at 30 Hunter Rd., Hilton Head Island.
MEETING NAME AND DATE:
Public Facilities and Safety Committee; September 25, 2023
PRESENTER INFORMATION:
Jon Rembold; Airports Director 3 minutes
ITEM BACKGROUND:
Edison Foard is the contractor that was selected to perform the Phase I Terminal Improvements Project. Their team and the Airport team have been in communication regarding office space for use during the construction project. The space at 30 Hunter Rd. appears to meet their needs. A DRAFT lease was generated and is included in this package. It was reviewed and approved by Legal Sept 5, 2023 . The legal review is also included in this package. The Airports Board will review the resolution at its monthly meeting scheduled for September 21, 2023.
PROJECT / ITEM NARRATIVE:
Edison Foard, the contractor for Phase I of the Terminal Improvements Project will lease office and warehouse space at 30 Hunter Road, Hilton Head Island, SC 29926. The space will serve as their base of operations during the construction project. The lease was drafted in accordance with the County's lease policy adopted in 2023.
FISCAL IMPACT:
Hilton Head Island Airport will receive income generated through lease revenue --Tenant shall pay \$1,390.00 for office space (814 square feet x \$20.50/12) and \$1,698 for warehouse space (1,406 square feet x \$14.50/12) in monthly base rental payments for premises located at 30 Hunter Rd. These lease rates are in accordance with current Beaufort County lease policies.
STAFF RECOMMENDATIONS TO COMMITTEE:
Staff recommends approval of an ordinance to approve the lease agreement between Beaufort County and Edison Foard, Inc.
OPTIONS FOR COMMITTEE MOTION:
Motion to approve/deny an ordinance to approve a lease agreement between Beaufort County and Edison Foard, Inc. Move forward to Council for Approval on October 9, 2023

Landlord shall have no responsibility for any such expenses unless specifically provided for herein. The Rent payable under this Lease shall be paid to Landlord without any claim on the part of Tenant for diminution, set-off or abatement and nothing shall suspend, abate or reduce any Rent to be paid hereunder.

3.5 *Security Deposit.* The Landlord requires a Security Deposit equal to one (1) month’s Rent which is equal to **Three Thousand Eighty Eight Dollars (\$3,088.00)**. Landlord has the right to use said Security Deposit for any and all unpaid utilities or any damages to the Premise. If the Security Deposit is used for any reasons stated herein, the Landlord must provide the remaining Security Deposit within ninety (90) days of the date in which Tenant vacates the Premise.

IV. UTILITIES. Tenant shall be responsible for paying one hundred percent (100%) of all utility expenses associated with the Premises during the Initial Term and any Renewal Term. Tenant warrants and agrees to establish accounts in its name with the providing/billing entity or authority and pay for all water, gas, power, electric current, garbage collection and removal, sewer charges, and all other utilities and utility charges and fees charged to the Premises during the term of this Lease and all extensions hereof. Tenant agrees to maintain all utilities at all times during its tenancy, regardless of whether or not Tenant is physically occupying the Premise.

V. CONDITION, USE, MAINTENANCE AND REPAIRS OF PREMISES

5.1 *Acceptance and Condition of the Premises.* The Parties mutually agree that Tenant shall take possession of the Premises on the Commencement Date. Tenant stipulates that he or she has examined the Premises, including the grounds and all buildings and improvements, and that they are, at the time of this Agreement, in good order, repair, and in a safe, clean and tenantable condition. Landlord has made no representation in connection with the Premises and shall not be liable for any latent defects therein; provided, however, that if such latent defects render the Premises uninhabitable for the purposes of this Lease, Tenant may at its option, and upon written notice to Landlord, terminate this Lease.

5.2 *Use of Premises.* Tenant shall use the Premises for the sole purpose of **office and warehouse space rental** (“Permitted Use”). Any change in the use of the Premises may only be undertaken with the written consent of the Landlord. Tenant shall not use the Premises for any illegal purpose, nor violate any statute, regulation, rule or order of any governmental body in its use thereof, nor create or allow to exist any nuisances, nor do any act in or about the Premises or bring anything upon the Premises which will increase the premium for insurance on the Premises.

5.3 *Maintenance.* Tenant, at its sole cost and expense, shall handle or contract for the maintenance of the parking areas, landscaping, grounds and planting care for the Premises, and shall generally maintain the Premises in a neat and orderly condition.

5.4 *Repairs of Premises.* Tenant shall at its own expense keep the Premises in good repair. Tenant shall not perform any additional work upon the Premises without prior written consent of the Landlord. The Premises shall be maintained in a clean and orderly manner. In the event of any damage of the Premises which is the direct result of Tenant, Tenant shall, immediately upon receiving demand from Landlord, correct the damage.

5.5 *Tenant Improvements, Alterations, and Restorations.*

Landlord Initials _____ Tenant Initials _____

5.5.1 *Initial Improvements.* Promptly after Landlord delivers the Premises to Tenant, Tenant shall proceed to prepare the Premises and perform such improvements that are required to utilize the Premises for the Permitted Use, which shall include modifying the interior layout to allow for car rental services office space (the “Tenant’s Initial Improvements”). Prior to performing Tenant’s Initial Improvements and promptly after the Lease is executed, Tenant shall send plans and specifications to Landlord for Landlord’s approval, which approval shall not be unreasonably withheld and Tenant shall not commence any of Tenant’s Initial Improvements until Landlord has approved the plans and specifications.

5.5.2 *Additional Improvements.* Other than Tenant’s Initial Improvements, Tenant shall not make or permit to be made any structural alterations, modifications, additions, decorations or improvements to the Premises, nor shall Tenant make or permit any other work whatsoever that would directly or indirectly involve the penetration or removal (whether permanent or temporary) of, or require access through, in, under, or above any floor, wall or ceiling, or surface or covering thereof in the Premises.

5.5.3 *Cost of Improvements.* Tenant’s Initial Improvements, or any additional improvements as approved by the Landlord, shall be made at Tenant’s sole cost and expense, including the expense of complying with all present and future legal requirements, and any other work required to be performed in other areas within or outside the Premises.

5.5.4 *Compliance.* All such Tenant’s Work shall be performed diligently and in a first class workmanlike manner and in accordance with plans and specifications approved by Landlord, and shall comply with all legal requirements. Any of Tenant’s Initial Improvements or other alterations, including, without limitation, moveable partitions that are affixed to the Premise (but excluding moveable, free standing partitions) and all carpeting, shall at once become part of the Premises and the property of Landlord.

5.6 *Right of Inspection.* Landlord shall have the unfettered right at all reasonable times during the Initial Term or any Renewal Term to enter the Premises for any reason whatsoever. Landlord agrees, when able, to provide Tenant with reasonable notice of said entry upon the Premises. No notice will be required in emergency situations or for access or entry upon the Premises.

VI. DESTRUCTION OR DAMAGE

6.1 If the Premises shall be damaged or destroyed during the term of this Lease by any casualty insured under Landlord's standard fire and casualty insurance, Landlord shall, except as otherwise provided in this Lease and subject to any delay or inability from causes beyond its control, repair and/or rebuild the same substantially to what had been the condition thereof immediately prior to such damage or destruction.

6.2 If the Premises shall be damaged or destroyed to the extent of fifty percent (50%) or more of the insurable value thereof, or if such casualty shall not have been insured against by Landlord's standard fire and casualty policies, then Landlord or Tenant may terminate this Lease or elect to repair such damage or rebuild the Premises. Within thirty (30) calendar days after any such casualty, Landlord shall notify Tenant whether Landlord intends to repair or rebuild the Premises, and Tenant shall notify Landlord whether Tenant intends to terminate this Lease. If Landlord elects to repair or rebuild the Premises, Landlord shall perform such repair or rebuilding as provided in this Agreement. If Landlord elects not to repair or rebuild, the Lease shall terminate without further

Landlord Initials _____ Tenant Initials _____

notice and all further obligations of both parties hereunder shall cease (other than those which shall theretofore have accrued), effective as of the date on which Tenant ceases doing business on the Premises.

- 6.3 If Landlord elects to repair the Premises and Tenant does not elect to terminate the Lease, and if Landlord's repairs are not substantially completed within one hundred twenty (120) calendar days following the date of the casualty, then Tenant, upon not less than thirty (30) calendar days written notice to Landlord, may terminate this Lease if Landlord has not substantially completed such repairs within the time period (which shall not be less than 30 calendar days) set forth in such notice. Substantial completion, as used herein, shall mean that the Premises are restored to the condition that they may be occupied and utilized for their intended purpose, notwithstanding that there may be additional "punch list" or other non-essential items to be completed, which neither affect nor impact Tenant's use and enjoyment of the Premises. Nevertheless, Landlord shall diligently pursue the completion of all remaining work in a timely manner.
- 6.4 During any period of reconstruction or repair of the Premises, provided Tenant has not elected to terminate this Lease, Tenant may at its sole option continue the operation of Tenant's business in the Premises to the extent reasonably practicable from the standpoint of good business practice. Tenant shall not interfere with the repair or restoration activities of Landlord or its contractors, and will adapt and modify its business activities as deemed necessary by Landlord to allow such repair or restoration activities to continue expeditiously.
- 6.5 During any period in which, by reason of any damage or destruction not resulting from the negligence of Tenant, Tenant's employees, agents, or invitees, Tenant is unable to occupy all or a portion of the Premises, Tenant's rent shall be appropriately abated for that part of the Premises rendered unusable for the conduct of Tenant's business. Such abatement shall continue for the period commencing with such destruction or damage and ending with the substantial completion by Landlord of Landlord's repairs and/or rebuilding of the Premises, as described in this Lease.

VII. ASSIGNMENT AND SUBLETTING

The Tenant shall not, without the Landlord's prior written consent: (i) mortgage, pledge, encumber, or otherwise transfer (whether voluntarily, by operation of law, or otherwise) this lease or any interest hereunder; (ii) allow any lien to attach to Tenant's interest in the Premises or this Lease; (iii) permit the use or occupancy of the Premises or any part thereof by anyone for a purpose other than as set forth herein; (iv) assign or convey this Lease or any interest herein; or (v) sublet the Premises or any part thereof; and any attempt to consummate any of the foregoing without Landlord's consent shall be void. Any assignment or subletting of this Lease must be approved in writing by Landlord, which approval shall not be unreasonably withheld. Assignment of the Lease will not relieve the Tenant or the Guarantors of their respective obligations under this Lease and Guaranty Agreement unless otherwise agreed by Landlord in writing.

VIII. TERMINATION. This Lease shall end on the Termination Date. This Lease may be terminated by Landlord prior to the Termination Date upon providing a thirty (30) day notice to Tenant and/or upon the occurrence of any default event as set forth in Section 8.

- 8.1 *Surrender of Property.* At the termination of this Lease, Tenant agrees to quit and deliver the Premises peaceably and quietly to Landlord, or its attorney, or other duly authorized agent, at the expiration or other termination of this Lease. The Tenant shall surrender the Premises in as good

Landlord Initials _____ Tenant Initials _____

state and condition as delivered to Tenant at the commencement of this Lease, reasonable use and wear thereof expected.

- 8.2 *Hold Over.* If, without objection by Landlord, Tenant holds possession of the Premises after expiration of the term of this Lease, Tenant shall become a Tenant from month to month upon the terms herein specified, but at a monthly rent amount equivalent to 150% of the gross rent being paid (starting sixty (60) calendar days after the expiration of the term of this Lease) at the end of the term of this Lease, and all fees, assessments, costs and other items must continue to be paid pursuant to all the provisions set forth herein. Such month to month rent and other amounts shall be payable in advance on or before the fifteenth (15th) calendar day of each month.

IX. DEFAULT

- 9.1 *Default by Tenant.* The occurrence of any of the following shall constitute an event of default:

- (a) The rent of any other sum of money payable under this Lease, whether to Landlord or otherwise, is not paid within ten (10) days of the due date.
- (b) Tenant's interest in the Lease of the Premises shall be subjected to any attachment, levy, or sale pursuant to any order or decree entered against Tenant in any legal proceeding and such order or decree shall not be vacated within thirty (30) days of entry thereof; unless with respect to any attachment, levy or sale, which cannot be vacated within thirty (30) days, Tenant in good faith shall have commenced and thereafter shall continue to diligently pursue the vacation of such order or decree by lawful means.
- (c) Tenant breaches or fails to comply with any term, provision, condition, or covenant of this Lease, other than the payment of rent, or with any of the rules and regulations now or hereafter established from time to time by the Landlord to govern the operation of the building and such breach or failure to comply is not cured within ten (10) days after written notice of such breach or failure to comply is given to Tenant.

- 9.2 *Remedies of Landlord.* Upon the occurrence of an event of default by Tenant other than a failure of Tenant to timely pay a sum that is due and payable, Landlord shall notify Tenant in writing of the event of default, and Tenant shall, within twenty (20) days of receipt of such written notice cure such event of default. Where the Tenant fails to cure such event of default within twenty (20) days of receipt of the above-referenced written notice, Landlord shall have the option to do and perform any one or more of the following in addition to, and not in limitation of, any other remedy or right permitted by law or in equity or by this Lease. In electing to do any one or more of the following courses of conduct, the Landlord must reasonably undertake its best efforts to properly mitigate any damages caused or sustained by Landlord due to the occurrence of an event of default by the Tenant. The options and courses of conduct which may be undertaken by the Landlord in an event of default by the Tenant are as follows:

- (a) Landlord, with or without terminating this Lease, may immediately or at any time thereafter re-enter the Premises and correct or repair any condition which shall constitute a failure on Tenant's part to keep, observe, perform, satisfy, or abide by any term, condition, covenant, agreement or obligation of this Lease or of the rules and regulations adopted by the Landlord or of any notice given Tenant by Landlord pursuant to the terms of this Lease, and Tenant shall fully reimburse and compensate Landlord on demand for all reasonable expenses.

Landlord Initials _____ Tenant Initials _____

- (b) Landlord, with or without terminating this Lease may immediately or at any time thereafter demand in writing that Tenant immediately vacate the Premises whereupon Tenant shall immediately vacate the Premises and, immediately remove therefrom all personal property belonging to Tenant, whereupon Landlord shall have the right to immediately re-enter and take possession of the Premises. Any such demand, re-entry and taking of possession of the Premises by Landlord shall not of itself constitute an acceptance by Landlord of a surrender of this Lease or of the Premises by Tenant and shall not of itself constitute a termination of this Lease by Landlord. In the event the Landlord re-enters and takes possession of the Premises as provided above and the Tenant has failed upon request by Landlord to immediately remove from the Premises all property belonging to or placed upon the Premises by the Tenant, the Landlord shall have the right to have such property of the Tenant removed from the Premises and reasonably be placed within a secure storage facility for a period of time not to exceed thirty (30) days, and all costs of handling, moving and storing such property of the Tenant shall be paid by the Tenant. Notwithstanding any of the foregoing, Landlord shall be required to comply with applicable South Carolina law regarding reentry and possession of the Premises.
- (c) Landlord may immediately or at any time thereafter terminate this Lease, and this Lease shall be deemed to have been terminated upon receipt by Tenant of written notice of such termination; upon such termination Landlord shall recover from Tenant all damages Landlord may suffer by reason of such termination including, without limitation, all arrearages in rentals, costs, charges, additional rentals, and reimbursements, the cost (including court costs and attorneys' fees) of recovering possession of the Premises, and, in addition thereto, Landlord at its election shall have and recover from Tenant either: (1) an amount equal to the excess, if any, of the total amount of all rents and other charges to be paid by Tenant for the remainder of the term of this Lease over the then reasonable rental value of the Premises for the remainder of the Term of this Lease, or (2) the rents and other charges which Landlord would be entitled to receive from Tenant if the Lease were not terminated. Such election shall be made by Landlord by serving written notice upon Tenant of its choice of the alternatives within thirty (30) days of the notice of termination. Notwithstanding anything hereunder to the contrary, Landlord must use its reasonable best efforts to re-let the Premises and abate Landlord's damages.
- 9.3 *No Waiver.* No course of dealing between Landlord and Tenant or any failure or delay on the part of Landlord in exercising any rights of Landlord under any provisions of this Lease shall operate as a waiver of any rights of Landlord, nor shall any waiver of a default on one occasion operate as a waiver of any subsequent default or any other default. No express waiver shall affect any condition, covenant, rule or regulation other than the one specified in such waiver and that one only for the time and in the manner specifically stated.
- 9.4 *No Election of Remedies.* The exercise by Landlord of any right or remedy shall not prevent the subsequent exercise by Landlord of other rights and remedies. All remedies provided for in this Lease are cumulative and may, at the election of Landlord, be exercised alternatively, successively, or in any other manner, and all remedies provided for in this Lease are in addition to any other rights provided for or allowed by law or in equity.
- 9.5 *Insolvency or Bankruptcy.* The appointment of a receiver to take possession of all or substantially all of the assets of Tenant, or an assignment by Tenant for the benefit of creditors, or any action taken or suffered by Tenant, or any action against Tenant, under any insolvency, bankruptcy, or reorganization, shall at Landlord's option constitute an event of default under this Lease. Upon the

Landlord Initials _____ Tenant Initials _____

happening of any such event of default or at any time thereafter, this Lease shall terminate five (5) days after written notice of termination from Landlord to Tenant. In no event shall this Lease be assigned or assignable by operation of law or by voluntary or involuntary bankruptcy proceedings or otherwise and in no event shall this Lease or any rights or privileges hereunder be an asset of Tenant under any bankruptcy, insolvency, or reorganization proceedings.

9.6 *Abandonment.* Tenant shall not be considered to have abandoned or vacated the Premises as long as Tenant continues to pay rent and fulfill all other obligations of this Lease, regardless of whether Tenant is actually continuously occupying the space or not, unless Tenant gives notice of termination if and as allowed by this Lease. If Landlord's right of entry is exercised following abandonment of the Leased Premises by Tenant, then Landlord may consider any personal property belonging to Tenant and left on the Leased Premises to have been abandoned, in which case Landlord may dispose of all such personal property in any manner Landlord shall deem proper and is hereby relieved of all liability for doing so.

X. SALE OF PREMISES. In the event the Landlord hereunder, or any successor owner of the Premises, shall sell or convey the Premises, all liabilities and obligations on the part of the Landlord, or such successor owner, under this Lease accruing thereafter shall remain for a minimum sixty (60) days or the Tenant may enter into a new Lease with the successor owner.

XI. COMPLIANCE WITH LAWS. Tenant shall comply, at its own expense, with all statutes, regulations, rules, ordinances and orders of any governmental body, department, or agency thereof which apply to or result from Tenant's use of the Premises.

XII. INSURANCE LIABILITY AND INDEMNIFICATION

12.1 *Insurance Liability.* Landlord has obtained Premise Liability Insurance, which does not cover Tenant's possessions or Tenant's negligence. Tenant must obtain a Renter's Insurance Policy, in an amount of no less than \$1,000,000 in commercial general liability, or other appropriate policies to cover damage or loss resulting from Tenant's negligence. Tenant shall name Landlord as an additional party in any and all insurance policies, and shall provide Landlord with a copy of all policies.

12.1.1 Tenant shall provide proof that payment for the insurance policy has been made initially and thereafter and that the policy has been renewed at least fifteen (15) calendar days prior to the anniversary of the initial year of this lease. Landlord may contact Tenant's insurer(s) or insurer(s)' agent(s) directly at any time regarding Tenant's coverage, coverage amounts, or other such relevant and reasonable issues related to this Lease.

12.2 *Indemnity.* Tenant hereby agrees to indemnify and hold harmless Landlord against and from any and all claims for property damage, or for personal injury, arising out of or in any way arising out of Tenant's use of the Leased Premises or from any activity, work, or thing done, permitted or suffered by Tenant in or about the Leased Premises.

12.3 *Liens.* If any mechanic's or other lien is filed against the Premises for work claimed to have been for or materials furnished thereto, such lien shall be discharged by Tenant within Ten (10) days thereafter, at Tenant's expense by full payment thereof by filing a bond required by law. Tenant's failure to do so shall constitute a material default hereunder.

Landlord Initials _____ Tenant Initials _____

XIII. MISCELLANEOUS PROVISIONS

13.1 *Notices.* Any notice, communication, request, approval or consent which may be given or is required to be given under the terms of this Agreement shall be in writing and shall be transmitted (1) via hand delivery or express overnight delivery service to the Seller or the Purchaser, (2) via facsimile with the original to follow via hand delivery or overnight delivery service, or (3) via e-mail, provided that the sending party can show proof of delivery, as the case may be, at the addresses/numbers set forth below:

AS TO LANDLORD:
Beaufort County
Beaufort County Administration
Post Office Box 1228
Beaufort, SC 29901

Copy To:
Airport
Airport Director, Hilton Head Island Airport
120 Beach City Rd
Hilton Head Island, SC 29926

AS TO TENANT:

With a Copy to:

Edison Foard, Inc.
3900 Rose Lake Drive
Charlotte, NC 28217

13.2 *Entire Agreement.* This Lease constitutes as the sole and entire agreement of Landlord and Tenant and no prior or contemporaneous oral or written representations or agreements between the parties affecting the Premises shall have any legal effect.

13.3 *Counterparts.* This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

13.4 *Severability.* If any portion of this Lease shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Lease is invalid or unenforceable, then such provision shall be deemed to be written, construed and enforced as so limited.

13.5 *Amendment.* This Agreement cannot be amended orally or by a single party. No amendment or change to this Agreement shall be valid unless in writing and signed by both Parties to this Agreement.

13.6 *Captions.* The captions used in this Lease are for convenience only and do not in any way limit or amplify the terms and provisions hereof.

13.7 *Successors and Assigns.* The provisions of this Lease shall inure to the benefit of and be binding upon Landlord and Tenant, and their respective successors, heirs, legal representatives, and assigns.

Landlord Initials _____ Tenant Initials _____

- 13.8 *Applicable Law.* The laws of the State of South Carolina shall govern the interpretation, validity, performance and enforcement of this Lease; and, of any personal guarantees given in connection with this Lease.
- 13.9 *Authority.* Each individual and entity executing this Agreement hereby represents and warrants that he, she or it has the capacity set forth on the signature pages hereof with full power and authority to bind the party on whose behalf he, she or it is executing this Agreement to the terms hereof.
- 13.10 *Force Majeure.* Except for timely Rent payment, Landlord or Tenant shall not be in default hereunder when performance of any term or condition is prevented by a cause beyond its control.
- 13.11 *Time is of the Essence.* Time is of the essence of this Lease.
- 13.12 *Quiet Enjoyment.* Landlord hereby covenants, warrants and agrees that so long as Tenant is performing all of the covenants and agreements herein stipulated to be performed on the Tenant's part, Tenant shall at all times during the lease term have the peaceable quiet and enjoyment and possession of the Premises without any manner of hindrance from Landlord or any person or persons lawfully claiming the Premises, or any part thereof.

IN WITNESS WHEREOF, and in acknowledgement that the parties hereto have read and understood each and every provision hereof, the Parties have caused this Agreement to be executed on the date first written above.

LANDLORD:

Witness

Beaufort County Administrator

Witness

Date: _____

TENANT:

Witness

By: _____
Its: _____

Witness

Date: _____

Landlord Initials _____ Tenant Initials _____

PLEASE MAKE SURE YOU ARE USING INTERNET EXPLORER AS YOUR BROWSER

If you have already submitted this information via the Purchasing Contract Review Form, please do NOT submit it here via t

Legal Review Process Instructions



OFFICE OF THE COUNTY ATTORNEY

Post Office Drawer 1228 ž Beaufort, SC 29901
102 Industrial Village Road, Building #1
843.255.2055 (O) ž 843.255.9414 (F)

LEGAL REVIEW REQUEST FORM

Form Number: 2023 - 1406L

Originally submitted on: 9/5/2023 11:31:09 AM

Select Type:

Document Title: 30 Hunter Road Bld 2 Suite C: office&warehouse space lease with Edison Foard

Department:

Requester's Name: Marlene Myers

Ph: 843.255.2944

Em: tracy.myers@bcgov.net

Date Needed by: 9/6/2023

Is this item being presented to Council or Committee? Yes No
(If Yes, please provide meeting date)

Description of Document or Any Concerns:

Is the County receiving a reimbursement or any compensation? Yes No

Description of the Reimbursement or Compensation:

If applicable, please provide the total value amount of the contract:

- Amount BELOW \$50,000.00
- Amount \$50,000 to \$99,999
- Amount \$100,000 and above

Has the item been approved by Council Committee? Yes No N/A

ORDINANCE 2023/_____

AN ORDINANCE AUTHORIZING THE COUNTY ADMINISTRATOR TO ENTER INTO A LEASE AGREEMENT BETWEEN BEAUFORT COUNTY AND EDISON FOARD, INC

WHEREAS, the Hilton Head Island Airport (“Airport”) is in the process of expanding the terminal in order to provide better service to both residents and tourists (“Terminal Improvements Project”); and

WHEREAS, Edison Foard, Inc. is the contractor that will execute the Terminal Improvements Project; and

WHEREAS, the Airport desires to enter into a lease agreement with Edison Foard, Inc. ("Lessee"), that shall include a reasonable lease rate based on square footage of the leased space; and

WHEREAS, the Lessee will use off-site office and storage space at 30 Hunter Road, Hilton Head Island, SC 29926, as its base of operations during the Terminal Improvements Project, and desires to use certain areas and facilities owned by the County and acquire from County certain rights and privileges in connection with its use of Airport; and

WHEREAS, the County has the right to permit use of the Airport upon the terms and conditions hereinafter set forth and has full power and authority to enter into this Agreement.

WHEREAS, County Council finds that it is in the best interest of the citizens and residents of Beaufort County for the County Administrator to enter into a Lease Agreement with Edison Foard, Inc.

NOW, THEREFORE, BE IT ORDAINED BY BEAUFORT COUNTY COUNCIL, duly assembled, does hereby authorize the County Administrator to enter into a Lease Agreement with Edison Foard, Inc.

Adopted this ____ day of _____, 2023.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Joseph Passiment, Chairman

ATTEST:

Sarah W. Brock, Clerk to Council



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
An ordinance to approve a lease agreement between Beaufort County and High Tide Aviation Scenic Tours
MEETING NAME AND DATE:
Public Facilities and Safety Committee; September 25, 2023
PRESENTER INFORMATION:
Jon Rembold; Airports Director 3 minutes
ITEM BACKGROUND:
High Tide Aviation approached Airport staff earlier this summer about expanding their business to Beaufort Executive Airport. They currently operate in coastal NC and coastal GA. They expressed an interest in leasing space for their operation at the airport. A DRAFT lease was generated and is included in this package. It was reviewed and approved by Legal Sept 8, 2023. The Airports Board reviewed and recommended approval of the agreement at its monthly meeting held July 20, 2023.
PROJECT / ITEM NARRATIVE:
High Tide Aviation has been in business since 2013 and would like to be the premier provider for Beaufort Executive Airport's scenic air tour offerings. Their fleet is made up of Cessna 172s and experienced pilots. High Tide Aviation offers packages designed for different preferences and budgets, and they take every precaution to ensure the safety and enjoyment of passengers. This is an opportunity to expand the opportunities for the general public to enjoy the airport's offerings.
FISCAL IMPACT:
Beaufort Executive Airport will receive income generated through fuel sales, the airport's standard 3% operating agreement, and lease revenue --Tenant shall pay \$231.00 (140 square feet x \$19.80/12) in monthly base rental payments for premises located at the Beaufort Executive Airport terminal. These lease rates are in accordance with current Beaufort County lease policies.
STAFF RECOMMENDATIONS TO COMMITTEE:
Staff recommends approval of an ordinance to approve the lease agreement between Beaufort County and High Tide Aviation Scenic Tours.
OPTIONS FOR COMMITTEE MOTION:
Motion to approve/deny an ordinance to approve a lease between Beaufort County and High Tide Aviation Scenic Tours Move forward to Council for Approval on October 9, 2023

- 3.4 *Triple Net Lease.* The Parties agree this is a “triple net lease” and, except as otherwise provided herein, Tenant is responsible for all costs related to the Premises, together with all Improvements constructed thereon, including, without limitation, any taxes or fees, insurance and maintenance. Landlord shall have no responsibility for any such expenses unless specifically provided for herein. The Rent payable under this Lease shall be paid to Landlord without any claim on the part of Tenant for diminution, set-off or abatement and nothing shall suspend, abate or reduce any Rent to be paid hereunder.

IV. **CONDITION, USE, MAINTENANCE AND REPAIRS OF PREMISES**

- 4.1 *Acceptance and Condition of the Premises.* The Parties mutually agree that Tenant shall take possession of the Premises on the Commencement Date. Tenant stipulates that he or she has examined the Premises, including the grounds and all buildings and improvements, and that they are, at the time of this Agreement, in good order, repair, and in a safe, clean and tenantable condition. Landlord has made no representation in connection with the Premises and shall not be liable for any latent defects therein; provided, however, that if such latent defects render the Premises uninhabitable for the purposes of this Lease, Tenant may at its option, and upon written notice to Landlord, terminate this Lease.

- 4.2 *Use of Premises.* Tenant shall use the Premises for the sole purpose of operating fixed-wing scenic air tours and flight training (“Permitted Use”). Any change in the use of the Premises may only be undertaken with the written consent of the Landlord. Tenant shall not use the Premises for any illegal purpose, nor violate any statute, regulation, rule or order of any governmental body in its use thereof, nor create or allow to exist any nuisances, nor do any act in or about the Premises or bring anything upon the Premises which will increase the premium for insurance on the Premises.

- 4.3 *Repairs of Premises.* Tenant shall at its own expense keep the Premises in good repair. Tenant shall not perform any additional work upon the Premises without prior written consent of the Landlord. The Premises shall be maintained in a clean and orderly manner. In the event of any damage of the Premises which is the direct result of Tenant, Tenant shall, immediately upon receiving demand from Landlord, correct the damage.

- 4.4 *Tenant Improvements, Alterations, and Restorations.*

4.4.1 *Initial Improvements.* Promptly after Landlord delivers the Premises to Tenant, Tenant shall proceed to prepare the Premises and perform such improvements that are required to utilize the Premises for the Permitted Use, which shall include approved signage and marketing (the “Tenant’s Initial Improvements”). Prior to performing Tenant’s Initial Improvements and promptly after the Lease is executed, Tenant shall send plans and specifications to Landlord for Landlord’s approval, which approval shall not be unreasonably withheld and Tenant shall not commence any of Tenant’s Initial Improvements until Landlord has approved the plans and specifications.

4.4.2 *Additional Improvements.* Other than Tenant’s Initial Improvements, Tenant shall not make or permit to be made any structural alterations, modifications, additions, decorations or improvements to the Premises, nor shall Tenant make or permit any other work whatsoever that would directly or indirectly involve the penetration or removal (whether permanent or temporary) of, or require access through, in, under, or above any floor, wall or ceiling, or surface or covering thereof in the Premises.

Landlord Initials _____ Tenant Initials _____

4.4.3 *Cost of Improvements.* Tenant's Initial Improvements, or any additional improvements as approved by the Landlord, shall be made at Tenant's sole cost and expense, including the expense of complying with all present and future legal requirements, and any other work required to be performed in other areas within or outside the Premises.

4.4.4 *Compliance.* All such Tenant's Work shall be performed diligently and in a first class workmanlike manner and in accordance with plans and specifications approved by Landlord, and shall comply with all legal requirements. Any of Tenant's Initial Improvements or other alterations, including, without limitation, moveable partitions that are affixed to the Premise (but excluding moveable, free standing partitions) and all carpeting, shall at once become part of the Premises and the property of Landlord.

4.5 *Right of Inspection.* Landlord shall have the unfettered right at all reasonable times during the Initial Term or any Renewal Term to enter the Premises for any reason whatsoever. Landlord agrees, when able, to provide Tenant with reasonable notice of said entry upon the Premises. No notice will be required in emergency situations or for access or entry upon the Premises.

V. DESTRUCTION OR DAMAGE

5.1 If the Premises shall be damaged or destroyed during the term of this Lease by any casualty insured under Landlord's standard fire and casualty insurance, Landlord shall, except as otherwise provided in this Lease and subject to any delay or inability from causes beyond its control, repair and/or rebuild the same substantially to what had been the condition thereof immediately prior to such damage or destruction.

5.2 If the Premises shall be damaged or destroyed to the extent of fifty percent (50%) or more of the insurable value thereof, or if such casualty shall not have been insured against by Landlord's standard fire and casualty policies, then Landlord or Tenant may terminate this Lease or elect to repair such damage or rebuild the Premises. Within thirty (30) calendar days after any such casualty, Landlord shall notify Tenant whether Landlord intends to repair or rebuild the Premises, and Tenant shall notify Landlord whether Tenant intends to terminate this Lease. If Landlord elects to repair or rebuild the Premises, Landlord shall perform such repair or rebuilding as provided in this Agreement. If Landlord elects not to repair or rebuild, the Lease shall terminate without further notice and all further obligations of both parties hereunder shall cease (other than those which shall theretofore have accrued), effective as of the date on which Tenant ceases doing business on the Premises.

5.3 If Landlord elects to repair the Premises and Tenant does not elect to terminate the Lease, and if Landlord's repairs are not substantially completed within one hundred twenty (120) calendar days following the date of the casualty, then Tenant, upon not less than thirty (30) calendar days written notice to Landlord, may terminate this Lease if Landlord has not substantially completed such repairs within the time period (which shall not be less than 30 calendar days) set forth in such notice. Substantial completion, as used herein, shall mean that the Premises are restored to the condition that they may be occupied and utilized for their intended purpose, notwithstanding that there may be additional "punch list" or other non-essential items to be completed, which neither affect nor impact Tenant's use and enjoyment of the Premises. Nevertheless, Landlord shall diligently pursue the completion of all remaining work in a timely manner.

Landlord Initials _____ Tenant Initials _____

5.4 During any period of reconstruction or repair of the Premises, provided Tenant has not elected to terminate this Lease, Tenant may at its sole option continue the operation of Tenant's business in the Premises to the extent reasonably practicable from the standpoint of good business practice. Tenant shall not interfere with the repair or restoration activities of Landlord or its contractors, and will adapt and modify its business activities as deemed necessary by Landlord to allow such repair or restoration activities to continue expeditiously.

5.5 During any period in which, by reason of any damage or destruction not resulting from the negligence of Tenant, Tenants employees, agents, or invitees, Tenant is unable to occupy all or a portion of the Premises, Tenant's rent shall be appropriately abated for that part of the Premises rendered unusable for the conduct of Tenants business. Such abatement shall continue for the period commencing with such destruction or damage and ending with the substantial completion by Landlord of Landlord's repairs and/or rebuilding of the Premises, as described in this Lease.

VI. ASSIGNMENT AND SUBLETTING

The Tenant shall not, without the Landlord's prior written consent: (i) mortgage, pledge, encumber, or otherwise transfer (whether voluntarily, by operation of law, or otherwise) this lease or any interest hereunder; (ii) allow any lien to attach to Tenant's interest in the Premises or this Lease; (iii) permit the use or occupancy of the Premises or any part thereof by anyone for a purpose other than as set forth herein; (iv) assign or convey this Lease or any interest herein; or (v) sublet the Premises or any part thereof; and any attempt to consummate any of the foregoing without Landlord's consent shall be void. Any assignment or subletting of this Lease must be approved in writing by Landlord, which approval shall not be unreasonably withheld. Assignment of the Lease will not relieve the Tenant or the Guarantors of their respective obligations under this Lease and Guaranty Agreement unless otherwise agreed by Landlord in writing.

VII. TERMINATION. This Lease shall end on the Termination Date. This Lease may be terminated by Landlord prior to the Termination Date upon providing a thirty (30) day notice to Tenant and/or upon the occurrence of any default event as set forth in Section 8.

7.1 *Surrender of Property.* At the termination of this Lease, Tenant agrees to quit and deliver the Premises peaceably and quietly to Landlord, or its attorney, or other duly authorized agent, at the expiration or other termination of this Lease. The Tenant shall surrender the Premises in as good state and condition as delivered to Tenant at the commencement of this Lease, reasonable use and wear thereof expected.

7.2 *Hold Over.* If, without objection by Landlord, Tenant holds possession of the Premises after expiration of the term of this Lease, Tenant shall become a Tenant from month to month upon the terms herein specified, but at a monthly rent amount equivalent to 150% of the gross rent being paid (starting sixty (60) calendar days after the expiration of the term of this Lease) at the end of the term of this Lease, and all fees, assessments, costs and other items must continue to be paid pursuant to all the provisions set forth herein. Such month to month rent and other amounts shall be payable in advance on or before the fifteenth (15th) calendar day of each month.

VIII. DEFAULT

8.1 *Default by Tenant.* The occurrence of any of the following shall constitute an event of default:

Landlord Initials _____ Tenant Initials _____

- (a) The rent of any other sum of money payable under this Lease, whether to Landlord or otherwise, is not paid within ten (10) days of the due date.
- (b) Tenant's interest in the Lease of the Premises shall be subjected to any attachment, levy, or sale pursuant to any order or decree entered against Tenant in any legal proceeding and such order or decree shall not be vacated within thirty (30) days of entry thereof; unless with respect to any attachment, levy or sale, which cannot be vacated within thirty (30) days, Tenant in good faith shall have commenced and thereafter shall continue to diligently pursue the vacation of such order or decree by lawful means.
- (c) Tenant breaches or fails to comply with any term, provision, condition, or covenant of this Lease, other than the payment of rent, or with any of the rules and regulations now or hereafter established from time to time by the Landlord to govern the operation of the building and such breach or failure to comply is not cured within ten (10) days after written notice of such breach or failure to comply is given to Tenant.

8.2 *Remedies of Landlord.* Upon the occurrence of an event of default by Tenant other than a failure of Tenant to timely pay a sum that is due and payable, Landlord shall notify Tenant in writing of the event of default, and Tenant shall, within twenty (20) days of receipt of such written notice cure such event of default. Where the Tenant fails to cure such event of default within twenty (20) days of receipt of the above-referenced written notice, Landlord shall have the option to do and perform any one or more of the following in addition to, and not in limitation of, any other remedy or right permitted by law or in equity or by this Lease. In electing to do any one or more of the following courses of conduct, the Landlord must reasonably undertake its best efforts to properly mitigate any damages caused or sustained by Landlord due to the occurrence of an event of default by the Tenant. The options and courses of conduct which may be undertaken by the Landlord in an event of default by the Tenant are as follows:

- (a) Landlord, with or without terminating this Lease, may immediately or at any time thereafter re-enter the Premises and correct or repair any condition which shall constitute a failure on Tenant's part to keep, observe, perform, satisfy, or abide by any term, condition, covenant, agreement or obligation of this Lease or of the rules and regulations adopted by the Landlord or of any notice given Tenant by Landlord pursuant to the terms of this Lease, and Tenant shall fully reimburse and compensate Landlord on demand for all reasonable expenses.
- (b) Landlord, with or without terminating this Lease may immediately or at any time thereafter demand in writing that Tenant immediately vacate the Premises whereupon Tenant shall immediately vacate the Premises and, immediately remove therefrom all personal property belonging to Tenant, whereupon Landlord shall have the right to immediately re-enter and take possession of the Premises. Any such demand, re-entry and taking of possession of the Premises by Landlord shall not of itself constitute an acceptance by Landlord of a surrender of this Lease or of the Premises by Tenant and shall not of itself constitute a termination of this Lease by Landlord. In the event the Landlord re-enters and takes possession of the Premises as provided above and the Tenant has failed upon request by Landlord to immediately remove from the Premises all property belonging to or placed upon the Premises by the Tenant, the Landlord shall have the right to have such property of the Tenant removed from the Premises and reasonably be placed within a secure storage facility for a period of time not to exceed thirty (30) days, and all costs of handling, moving and storing such property of the Tenant shall

Landlord Initials _____ Tenant Initials _____

be paid by the Tenant. Notwithstanding any of the foregoing, Landlord shall be required to comply with applicable South Carolina law regarding reentry and possession of the Premises.

- (c) Landlord may immediately or at any time thereafter terminate this Lease, and this Lease shall be deemed to have been terminated upon receipt by Tenant of written notice of such termination; upon such termination Landlord shall recover from Tenant all damages Landlord may suffer by reason of such termination including, without limitation, all arrearages in rentals, costs, charges, additional rentals, and reimbursements, the cost (including court costs and attorneys' fees) of recovering possession of the Premises, and, in addition thereto, Landlord at its election shall have and recover from Tenant either: (1) an amount equal to the excess, if any, of the total amount of all rents and other charges to be paid by Tenant for the remainder of the term of this Lease over the then reasonable rental value of the Premises for the remainder of the Term of this Lease, or (2) the rents and other charges which Landlord would be entitled to receive from Tenant if the Lease were not terminated. Such election shall be made by Landlord by serving written notice upon Tenant of its choice of the alternatives within thirty (30) days of the notice of termination. Notwithstanding anything hereunder to the contrary, Landlord must use its reasonable best efforts to re-let the Premises and abate Landlord's damages.
- 8.3 *No Waiver.* No course of dealing between Landlord and Tenant or any failure or delay on the part of Landlord in exercising any rights of Landlord under any provisions of this Lease shall operate as a waiver of any rights of Landlord, nor shall any waiver of a default on one occasion operate as a waiver of any subsequent default or any other default. No express waiver shall affect any condition, covenant, rule or regulation other than the one specified in such waiver and that one only for the time and in the manner specifically stated.
- 8.4 *No Election of Remedies.* The exercise by Landlord of any right or remedy shall not prevent the subsequent exercise by Landlord of other rights and remedies. All remedies provided for in this Lease are cumulative and may, at the election of Landlord, be exercised alternatively, successively, or in any other manner, and all remedies provided for in this Lease are in addition to any other rights provided for or allowed by law or in equity.
- 8.5 *Insolvency or Bankruptcy.* The appointment of a receiver to take possession of all or substantially all of the assets of Tenant, or an assignment by Tenant for the benefit of creditors, or any action taken or suffered by Tenant, or any action against Tenant, under any insolvency, bankruptcy, or reorganization, shall at Landlord's option constitute an event of default under this Lease. Upon the happening of any such event of default or at any time thereafter, this Lease shall terminate five (5) days after written notice of termination from Landlord to Tenant. In no event shall this Lease be assigned or assignable by operation of law or by voluntary or involuntary bankruptcy proceedings or otherwise and in no event shall this Lease or any rights or privileges hereunder be an asset of Tenant under any bankruptcy, insolvency, or reorganization proceedings.
- 8.6 *Abandonment.* Tenant shall not be considered to have abandoned or vacated the Premises as long as Tenant continues to pay rent and fulfill all other obligations of this Lease, regardless of whether Tenant is actually continuously occupying the space or not, unless Tenant gives notice of termination if and as allowed by this Lease. If Landlord's right of entry is exercised following abandonment of the Leased Premises by Tenant, then Landlord may consider any personal property belonging to Tenant and left on the Leased Premises to have been abandoned, in which case

Landlord Initials _____ Tenant Initials _____

Landlord may dispose of all such personal property in any manner Landlord shall deem proper and is hereby relieved of all liability for doing so.

IX. SALE OF PREMISES. In the event the Landlord hereunder, or any successor owner of the Premises, shall sell or convey the Premises, all liabilities and obligations on the part of the Landlord, or such successor owner, under this Lease accruing thereafter shall remain for a minimum sixty (60) days or the Tenant may enter into a new Lease with the successor owner.

X. COMPLIANCE WITH LAWS. Tenant shall comply, at its own expense, with all statutes, regulations, rules, ordinances and orders of any governmental body, department, or agency thereof which apply to or result from Tenant’s use of the Premises.

XI. INSURANCE LIABILITY AND INDEMNIFICATION

11.1 *Insurance Liability.* Landlord has obtained Premise Liability Insurance, which does not cover Tenant's possessions or Tenant's negligence. Tenant must obtain a Renter's Insurance Policy, in an amount of no less than \$1,000,000 in commercial general liability, or other appropriate policies to cover damage or loss resulting from Tenant's negligence. Tenant shall name Landlord as an additional party in any and all insurance policies, and shall provide Landlord with a copy of all policies.

11.1.1 Tenant shall provide proof that payment for the insurance policy has been made initially and thereafter and that the policy has been renewed at least fifteen (15) calendar days prior to the anniversary of the initial year of this lease. Landlord may contact Tenant’s insurer(s) or insurer(s)' agent(s) directly at any time regarding Tenant’s coverage, coverage amounts, or other such relevant and reasonable issues related to this Lease.

11.2 *Indemnity.* Tenant hereby agrees to indemnify and hold harmless Landlord against and from any and all claims for property damage, or for personal injury, arising out of or in any way arising out of Tenant's use of the Leased Premises or from any activity, work, or thing done, permitted or suffered by Tenant in or about the Leased Premises.

11.3 *Liens.* If any mechanic’s or other lien is filed against the Premises for work claimed to have been for or materials furnished thereto, such lien shall be discharged by Tenant within Ten (10) days thereafter, at Tenant’s expense by full payment thereof by filing a bond required by law. Tenant’s failure to do so shall constitute a material default hereunder.

XII. MISCELLANEOUS PROVISIONS

12.1 *Notices.* Any notice, communication, request, approval or consent which may be given or is required to be given under the terms of this Agreement shall be in writing and shall be transmitted (1) via hand delivery or express overnight delivery service to the Seller or the Purchaser, (2) via facsimile with the original to follow via hand delivery or overnight delivery service, or (3) via e-mail, provided that the sending party can show proof of delivery, as the case may be, at the addresses/numbers set forth below:

AS TO LANDLORD: Beaufort County
 Attn: Beaufort County Administration
 Post Office Box 1228
 Beaufort, SC 29901

Landlord Initials _____ Tenant Initials _____

Copy To: Beaufort County
Attn: Beaufort County Public Facility Director
Post Office Box 1228
Beaufort, SC 29901

AS TO TENANT: _____

- 12.2 *Entire Agreement.* This Lease constitutes as the sole and entire agreement of Landlord and Tenant and no prior or contemporaneous oral or written representations or agreements between the parties affecting the Premises shall have any legal effect.
- 12.3 *Counterparts.* This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.
- 12.4 *Severability.* If any portion of this Lease shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Lease is invalid or unenforceable, then such provision shall be deemed to be written, construed and enforced as so limited.
- 12.5 *Amendment.* This Agreement cannot be amended orally or by a single party. No amendment or change to this Agreement shall be valid unless in writing and signed by both Parties to this Agreement.
- 12.6 *Captions.* The captions used in this Lease are for convenience only and do not in any way limit or amplify the terms and provisions hereof.
- 12.7 *Successors and Assigns.* The provisions of this Lease shall inure to the benefit of and be binding upon Landlord and Tenant, and their respective successors, heirs, legal representatives, and assigns.
- 12.8 *Applicable Law.* The laws of the State of South Carolina shall govern the interpretation, validity, performance and enforcement of this Lease; and, of any personal guarantees given in connection with this Lease.
- 12.9 *Authority.* Each individual and entity executing this Agreement hereby represents and warrants that he, she or it has the capacity set forth on the signature pages hereof with full power and authority to bind the party on whose behalf he, she or it is executing this Agreement to the terms hereof.
- 12.10 *Force Majeure.* Except for timely Rent payment, Landlord or Tenant shall not be in default hereunder when performance of any term or condition is prevented by a cause beyond its control.
- 12.11 *Time is of the Essence.* Time is of the essence of this Lease.
- 12.12 *Quiet Enjoyment.* Landlord hereby covenants, warrants and agrees that so long as Tenant is performing all of the covenants and agreements herein stipulated to be performed on the Tenant's

Landlord Initials _____ Tenant Initials _____

part, Tenant shall at all times during the lease term have the peaceable quiet and enjoyment and possession of the Premises without any manner of hindrance from Landlord or any person or persons lawfully claiming the Premises, or any part thereof.

IN WITNESS WHEREOF, and in acknowledgement that the parties hereto have read and understood each and every provision hereof, the Parties have caused this Agreement to be executed on the date first written above.

LANDLORD:

Witness

Beaufort County Administrator

Witness

Date: _____

TENANT:

Witness

By: _____
Its: _____

Date: _____

Landlord Initials _____ Tenant Initials _____

PLEASE MAKE SURE YOU ARE USING INTERNET EXPLORER AS YOUR BROWSER

If you have already submitted this information via the Purchasing Contract Review Form, please do NOT submit it here via t

Legal Review Process Instructions



OFFICE OF THE COUNTY ATTORNEY

Post Office Drawer 1228 ž Beaufort, SC 29901
102 Industrial Village Road, Building #1
843.255.2055 (O) ž 843.255.9414 (F)

LEGAL REVIEW REQUEST FORM

Form Number: 2023 - 1408L

Originally submitted on: 9/7/2023 11:12:48 AM

Select Type:

Document Title: Lease (office space) at Beaufort Executive Airport: High Tide Aviation

Department: Requester's Name: Marlene Myers

Ph: 843.255.2944 Em: tracy.myers@bcgov.net

Date Needed by: 9/7/2023

Is this item being presented to Council or Committee? Yes No Meeting date: 9/11/2023
(If Yes, please provide meeting date)

Description of Document or Any Concerns:

Is the County receiving a reimbursement or any compensation? Yes No

Description of the Reimbursement or Compensation:

Office Space @ \$19.80 per sq ft (140) = \$231.00 per month
North of Broad Rate

If applicable, please provide the total value amount of the contract:

- Amount BELOW \$50,000.00
- Amount \$50,000 to \$99,999
- Amount \$100,000 and above

Has the item been approved by Council Committee? Yes No N/A

Has the item been approved by full Council? Yes No N/A

Attachments:

 High Tide Aviation Office Lease 090723.docx 44.96 KB	 Lease Rate Breakdown 2023.pdf 144.69 KB	 No file attached
2023-09-07T11:21:47	2023-09-07T11:25:56	

LEGAL DEPARTMENT USE ONLY- INITIAL REVIEW

Attachments:

 No file attached	 No file attached	 No file attached
------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------

- Approved
- On Hold
- Disapproved
- Additional Documents Requested

Does this request need to go to Finance?

- Yes, send to Finance
- No, do not send to Finance
- Send to Contract Specialist

Comments:

Approved to go to Council for public hearing and decision to approve or deny. BH

Item 16.

9:14:40 AM
Legal Staff

9/8/2023

Date / Time

ORDINANCE 2023/_____

AN ORDINANCE AUTHORIZING THE COUNTY ADMINISTRATOR TO ENTER INTO A LEASE AGREEMENT BETWEEN BEAUFORT COUNTY AND HIGH TIDE AVIATION, LLC

WHEREAS, the Beaufort Executive Airport (“Airport”) desires to enter into a lease agreement with High Tide Aviation, LLC ("Lessee"), that shall include a reasonable ground lease rate based on square footage of the area leased; and

WHEREAS, the Lessee will engage in the business of offering scenic flight tours, and desires to lease certain area owned by the County and acquire from County certain rights and privileges in connection with its use of Airport grounds; and

WHEREAS, the County has the right to permit use of the Airport grounds upon the terms and conditions hereinafter set forth and has full power and authority to enter into this Agreement; and

WHEREAS, County Council finds that it is in the best interest of the citizens and residents of Beaufort County for the County Administrator to enter into a Lease Agreement with High Tide Aviation, LLC.

NOW, THEREFORE, BE IT ORDAINED BY BEAUFORT COUNTY COUNCIL, duly assembled, does hereby authorize the County Administrator to enter into a Lease Agreement with High Tide Aviation, LLC.

Adopted this ____ day of _____, 2023.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Joseph Passiment, Chairman

ATTEST:

Sarah W. Brock, Clerk to Council

ORDINANCE 2023/_____

AN ORDINANCE TO AMEND BEAUFORT COUNTY’S BUDGET ORDINANCE FOR FISCAL YEAR 2024 (ORDINANCE NO. 2023/22) TO PROVIDE ROLLOVER APPROPRIATIONS IN THE AMOUNT OF \$3,432,768 FROM THE CAPITAL IMPROVEMENT FUND’S (FUND 1040) FUND BALANCE TO COVER ALL PURCHASE ORDERS WHICH ROLLED OVER FROM FY23 TO FY24 FOR ONGOING CAPITAL PROJECTS AND CAPITAL PURCHASES

WHEREAS, on June 12, 2023, Beaufort County Council adopted Ordinance 2023/22 which set the County’s FY 2023-2024 budget and associated expenditures; and

WHEREAS, in the interest of good accounting practices and transparency in the budget process it is beneficial and necessary to amend the budget to reflect the additional appropriation of funds which are to be carried over (rolled over) from the Fiscal Year 2022-2023 budget to the Fiscal Year 2023-2024 budget to cover capital improvements which were properly authorized in FY23 but which were not completed in FY23 and which have rolled over into FY24.

NOW, THEREFORE, BE IT ORDAINED, by Beaufort County Council that the FY 2023-2024 Beaufort County Budget Ordinance (Ordinance 2023/22) is hereby amended as shown on the attached “Exhibit A” and incorporated herein by reference.

Done this _____ day of _____, 2023.

COUNTY COUNCIL OF BEAUFORT COUNTY

**By: _____
Joseph Passiment, Chairman**

ATTEST:

Sarah Brock, Clerk to Council

First Reading: _____, 2023

EXHIBIT A

<u>PO#</u>	<u>Vendor Name</u>	<u>PO Date</u>	<u>Amount</u>	<u>Status</u>	<u>GL Account</u>
20231061	STURRE ENGINEERING	03/31/2023	\$5,400	9 - Carry Fwd	10401000-54420
20231175	MOSELEY ARCHITECTS PC	05/03/2023	\$27,850	9 - Carry Fwd	10401143-54420
20230504	NORTHWESTERN EMERGENCY VEHICLES, INC	09/14/2022	\$557,244	9 - Carry Fwd	10401230-54000
20230505	NORTHWESTERN EMERGENCY VEHICLES, INC	09/14/2022	\$259,996	9 - Carry Fwd	10401230-54000
20230970	STANTEC CONSULTING SERVICES, INC	03/02/2023	\$54,277	9 - Carry Fwd	10401243-54500
20231131	KIMLEY-HORN AND ASSOCIATES INC.	04/21/2023	\$143,107	9 - Carry Fwd	10401243-54500
20231133	STANTEC CONSULTING SERVICES, INC	04/21/2023	\$146,225	9 - Carry Fwd	10401243-54500
20231134	MEAD & HUNT INC	04/21/2023	\$18,717	9 - Carry Fwd	10401243-54500
20230959	KIMLEY-HORN AND ASSOCIATES INC.	03/02/2023	\$32,920	9 - Carry Fwd	10401243-54500
20230960	KIMLEY-HORN AND ASSOCIATES INC.	03/02/2023	\$8,940	9 - Carry Fwd	10401243-54500
20231260	KIMLEY-HORN AND ASSOCIATES INC.	05/23/2023	\$51,405	9 - Carry Fwd	10401243-54500
20231266	MEAD & HUNT INC	05/23/2023	\$889,210	9 - Carry Fwd	10401243-54500
20231325	MOSELEY ARCHITECTS OF SOUTH CAROLINA, PC	05/26/2023	\$48,500	9 - Carry Fwd	10401250-54300
20230761	JOHN CREWS CONSTRUCTION LLC	01/05/2023	\$49,695	9 - Carry Fwd	10401301-54450
20230406	BEAUFORT DESIGN BUILD LLC	06/30/2023	\$1,781	9 - Carry Fwd	10401310-51160
20231121	CREATIVE INTERIORS	04/20/2023	\$5,620	9 - Carry Fwd	10401330-54420
20231152	FORMS & SUPPLY INC.	04/20/2023	\$18,438	9 - Carry Fwd	10401330-54420
20231296	CREATIVE INTERIORS	05/26/2023	\$3,068	9 - Carry Fwd	10401330-54420
20231306	GRAYBAR FENCE COMPANY, INC.	05/26/2023	\$7,555	9 - Carry Fwd	10401330-54420
20231159	FORMS & SUPPLY INC.	05/01/2023	\$5,465	9 - Carry Fwd	10401330-54420
20230406	BEAUFORT DESIGN BUILD LLC	08/29/2022	\$858	9 - Carry Fwd	10401330-54420
20230567	ANDREWS ENGINEERING COMPANY, INC.	10/13/2022	\$11,850	9 - Carry Fwd	10401400-54450
20230680	HORD, COPLAN, & MACHT, INC	11/18/2022	\$6,681	9 - Carry Fwd	10401400-54450
20210074	ANDREWS ENGINEERING COMPANY, INC.	07/01/2023	-\$9,656	9 - Carry Fwd	10401600-54436
20230781	RMF ENGINEERING, INC.	01/12/2023	\$33,844	9 - Carry Fwd	10401600-54436
20230784	HORD, COPLAN, & MACHT, INC	01/12/2023	\$23,851	9 - Carry Fwd	10401600-54436
20230853	THE LANDPLAN GROUP SOUTH INC	02/03/2023	\$16,995	9 - Carry Fwd	10401600-54436
20231252	MUSCO SPORTS LIGHTING, LLC	05/19/2023	\$799,325	9 - Carry Fwd	10401600-54436
20231207	RMF ENGINEERING, INC.	05/10/2023	\$20,500	9 - Carry Fwd	10401600-54436
20231208	RMF ENGINEERING, INC.	05/10/2023	\$26,500	9 - Carry Fwd	10401600-54436
20231210	HORD, COPLAN, & MACHT, INC	05/10/2023	\$5,772	9 - Carry Fwd	10401600-54436
20231211	HORD, COPLAN, & MACHT, INC	05/10/2023	\$6,547	9 - Carry Fwd	10401600-54436
20231162	JEFF LEWIS AIA ARCHITECT	05/01/2023	\$22,000	9 - Carry Fwd	10401600-54436
20230309	DEERE & COMPANY STRATEGIC ACCT BUS DIV	06/29/2023	\$44,096	9 - Carry Fwd	10401600-54200
20230367	DEERE & COMPANY STRATEGIC ACCT BUS DIV	06/30/2023	\$43,684	9 - Carry Fwd	10401600-54200
20230367	DEERE & COMPANY STRATEGIC ACCT BUS DIV	06/27/2023	\$44,508	9 - Carry Fwd	10401604-54200
			\$3,432,768		



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
RECOMMEND APPROVAL OF AN ORDINANCE TO AMEND BEAUFORT COUNTY'S FISCAL YEAR 2024 BUDGET ORDINANCE (ORDINANCE NO. 2023/22) TO PROVIDE ROLLOVER APPROPRIATIONS IN THE AMOUNT OF \$3,432,768 FROM THE CAPITAL IMPROVEMENT FUND (FUND 1040) FOR CAPITAL IMPROVEMENT PROJECTS APPROVED BUT NOT COMPLETED IN FISCAL YEAR 2023
MEETING NAME AND DATE:
Finance, Administration, and Economic Development Committee
PRESENTER INFORMATION:
Denise Christmas, Interim Deputy County Administrator/Interim CFO <i>5 minutes</i>
ITEM BACKGROUND:
Has not come before committee nor council <i>This will be 1st reading on the Amended Budget Ordinance</i>
PROJECT / ITEM NARRATIVE:
Recommend approval of an ordinance amending Beaufort County Ordinance 2023/22 to appropriate \$3,432,768 of the Capital Improvement Fund's (Fund 1040) Fund Balance to cover all purchase orders which rolled from FY 2023 to FY 2024 for ongoing capital projects and capital purchases which did not get completed/purchased by June 30, 2023
FISCAL IMPACT:
<i>This will increase the Capital Improvement Fund's budget from \$21,232,455 to \$24,665,223. There will be a balance of \$703,423 remaining in Fund Balance should 100% of all budgeted line items be expended FY'24.</i>
STAFF RECOMMENDATIONS TO COUNCIL:
Staff recommends approving budget amendment to allow projects and capital purchases to complete with existing purchase orders.
OPTIONS FOR COUNCIL MOTION:
<ul style="list-style-type: none">• Motion to approve/deny Budget Ordinance 2023/22 Amendment for purchase order rollovers/budget carryforward in the Capital Improvement Fund• Move forward to Council for First Reading

EXHIBIT A

<u>PO#</u>	<u>Vendor Name</u>	<u>PO Date</u>	<u>Status</u>
20231061	STURRE ENGINEERING	03/31/2023	\$5,400.00 9 - Carry Fwd
20231175	MOSELEY ARCHITECTS PC	05/03/2023	\$27,850.00 9 - Carry Fwd
20230504	NORTHWESTERN EMERGENCY VEHICLES, INC	09/14/2022	\$557,244.00 9 - Carry Fwd
20230505	NORTHWESTERN EMERGENCY VEHICLES, INC	09/14/2022	\$259,996.00 9 - Carry Fwd
20230970	STANTEC CONSULTING SERVICES, INC	03/02/2023	\$54,277.23 9 - Carry Fwd
20231131	KIMLEY-HORN AND ASSOCIATES INC.	04/21/2023	\$143,106.50 9 - Carry Fwd
20231133	STANTEC CONSULTING SERVICES, INC	04/21/2023	\$146,225.34 9 - Carry Fwd
20231134	MEAD & HUNT INC	04/21/2023	\$18,717.30 9 - Carry Fwd
20230959	KIMLEY-HORN AND ASSOCIATES INC.	03/02/2023	\$32,920.00 9 - Carry Fwd
20230960	KIMLEY-HORN AND ASSOCIATES INC.	03/02/2023	\$8,940.00 9 - Carry Fwd
20231260	KIMLEY-HORN AND ASSOCIATES INC.	05/23/2023	\$51,405.00 9 - Carry Fwd
20231266	MEAD & HUNT INC	05/23/2023	\$889,210.04 9 - Carry Fwd
20231325	MOSELEY ARCHITECTS OF SOUTH CAROLINA, PC	05/26/2023	\$48,500.00 9 - Carry Fwd
20230761	JOHN CREWS CONSTRUCTION LLC	01/05/2023	\$49,695.00 9 - Carry Fwd
20230406	BEAUFORT DESIGN BUILD LLC	06/30/2023	\$1,780.58 9 - Carry Fwd
20231121	CREATIVE INTERIORS	04/20/2023	\$5,620.23 9 - Carry Fwd
20231152	FORMS & SUPPLY INC.	04/20/2023	\$18,438.16 9 - Carry Fwd
20231296	CREATIVE INTERIORS	05/26/2023	\$3,068.42 9 - Carry Fwd
20231306	GRAYBAR FENCE COMPANY, INC.	05/26/2023	\$7,555.35 9 - Carry Fwd
20231159	FORMS & SUPPLY INC.	05/01/2023	\$5,464.56 9 - Carry Fwd
20230406	BEAUFORT DESIGN BUILD LLC	08/29/2022	\$858.14 9 - Carry Fwd
20230567	ANDREWS ENGINEERING COMPANY, INC.	10/13/2022	\$11,850.00 9 - Carry Fwd
20230680	HORD, COPLAN, & MACHT, INC	11/18/2022	\$6,680.87 9 - Carry Fwd
20210074	ANDREWS ENGINEERING COMPANY, INC.	07/01/2023	-\$9,656.00 9 - Carry Fwd
20230781	RMF ENGINEERING, INC.	01/12/2023	\$33,843.82 9 - Carry Fwd
20230784	HORD, COPLAN, & MACHT, INC	01/12/2023	\$23,850.68 9 - Carry Fwd
20230853	THE LANDPLAN GROUP SOUTH INC	02/03/2023	\$16,995.00 9 - Carry Fwd
20231252	MUSCO SPORTS LIGHTING, LLC	05/19/2023	\$799,325.00 9 - Carry Fwd
20231207	RMF ENGINEERING, INC.	05/10/2023	\$20,500.00 9 - Carry Fwd
20231208	RMF ENGINEERING, INC.	05/10/2023	\$26,500.00 9 - Carry Fwd
20231210	HORD, COPLAN, & MACHT, INC	05/10/2023	\$5,772.00 9 - Carry Fwd
20231211	HORD, COPLAN, & MACHT, INC	05/10/2023	\$6,547.20 9 - Carry Fwd
20231162	JEFF LEWIS AIA ARCHITECT	05/01/2023	\$22,000.00 9 - Carry Fwd
20230309	DEERE & COMPANY STRATEGIC ACCT BUS DIV	06/29/2023	\$44,095.77 9 - Carry Fwd
20230367	DEERE & COMPANY STRATEGIC ACCT BUS DIV	06/30/2023	\$43,683.66 9 - Carry Fwd
20230367	DEERE & COMPANY STRATEGIC ACCT BUS DIV	06/27/2023	<u>\$44,507.88</u> 9 - Carry Fwd
			\$3,432,767.73

GL Account

10401000-54420
10401143-54420
10401230-54000
10401230-54000
10401243-54500
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BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
An Ordinance Adopting Amendments to the Business and Professional Licenses Ordinance Chapter 18, Article III, Section 18-67 (a) (b), Appendix A&B.
MEETING NAME AND DATE:
Finance, Administration, and Economic Development Committee - October 16, 2023
PRESENTER INFORMATION:
Chuck Atkinson - Assistant County Administrator, Development and Recreation <i>(10 mins)</i>
ITEM BACKGROUND:
December 2020 - County Council adopted Chapter 18 Article III Business and Professional Licenses Ordinance
PROJECT / ITEM NARRATIVE:
The South Carolina Business License Tax Standardization Act requires that by December 31 of every odd year, the County must adopt, by ordinance, the latest Standardized Business License Class Schedule.
FISCAL IMPACT:
Updated Rate Schedule will have a minor fiscal revenue impact.
STAFF RECOMMENDATIONS TO COUNCIL:
Staff recommends approval of the amendments to the Business and Professional Licenses Ordinance Chapter 18, Article III, Section 18-67 (a) (b), Appendix A&B.
OPTIONS FOR COUNCIL MOTION:
Motion to approve/deny amendments to the Business and Professional Licenses Ordinance Chapter 18, Article III, Section 18-67 (a) (b), Appendix A&B. (Next Step – Upon approval, send to County Council for First Reading)

ORDINANCE 2023/XX

AN ORDINANCE TO AMEND THE BUSINESS AND PROFESSIONAL LICENSES ORDINANCE, CHAPTER 18, ARTICLE III, SECTION 18-67(A)(B), APPENDIX A&B.

WHEREAS, the County of Beaufort is authorized by S.C. Code Section 4-9-30 and Title 6, Chapter 1, Article 3 to impose a business license tax on gross income; and

WHEREAS, Beaufort County has been in the practice of regulating business licensing as evidenced by the Beaufort County Code of Ordinances Chapter 18, Article III, Sections 18-46 through 18-71; and

WHEREAS, by Act No. 176 of 2020, known as the South Carolina Business License Tax Standardization Act (“Standardization Act”). The South Carolina General Assembly imposed additional requirements and conditions on the administration of business license taxes; and

WHEREAS, the Standardization Act requires that by December thirty-first of every odd year, the County must adopt, by ordinance, the latest Standardized Business License Class Schedule as recommended by the Municipal Association of South Carolina (the “Association”) and adopted by the Director of the Revenue and Fiscal Affairs Office; and

WHEREAS, the County Council of Beaufort County now wishes to amend the Current Business and Professional License Ordinance to adopt the latest Standardized Business License Class Schedule, as required by the Standardization Act, and to make other minor amendments as recommended by the Association.

NOW, THEREFORE, be it ordained by Beaufort County Council, in a meeting duly assembled, that Chapter 18, Article III, Section 18-67 (a) (b), Appendix A&B of the Code of Ordinances is amended to adopt the latest Standardization Business License Class Schedule and to make other minor amendments as recommended by the Association and as set forth in Exhibit "A".

Adopted this _____ day of _____ 2023

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Joseph Passiment, Chairman

ATTEST:

Sarah W. Brock, JD, Clerk to Council

ARTICLE III. - BUSINESS AND PROFESSIONAL LICENSES

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

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

"*Business*" means any business, calling, occupation, profession, or activity engaged in with the object of gain, benefit, or advantage, either directly or indirectly. In addition to the above-described activities constituting doing business in the count an individual shall be deemed to be in business if that individual owns and rents two or more residential rental units (or holds a partial interest therein) within the County, excluding the municipality therein. This applies to long-term rentals (30 days or more) only.

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

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

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

"*Council*" means the County Council of Beaufort County.

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

"*Gross Income*" means the gross receipts or gross revenue of a business, received or accrued, for one calendar or fiscal year collected or to be collected from business done within the County. If the licensee has a domicile within the County, business done within the County shall include all gross receipts or revenue received or accrued by such licensee. If the licensee does not have a domicile within the County, business done within the County shall include only gross receipts or revenue received or accrued within the County. In all cases, if the licensee pays a business license tax to another Municipality or County, then the licensee's gross income for the purpose of computing the tax within the County must be reduced by the amount of revenues or receipts taxed in the other Municipality or County and fully reported to the County. Gross income for business license tax purposes shall not include taxes collected for a governmental entity, escrow funds, or funds that are the property of a third party. The value of bartered goods or trade-in merchandise

shall be included in gross income. The gross receipts or gross revenues for business license purposes may be verified by inspection of returns and reports filed with the Internal Revenue Service, the South Carolina Department of Revenue, the South Carolina Department of Insurance, or other government agencies. In calculating gross income for certain businesses, the following rules shall apply:

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

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

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

"*County*" means the Beaufort County, South Carolina.

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

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

Section 3. Purpose and Duration. The business license required by this ordinance is for the purpose of providing such regulation as may be required for the business subject thereto and for the purpose of raising revenue for the general fund through a privilege tax. The license year ending on December 31, 2021 shall commence on May 1st, 2022 and shall run through April 30th 2023. Thereafter, the license periods shall be established as follows. Except as set forth below for business licenses issued to contractors with respect to specific construction projects, each yearly license

shall be issued for the twelve-month period of May 1 to April 30. A business license issued for a construction contract may, at the request of the licensee, be stated to expire at the completion of the construction project; provided, any such business license may require that the licensee file, by each April 30 during the continuation of the construction project, a statement of compliance, including but not limited to a revised estimate of the value of the contract. If any revised estimate of the final value of such project exceeds the amount for which the business license was issued, the licensee shall be required to pay a license fee at the then-prevailing rate on the excess amount. The provisions of this ordinance and the rates herein shall remain in effect from year to year as amended by the Council.

Section 4. Business License Tax Refund.

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

Section 5. Registration Required.

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

- B. Application shall be on the then-current standard business license application as established and provided by the Director of the South Carolina Revenue and Fiscal Affairs Office and shall be accompanied by all information about the applicant, the licensee, and the business deemed appropriate to carry out the purpose of this ordinance by the license official.

Applicants may be required to submit copies of portions of state and federal income tax returns reflecting gross receipts and gross revenue figures.

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

Section 6. Deductions, Exemptions, and Charitable Organizations.

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

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

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

Section 8. Display and Transfer.

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

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

Section 10. Inspection and Audits.

- A. For the purpose of enforcing the provisions of this ordinance, the license official or other authorized agent of the County is empowered to enter upon the premises of any person subject to this ordinance to make inspections and to examine and audit books and records. It shall be unlawful for any such person to fail or refuse to make available the necessary books and records. In the event an audit or inspection reveals that the licensee has filed false information, the costs of the audit shall be added to the correct business license tax and late penalties in addition to other penalties provided herein. Each day of failure to pay the proper amount of business license tax shall constitute a separate offense.

- B. The license official shall have the authority to make inspections and conduct audits of businesses to ensure compliance with the ordinance. Financial information obtained by inspections and audits shall not be deemed public records, and the license official shall not release the amount of business license taxes paid or the reported gross income of any person by name without written permission of the licensee, except as authorized by this ordinance, state or federal law, or proper judicial order. Statistics compiled by classifications are public records.

Section 11. Assessments. Payment under Protest, Appeal.

- A. Assessments, payments under protest, and appeals of assessment shall be allowed and conducted by the County pursuant to the provisions of S.C. Code 6-1-410, as amended. In preparing an assessment, the license official may examine such records of the business, or any other available records as may be appropriate and conduct such investigations and statistical surveys as the license official may deem appropriate to assess a business license tax and penalties as provided herein.
- B. The license official shall establish a uniform local procedure consistent with S.C. Code § 4-9-30 for hearing an application for adjustment of assessment and issuing a notice of final assessment; provided that for particular types of business licenses, including without limitation for business licenses issued to businesses subject to business license taxes under Article 20, Chapter 9, Title 58, and Chapters 7 and 45, Title 38, of the South Carolina Code, the County, by separate ordinance, may establish a different procedure and may delegate one or more rights, duties, and functions hereunder to the Municipal Association of South Carolina.

Section 12. Delinquent License Taxes, Partial Payment.

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

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

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

- A. The application is incomplete or contains a misrepresentation, false or misleading statement, or evasion or suppression of a material fact;

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

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

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

- A. A license has been mistakenly or improperly issued or issued contrary to law;
- B. A licensee has breached any condition upon which the license was issued or has failed to comply with the provisions of this ordinance;
- C. A licensee has obtained a license through a fraud, misrepresentation, a false or misleading statement, or evasion or suppression of a material fact in the license application;
- D. A licensee has been convicted within the previous ten years of an offense under a law or ordinance regulating business, a crime involving dishonest conduct or moral turpitude related to a business or a subject of a business, or an unlawful sale of merchandise or prohibited goods;
- E. A licensee has engaged in an unlawful activity or nuisance related to the business; or
- F. A licensee is delinquent in the payment to the County of any tax or fee,

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

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

Section 16. Appeals to Council or its Designee.

- A. Except with respect to appeals of assessments under Section 11 hereof, which are governed by S.C. Code 6-1-410, any person aggrieved by a determination, denial, or suspension and proposed revocation of a business license by the license official may appeal the decision to the Council or its designee by request stating the reasons for appeal, filed with the license official within ten (10) days after service by mail or personal service of the notice of determination, denial, or suspension and proposed revocation.
- B. A hearing on an appeal from a license denial or other determination of the license official and a hearing on a suspension and proposed revocation shall be held by the Council or its designee within ten (10) business days after receipt of a request for appeal or service of a notice of suspension and proposed revocation. The hearing shall be held upon written notice at a regular or special meeting of the Council, or, if by designee of the Council, at a hearing to be scheduled by the designee. The hearing may be continued to another date by agreement of all parties. At the hearing, all parties shall have the right to be represented by counsel, to present testimony and evidence, and to cross-examine witnesses. The proceedings shall be recorded and transcribed at the expense of the party so requesting. The rules of evidence and procedure prescribed by Council or its designee shall govern the hearing. Following the hearing, the Council by majority vote of its members present, or the designee of Council if the hearing is held by the designee, shall render a written decision based on findings of fact and conclusions on application of the standards herein. The written decision shall be served, by personal service or by mail, upon all parties or their representatives and shall constitute the final decision of the County.
- C. Timely appeal of a decision of Council or its designee does not effectuate a stay of that decision. The decision of the Council or its designee shall be binding and enforceable unless overturned by an applicable appellate court after a due and timely appeal.
- D. For business licenses issued to businesses subject to business license taxes under Article 20, Chapter 9, Title 58, and Chapters 7 and 45, Title 38, of the South Carolina Code, the County may establish a different procedure by ordinance.

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

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

or be credited against business license taxes unless specifically provided by the franchise or consent agreement.

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

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

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

Section 21. Classification and Rates.

- A. The business license tax for each class of businesses subject to this ordinance shall be computed in accordance with the current business license rate schedule, designated as Appendix A to this ordinance, which may be amended from time to time by the Council.
- B. The current business license class schedule is attached hereto as Appendix B. Hereafter, no later than December 31 of each odd year, the County shall adopt, by ordinance, the latest standardized business license class schedule as recommended by the Municipal Association of South Carolina and adopted by the Director of the South Carolina Revenue and Fiscal Affairs Office. Upon adoption by the County, the revised business license class schedule shall then be appended to this ordinance as a replacement Appendix B.
- C. The classifications included in each rate class are listed with NAICS codes, by sector, subsector, group, or industry. The business license class schedule (Appendix B) is a tool for classification and not a limitation on businesses subject to a business license tax. The classification in the most recent version of the business license class schedule adopted by the Council that most specifically identifies the subject business shall be applied to the business. The license official shall have the authority to make the determination of the classification most specifically applicable to a subject business.
- D. A copy of the class schedule and rate schedule shall be filed in the office of the clerk.

APPENDIX A: BUSINESS LICENSE RATE SCHEDULE

<u>RATE CLASS</u>	<u>BASE RATE</u>	<u>INCOME OVER \$2,000</u>	<u>INCOME OVER \$2,000</u>
<u>FRACTION THEREOF</u>			<u>RATE PER \$1 000 OR</u>
1	\$ 35.00		\$ 0.37
2	\$ 40.00		\$ 0.47
3	\$ 45.00		\$ 0.57
4	\$ 50.00		\$ 0.67
5	\$ 55.00		\$ 0.77
6	\$ 60.00		\$ 0.87
7	\$ 65.00		\$ 0.97
8.1	\$ 40.00		\$ 0.47
8.2	Set by state statute		
8.3	MASC Telecommunications		
8.4	MASC Insurance		
8.51	\$12.50 + \$12.50 per machine		
8.52	\$12.50 + \$180.00 per machine		
8.6	\$ 45.00 plus \$5.00 -OR- \$12.50 per table		\$ 0.5

NON-RESIDENT RATES

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

CLASS 8 RATES

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

Non-resident rates do not apply except where indicated.

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

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

on first \$2,000_____ \$ see rates PLUS

Each additional 1,000_____ \$ see rates

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

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

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

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

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

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

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

8.3 NAICS 517311, 517312 517111, 517112, 517222 - Telephone Companies.

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

8.4 NAICS 5241 — Insurance Companies:

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

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

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

Per Machine _____ \$12.50 PLUS
Business license _____ \$12.50

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

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

For operation of all machines (not on gross income), pursuant to S.C. Code 512-21-2720(B):

Per Machine _____ \$180.00 PLUS
Business license _____ \$12.50

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

8.6 NAICS 713990 - Billiard or Pool Rooms, all types. A business that offers the use of billiard or pool tables shall be subject to business license taxation under its natural class for all gross income of the business excluding the gross income attributable to the billiard or pool tables. In addition, the billiard or pool tables shall require their own separate business licenses (A) P pursuant to SC Code 12-21-2746 and shall be subject to a license tax of \$5.00 per table measuring less than

3 ½ feet wide and 7 feet long, and \$12.50 per table longer than that.; ~~PLUS, (B) with respect to gross income from the entire business in addition to the tax authorized by state law for each table:~~

~~Minimum on first \$2,000 _____ \$ see rates PLUS~~

~~Per \$ 1 ,000, or fraction, over \$2,000 _____ \$ see rates~~

Business License Class Schedule by NAICS Code

Appendix B

NAICS Sector/Subsector	Industry Sector	Class
11	Agriculture, forestry, hunting and fishing	2-0
21	Mining	4-0
23	Construction	8-1
31-33	Manufacturing	2-0
42	Wholesale trade	1-0
423930	Recyclable Material Merchant Wholesalers (Junk)	9-1
44-45	Retail trade	1-0
4411	Automobile Dealers	9-3
4412	Other Motor Vehicle Dealers	9-3
454390	Other Direct Selling Establishments (Peddlers)	9.41 & 9.4
48-49	Transportation and warehousing	2-0
482	Rail Transportation	8-2
51	Information	4-0
517311	Wired Telecommunications Carriers	8-3
517312	Wireless Telecommunications Carriers (except Satellite)	8-3
52	Finance and insurance	7-0
522298	Pawnshops	9-2
5241	Insurance Carriers	8-4
5242	Insurance Brokers for non-admitted Insurance Carriers	8-4
53	Real estate and rental and leasing	7-0
54	Professional, scientific, and technical services	5-0
55	Management of companies	7-0
56	Administrative and support and waste management and remediation services	4-0
61	Educational services	4-0
62	Health care and social assistance	4-0
71	Arts, entertainment, and recreation	3-0
711190	Other Performing Arts Companies (Carnivals and Circuses)	9-6
713120	Amusement Parks and Arcades	8-5
713290	Nonpayout Amusement Machines	8-5
713290	Bingo Halls	9-5
713990	All Other Amusement and Recreational Industries (pool tables)	
721	Accommodation	3-0
722	Food services and drinking places	1-0
722410	Drinking Places (Alcoholic Beverages)	
81	Other services	5-0

Note: Class Schedule is based on 2017 IRS data.

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

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

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

This appendix will be updated every odd year based on the latest available IRS statistics. The Business License Class Schedule may be accessed at:

Item 18.

ORDINANCE 2023/XX

AN ORDINANCE TO AMEND THE BUSINESS AND PROFESSIONAL LICENSES ORDINANCE, CHAPTER 18, ARTICLE III, SECTION 18-67(A)(B), APPENDIX A&B.

WHEREAS, the County of Beaufort is authorized by S.C. Code Section 4-9-30 and Title 6, Chapter 1, Article 3 to impose a business license tax on gross income; and

WHEREAS, Beaufort County has been in the practice of regulating business licensing as evidenced by the Beaufort County Code of Ordinances Chapter 18, Article III, Sections 18-46 through 18-71; and

WHEREAS, by Act No. 176 of 2020, known as the South Carolina Business License Tax Standardization Act (“Standardization Act”). The South Carolina General Assembly imposed additional requirements and conditions on the administration of business license taxes; and

WHEREAS, the Standardization Act requires that by December thirty-first of every odd year, the County must adopt, by ordinance, the latest Standardized Business License Class Schedule as recommended by the Municipal Association of South Carolina (the “Association”) and adopted by the Director of the Revenue and Fiscal Affairs Office; and

WHEREAS, the County Council of Beaufort County now wishes to amend the Current Business and Professional License Ordinance to adopt the latest Standardized Business License Class Schedule, as required by the Standardization Act, and to make other minor amendments as recommended by the Association.

NOW, THEREFORE, be it ordained by Beaufort County Council, in a meeting duly assembled, that Chapter 18, Article III, Section 18-67 (a)(b), Appendix A&B of the Code of Ordinances is amended to adopt the latest Standardization Business License Class Schedule and to make other minor amendments as recommended by the Association and as set forth in Exhibit "A".

Adopted this _____ day of _____ 2023

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Joseph Passiment, Chairman

ATTEST:

Sarah W. Brock, JD, Clerk to Council

ARTICLE III. - BUSINESS AND PROFESSIONAL LICENSES

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

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

"*Business*" means any business, calling, occupation, profession, or activity engaged in with the object of gain, benefit, or advantage, either directly or indirectly. In addition to the above-described activities constituting doing business in the count an individual shall be deemed to be in business if that individual owns and rents two or more residential rental units (or holds a partial interest therein) within the County, excluding the municipality therein. This applies to long-term rentals (30 days or more) only.

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

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

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

"*Council*" means the County Council of Beaufort County.

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

"*Gross Income*" means the gross receipts or gross revenue of a business, received or accrued, for one calendar or fiscal year collected or to be collected from business done within the County. If the licensee has a domicile within the County, business done within the County shall include all gross receipts or revenue received or accrued by such licensee. If the licensee does not have a domicile within the County, business done within the County shall include only gross receipts or revenue received or accrued within the County. In all cases, if the licensee pays a business license tax to another Municipality or County, then the licensee's gross income for the purpose of computing the tax within the County must be reduced by the amount of revenues or receipts taxed in the other Municipality or County and fully reported to the County. Gross income for business license tax purposes shall not include taxes collected for a governmental entity, escrow funds, or funds that are the property of a third party. The value of bartered goods or trade-in merchandise

shall be included in gross income. The gross receipts or gross revenues for business license purposes may be verified by inspection of returns and reports filed with the Internal Revenue Service, the South Carolina Department of Revenue, the South Carolina Department of Insurance, or other government agencies. In calculating gross income for certain businesses, the following rules shall apply:

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

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

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

"*County*" means the Beaufort County, South Carolina.

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

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

Section 3. Purpose and Duration. The business license required by this ordinance is for the purpose of providing such regulation as may be required for the business subject thereto and for the purpose of raising revenue for the general fund through a privilege tax. The license year ending on December 31, 2021 shall commence on May 1st, 2022 and shall run through April 30th 2023. Thereafter, the license periods shall be established as follows. Except as set forth below for business licenses issued to contractors with respect to specific construction projects, each yearly license

shall be issued for the twelve-month period of May 1 to April 30. A business license issued for a construction contract may, at the request of the licensee, be stated to expire at the completion of the construction project; provided, any such business license may require that the licensee file, by each April 30 during the continuation of the construction project, a statement of compliance, including but not limited to a revised estimate of the value of the contract. If any revised estimate of the final value of such project exceeds the amount for which the business license was issued, the licensee shall be required to pay a license fee at the then-prevailing rate on the excess amount. The provisions of this ordinance and the rates herein shall remain in effect from year to year as amended by the Council.

Section 4. Business License Tax Refund.

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

Section 5. Registration Required.

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

- B. Application shall be on the then-current standard business license application as established and provided by the Director of the South Carolina Revenue and Fiscal Affairs Office and shall be accompanied by all information about the applicant, the licensee, and the business deemed appropriate to carry out the purpose of this ordinance by the license official.

Applicants may be required to submit copies of portions of state and federal income tax returns reflecting gross receipts and gross revenue figures.

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

Section 6. Deductions, Exemptions, and Charitable Organizations.

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

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

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

Section 8. Display and Transfer.

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

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

Section 10. Inspection and Audits.

- A. For the purpose of enforcing the provisions of this ordinance, the license official or other authorized agent of the County is empowered to enter upon the premises of any person subject to this ordinance to make inspections and to examine and audit books and records. It shall be unlawful for any such person to fail or refuse to make available the necessary books and records. In the event an audit or inspection reveals that the licensee has filed false information, the costs of the audit shall be added to the correct business license tax and late penalties in addition to other penalties provided herein. Each day of failure to pay the proper amount of business license tax shall constitute a separate offense.

- B. The license official shall have the authority to make inspections and conduct audits of businesses to ensure compliance with the ordinance. Financial information obtained by inspections and audits shall not be deemed public records, and the license official shall not release the amount of business license taxes paid or the reported gross income of any person by name without written permission of the licensee, except as authorized by this ordinance, state or federal law, or proper judicial order. Statistics compiled by classifications are public records.

Section 11. Assessments. Payment under Protest, Appeal.

- A. Assessments, payments under protest, and appeals of assessment shall be allowed and conducted by the County pursuant to the provisions of S.C. Code 6-1-410, as amended. In preparing an assessment, the license official may examine such records of the business, or any other available records as may be appropriate and conduct such investigations and statistical surveys as the license official may deem appropriate to assess a business license tax and penalties as provided herein.
- B. The license official shall establish a uniform local procedure consistent with S.C. Code § 4-9-30 for hearing an application for adjustment of assessment and issuing a notice of final assessment; provided that for particular types of business licenses, including without limitation for business licenses issued to businesses subject to business license taxes under Article 20, Chapter 9, Title 58, and Chapters 7 and 45, Title 38, of the South Carolina Code, the County, by separate ordinance, may establish a different procedure and may delegate one or more rights, duties, and functions hereunder to the Municipal Association of South Carolina.

Section 12. Delinquent License Taxes, Partial Payment.

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

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

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

- A. The application is incomplete or contains a misrepresentation, false or misleading statement, or evasion or suppression of a material fact;

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

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

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

- A. A license has been mistakenly or improperly issued or issued contrary to law;
- B. A licensee has breached any condition upon which the license was issued or has failed to comply with the provisions of this ordinance;
- C. A licensee has obtained a license through a fraud, misrepresentation, a false or misleading statement, or evasion or suppression of a material fact in the license application;
- D. A licensee has been convicted within the previous ten years of an offense under a law or ordinance regulating business, a crime involving dishonest conduct or moral turpitude related to a business or a subject of a business, or an unlawful sale of merchandise or prohibited goods;
- E. A licensee has engaged in an unlawful activity or nuisance related to the business; or
- F. A licensee is delinquent in the payment to the County of any tax or fee,

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

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

Section 16. Appeals to Council or its Designee.

- A. Except with respect to appeals of assessments under Section 11 hereof, which are governed by S.C. Code 6-1-410, any person aggrieved by a determination, denial, or suspension and proposed revocation of a business license by the license official may appeal the decision to the Council or its designee by request stating the reasons for appeal, filed with the license official within ten (10) days after service by mail or personal service of the notice of determination, denial, or suspension and proposed revocation.
- B. A hearing on an appeal from a license denial or other determination of the license official and a hearing on a suspension and proposed revocation shall be held by the Council or its designee within ten (10) business days after receipt of a request for appeal or service of a notice of suspension and proposed revocation. The hearing shall be held upon written notice at a regular or special meeting of the Council, or, if by designee of the Council, at a hearing to be scheduled by the designee. The hearing may be continued to another date by agreement of all parties. At the hearing, all parties shall have the right to be represented by counsel, to present testimony and evidence, and to cross-examine witnesses. The proceedings shall be recorded and transcribed at the expense of the party so requesting. The rules of evidence and procedure prescribed by Council or its designee shall govern the hearing. Following the hearing, the Council by majority vote of its members present, or the designee of Council if the hearing is held by the designee, shall render a written decision based on findings of fact and conclusions on application of the standards herein. The written decision shall be served, by personal service or by mail, upon all parties or their representatives and shall constitute the final decision of the County.
- C. Timely appeal of a decision of Council or its designee does not effectuate a stay of that decision. The decision of the Council or its designee shall be binding and enforceable unless overturned by an applicable appellate court after a due and timely appeal.
- D. For business licenses issued to businesses subject to business license taxes under Article 20, Chapter 9, Title 58, and Chapters 7 and 45, Title 38, of the South Carolina Code, the County may establish a different procedure by ordinance.

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

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

or be credited against business license taxes unless specifically provided by the franchise or consent agreement.

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

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

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

Section 21. Classification and Rates.

- A. The business license tax for each class of businesses subject to this ordinance shall be computed in accordance with the current business license rate schedule, designated as Appendix A to this ordinance, which may be amended from time to time by the Council.
- B. The current business license class schedule is attached hereto as Appendix B. Hereafter, no later than December 31 of each odd year, the County shall adopt, by ordinance, the latest standardized business license class schedule as recommended by the Municipal Association of South Carolina and adopted by the Director of the South Carolina Revenue and Fiscal Affairs Office. Upon adoption by the County, the revised business license class schedule shall then be appended to this ordinance as a replacement Appendix B.
- C. The classifications included in each rate class are listed with NAICS codes, by sector, subsector, group, or industry. The business license class schedule (Appendix B) is a tool for classification and not a limitation on businesses subject to a business license tax. The classification in the most recent version of the business license class schedule adopted by the Council that most specifically identifies the subject business shall be applied to the business. The license official shall have the authority to make the determination of the classification most specifically applicable to a subject business.
- D. A copy of the class schedule and rate schedule shall be filed in the office of the clerk.

APPENDIX A: BUSINESS LICENSE RATE SCHEDULE

<u>RATE CLASS</u> <u>FRACTION THEREOF</u>	<u>BASE RATE</u>	INCOME: \$0 - \$2,000	INCOME OVER \$2,000
			<u>RATE PER \$1 000 OR</u>
1	\$ 35.00		\$ 0.37
2	\$ 40.00		\$ 0.47
3	\$ 45.00		\$ 0.57
4	\$ 50.00		\$ 0.67
5	\$ 55.00		\$ 0.77
6	\$ 60.00		\$ 0.87
7	\$ 65.00		\$ 0.97
8.1	\$ 40.00		\$ 0.47
8.2	Set by state statute		
8.3	MASC Telecommunications		
8.4	MASC Insurance		
8.51	\$12.50 + \$12.50 per machine		
8.52	\$12.50 + \$180.00 per machine		
8.6	\$ 45.00 plus \$5.00 -OR- \$12.50 per table		\$ 0.5

NON-RESIDENT RATES

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

CLASS 8 RATES

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

Non-resident rates do not apply except where indicated.

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

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

on first \$2,000_____ \$ see rates PLUS

Each additional 1,000_____ \$ see rates

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

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

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

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

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

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

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

8.3 NAICS 517111, 517112, 517222 - Telephone Companies.

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

8.4 NAICS 5241 — Insurance Companies:

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

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

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

Per Machine _____ \$12.50 PLUS
Business license _____ \$12.50

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

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

For operation of all machines (not on gross income), pursuant to S.C. Code 512-21-2720(B):

Per Machine _____ \$180.00 PLUS
Business license _____ \$12.50

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

8.6 NAICS 713990 - Billiard or Pool Rooms, all types. A business that offers the use of billiard or pool tables shall be subject to business license taxation under its natural class for all gross income of the business excluding the gross income attributable to the billiard or pool tables. In addition, the billiard or pool tables shall require their own separate business licenses pursuant to SC Code 12-21-2746 and shall be subject to a license tax of \$5.00 per table measuring less than 3 ½ feet wide and 7 feet long, and \$12.50 per table longer than that.

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

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

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

This appendix will be updated every odd year based on the latest available IRS statistics. The Business License Class Schedule may be accessed at:

Item 18.



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
AN ORDINANCE RATIFYING THE SALARIES FOR VARIOUS ELECTED OFFICIALS AND TO AMEND SECTION 2-347 OF THE BEAUFORT COUNTY CODE OF LAWS ESTABLISHING THE SALARIES FOR VARIOUS ELECTED AND APPOINTED OFFICIALS
MEETING NAME AND DATE:
September 25, 2023; County Council
PRESENTER INFORMATION:
Brittany Ward, County Attorney; Katherine Mead, Director of Human Resources 10 Minutes
ITEM BACKGROUND:
Discussed at September 18, 2023 Finance Committee. Motion made to present ordinance at the September 25, 2023 County Council meeting.
PROJECT / ITEM NARRATIVE:
On August 12, 2019, the Beaufort County Finance Committee (“Committee”) desired to compensate the Elected Officials based on the average salaries of Tier 1 Counties in South Carolina, and approved to amend the current ordinance to reflect the recommended salaries of the Elected Officials. The funding for the desired salary increase for Elected Officials had been included in the Fiscal Year 2019 budget. The desired ordinance was not presented to County Council. The Elected Officials have been receiving the approved recommended salary rates above since July 1, 2019 and have received all other applicable increases as established in Chapter 2 of the Beaufort County Ordinance
FISCAL IMPACT:
Potential salary amounts owed totals \$45,417.78 to be paid from the payroll contingency account.
STAFF RECOMMENDATIONS TO COUNCIL:
Staff recommends Council vote in favor of the ordinance.
OPTIONS FOR COUNCIL MOTION:
Motion to move forward to second reading and a public hearing of an ordinance ratifying the salaries for various elected officials and to amend Section 2-347 of the Beaufort Bounty Code of Laws establishing the salaries for various elected and appointed officials.

ORDINANCE 2023/ _____

AN ORDINANCE RATIFYING THE SALARIES FOR VARIOUS ELECTED OFFICIALS AND TO AMEND SECTION 2-347 OF THE BEAUFORT COUNTY CODE OF LAWS ESTABLISHING THE SALARIES FOR VARIOUS ELECTED AND APPOINTED OFFICIALS

WHEREAS, the County Council of Beaufort County (“Council”) has created a salary administration program for compensating elected and appointed officials in Section 2-346 of the Beaufort County Code; and

WHEREAS, the Council has the authority to establish salaries for elected officials and in Section 2-347 of the Beaufort County Code has established the Entry Level Salary for the Auditor, Clerk of Court, Coroner, Sheriff, and Treasurer (“Elected Officials”); and

WHEREAS, on August 12, 2019, the Beaufort County Finance Committee (“Committee”) desired to compensate the Elected Officials based on the average salaries of Tier 1 Counties in South Carolina, and approved to amend the current ordinance to reflect the recommended salaries of the Elected Officials as follows:

Elected Official	Recommended Salary
Auditor	\$88,000
Clerk of Court	\$103,000
Coroner	\$92,000
Sheriff	\$149,000
Treasurer	\$93,000

WHEREAS, the funding for the desired salary increase for Elected Officials was included in the Fiscal Year 2019 budget; and

WHEREAS, the desired ordinance amendment to increase salaries for Elected Officials did not receive a public hearing nor was the ordinance amendment presented to Council. Yet, the Elected Officials who held their positions on July 1, 2019, started receiving the above recommended salary rates and have received all other applicable increases as established in Chapter 2 of the Beaufort County Ordinance; and

WHEREAS, Council has determined that it is in its best interest of all parties to ratify the payments for the Elected Official’s salaries who were sworn into their office after July 1, 2019 and to amend Ordinance Section 2-347 to reflect the desired salary increases for the Elected Officials based on the 2019 recommendations; and

WHEREAS, standards that are ~~stricken through~~ shall be deleted text and standards that are underscored shall be added text.

NOW, THEREFORE, BE IT ORDAINED by Beaufort County Council in a meeting duly assembled, by their authority to ratify the Elected Officials’ salary payments to reflect the above 2019 recommended salaries, and all other applicable increases as established in Chapter 2 of the Beaufort County Ordinance, and to hereby amend Section 2-347 Beaufort County Code of Laws to read as follows:

- (a) *Salary.* The entry level salary for each elected and appointed official is established as follows:
 - (1) *Auditor:* ~~\$59,915.00~~ \$88,000.00, which excludes any other stipend paid by the county and/or state.

- (2) *Clerk of court*: ~~\$79,837.00~~ \$103,000, which excludes any other stipend paid by the county and/or state.
- (3) *Coroner*: ~~\$70,367.00~~ \$92,000, which excludes any other stipend paid by the county and/or state.
- (4) *Probate judge*: \$100,067.00, which excludes any other stipend paid by the county and/or state.
- (5) *Sheriff*: ~~\$102,380.00~~ \$149,000, which excludes any other stipend paid by the county and/or state.
- (6) *Treasurer*: ~~\$64,327.00~~ \$93,000, which excludes any other stipend paid by the county and/or state.
- (7) *Master-in-equity*: Set pursuant to S.C. Code Ann. § 14-11-30, which excludes any other stipend paid by the county and/or state.
- (8) *Magistrate*: Set pursuant to S.C. Code Ann. § 22-8-40(b)(2), which excludes any other stipend paid by the county and/or state.

The above entry level salaries were established using the average salaries of peer counties in the tier 1 classification as determined by population in the South Carolina Association of Counties Annual Salary Survey for each position, or the current Beaufort County salary, whichever is greater.

(b) Cost of living. At each instance of a cost of living allowance (COLA) pay increase awarded by the Beaufort County Council, after the enactment date of this ordinance [September 2007 and amended August 2019], the entry level salary of each elected or appointed office listed in subsection (a) above will be increased accordingly.

Adopted this ____ day of _____, 2023.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Joseph Passiment, Chairman

ATTEST:

Sarah W. Brock,
Clerk to Council



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
A RESOLUTION AUTHORIZING THE INTERIM COUNTY ADMINISTRATOR TO ENTER INTO A MEMORANDUM OF AGREEMENT WITH THE TOWN OF PORT ROYAL FOR MAINTENANCE OF COUNTY OWNED PROPERTY KNOWN AS CHERRY HILL PARK (R112 032 000 0637 0000, R112 032 000 0008 0000 and R112 032 000 0064 0000)
MEETING NAME AND DATE:
Community Services and Land Use Committee (October 9, 2023)
PRESENTER INFORMATION:
Stefanie M. Nagid, Passive Parks Director (5 minutes)
ITEM BACKGROUND:
County Council approved the acquisition of the property on September 11, 2023
PROJECT / ITEM NARRATIVE:
Beaufort County purchased the property known as Cherry Hill Park in September 2023 through the Rural and Critical Lands Preservation Program. The property is located on Oakview Drive in the Town of Port Royal. As a condition of the purchase of Cherry Hill Park, the Town has agreed to a mowing and maintenance schedule on the property similar to what the Town conducts at the County's Fort Frederick property.
FISCAL IMPACT:
There is no fiscal impact to the County. Town will incur all maintenance expenses.
STAFF RECOMMENDATIONS TO COUNCIL:
Staff recommends approval
OPTIONS FOR COUNCIL MOTION:
Motion to approve, modify, or deny the Interim County Administrator to enter into a Memorandum of Agreement with the Town of Port Royal for maintenance of the property known as Cherry Hill Park. If approved by the Committee, move forward to County Council on October 23, 2023 for final approval.

RESOLUTION 2023/ ____

A RESOLUTION AUTHORIZING THE INTERIM COUNTY ADMINISTRATOR TO ENTER INTO A MEMORANDUM OF AGREEMENT WITH THE TOWN OF PORT ROYAL FOR MAINTENANCE OF COUNTY OWNED PROPERTY KNOWN AS CHERRY HILL PARK (R112 032 000 0637 0000, R112 032 000 0008 0000 and R112 032 000 0064 0000)

WHEREAS, Beaufort County (“County”) purchased 11.92 acres of what is known today as Cherry Hill Park (R112 032 000 0637 0000, R112 032 000 0008 0000 and R112 032 000 0064 0000) located on Oakview Drive in the Town of Port Royal (“Property”) through the County’s Rural and Critical Lands Preservation Program; and

WHEREAS, a purpose of the Rural and Critical Land Preservation program is to preserve and protect valuable economic and natural resources; as well as to obtain ownership of land for the County’s Passive Parks Department for the benefit and enjoyment of the citizens and visitors of Beaufort County; and

WHEREAS, the Town of Port Royal (“Town”) has committed to mowing and maintenance of the Property for the enjoyment of the public for passive recreation as further described in Exhibit A; and

WHEREAS, the County and the Town recognize the value of maintenance on the Property for the benefit of public access and passive recreation.

NOW, THEREFORE, BE IT RESOLVED by Beaufort County Council, duly assembled, does hereby authorize the Interim County Administrator to enter into a Memorandum of Agreement with the Town of Port Royal for maintenance of Cherry Hill Park, as further described in Exhibit A.

Adopted this ____ day of _____, 2023.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____

Joseph Passiment, Chairman

ATTEST:

Sarah Brock, Clerk to Council

dawn to dusk, Monday through Sunday, or as programmed at the entrance gate by the County. There will be no fees for access or for parking, and parking shall be limited to park users only during open hours.

b. Improvements. County, at their expense, shall construct improvements on the Property, which may generally consist of fencing, gates, signage, parking, pavilions, trails, and other passive recreation related infrastructure. Town shall not build, erect or construct any permanent improvement upon the Property without the prior written approval of the County. All improvements shall remain the property of County upon termination of MOA.

c. Use. Town shall at all times during the term of this Agreement or any renewal or extension thereof, shall maintain, manage and use the Property as a public passive park only, and shall not provide, promote, or otherwise facilitate any programs or activities, or allow any person, entities, groups or organizations to use the Property to provide, promote or otherwise facilitate the use of the Property for non-passive park purposes. County reserves the right to permit rental of the Property and/or any constructed facility on the Property for special events. Town shall not, during the term of this Agreement, allow any person, group, entities or organizations, public or private, to have exclusive use of the entire Property without the prior written approval of the County. It is clearly understood and agreed upon by the Town and the County that events like weddings, birthday parties, and other such events will be handled by the County via the Passive Park Facility Rental Application and approval process.

d. Maintenance. Town agrees, at their expense, to maintain the Property on a regular schedule that follows other park properties the Town manages and maintains as follows:

- a. Mowing/weed eating of entrance, grounds and around any structures or improvements.
- b. Blowing debris from the park access drive and parking area, sidewalk, trails and structures.
- c. Trash collection and off-Property disposal of any trash receptacles.
- d. Power washing any structures or improvements at least once a year, or as needed due to visitor use.

County agrees, at their expense, to repair infrastructure or improvements that cost greater than \$2,500, and to investigate and resolve any tree safety issues as reported by the Town and/or the public.

5. UTILITIES. The cost of any utilities, assessments and fees shall be the sole responsibility of the County.

6. REPORTING AND CONTACTS. Town will inform the County via phone call or email of any vandalism, damage or maintenance needs within 24 hours of identification.

County Contact:	Town Contact:
Stefanie M. Nagid, Passive Parks Director	Van Willis, Town Manager
124 Lady’s Island Drive	P.O. Drawer 9
Beaufort, SC 29907	Port Royal, SC 29935
(843) 255-2152	(843) 986-2205
snagid@bcgov.net	vwillis@portroyal.org

7. **INSURANCE.** Parties shall at all times maintain a policy of tort and/or general liability insurance in the same amount, and of the same nature and type, as it carries and pays for on all other public parks and recreational facilities which they have an ownership interest in.
8. **BREACH OF CONTRACT.** If a party to this MOA determines that the other party is in breach of the terms of this MOA, the claiming party shall notify the other party of the breach with a First Notice and request voluntary compliance. In the event that voluntary cure is not agreed upon within sixty (60) days of receipt of First Notice, the claiming party shall give written notice to the other party of such breach with a Second Notice and demand corrective action. If the noticed party fails to cure the breach within sixty (60) days after receipt of the Second Notice, the parties shall submit the issue to a mediator as set forth herein below for resolution.
- a. *Disputes.* All claims, disputes, and controversies arising out of or in relation to the performance, interpretation, application, or enforcement of this MOA, including but not limited to breach thereof, shall be first submitted to an agreed upon mediator. The Parties shall equally share in the cost of mediation. Any MOA resulting from said mediation shall be binding on the Parties.
9. **TERMINATION.** Either party shall have the right to terminate this MOA for any reason upon six (6) months' prior written notice beginning with the delivery to and acceptance of the designated authority of the other party.
10. **OTHER PROVISIONS.**
- a. *Definition of Terms.* For the purpose of this MOA, the terms "passive park" and "passive recreation" shall be defined pursuant to Beaufort County Ordinance 2018-53; all other terms shall be defined pursuant to the County's Community Development Code.
- b. *Mutual Cooperation.* The Parties shall cooperate with each other and will use all reasonable efforts to cause the fulfillment of the terms and conditions of this MOA.
- c. *Entire Agreement.* This MOA contains the entire agreement between the Parties pertaining to the subject matter contained herein. All prior agreements by or between the Parties shall be deemed to have merged into this MOA. If there are conflicting terms between this MOA and any documents merged into this MOA, this MOA shall supersede.
- d. *Amendment or Modification.* This MOA cannot be amended or modified orally or by a single party. No amendment or modification to this MOA shall be valid unless in writing and signed by both Parties to this MOA.
- e. *Severability.* If any provision of this MOA is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this MOA shall nonetheless remain in full force and effect.
- f. *Waiver.* No waiver of any provision of this MOA shall be effective unless in writing and signed by the party waiving its rights. No delay or omission by either party to exercise any right or remedy it has under this MOA shall impair or be construed as a waiver of such right or remedy. A waiver by either party of any covenant or breach of this MOA shall not constitute or operate as a waiver of any succeeding breach of the covenant or of any other covenant.

g. **Applicable Law.** This MOA is enforceable in the State of South Carolina and shall in all respects be governed by, and constructed in accordance with, the substantive laws of the United States and the laws of the State of South Carolina. Any claims for default, non-performance or other breach shall be filed in Beaufort County, South Carolina.

IN WITNESS WHEREOF, and in acknowledgement that the Parties hereto have read and understood each provision hereof, the Parties have caused this MOA to be executed on the Effective Date.

WITNESSES:

BEAUFORT COUNTY

John Robinson
Interim County Administrator

WITNESSES:

TOWN OF PORT ROYAL

Van Willis
Town Manager



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
A RESOLUTION TO APPROVE RECOMMENDATIONS TO AWARD FY24 COMMUNITY SERVICES GRANT PROGRAM FUNDS IN THE AMOUNT OF \$398,000 TO COMMUNITY SERVICES ORGANIZATIONS
MEETING NAME AND DATE:
Finance Administration and Economic Development Committee – October 16, 2024
PRESENTER INFORMATION:
Fred Leyda, Director, Beaufort County Human Services Department – (20 min.)
ITEM BACKGROUND:
Council appropriated \$398,000 in its FY2024 budget for the annual Community Services Grants Program (Together for Beaufort County/Public Welfare Subsidies 10001598-55600).
PROJECT / ITEM NARRATIVE:
Beaufort County Human Services Department convened independent review panel to discuss allocations and present final recommendations for allocation on September 25, 2023.
FISCAL IMPACT:
Awarding \$398,000 of funds which Council appropriated in FY24 to community services organizations.
STAFF RECOMMENDATIONS TO COUNCIL:
<i>Approve the Beaufort County Community Services Grants Program recommendations.</i>
OPTIONS FOR COUNCIL MOTION:
Motion to approve the Beaufort County Community Services Grant Program recommendations. -or- Motion to disapprove the Beaufort County Community Services Grant Program Recommendations.

RESOLUTION 2023/_____

A RESOLUTION TO APPROVE RECOMMENDATIONS TO AWARD FY24 COMMUNITY SERVICES GRANT PROGRAM FUNDS IN THE AMOUNT OF \$398,000 TO COMMUNITY SERVICES ORGANIZATIONS

WHEREAS, Beaufort County Council is committed to ensuring a high quality of life for all its citizens and residents; and

WHEREAS, County Council appropriated \$398,000 in its FY2024 budget to the Community Services Grants Program (“Grant Program”) which is administered by the Human Services Department of Beaufort County; and

WHEREAS, the Human Services Department solicited and received grant applications for the FY24 Grant Program from several local not-for-profit human service organizations that actively participate in the community’s collective impact model, also known as *Together for Beaufort County (T4BC)*; and

WHEREAS, the Human Services Department convened an independent panel of community stakeholders (“Panel”) on Monday, September 25, 2023, to review and evaluate the grant applications that were received and to make recommendations to Council on how the funds should be allocated; and

WHEREAS, the Panel, having reviewed, evaluated, and discussed the grant applications for FY24, recommends County Council distribute FY24’s Grant Program funds as follows:

- AccessHealth Lowcountry \$20,000
- Bluffton Self-Help \$22,500
- Child Abuse Prevention Association \$12,500
- Community Services Organization \$37,500
- Family Promise of Beaufort County \$10,000
- Good Neighbor Free Medical Clinic \$32,500
- Habitat for Humanity of the Lowcountry \$15,000
- HELP of Beaufort \$10,000
- Hilton Head Island Safe Harbour \$1,000
- Hopeful Horizons \$37,500
- Low Country Legal Volunteers \$25,000
- Lowcountry Early Childhood Coalition \$15,000
- Lowcountry Food Bank \$3,500
- Meals on Wheels Bluffton Hilton Head \$7,500
- Memory Matters \$2,500
- Mt. Carmel Baptist Church Med-I-Assist Program \$20,000
- NAMI Lowcountry \$10,000
- Neighborhood Outreach Connection \$10,000
- Pregnancy Center and Clinic of the Lowcountry \$8,000

• Programs for Exceptional People	\$7,500
• Special Olympics South Carolina Area 8	\$7,500
• The Children's Center	\$8,000
• Together for Beaufort County	\$15,000
• Under One Roof	\$5,000
• United Way of the Lowcountry	\$37,500
• Volunteers in Medicine Hilton Head Island	<u>\$17,500</u>
	\$398,000

NOW, THEREFORE, BE IT RESOLVED, that County Council of Beaufort County hereby adopts the recommendations of the Panel and authorizes the County Administrator to distribute the FY24 Community Services Grant Program funds as set forth above.

Adopted this _____ day of October 2023.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Joseph Passiment, Chairman

ATTEST:

Sarah W. Brock, Clerk to Council



Human Services Department
**Community Services
Grant Recommendations**

**Beaufort County Council
Community Services Committee**



As a County department since 1974, we support all residents by leading policy innovation, inspiring collaborative solutions, and facilitating partnerships to improve quality-of-life while maximizing resources.



Together for Beaufort County (T4BC) is an organizational framework that enhances our community's capacity to address social problems.

The Human Services Alliance coordinates collaborative activities, provides shared measurements for success, and facilitates the development of a shared vision among diverse community partners.

Purpose

Promote and sustain activities that improve quality-of-life for Beaufort County residents.

History

- **Prior to November, 2010:**
Agencies seeking funding from Beaufort County presented directly to County Council for their allocation.
- **November 29, 2010:**
County Council allocated a portion of the funding to the Beaufort County Human Services Department (then referred to as the Human Services Alliance and *Together for Beaufort County*) to distribute on Council's behalf (\$140,000 out of \$726,000) via a competitive grant process. This pilot program would lay the groundwork for the new process.
- **October 22, 2012:**
Council requested that the Alliance for Human Services (Beaufort County Human Services Department) explore the possibility of seeking grant applications to fund the agencies going forward.
- **November 18, 2013:**
The Community Services Committee was presented with the standards for the competitive grants review process. These recommendations were approved by Council the same day.

Eligibility

- Registered 501(c)3 non-profit in good standing
- Serve Beaufort County residents
- Active participant in achieving *Together for Beaufort County* goals and objectives
- Registered **Human Services Alliance** partner

Review Panel

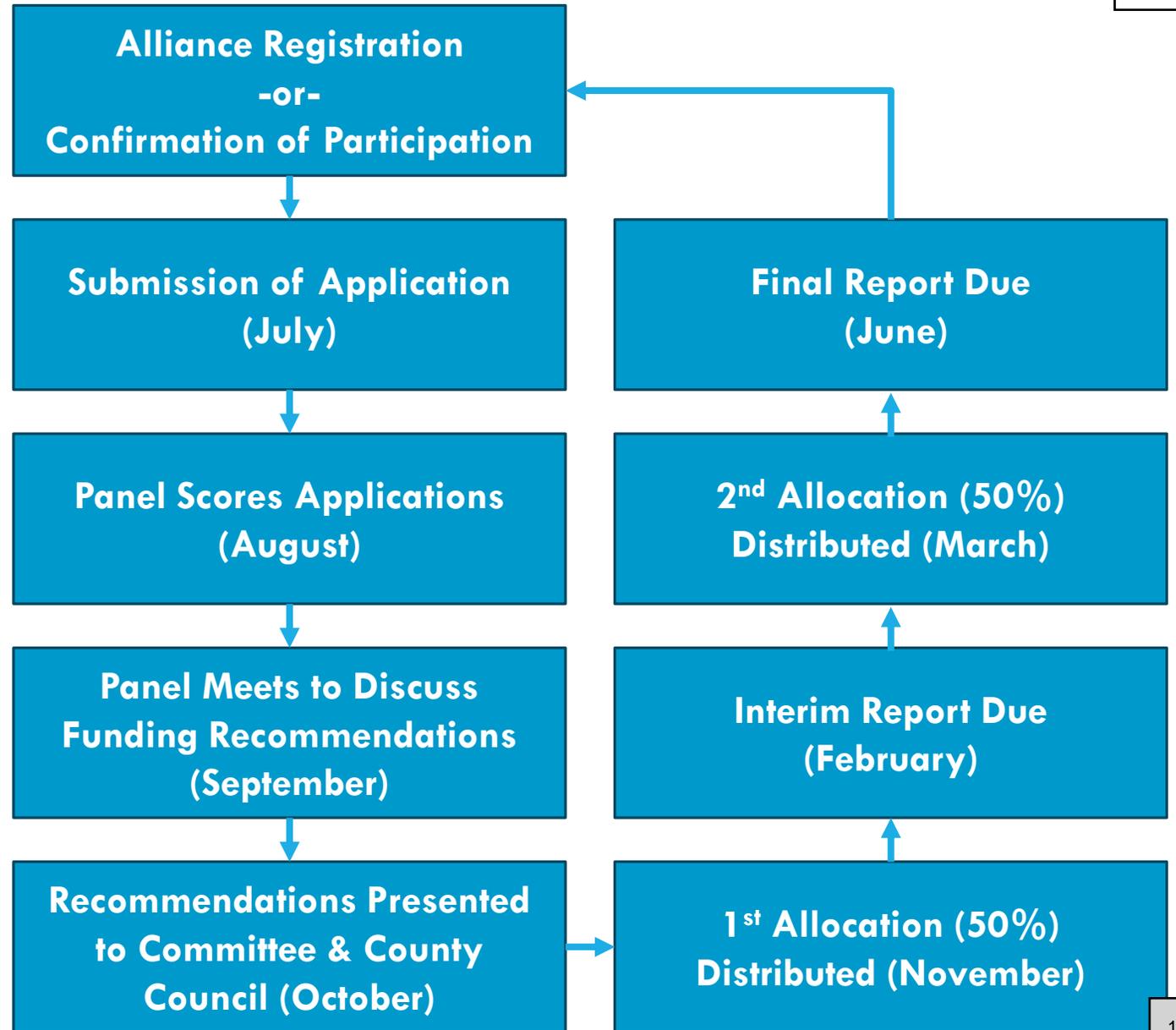
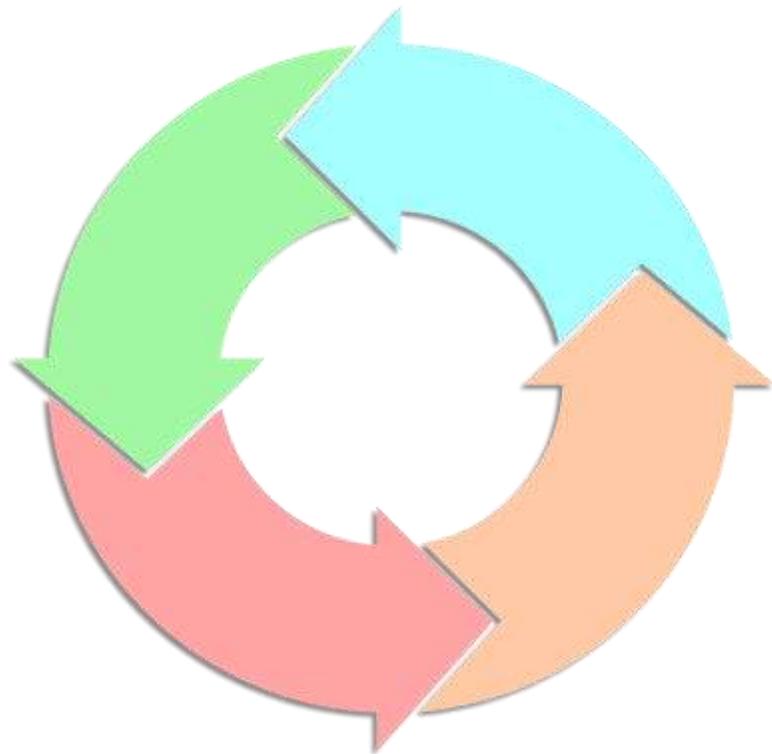
- **Evaluated by a diverse volunteer panel of community representatives and stakeholders.**
- **Panel remains anonymous throughout the process and meet for the first time when developing funding recommendations.**
- **Applications are evaluated on their own merit using a competitive process.**

Total applications received: 30

Total amount requested: \$671,000

Total amount to distribute: \$398,000

Process Overview



FY24 Recommendations

AccessHealth Lowcountry	\$20,000
Medical and dental services to uninsured, low-income residents	
Bluffton Self-Help	\$22,500
Education, training, and workforce and job readiness to low-income residents	
Child Abuse Prevention Association	\$12,500
Parent aid program to support vulnerable, at-risk children and families	
Community Services Organization	\$37,500
Coordination of services among 83 charities, churches, and agencies	
Family Promise of Beaufort County	\$10,000
Emergency housing and support services for families experiencing homelessness	
Good Neighbor Free Medical Clinic	\$32,500
Medical and specialist care for uninsured, low-income residents	

FY24 Recommendations

Habitat for Humanity of the Lowcountry	\$15,000
Home repair program for eligible, low-income residents	
HELP of Beaufort	\$10,000
Food, education, and resources for low-income residents	
Hilton Head Island Safe Harbor	\$1,000
Socialization for homebound senior citizens	
Hopeful Horizons	\$37,500
Services/support for victims of child abuse, domestic violence, and sexual assault	
Lowcountry Legal Volunteers	\$25,000
Free legal services and legal clinics for qualifying low-income residents	
Lowcountry Early Childhood Education	\$15,000
Implementation of community-wide initiative to reinforce early (Pre-K) education	

FY24 Recommendations

Lowcountry Food Bank	\$3,500
Procurement of fresh food from small-enterprise farmers for low-income residents	
Meals on Wheels Hilton Head Island	\$7,500
Food delivery for ill, elderly, disabled, and/or homebound residents	
Memory Matters	\$2,500
Day program for individuals affected by Alzheimer’s or related illnesses	
Mt. Carmel Baptist Church Med-I-Assist Program	\$20,000
Financial aid for medications, prostheses, and other barriers to health	
NAMI Lowcountry	\$10,000
Wraparound support services for individuals with mental illness and caregivers	
Neighborhood Outreach Connection	\$10,000
Expansion of education services to children in underserved neighborhoods	

FY24 Recommendations

Pregnancy Center and Clinic of the Lowcountry	\$8,000
Prenatal care for first 16 weeks of pregnancy for underserved residents	
Programs for Exceptional People	\$7,500
Transportation services and day programs for individuals with disabilities	
Special Olympics South Carolina Area 8 (SOAR)	\$7,500
Recreation and after-school programs for individuals with disabilities	
The Children's Center	\$8,000
Continuing education classes for staff and parent engagement events	
Together for Beaufort County	\$15,000
Community indicator research and reporting, and community resource guides	
Under One Roof	\$5,000
Home repair and modification for senior citizens and individuals with disabilities	



Questions?



Together
for Beaufort County
One COUNTY. One FUTURE.

Human Services Department
**Community Services Grant
Recommendations**

Beaufort County Council
**Finance, Administration, and
Economic Development Committee**



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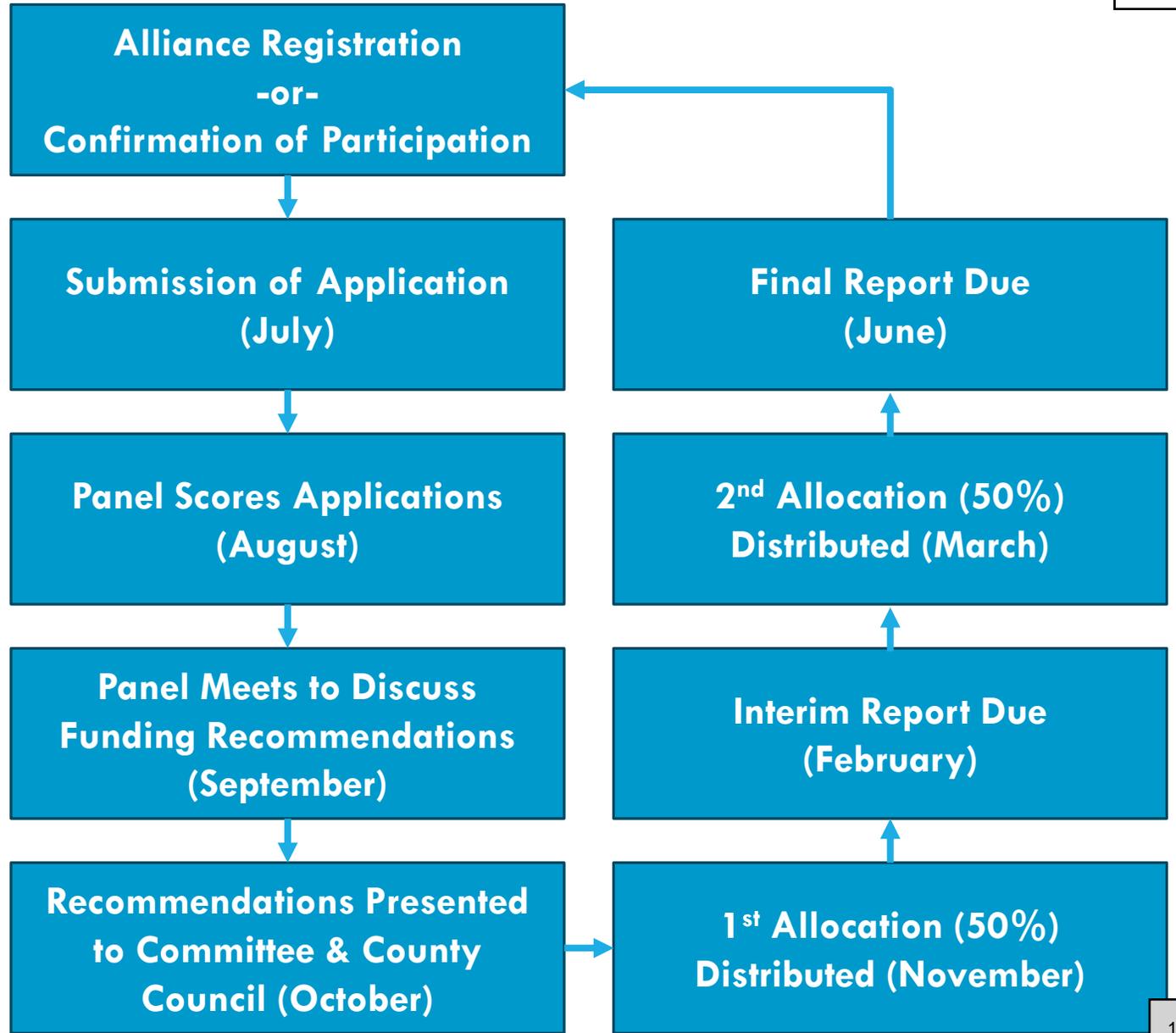
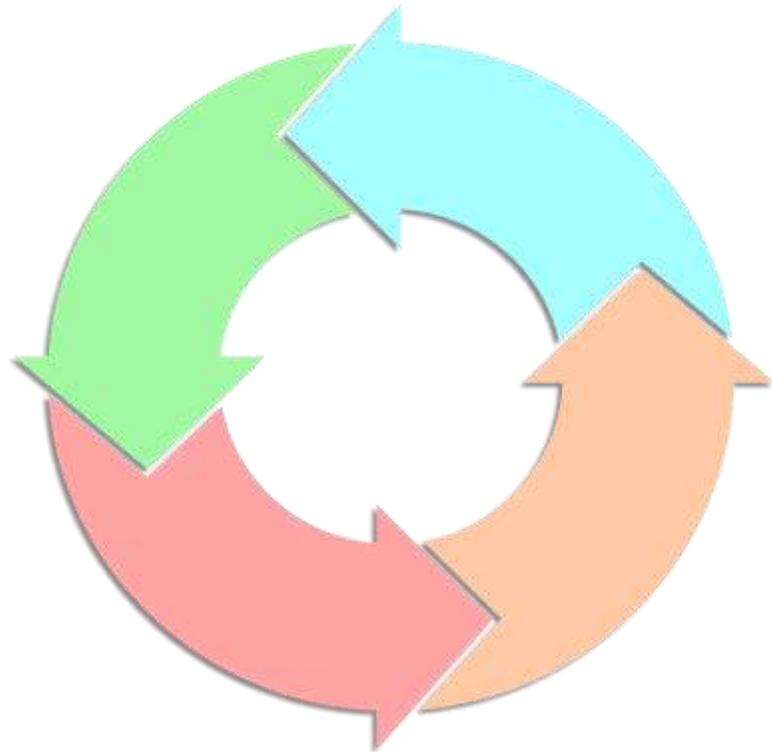
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Questions?



Together
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One COUNTY. One FUTURE.



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
Proposed Text Amendment to Article 7, Division 7.4, Section 7.4.50 (Public Hearing Scheduling and Notice) and Section 7.4.70 (Public Hearing Procedures) to clarify that public comment is not taken for appeals to the Planning Commission or the Zoning Board of Appeals
MEETING NAME AND DATE:
<i>Community Services and Land Use Committee Meeting, September 11, 2023</i>
PRESENTER INFORMATION:
<i>Robert Merchant, AICP, Director, Beaufort County Planning and Zoning (10 minutes needed for item discussion)</i>
ITEM BACKGROUND:
<i>Both the Planning Commission and the Zoning Board of Appeals (ZBOA) occasionally hear appeals from an aggrieved party affected by a decision made by an administrative decision-maker to determine if the decision complies with the requirements of the Community Development Code (CDC). The reason public comment is not received during an appeal is that the public will introduce opinion testimony that was not part of the decision process. This new information might serve improperly as a basis for a decision and result in the decision being overturned by a circuit court on appeal. The CDC currently is ambiguous regarding the conduct of public hearings for appeals. At their July 6 meeting, the Planning Commission (5-1) recommended approval of the proposed text revisions.</i>
PROJECT / ITEM NARRATIVE:
<i>Staff is proposing changes to the following Community Development Code (CDC) Sections to clarify that public comment is not taken for appeals to the Planning Commission or the Zoning Board of Appeals:</i> <ul style="list-style-type: none">• 7.4.50- Public Hearing Scheduling and Notice• 7.4.70- Public Hearing Procedures
FISCAL IMPACT:
<i>Not applicable</i>
STAFF RECOMMENDATIONS TO COUNCIL:
<i>Staff recommends approval.</i>
OPTIONS FOR COUNCIL MOTION:
<i>To approve or deny the proposed text amendments to the Community Development Code (CDC)</i>

ORDINANCE 2023/_____

PROPOSED TEXT AMENDMENT TO ARTICLE 7, DIVISION 7.4, SECTION 7.4.50 (PUBLIC HEARING SCHEDULING AND NOTICE) AND SECTION 7.4.70 (PUBLIC HEARING PROCEDURES) TO CLARIFY THAT PUBLIC COMMENT IS NOT TAKEN FOR APPEALS TO THE PLANNING COMMISSION OR THE ZONING BOARD OF APPEALS

WHEREAS, both the Planning Commission and the Zoning Board of Appeals (ZBOA) occasionally hear appeals from an aggrieved party affected by a decision made by an administrative decision-maker to determine if the decision complies with the requirements of the Community Development Code (CDC); and

WHEREAS, when the Planning Commission or ZBOA hears an appeal, they follow a “quasi-judicial” process where they are given the powers and procedures resembling those of a court of law where which are obliged to determine facts objectively based on the file and the record that the decision maker relied upon; and

WHEREAS, new information might serve improperly as a basis for a decision and result in the decision being overturned by a circuit court on appeal; and

WHEREAS, the CDC currently is ambiguous regarding the conduct of public hearings for appeals; and

WHEREAS, the Beaufort County Planning Commission considered the proposed text amendments at their July 6, 2023 meeting, voting to recommend that County Council approve the proposed amendments.

NOW, THEREFORE be it ordained by County Council in a meeting duly assembled that Sections 7.4.50 (Public Hearing Scheduling and Notice) and 7.4.70 (Public Hearing Procedures) of the Community Development Code are hereby amended as set forth in Exhibit A hereto. Additions are highlighted and underlined.

Adopted this _____ day of _____ 2023.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Joseph Passiment, Chairman

ATTEST:

Sarah W. Brock, JD, Clerk to Council

7.4.50 - Public Hearing Scheduling and Notice

A. Public Hearing Scheduling.

1. **Application to be Scheduled for Meeting.** When a development application is subject to a public hearing, as identified in Table 7.4.50.A (Required Public Hearings), the Director shall ensure that the public hearing on the application is scheduled for a regularly scheduled meeting or a meeting specially called for that purpose by the advisory or decision-making body reviewing the application.
2. **Timing.** The public hearing(s) on the application shall be scheduled so there is sufficient time for a staff report to be prepared and for the public notification requirements to be satisfied under state law.
3. **Public Hearing by Review Boards.** A public hearing shall be conducted by the following advisory or decision-making bodies for the following development applications. See Table 7.4.50.A (Required Public Hearings).

> Table 7.4.50.A: Required Public Hearings			
Development Application or Approval	Advisory or Decision-Making Bodies		
	County Council	Planning Commission	Zoning Board of Appeals (ZBOA)
Comprehensive Plan Amendment	X	X	
Text Amendment	X	X	
Zone Map Amendment	X	X	
Special Use Permit			X
Variance Permit			X
Street Renaming		X	
Appeal to Planning Commission		X*	
Appeal to Zoning Board of Appeals			X*
Development Agreements	X		

*Public comment is not taken for appeals to the Planning Commission or the Zoning Board of Appeals (7.3.70.C)

B. Public Hearing Notification. All development applications requiring a public hearing shall comply with the S.C. Code of Laws, the provisions listed in Table 7.4.50.B (Public Hearing Notification Timing Requirements), and the other provisions of this Section with regard to public notification. Failure to receive notice in accordance with this Section shall not invalidate the proceedings for which notice was required, nor shall failure to receive notice constitute a basis for legal action against the County.

1. **Notice Timing Requirements.** Public notification of a public hearing on a development application shall be provided in accordance with the timing requirements in Table 7.4.50.B (Public Hearing Notification Timing Requirements), for the type of application and the type of notice. In computing the required time periods, the day the notice is published or postmarked shall not be included, but the day of the hearing shall be included.

7.4.70 - Public Hearing Procedures

- A. If the development application is subject to a public hearing by an advisory or decision-making body, the advisory or decision-making body shall hold the public hearing in accordance with the following procedures.
- B. **Conduct of Public Hearing.**
1. **Burden of Proof or Persuasion.** The burden of demonstrating that an application complies with applicable review and approval standards of this Development Code is on the applicant. The burden is not on the County or other parties to show that the standards have not been met by the applicant.
 2. **Rights of All Persons.** **Except for appeals to the Planning Commission or the Zoning Board of Appeals (7.3.70.C),** any person may appear at a public hearing and submit testimony, either individually or as a representative of a person or an organization. Each person who appears at a public hearing shall be identified, state an address, and if appearing on behalf of a person or organization, state the name of the person or organization being represented. If the person states they represent an organization, the body conducting the hearing may request written evidence of that person's authority to speak on behalf of the organization in regard to the matter under consideration.
 3. **Exclusion of Testimony.** The body conducting the public hearing may exclude testimony that it finds to be irrelevant, immaterial, or unduly repetitious.
 4. **Offers of Testimony.** In the event any testimony is excluded as irrelevant, immaterial, or unduly repetitious, the person submitting such testimony shall have an opportunity at that hearing to offer such testimony to be entered into the record. Such offer shall be made at the public hearing.
 5. **Continuance of Public Hearing.** The body conducting the public hearing may, on its own motion or at the request of any person, continue the public hearing to a fixed date, time, and place. An applicant shall have the right to request and be granted one continuance. Any subsequent continuances requested by any party shall be granted at the discretion of the body conducting the public hearing only upon good cause shown.
 6. **Recording.** A record of the hearing shall be kept as follows.
 - a. **General.** The body conducting the public hearing shall record the public hearing. The written or taped record of oral proceedings (including testimony and statements of personal opinions), the hearing minutes, all applications, exhibits and papers submitted in any proceeding before the review board, the staff report, and the recommendation or decision shall constitute the record. The establishment of a verbatim transcript, if requested, shall be the sole responsibility of the applicant.
 - b. **Public Record.** All records of public hearings conducted by an advisory or decision-making body shall be a public record, and open for inspection at the offices of the Director during normal business hours upon reasonable notice.
 - c. **Copy.** A copy of the public hearing record may be obtained by any person upon applying to the Director and paying the cost for duplication of the record.
 7. **Close of Hearing.** Upon the completion of all testimony or public comment, the hearing shall be closed. No further direct or informal testimony, comments or evidence shall be provided or considered on the matter. The applicant may be asked questions or allowed to comment on proposed conditions.
- C. **General Procedures and Findings Following Public Hearing.**
1. **Time.** Any review body conducting the hearing shall act in accord with any time limits established in state law, this Development Code or the body's own by-laws. Action shall be taken as promptly as possible in consideration of the interests of the applicant, the citizens of the County, and shall

include a recommendation or decision of approval, approval with conditions, or disapproval (whichever is appropriate).

2. **Form of Decisions.** The form of all decisions shall include at least the following elements:

- a. A summary of the information presented before the body;
- b. A statement of findings or other factors considered, whichever is appropriate, and a statement of the basis upon which such facts were applied with respect to the relevant review standards, if required by state law; and
- c. A statement of a recommendation or decision of approval, approval with conditions or disapproval (whichever is appropriate).



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
Recommend Approval of an Ordinance Adopting Amendments to Ch 38. Article II. Trash and Litter Control of the Beaufort County Code of Ordinances
MEETING NAME AND DATE:
Community Services and Land Use – September 11 th , 2023
PRESENTER INFORMATION:
Chuck Atkinson - Assistant County Administrator, Development and Recreation Michael Brantley – Building Codes/Code Enforcement Director (10 mins)
ITEM BACKGROUND:
May 2005 - County Council adopted Article II of the Code of Ordinances for litter. October 2007 – County Council adopted Chapter 62 of the Code of Ordinances for Solid Waste
PROJECT / ITEM NARRATIVE:
As Beaufort County has enforced the ordinances pertaining to Litter between both Code Enforcement and Public Works Staff, conflicting language between the two ordinances was recognized. The adoption of the amendments to Chapter 38 Article II, as noted in Exhibit A, of the Beaufort County Code of Ordinances provides continuity to the language, as well as the enforcement effort of both departments. (Underlined and highlighted sections of Exhibit A are additions. Stricken through sections of Exhibit A are deletions.)
FISCAL IMPACT:
There are no fiscal impacts associated with the adoption of the proposed amendments to Ch 38. Article II.
STAFF RECOMMENDATIONS TO COUNCIL:
Staff recommends approval of the amendments to Chapter 38 Article II. Trash and Litter Control of the Beaufort County Code of Ordinances.
OPTIONS FOR COUNCIL MOTION:
Motion to approve/deny the adoption of the amendments to Chapter 38. Article II. Trash and Litter Control of the Beaufort County Code of Ordinances. (Next Step – Upon approval, send to County Council for First Reading)

ORDINANCE 2023/ XX

An Ordinance Adopting Amendments to Chapter 38. Article II. Trash and Litter Control of Beaufort County Ordinances.

WHEREAS, in May of 2005, Beaufort County adopted Chapter 38, Article II – Trash and Litter Control; and

WHEREAS, on October 22, 2007, Beaufort County adopted Chapter 62 of the Beaufort County Code of Ordinance for Solid Waste; and

WHEREAS, staff of Code Enforcement and Public Works Departments found inconsistent and conflicting language for litter control enforcement between Chapter 38, Article II and Chapter 62; and

WHEREAS, staff wish to amend Chapter 38, Article II to reflect language found within Chapter 62, as set forth in Exhibit A. (Underlined and highlighted sections of Exhibit A are additions. Stricken through sections of Exhibit A are deletions.)

NOW, THEREFORE, BE IT ORDAINED BY BEAUFORT COUNTY COUNCIL THAT Chapter 38, Article II, Trash and Litter Control which appears in Beaufort County Code of Ordinances is hereby amended as set forth in Exhibit A.

Adopted this _____ day of _____ 2023

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____

Joseph Passiment, Chairman

ATTEST:

Sarah w. Brock, JD,
Clerk to Council

ARTICLE II. TRASH AND LITTER CONTROL**Sec. 38-26. Definitions.**

The following words and terms shall have the meaning respectively ascribed to them in this section:

- (1) **Bulky waste** means household furniture, electronic appliances (such as televisions, stereos, microwave ovens), lawn mowers, door and window screens, swing sets, oversized children's toys, lawn furniture, wading pools, barbecue grills, scrap metal whole or parts of boats and automobiles, and items banned from the landfill such as white goods (stoves, refrigerators, freezers, washers, dryers, etc.), tires and waste tires or other items generated by a household as part of its solid waste which are too large for placement in a garbage container.
- (2) **Container** means a watertight receptacle made of metal, heavy-duty plastic, or material of similar strength with a tightfitting cover for storage and disposal of solid waste.
- (3) **County Administrator** means The Beaufort County Administrator or his/her designated agent.
- (~~3~~4) **Litter** means any unsecured or inadequately secured and improperly stored or disposed solid waste placed, thrown, dropped, deposited, blown, leaked or in any other manner distributed as prohibited by the provisions of this article.
- (~~4~~5) **Private property** includes, but is not limited to, the following exterior locations owned by private individuals, firms, corporations, institutions or organizations: yards, grounds, driveways, entrance ways, passageways, parking areas, working areas, vacant lots, drainage basins and on-site stormwater collection/retention or detention areas, loading and unloading areas, storage facilities, contiguous and noncontiguous open lot storage areas and recreation facilities.
- (~~5~~6) **Public property** includes, but is not limited to, the following exterior locations: streets, street medians, roads, road medians, catch basins, state, county or municipally maintained ditches, sidewalks, strips of land between sidewalk and street lanes, alleys, public rights-of-way, public parking lots, school grounds, housing project grounds, publicly owned vacant lots, recreational facilities, including, but not limited to, parks, conservation areas, boat landings, and beaches, waterways and bodies of water.
- (~~6~~7) **Putrescible waste** means a solid waste that contains organic matter capable of being decomposed by microorganisms causing offensive odors, gases, or other offensive conditions, including, but is not limited to, food waste, garbage, general household, commercial, industrial, or agricultural waste.
- (~~7~~8) **Solid waste** means garbage, refuse, litter, rubbish, trash or any material including recyclable materials, and arboreal or yard waste materials resulting from industrial, commercial, agricultural or residential activities not otherwise disposable or reusable in accordance with state regulations.
- (~~8~~9) **Unightly maintenance of property** includes any overgrowth of grasses, bushes, shrubs, weeds, trees, vines, limbs or branches, rank vegetation, excessive collection and storage of putrescible or nonputrescible solid waste, loosely strewn construction and demolition debris (including, but not limited to, all residential and commercial building materials, paint, tools, lumber, fencing, bricks, concrete and other masonry materials), automobile repair or reconstruction items (including, but not limited to, used vehicle parts or whole and partial segments of vehicle engines, drive trains, frames, auto body panels, tires, and wheels), appliances, household fixtures and furnishings (including, but not limited to, stoves, refrigerators, freezers, washers, drivers, sinks, bathtubs, and furniture intended for interior use),

external to the primary residential, commercial or industrial unit or a defined screen storage area or secondary storage facility, which will or is likely to constitute a nuisance or health hazard.

(9-10) **Vehicle** means any device capable of being moved upon a public highway or roadway and in, upon or by which any property is, or may be transported or drawn upon a public highway or roadway.

(11) **Waste** means a material, substance or byproduct eliminated or discarded as no longer useful required or wanted (including, but not limited to, refuse, litter, debris, junk, scrap, rubbish, garbage, trash, leftover, unused).

(12) **Rank vegetation** means dense, uncultivated, vegetative overgrowth or uncultivated briars, vines, or other similar vegetation.

(13) **Yard waste** means solid waste consisting solely of vegetative matter resulting from landscaping maintenance.

(Ord. No. 2002-5, § I, 2-11-02)

Sec. 38-27. Littering by pedestrians and motorists.

Provisions in this section are not intended to replace provisions of S.C. Code, 1976, § 16-11-700, as amended, which section is incorporated herein by reference.

- (1) It shall be unlawful for any person to drop, leave, throw, discard, place or in any way to intentionally or unintentionally deposit or dispose of litter or solid waste in any manner or amount on any public or private property or along any street, road, highway, curb, sidewalk, or public right of way within Beaufort County, except in containers or areas lawfully provided for such purposes.
- (2) In the prosecution charging a violation of the above subsection (1), from any vehicle, proof that the particular vehicle described in the complaint was the origin of the litter or solid waste, together with proof that the defendant named in the complaint was at the time of such violation, the registered owner of said vehicle, shall constitute in evidence a presumption that the registered owner or his designee to whom he gave permission or authorization to operate said vehicle, committed the violation. Origin of the litter or solid waste may be substantiated by documentation or information contained on, within or through the litter or solid waste which establishes ownership of the litter or solid waste to either the registered owner or a designee to whom permission or authorization was granted or because of assumed permission or authorization being granted due to the relationship between the registered owner and the driver.
- (3) It shall be the duty of every person distributing commercial handbills, leaflets, posters, flyers or any other advertising or information materials to take all appropriate and necessary measures to keep such materials from littering public or private property.
- (4) To prevent litter by pedestrians, motorists and property owners, all publicly used establishments and institutions, shall provide readily accessible solid waste containers that shall be regularly emptied and maintained in good condition. Such containers shall be of sufficient size and dimension to adequately handle the solid waste generated as a part of the delivery of goods and services to the public. This requirement shall be applicable to, but not limited to, fast-food outlets, shopping centers, convenience stores, supermarkets, service stations, commercial parking lots, mobile canteens, motels and hotels, hospitals, schools, colleges or other public/private institutions.

(Ord. No. 2002-5, § II, 2-11-02)

Sec. 38-28. Litter to be covered to prevent it from escaping from vehicle during transportation.

No vehicle which transports litter may be driven or moved on any highway unless the litter is secured by means of a covering which is fastened securely so as to prevent any of its load from dropping, sifting, leaking, or otherwise escaping from the vehicle.

(Ord. No. 2002-5, § III, 2-11-02)

Sec. 38-29. Loading and unloading operations.

- (1) The owner or principal manager of any establishment or institution where packing and unpacking, and/or loading and unloading of materials takes place at exterior locations, shall provide suitable containers there for the proper collection and storage of waste materials. Such establishment owners and managers shall ensure that all tenants and their employees are aware of good waste handling practices and that these practices are being routinely practiced to prevent the blowing, dropping, or scattering of solid waste materials from their storage units or during transfer to a collection vehicle for disposal or recycling.
- (2) It shall be the duty and responsibility of the owner, tenant, lessee, or their designees to remove or cause to be removed, at the end of each working day, any solid waste materials that have not been containerized in the proximity of these establishments and in and around the public access areas of these establishments.

(Ord. No. 2002-5, § IV, 2-11-02)

Sec. 38-30. Construction, renovation or demolition projects.

- (1) This article shall make enforceable those provisions contained in the standard A.I.A. contract between an owner and contractor governing the responsibility for solid waste and construction debris.
- (2) It shall be the duty and responsibility of the owner, agent, contractor, or subcontractor to have adequate on-site containers and organized temporary storage areas, which are of sufficient size and dimension to prevent the scattering, dropping, sifting, blowing of solid waste on-site and during the transfer of such solid waste to a solid waste collection vehicle for disposal or recycling, for the retention of all solid waste materials produced as a direct or indirect result of a construction, renovation or demolition project. It shall be the responsibility of the owner, agent, contractor or subcontractor to ensure all solid waste materials are properly disposed in a county designated disposal facility.
- (3) It shall be unlawful to dispose of broken or whole bricks, broken or whole blocks, or cured/uncured concrete, land-clearing debris or another other type of solid waste anywhere in the unincorporated area of the county except at landfills permitted by the state under regulations R.61-107.11, Part IV, R.61-107.16 or R.61-107.258 and permitted consistent with the provisions of Sec. 62-46 of this chapter. Responsibility for the immediate removal and proper disposal of such waste from property is upon the person convicted under this chapter. However, if there is no conviction, the responsibility for removal and proper disposal shall be upon the owner and/or occupant of the property where the waste was deposited.
- (4) Organized collection of solid waste shall be at a frequency which ensures the prevention of hazards and nuisances to human health and the environment. It shall be unlawful for the owner(s) of such

container(s) to fail to pick up and properly dispose of the waste therein at a frequency that ensures the container does not overflow the container.

- (5) It shall be the duty of the owner, agent, contractor, or subcontractor to remove solid waste and/or bulky waste as often as may be necessary to prevent the accumulation of such waste.

(Ord. No. 2002-5, § V, 2-11-02)

Sec. 38-31. Commercial material containerization and removal.

- (1) All establishments, businesses or institutions including, but not limited to, apartments, condominium complexes, restaurants, schools, convenience stores, offices, retail and wholesale business concerns, which generate solid waste requiring collection, shall use containers to accommodate the normal volume of materials generated therein between collection events.
- (2) It shall be the duty and responsibility of any establishment, institution, business, commercial or industrial activity to make appropriate arrangements for collection and disposal of all solid waste generated by the business or its customers.
- (3) It shall be the duty and responsibility of any establishment, institution, business, commercial or industrial activity to ensure the area surrounding solid waste containers remain free of litter and that all solid waste materials have been containerized or bulky items, too large to be containerized, be stored in a defined storage area, screened from view.
- (4) It shall be the duty of any establishment, institution, business, commercial or industrial activity, to remove solid waste and/or bulky waste as often as may be necessary to prevent the accumulation of such waste.

(Ord. No. 2002-5, § VI, 2-11-02)

Sec. 38-32. Property Maintenance ~~Keeping property clean.~~

- (1) It shall be the duty and responsibility of the owner, tenant, lessee, or designee ~~owner, agent, occupant or lessee~~ of any property to keep exterior private and public property free of litter and solid waste. This requirement applies not only to removal of loose litter and solid waste, but to litter and solid waste that is or has become trapped at such locations as fences, wall bases, ditches, grassy and planted areas, borders, embankments, bumper stops, curbed area or other such lodging points.
- (2) It shall be unlawful to sweep or push litter from buildings, or property, onto strips in the street, sidewalks or storm drainage ditches.
- ~~(3) If any owner, agent, occupant or lessee fails to remove litter from any private property, Beaufort County shall serve written notice to the owner or appointed agent to correct said violation within five days. Failure to comply shall constitute grounds for prosecution.~~
- ~~(4) It shall be unlawful for the owner or owners of any property in the unincorporated areas of Beaufort County, to disobey or fail to comply with any provision of this article.~~
- ~~(5) Unsightly maintenance of property, as defined above in section 38-26, is prohibited.~~
- (3) It shall be unlawful to accumulate solid or bulky waste on, or maintain private property in an unsightly manner, as defined above in Section 38-26 of this Article. It shall be the duty of the owner, agent, occupant, or lessee of any improved or unimproved property in any unincorporated area within the county, to remove solid waste and/or bulky waste as often as may be necessary to prevent the accumulation of such waste.

- (4) ***Unlawful disposal or accumulation.*** It shall be unlawful for any person to dispose of, or cause to be disposed of, or allow to accumulate, or for any property owner to allow any person to dispose of, or cause to be disposed of, or cause to accumulate any type of solid waste anywhere in the county except at a solid waste management facility that has been approved by County Council and/or the South Carolina DHEC.
- (5) ***Duties of owner, etc.*** It shall be the duty of any owner, lessee, occupant, agent, or representative of the owner of any lot or parcel of land in the county to remove and properly dispose of such solid waste as often as may be necessary to prevent the accumulation of such waste. Furthermore, it shall be the responsibility of the owner, lessee, occupant, agent, or representative of the owner to limit access to said property such that indiscriminate disposal of solid waste is minimized.
- (6) ***Declaration of nuisance.*** Solid waste allowed to accumulate and remain on any lot or parcel of land in the unincorporated area of the county may be deemed and declared a nuisance by the County Administrator.
- (7) ***Notice to owner, etc., to remove.*** Whenever the County Administrator shall find that solid waste has been allowed to accumulate and remain upon any lot or parcel of land in the county in such a manner as to constitute a nuisance, the county administrator may serve written notice upon the owner, or the occupant of the premises, or upon the agent or representative of the owner of such land having control thereof to comply with the provisions of this chapter. It shall be sufficient notification to personally deliver the notice to the owner (or occupant or agent), or to deposit a copy of such in the United States mail, properly stamped, and directed to the owner (or occupant or agent) at his/her address of record, or to post a copy of the notice upon such premises.
- (8) ***Failure to comply with notice.*** If the person to whom the notice is directed, under the provisions of the preceding subsection fails or neglects to cause such solid waste to be removed from any such premises and properly disposed of within ten days after such notice has been served or deposited in the United States mail, or posted upon premises, such person shall be deemed guilty of a misdemeanor and subject to the penalty provisions of this chapter.
- (9) ***Removal by the County.*** In the event any property is determined to be a nuisance, and 20 days has elapsed after such notice has been served, deposited in the United States mail, or posted upon the premises, then the county administrator may enter upon any such property and abate such nuisance by removing and disposing of the solid waste, and the cost of doing so may become a lien upon the property affected, or may be recovered by the county through judgment proceedings initiated in a court of competent jurisdiction.

(Ord. No. 2002-5, § VII, 2-11-02; Ord. No. 2018/47, 11-5-2018)

Sec. 38-33 Weeds and rank vegetation. RELOCATED FROM SW&R CHAPTER 62

- (1) It shall be the duty of the owner, agent, occupant, or lessee of any improved residential or commercial property in any unincorporated area within the county, to cut, or cause to be cut any, overgrowth of grasses, weeds, and rank vegetation as often as may be necessary to prevent the property becoming unsightly.
- (2) ***Declaration of nuisance.*** Any residential lot/parcel or any nonresidential lot/parcel located contiguous to a residential lot in the county that becomes substantially overgrown with grass, weeds, and/or rank vegetation such that it poses potential safety risks to humans and/or becomes a harborage for vectors may be deemed and declared a nuisance by the County Administrator.
- (3) ***Duties of owner, etc.*** It shall be the duty of any owner, lessee, occupant, agent, or representative of the owner of any residential lot/parcel or any nonresidential lot/parcel located contiguous to a

residential lot in the county to cut, trim and remove for proper disposal such grass, weeds, and/or rank vegetation as often as may be necessary to prevent the growth of such weeds and rank vegetation that shall constitute a nuisance. However, lots of three acres or more shall only be required to cut 100 feet from contiguous road(s) and each side property line.

- (4) **Notice to owner, etc., to remove.** Whenever the County Administrator shall find that overgrowth of grass, weeds, and/or rank vegetation on a residential lot/parcel or any nonresidential lot/parcel located contiguous to a residential lot in the county constitutes a nuisance, the County Administrator may serve written notice upon the owner, or the occupant of the premises, or upon the agent or representative of the owner of such land having control thereof to comply with the provisions of this section. It shall be sufficient notification to personally deliver the notice to the owner (or occupant or agent), or to deposit a copy of such in the United States mail, properly stamped, and directed to the owner (or occupant or agent) at his/her address of record, or to post a copy of the notice upon such premises.
- (5) **Failure to comply with notice.** If the person to whom the notice is directed, under the provisions of the preceding subsection fails or neglects to cause such overgrowth of weeds and rank vegetation to be removed from any such premises and properly disposed of within ten days after such notice has been served or deposited in the United States mail, or posted upon premises, such person shall be deemed guilty of a misdemeanor and subject to the penalty provisions of this chapter.
- (6) **Removal by County.** In the event any overgrowth of weeds and rank vegetation is determined to be a nuisance, and twenty (20) days has elapsed after such notice has been served, deposited in the United States mail, or posted upon the premises, then the county administrator or his/her designated contractor may enter upon any such property and abate such nuisance by cutting, trimming, removing and disposing of the vegetative waste, and the cost of doing so, pursuant to the cleanup fee structure noted below, may become a lien upon the property affected, or may be recovered by the County through judgment proceedings initiated in a court of competent jurisdiction.

Sec. 38-33 38-34. Correction of violations.

- (1) If an owner or his/her agent fails to comply with the written notice or citation to correct a violation of this article and said violation is determined to be a threat to the health and safety of the citizens of Beaufort County, the county may, at the county's sole discretion, utilize employees of Beaufort County or any other person employed for that purpose to go upon the property to correct the conditions thereupon existing.
- (2) All costs incurred for correcting the conditions on said property and/or for the removal of all litter and/or solid waste, or other unhealthy or unsightly materials or any other actions reasonably taken by Beaufort County to abate the same or to remove the threat to the public's health and safety shall be a lien against the real property upon which such cost was incurred. All costs incurred by the county in preparing, recording, collecting and satisfying said lien shall be included therein including, but not limited to, reasonable attorney's fees, costs and disbursements.

(Ord. No. 2002-5, § VIII, 2-11-02)

Sec. 38-35. Dumping and depositing material in the rivers, creeks, drainage canals and ditches prohibited.

- (1) No person shall throw or place any refuse, paper, trash, glass, nails, tacks, wire, bottles, cans, grass clippings, brush, yard trash, concrete, earthen fill, garbage, containers, or litter or other debris in any ditch, stream, river, or retention basin that regularly or periodically carries surface water runoff. Any

persons who deposits any of the above shall remove it or shall cause it to be removed therefrom immediately.

- (2) ~~Any person violating the provisions of this section is guilty of a misdemeanor and upon conviction must be fined not less than \$500.00 or 30 days in jail for each offense.~~
- (3) ~~In the event that the County of Beaufort deems it necessary to bring civil action to enforce the terms of this section, the violator shall be responsible for all court costs and attorney fees incurred by the county.~~

(Ord. No. 95-45, §§ 1—3, 12-11-95)

Sec. ~~38-34~~ 38-36. Penalties.

- (1) A person violating the provisions of this article is guilty of a misdemeanor and, upon conviction, must be fined not ~~less than \$100.00 nor more than \$200.00~~ more than \$500.00 or confined for not more than 30 days, or both for each offense.
- (2) ~~Violations and~~ Enforcement of this article shall be ~~executed and prosecuted~~ by commissioned code enforcement officers, using the County Courtesy Summons Ordinance (93/34), or by the ~~sheriff and his deputies~~ Beaufort County Sheriff's Office or any other Law Enforcement Agency which has jurisdiction over the area in which the violation occurs.
- (3) Each violation of this Ordinance shall constitute a separate offense. Each day a violation continues shall constitute a separate offense and may subject the violator to the penalties prescribed in this article for each offense.
- (4) In the event that the County deems it necessary to bring civil action to enforce the terms of this chapter, the violator shall be responsible for all court costs and attorney fees incurred by the county.

(Ord. No. 2002-5, § I, 2-11-02)

Secs. ~~38-36~~ 38-37—38-60. Reserved.

ARTICLE II. TRASH AND LITTER CONTROL

Sec. 38-26. Definitions.

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- (2) **Container** means a watertight receptacle made of metal, heavy-duty plastic, or material of similar strength with a tightfitting cover for storage and disposal of solid waste.
- (3) **County Administrator** means The Beaufort County Administrator or his/her designated agent.
- (4) **Litter** means any unsecured or inadequately secured and improperly stored or disposed solid waste placed, thrown, dropped, deposited, blown, leaked or in any other manner distributed as prohibited by the provisions of this article.
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- (8) **Solid waste** means garbage, refuse, litter, rubbish, trash or any material including recyclable materials, and arboreal or yard waste materials resulting from industrial, commercial, agricultural or residential activities not otherwise disposable or reusable in accordance with state regulations.
- (9) **Unsightly maintenance of property** includes any overgrowth of grasses, bushes, shrubs, weeds, trees, vines, limbs or branches, rank vegetation, excessive collection and storage of putrescible or nonputrescible solid waste, loosely strewn construction and demolition debris (including, but not limited to, all residential and commercial building materials, paint, tools, lumber, fencing, bricks, concrete and other masonry materials), automobile repair or reconstruction items (including, but not limited to, used vehicle parts or whole and partial segments of vehicle engines, drive trains, frames, auto body panels, tires, and wheels), appliances, household fixtures and furnishings (including, but not limited to, stoves, refrigerators, freezers, washers, drivers, sinks, bathtubs, and furniture intended for interior use),

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- (2) In the prosecution charging a violation of the above subsection (1), from any vehicle, proof that the particular vehicle described in the complaint was the origin of the litter or solid waste, together with proof that the defendant named in the complaint was at the time of such violation, the registered owner of said vehicle, shall constitute in evidence a presumption that the registered owner or his designee to whom he gave permission or authorization to operate said vehicle, committed the violation. Origin of the litter or solid waste may be substantiated by documentation or information contained on, within or through the litter or solid waste which establishes ownership of the litter or solid waste to either the registered owner or a designee to whom permission or authorization was granted or because of assumed permission or authorization being granted due to the relationship between the registered owner and the driver.
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- (4) To prevent litter by pedestrians, motorists and property owners, all publicly used establishments and institutions, shall provide readily accessible solid waste containers that shall be regularly emptied and maintained in good condition. Such containers shall be of sufficient size and dimension to adequately handle the solid waste generated as a part of the delivery of goods and services to the public. This requirement shall be applicable to, but not limited to, fast-food outlets, shopping centers, convenience stores, supermarkets, service stations, commercial parking lots, mobile canteens, motels and hotels, hospitals, schools, colleges or other public/private institutions.

(Ord. No. 2002-5, § II, 2-11-02)

Sec. 38-28. Litter to be covered to prevent it from escaping from vehicle during transportation.

No vehicle which transports litter may be driven or moved on any highway unless the litter is secured by means of a covering which is fastened securely so as to prevent any of its load from dropping, sifting, leaking, or otherwise escaping from the vehicle.

(Ord. No. 2002-5, § III, 2-11-02)

Sec. 38-29. Loading and unloading operations.

- (1) The owner or principal manager of any establishment or institution where packing and unpacking, and/or loading and unloading of materials takes place at exterior locations, shall provide suitable containers there for the proper collection and storage of waste materials. Such establishment owners and managers shall ensure that all tenants and their employees are aware of good waste handling practices and that these practices are being routinely practiced to prevent the blowing, dropping, or scattering of solid waste materials from their storage units or during transfer to a collection vehicle for disposal or recycling.
- (2) It shall be the duty and responsibility of the owner, tenant, lessee, or their designees to remove or cause to be removed, at the end of each working day, any solid waste materials that have not been containerized in the proximity of these establishments and in and around the public access areas of these establishments.

(Ord. No. 2002-5, § IV, 2-11-02)

Sec. 38-30. Construction, renovation or demolition projects.

- (1) This article shall make enforceable those provisions contained in the standard A.I.A. contract between an owner and contractor governing the responsibility for solid waste and construction debris.
- (2) It shall be the duty and responsibility of the owner, agent, contractor, or subcontractor to have adequate on-site containers and organized temporary storage areas, which are of sufficient size and dimension to prevent the scattering, dropping, sifting, blowing of solid waste on-site and during the transfer of such solid waste to a solid waste collection vehicle for disposal or recycling, for the retention of all solid waste materials produced as a direct or indirect result of a construction, renovation or demolition project. It shall be the responsibility of the owner, agent, contractor or subcontractor to ensure all solid waste materials are properly disposed in a county designated disposal facility.
- (3) It shall be unlawful to dispose of broken or whole bricks, broken or whole blocks, or cured/uncured concrete, land-clearing debris or another other type of solid waste anywhere in the unincorporated area of the county except at landfills permitted by the state under regulations R.61-107.11, Part IV, R.61-107.16 or R.61-107.258 and permitted consistent with the provisions of Sec. 62-46 of this chapter. Responsibility for the immediate removal and proper disposal of such waste from property is upon the person convicted under this chapter. However, if there is no conviction, the responsibility for removal and proper disposal shall be upon the owner and/or occupant of the property where the waste was deposited.
- (4) Organized collection of solid waste shall be at a frequency which ensures the prevention of hazards and nuisances to human health and the environment. It shall be unlawful for the owner(s) of such

container(s) to fail to pick up and properly dispose of the waste therein at a frequency that ensures the container does not overflow the container.

- (5) It shall be the duty of the owner, agent, contractor, or subcontractor to remove solid waste and/or bulky waste as often as may be necessary to prevent the accumulation of such waste.

(Ord. No. 2002-5, § V, 2-11-02)

Sec. 38-31. Commercial material containerization and removal.

- (1) All establishments, businesses or institutions including, but not limited to, apartments, condominium complexes, restaurants, schools, convenience stores, offices, retail and wholesale business concerns, which generate solid waste requiring collection, shall use containers to accommodate the normal volume of materials generated therein between collection events.
- (2) It shall be the duty and responsibility of any establishment, institution, business, commercial or industrial activity to make appropriate arrangements for collection and disposal of all solid waste generated by the business or its customers.
- (3) It shall be the duty and responsibility of any establishment, institution, business, commercial or industrial activity to ensure the area surrounding solid waste containers remain free of litter and that all solid waste materials have been containerized or bulky items, too large to be containerized, be stored in a defined storage area, screened from view.
- (4) It shall be the duty of any establishment, institution, business, commercial or industrial activity, to remove solid waste and/or bulky waste as often as may be necessary to prevent the accumulation of such waste.

(Ord. No. 2002-5, § VI, 2-11-02)

Sec. 38-32. Property Maintenance

- (1) It shall be the duty and responsibility of the owner, tenant, lessee, or designee of any property to keep exterior private and public property free of litter and solid waste. This requirement applies not only to removal of loose litter and solid waste, but to litter and solid waste that is or has become trapped at such locations as fences, wall bases, ditches, grassy and planted areas, borders, embankments, bumper stops, curbed area or other such lodging points.
- (2) It shall be unlawful to sweep or push litter from buildings, or property, onto strips in the street, sidewalks or storm drainage ditches.
- (3) It shall be unlawful to accumulate solid or bulky waste on, or maintain private property in an unsightly manner, as defined above in Section 38-26 of this Article. It shall be the duty of the owner, agent, occupant, or lessee of any improved or unimproved property in any unincorporated area within the county, to remove solid waste and/or bulky waste as often as may be necessary to prevent the accumulation of such waste.
- (4) **Unlawful disposal or accumulation.** It shall be unlawful for any person to dispose of, or cause to be disposed of, or allow to accumulate, or for any property owner to allow any person to dispose of, or cause to be disposed of, or cause to accumulate any type of solid waste anywhere in the county except at a solid waste management facility that has been approved by County Council and/or the South Carolina DHEC.
- (5) **Duties of owner, etc.** It shall be the duty of any owner, lessee, occupant, agent, or representative of the owner of any lot or parcel of land in the county to remove and properly dispose of such solid

waste as often as may be necessary to prevent the accumulation of such waste. Furthermore, it shall be the responsibility of the owner, lessee, occupant, agent, or representative of the owner to limit access to said property such that indiscriminate disposal of solid waste is minimized.

- (6) **Declaration of nuisance.** Solid waste allowed to accumulate and remain on any lot or parcel of land in the unincorporated area of the county may be deemed and declared a nuisance by the County Administrator.
- (7) **Notice to owner, etc., to remove.** Whenever the County Administrator shall find that solid waste has been allowed to accumulate and remain upon any lot or parcel of land in the county in such a manner as to constitute a nuisance, the county administrator may serve written notice upon the owner, or the occupant of the premises, or upon the agent or representative of the owner of such land having control thereof to comply with the provisions of this chapter. It shall be sufficient notification to personally deliver the notice to the owner (or occupant or agent), or to deposit a copy of such in the United States mail, properly stamped, and directed to the owner (or occupant or agent) at his/her address of record, or to post a copy of the notice upon such premises.
- (8) **Failure to comply with notice.** If the person to whom the notice is directed, under the provisions of the preceding subsection fails or neglects to cause such solid waste to be removed from any such premises and properly disposed of within ten days after such notice has been served or deposited in the United States mail, or posted upon premises, such person shall be deemed guilty of a misdemeanor and subject to the penalty provisions of this chapter.
- (9) **Removal by the County.** In the event any property is determined to be a nuisance, and 20 days has elapsed after such notice has been served, deposited in the United States mail, or posted upon the premises, then the county administrator may enter upon any such property and abate such nuisance by removing and disposing of the solid waste, and the cost of doing so may become a lien upon the property affected, or may be recovered by the county through judgment proceedings initiated in a court of competent jurisdiction.

(Ord. No. 2002-5, § VII, 2-11-02; Ord. No. 2018/47, 11-5-2018)

Sec. 38-33. Weeds and rank vegetation.

- (1) It shall be the duty of the owner, agent, occupant, or lessee of any improved residential or commercial property in any unincorporated area within the county, to cut, or cause to cut any, overgrowth of grasses, weeds, and rank vegetation as often as may be necessary to prevent the property becoming unsightly.
- (2) **Declaration of nuisance.** Any residential lot/parcel or any nonresidential lot/parcel located contiguous to a residential lot in the county that becomes substantially overgrown with grass, weeds, and/or rank vegetation such that it poses potential safety risk to humans and/or becomes a harborage for vectors may be deemed and declared a nuisance by the County Administrator.
- (3) **Duties of owner, etc.** It shall be the duty of any owner, lessee, occupant, agent, or representative of the owner of any residential lot/parcel or any nonresidential lot/parcel located contiguous to a residential lot in the county to cut, trim, and remove for proper disposal such grass, weeds, and or rank vegetation as often as may be necessary to prevent the growth of such weeds and rank vegetation that shall constitute a nuisance. However, lots of three acres or more shall only be required to cut 100 feet from contiguous road(s) and each side property line.
- (4) **Notice to owner, etc., to remove.** Whenever the County Administrator shall find that overgrowth of grass, weeds, and/or vegetation on a residential lot or any nonresidential lot/parcel located contiguous to a residential lot in the county constitutes a nuisance, the County Administrator may serve written notice upon the owner, or the occupant of the premises, or upon the agent or representative of the

owner of such land having control thereof to comply with the provisions of this section. It shall be sufficient notification to personally deliver the notice to the owner (or occupant or agent), or to deposit a copy of such in the United States mail, properly stamped, and directed to the owner (or occupant or agent) at his/her address of record, or to post a copy of the notice upon such premises.

- (5) **Failure to comply with notice.** If the person to whom the notice is directed, under the provisions of the preceding subsection fails or neglects to cause such overgrowth of weeds and rank vegetation to be removed from any such premises and properly disposed of within ten days after such notice has been served or deposited in the United States mail, or posted upon premises, such person shall be deemed guilty of a misdemeanor and subject to the penalty provisions of this chapter.
- (6) **Removal by County.** In the event any overgrowth of weeds and rank vegetation is determined to be a nuisance, and twenty (20) days has elapsed after such notice has been served, deposited in the United States mail, or posted upon the premises, then the county administrator or his/her designated contractor may enter upon any such property and abate such nuisance by cutting, trimming, removing and disposing of the vegetative waste, and the cost of doing so, pursuant to the cleanup fee structure noted below, may become a lien upon the property affected, or may be recovered by the County through judgment proceedings initiated in a court of competent jurisdiction.

Sec. 38-34. Correction of violations.

- (1) If an owner or his/her agent fails to comply with the written notice or citation to correct a violation of this article and said violation is determined to be a threat to the health and safety of the citizens of Beaufort County, the county may, at the county's sole discretion, utilize employees of Beaufort County or any other person employed for that purpose to go upon the property to correct the conditions thereupon existing.
- (2) All costs incurred for correcting the conditions on said property and/or for the removal of all litter and/or solid waste, or other unhealthy or unsightly materials or any other actions reasonably taken by Beaufort County to abate the same or to remove the threat to the public's health and safety shall be a lien against the real property upon which such cost was incurred. All costs incurred by the county in preparing, recording, collecting, and satisfying said lien shall be included therein including, but not limited to, reasonable attorney's fees, costs and disbursements.

(Ord. No. 2002-5, § VIII, 2-11-02)

Sec. 38-35. Dumping and depositing material in the rivers, creeks, drainage canals and ditches prohibited.

- (1) No person shall throw or place any refuse, paper, trash, glass, nails, tacks, wire, bottles, cans, grass clippings, brush, yard trash, concrete, earthen fill, garbage, containers, or litter or other debris in any ditch, stream, river, or retention basin that regularly or periodically carries surface water runoff. Any persons who deposit any of the above shall remove it or shall cause it to be removed therefrom immediately.

(Ord. No. 95-45, §§ 1—3, 12-11-95)

Sec. 38-36. Penalties.

- (1) A person violating the provisions of this article is guilty of a misdemeanor and, upon conviction, must be fined not more than \$500.00 or confined for not more than 30 days, or both_for each offense.

- (2) Enforcement of this article shall be by commissioned code enforcement officers, using the County Courtesy Summons Ordinance (93/34), or by the Beaufort County Sheriff's Office or any other Law Enforcement Agency which has jurisdiction over the area in which the violation occurs.
- (3) Each violation of this Ordinance shall constitute a separate offense. Each day a violation continues shall constitute a separate offense and may subject the violator to the penalties prescribed in this article for each offense.
- (4) In the event that the County deems it necessary to bring civil action to enforce the terms of this chapter, the violator shall be responsible for all court costs and attorney fees incurred by the county.

(Ord. No. 2002-5, § I, 2-11-02)

Secs. 38-37—38-60. Reserved.



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

Item 3.

ITEM TITLE:
An Ordinance Adopting Amendments to Ch 62. Solid Waste of the Beaufort County Code of Ordinance (\$0.00)
MEETING NAME AND DATE:
Community Services and Land Use – August 10th, 2023
PRESENTER INFORMATION
Jared Fralix, P.E. – Assistant County Administrator, Infrastructure Neil Desai, P.E. – Public Works Director (Alternate) (10 min)
ITEM BACKGROUND:
May 2005 – County Council adopted Article II of the Code of Ordinances for litter. October 2007 – County Council adopted Chapter 62 of the Code of Ordinances for Solid Waste.
PROJECT / ITEM NARRATIVE:
As Beaufort County has enforced the ordinances pertaining to Litter between both Code Enforcement and Public Works Staff, conflicting language between the two ordinances was recognized. The adoption of the amendments to Chapter 62, as noted in Exhibit A, of the Beaufort County Code of Ordinances provides continuity to the language, as well as the enforcement effort of both departments.
FISCAL IMPACT:
There are no fiscal impacts associated with the adoption of the proposed amendments to Ch 62.
STAFF RECOMMENDATIONS TO COUNCIL:
Staff recommends approval of the amendments to Chapter 62. Solid Waste of the Beaufort County Code of Ordinances.
OPTIONS FOR COUNCIL MOTION:
Motion to approve/deny the adoption of the amendments to Chapter 62. Solid Waste of the Beaufort County Code of Ordinances.
(Next Step – Upon approval, send to County Council for First Reading)

Chapter 62 SOLID WASTE¹

ARTICLE I. IN GENERAL

Sec. 62-1. Establishment and administration of solid waste and recycling enterprise system.

- (a) There is hereby created the "solid waste and recycling enterprise system" of the county. The solid waste and recycling enterprise system shall be operated as an administrative division of the county under the responsibility of the county administrator. The county administrator is authorized to (i) establish and organize the county's solid waste and recycling facilities and services as necessary for their useful and efficient operation, (ii) to establish necessary procedures, policies and guidelines for the use of the county's solid waste and recycling facilities and services, and (iii) to recommend appropriate millage or fee and rate schedules for consideration and approval by county council, including any appropriate exemptions. Any millage, fee, or rate recommendations shall be based upon considerations that the county's solid waste and recycling enterprise system will be self-supporting, and adequately funded by all users and classes of users that benefit from county solid waste and recycling facilities and services in future periods. The county administrator is further directed to keep county council advised as to the progress in accomplishing these requirements.
- (b) These provisions shall be applicable within the county and for all solid waste and recycling facilities and services provided by the County.

In addition to collection and disposal of solid waste and collection and processing of recovered materials , other solid waste and recycling facilities and services may be provided within the county. Such other solid waste and recycling facilities and services may be provided within the corporate limits of a municipality in the county by contract with an individual, corporation or municipal governing body in the event (1) the municipality is not providing such services, or (2) permission of the municipal governing body has been obtained in connection with the provision of such facilities and services; otherwise, the county shall not render such facilities and services within such municipality.

The county finds, after due investigation, that the solid waste and recycling enterprise system programs do not conflict, or compete in any way, with the solid waste and recycling services of the municipalities within the county and are entirely complementary thereof and separate therefrom. To the extent that a municipality engages in collection and disposal of solid waste and collection and processing of recovered materials, the county shall not engage in such service within such municipality, and appropriate fee exemptions, if necessary, shall be implemented.

¹Editor's note(s)—Ord. No. 2007/37, adopted Oct. 22, 2007, amended Ch. 62 in its entirety to read as herein set out. Former Ch. 62 consisted of §§ 62-1—62-68, pertained to similar subject matter and derived from the 1982 Code; Ord. No. 064-94, adopted Sept. 6, 1994; an ordinance adopted Nov. 9, 1998; and Ord. No. 006-02HR, adopted Mar. 19, 2002.

Cross reference(s)—Environment, ch. 38; trash and litter control, § 38-26 et seq.; littering or dumping of refuse in rivers, creeks, canals and ditches, § 38-35; health and sanitation, ch. 46; buildings and building regulations, ch. 74; manufactured homes and trailers, ch. 86; littering at Bluffton dock, § 102-66; waste disposal facilities, § 106-1367.

The county administrator may request assistance from the various departments and other officials of the county or municipalities, as may be necessary for the orderly implementation of this chapter. Agreements, including any intergovernmental agreements with municipalities within the county and any necessary or desirable regulations promulgated to carry out this chapter are authorized and shall be subject to prior review and approval of county council.

(Ord. No. 2007/37, 10-22-2007; Ord. No. 2020/19, § 2.A, 6-8-2020; Ord. No. 2021/24, § 2.A, 5-24-2021)

Sec. 62-2. Authority.

- (a) *Authority and purpose.* Beaufort County ("the county") shall provide for the management, collection, and disposal of residential solid waste collected by the county or its agent. The landfills are established pursuant to the authority conferred by S.C. Code 1976, §§ 44-55-1010 through 44-55-1060, as amended, S.C. Code 1976, §44-1-140(11), as amended, and Section 9, Part II, Act No. 410 of 1971 also South Carolina Regulation PC-SW-2, and for the public health, welfare and safety of the citizens of the county. The rules and regulations herein are adopted along with all other South Carolina Department of Health and Environmental Control rules and regulations. All recycling and solid waste activities not in the county system shall coordinate with the county for the purpose of assisting the county with achievement of established state diversion and recycling goals.
- (b) *General.* Section 9 of the General Appropriations Act (Act No. 410) South Carolina Solid Waste Management and Policy Act of 1991, assigns the South Carolina State Board of Health as "the agency over these matters involving real or potential threats to the health of the people of South Carolina, including the handling and disposal of garbage and municipal solid waste . . ." Improper storage, collection and transportation systems create health hazards, odors, impair the aesthetic appearance of the State, encourage wild and domestic animal feeding and exposes residents to undue risks. Section 44-96-20 of the South Carolina Solid Waste Management and Policy Act of 1991, establishes goals for solid waste diversion from municipal solid waste (MSW) landfills and for recycling on a statewide basis, and confer upon counties the responsibility for establishing solid waste management plans, including ordinances, policies and regulations, which support the achievement of the established waste reduction goal to reduce the amount of municipal solid waste disposed of to 3.25 pounds per/person/day or less and to recycle at least 40 percent of municipal solid waste.
- (c) In addition to the foregoing authority, purposes, and general matters, the county finds the solid waste and recycling enterprise system shall serve the following additional purposes:
 - (1) To promote the public health, safety and welfare;
 - (2) To ensure that solid waste is transported, stored, treated, processed and disposed of in a manner adequate to protect human health, safety and welfare and the environment;
 - (3) To promote the reduction, recycling, reuse and treatment of solid waste and the recycling of materials which would otherwise be disposed of as solid waste;
 - (4) To provide an efficient method for the collection, transportation, storage, handling, treatment, reduction, recycling, reuse and disposal of solid waste in the county through the establishment, construction and operation of solid waste collection sites and other facilities for the use and benefit of residents of the county and other municipalities, entities or persons who contract for the use of county facilities for the collection of permitted solid waste in accordance with county ordinances and regulations; and
 - (5) To protect and preserve the quality of the environment and to conserve and recycle natural resources.

(Ord. No. 2007/37, 10-22-2007; Ord. No. 2020/19, § 2.B, 6-8-2020; Ord. No. 2021/24, § 2.B, 5-24-2021)

Sec. 62-3. Definitions.

For the purpose of this chapter, any definitions contained herein shall apply unless specifically stated. In addition to the definitions contained in this chapter, the articles of this chapter adopt by reference the definition of terms (to the extent they are not inconsistent with definitions specifically contained herein) defined in the South Carolina Solid Waste Policy and Management Act of 1991, S.C. Code § 44-96-10, et seq. and in any regulations promulgated pursuant thereto. Any term not specifically defined shall be construed pursuant to its plain and ordinary meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural include the singular, and words used in the singular include the plural. The word "shall" is always mandatory and not merely discretionary.

Agricultural operation: Raising, harvesting, or storing crops or feed, breeding or managing livestock, including the preparation of the products raised thereon for human use and disposed of by marketing or other means. It includes, but is not limited to, agriculture, grazing, horticulture, forestry, and dairy farming.

Apartment: Any building containing more than four contiguous dwelling units or any group of buildings or mobile homes located on a single lot that contains a total of six or more dwelling units owned by the same person.

Backyard composting: The on-site composting of yard waste by the owner or tenant for nonrevenue generating use when all materials are generated and composted on-site.

Bulk container: A manufactured container suitable for emptying by mechanical equipment that has been approved by the county administrator.

Bulky waste: Household furniture, electronic appliances (such as televisions, stereos, microwave ovens), lawn mowers, door and window screens, swing sets, over-sized children's toys, lawn furniture, wading pools, barbecue grills, whole or parts of boats and automobiles, and items banned from landfill such as white goods (stoves, refrigerators, washers, dryers, etc.), tires or other items generated by a household as part of its solid waste which are too large for placement in a garbage container.

Code: The Code of Ordinances of Beaufort County, South Carolina.

Collection: The act of picking up solid waste or recovered materials from residents, businesses, institutions, or industrial generators.

Collector/hauler: Any individual, business, or municipal organization which collects solid waste or recovered materials commercially or as a public service and transports it to a permitted solid waste facility, landfill or recovered materials processing facility.

Combined waste stream: The aggregate waste stream of all tenants or occupants of a business property or complex.

Commercial establishment: Any hotel, motel, apartment, rooming house, business, industrial, public or semipublic establishment of any nature.

Commercial solid waste: Municipal solid waste (including unrecovered recyclable materials) generated by industrial, commercial or business activities. This includes solid waste generated within multifamily residences and all solid waste placed in public receptacles on public streets, parks and playgrounds, beaches and other public places (excluding industrial waste as defined herein).

Compost: Humus-like end product of the process of composting waste.

Composting: The process of making compost.

Composting facility: Any facility used in the composting of yard waste, land-clearing debris, chipped untreated wood waste, and/or other organic material thereby providing aerobic, thermophilic decomposition of the solid organic constituents of solid waste to produce a stable, humus-like material.

Construction: Any physical modification to the site at which a potential or proposed solid waste management facility is to be located including, but not limited to, site preparation, clearing, grading, excavation, construction of buildings, installation of liners, etc.

Construction and demolition debris: Any discarded solid wastes resulting from construction, remodeling, repair, and demolition of structures, and road construction. The wastes include, but are not limited to, bricks, concrete, other masonry materials, lumber, road spoils, and paving materials, but do not include solid waste from agricultural operations.

Container means a watertight receptacle made of metal, heavy-duty plastic, or material of similar strength with a tightfitting cover for storage and disposal of solid waste or recovered materials.

Contractor: The person that has entered into a contract with the county to perform solid waste collection.

County: Beaufort County, South Carolina.

County administrator: The Beaufort County Administrator or his/her designated agent.

County council: The governing body of Beaufort County, South Carolina.

Collection center: Any county authorized site designated for collection of residential solid waste, yard waste, bulky items, waste oil and other designated solid waste or recovered materials. Collection centers are intended for residential solid waste and recovered materials.

Debris: Includes, but not limited to, equipment, yard toys, furniture, packaging items, shipping containers, construction and demolition waste, bricks, blocks, concrete, asphalt, metals, lumber, trees, tree limbs, tree stumps, brush or parts thereof, or brush stumps, and/or building materials that are determined to be potentially deleterious to good health, public sanitation and/or public safety.

DHEC: The South Carolina Department of Health and Environmental Control.

Director: Beaufort County Director of Public Works or his/her designated agent.

Disposal: The discharge, deposition, injection, dumping, spilling, or placing of any solid waste into or on any land or water, so that the substance or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwater.

Dwelling unit: One or more habitable rooms that are intended to be occupied by one family with facilities for living, sleeping, cooking and eating municipal solid waste(excludes commercial establishments).

Expand or expansion: Any change to a solid waste management facility including a composting facility or change in the status of that facility that:

- (1) Allows or results in an increase in the solid waste disposal capacity for the facility (including either lateral or vertical expansion capacity); or
- (2) Allows or results in an increase (or potential increase) in the annual disposal rate, tonnage limit and/or capacity limit for the facility; or
- (3) Includes or otherwise involves the purchase of additional property that may be utilized for solid waste management of any kind at the facility.

Fiscal year: A twelve-month period from July 1 of the current year to June 30 of the following year.

Franchise collector: The person that has entered into a franchise agreement with the county to perform solid waste and/or recovered materials collection.

Garbage: All accumulations of animal, fruit or vegetable matter that attend the preparation, use, cooking and dealing in, or storage of meats, fish, fowl, fruit, vegetables and any other matter of any nature whatsoever which is subject to decay, putrefaction and the generation of noxious and offensive smells or odors, or which during and after decay may serve as breeding or feeding material for flies and/or germ-carrying insects or vermin; items which due to their ability to retain water can serve as a breeding place for mosquitoes and other water-breeding insects.

Groundwater: Water beneath the land surface in the saturated zone.

Hazardous wastes: Wastes that are defined as hazardous in Section 44-56-20 of the South Carolina Hazardous Waste Management Act.

Household: A person or group of people who occupy a dwelling unit as their usual place of residence.

Household hazardous waste: Any commonly used household hazardous material that is not regulated as hazardous waste when disposed of. This includes, but is not limited to, insecticides, pesticides, paints, lubricants, fertilizers, cleaning agents and polishing compounds. For purposes of this definition, household hazardous waste does not include gasoline or motor oil.

Household quantities: Quantities of solid waste reasonably generated in the course of typical domestic activities from single-family residential dwelling units including minor renovations to a dwelling unit. Solid wastes from construction projects that require a building permit or evictions of tenants are not considered household quantities. The fact that waste is generated from a single-family primary residence does not necessarily establish household quantities.

Industrial solid waste: Any and all solid waste generated by manufacturing or industrial processes that is not a hazardous waste reduction under subtitle C of the Resource Conservation and Recovery Act.

Land-clearing debris: Organic waste such as trees, limbs, brush, and stumps mingled with small amounts of dirt that is produced as a result of clearing and grubbing operations but does not include solid waste from agricultural operations.

Landfill: A disposal facility or part of a facility where solid waste is placed in or on land, and which is not a land treatment facility, a surface impoundment, or an injection well.

Litter: means any unsecured or inadequately secured and improperly stored or disposed solid waste placed, thrown, dropped, deposited, blown, leaked or in any other manner distributed as prohibited by the provisions of this article.

Modify or modification: Any change to a solid waste management facility or change in the status of that facility that:

- (1) Is considered a modification (major or minor) by DHEC; or
- (2) Requires a modification of any kind to the facility's operating permit issued by DHEC; or
- (3) Involves construction, renovation and/or other changes to existing buildings, structures or units, other than normal daily operating changes; or
- (4) Results in a different classification, designation and/or use for a solid waste management facility or composting facility; or
- (5) Results in a change of ownership and/or operation of a solid waste management facility or composting facility; or
- (6) Results in any addition and/or deletion of a waste stream for a significant user of a solid waste management facility or composting facility.

Municipal solid waste. Any solid waste (including garbage, trash, and sanitary waste in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas), generated by commercial establishments (stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding industrial facilities) and nonhazardous sludge.

Owner/operator: The person who owns the land on which a solid waste management facility or composting facility is located or the person who is responsible for the overall operation of the facility, or both.

Person: An individual, partnership, copartnership, cooperative, association, firm, company, public or private corporation, political subdivision, agency of the state, agency of the federal government, trust, estate, joint structure company or any other legal entity or its legal representative, agent or assigns.

Pickup truck: A motor truck with a manufacturer's gross vehicle weight rating of less than 11,500 pounds, an unladen weight of less than 8,001 pounds, and which is equipped with an open box-type bed less than nine feet in length. Pickup truck does not include a motor vehicle, otherwise meeting the above definition that is equipped with a bed-mounted storage compartment commonly called a utility body.

Primary residence: Residential dwelling unit that is occupied by the owner or renter of such unit. For purposes of this chapter, owners and renters shall designate only one primary residence.

Recovered materials: Materials which have known use, reuse, or recycling potential; can be feasibly used, reused, or recycled; and have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing.

Recovered Materials Processing Facility: A facility engaged solely in the recycling, storage, processing, and resale or reuse of recovered materials.

Recyclable material: Those materials which would otherwise become municipal solid waste, and which can be collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

Recycling: Any process by which materials which would otherwise become solid waste are collected, separated, or processed and reused or returned to use in the form of raw materials or products (including composting).

Residential property: Property that contains one or more residential dwelling units other than those defined as apartments.

Residential solid waste: Any and all accumulations of municipal solid waste (including unrecovered recyclable materials) generated by single-family residential units or multifamily residential facilities where aggregate municipal solid waste collection is not provided to the tenant as part of a rental agreement.

Reuse: The return of a commodity into the economic stream for use in the same kind of application as before without change in its identity.

Roll cart: Containers, mounted on wheels, which are used to store residential solid waste or recovered materials between collections by collectors.

Single-family residential unit: Residential properties classified by the county assessor as having only one dwelling unit per property or parcel.

Solid waste management plan: The local solid waste management plan that must be developed and implemented by each county pursuant to S.C. Code § 44-96-80.

Solid waste: Garbage, municipal solid waste, or sludge from a waste treatment facility, water supply plant, or air pollution control facility and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and from community activities.

This term does not include solid or dissolved material in domestic sewage, recovered materials, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to NPDES permits under the Federal Water Pollution Control Act, as amended, or the Pollution Control Act of South Carolina, as amended, or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1964, as amended. Also excluded from this definition are application of fertilizer and animal manure during normal agricultural operations or municipal solid waste as defined and regulated pursuant to the South Carolina Mining Act, including processed mineral waste, which will not have a significant adverse impact on the environment.

Solid waste management facility: Any solid waste disposal area (including public and private landfills), volume reduction plant; transfer station, collection center, or other facility, the purpose of which is the storage, collection, transportation, treatment, utilization, processing, recycling, or disposal, or any combination thereof, of solid waste. For purposes of this chapter, this term does not include composting facilities, or noncommercial industrial facilities managing solid waste generated in the course of normal operations on property under the same ownership or control as the waste management facility.

Source reduction: The reduction of solid waste before it enters the solid waste stream by methods such as product redesign or reduced packaging.

Transfer station: Any permitted temporary holding site for the collection and transfer of solid waste from private citizens and by collector/haulers and commercial collector/haulers to a disposal facility.

Vector: A carrier that is capable of transmitting a pathogen from one organism to another including, but not limited to, flies and other insects, rodents, birds and vermin.

Vehicle: Any device capable of being moved upon a public highway or roadway and in, upon or by which any person or property is or shall be transported or drawn upon a public highway or roadway.

Yard waste: Any and all accumulations of grass, leaves, pine straw, small trees and branches, shrubs, vines and other similar items of less than six inches in diameter, four feet in length generated by the typical maintenance of lawns, shrubs, gardens and trees from residential properties. Yard waste shall not be commingled with garbage or solid waste.

Weeds and rank vegetation: Dense, uncultivated, herbaceous overgrowth over two feet in height, or briars and trailing vines exceeding ten feet in length.

White goods: Includes refrigerators, ranges, water heaters, freezers, dishwashers, residential trash compactors, dryers, air conditioners, and other large appliances.

(Ord. No. 2007/37, 10-22-2007)

Sec. 62-4. Enforcement.

- (1) The Department of Public Works Office of Solid Waste and Recycling , County Code Enforcement Officers, and other law enforcement agencies shall be charged with the enforcement of this section and shall be authorized to obtain for their personnel such law enforcement commissions as may be necessary. Litter control officers, any commissioned law enforcement officer and appointed code enforcement officers shall have the authority to enforce the provisions of this ~~section~~ chapter and may issue a summons to any violator to appear in the magistrate's court of the county to answer the charge of violation of this ~~section~~ chapter.
- (2) If any solid waste improperly or unlawfully disposed of in violation of this chapter can be identified as having last belonged to, been in the possession of, sent to, or received by, or to have been the property of any person prior to its being disposed of as prohibited herein, such identification shall be presumed to be prima facie evidence that such person disposed of or caused to be disposed of such solid waste in violation of this chapter.

- (3) Proof of means used for proper disposal of solid wastes at businesses and commercial enterprises shall be presented to the law enforcement officers or code enforcement officers when requested by the officer.
- (4) Responsibility for the removal of litter from property or receptacles is upon the person convicted pursuant to this section of littering the property or receptacles. If there is no conviction for littering, the responsibility is upon the owner of the property.

(Ord. No. 2007/37, 10-22-2007)

Sec. 62-5. Penalties.

- (a) ~~A person, from a vehicle or otherwise, shall not dump, throw, drop, deposit, discard, or otherwise dispose of litter or other solid waste, as defined by S.C. § 44-96-40(46), upon public or private property or waters in the state including, but not limited to, a highway, park, beach, campground, forest land, recreational area, trailer park, road, street, or alley except:~~
- (1) ~~On property designated by the state for the disposal of litter and other solid waste and the person is authorized to use the property for that purpose; or~~
- (2) ~~Into a litter receptacle in a manner that the litter is prevented from being carried away or deposited by the elements upon a part of the private or public property or waters.~~
- (b) ~~Responsibility for the removal of litter from property or receptacles is upon the person convicted pursuant to this section of littering the property or receptacles. If there is no conviction for littering, the responsibility is upon the owner of the property.~~
- (c) (1) A person who willfully violates the provisions of this ~~section~~ chapter is guilty of a misdemeanor and, upon conviction, shall be fined not more than \$500.00~~\$200.00~~ or imprisoned for not more than 30 days, or both. ~~for a first or second conviction, or shall be fined \$500.00 or imprisoned for not more than 30 days, or both for a third second or subsequent conviction. In addition to the fine or term of imprisonment, the court also must impose eight hours of litter-gathering labor for a first conviction, 16 hours of litter-gathering labor for a second conviction, and 24 hours of litter-gathering labor for a third or subsequent conviction, or other form of public service, under the supervision of the court, as the court may order because of physical or other incapacities.~~
- (2) ~~The fine for a deposit of a collection of litter or solid waste in an area or facility not intended for public deposit of litter or solid waste is \$1,000.00. The provisions of this item apply to a deposit of litter or solid waste, as defined in S.C. § 44-67-30 (4), in an area or facility not intended for public deposit of litter or solid waste. This item does not prohibit a private property owner from depositing litter or solid waste as a property enhancement if the depositing does not violate applicable local or state health and safety regulations. In addition to a fine and for each offense pursuant to the provisions of this item, the court also shall impose a minimum of five hours of litter-gathering labor or other form of public service, under the supervision of the court, as the court may order because of physical or other incapacities.~~
- (3) ~~(2) — The court, instead of payment of the monetary fine imposed for a violation of this sectionchapter, may direct the substitution of additional litter-gathering labor or other form of public service, under the supervision of the court, as it may order because of physical or other incapacities not to exceed one hour for each \$5.00 \$25.00 of fine imposed.~~
- (4) ~~(3) — In addition to other punishment authorized by this section, in the discretion of the court in which conviction is obtained, the person may be directed by the judge to pick up and remove from any public place or any private property, with prior permission of the legal owner of the property upon~~

which it is established by competent evidence that the person has deposited litter, all litter deposited on the place or property by any person before the date of execution of sentence.

- (d)(b) — In cases in which a person who violates the provisions of this section in an amount exceeding 15 pounds in weight or 27 cubic feet in volume, but not exceeding 500 pounds or 100 cubic feet, is guilty of a misdemeanor and, upon conviction, shall be fined not less than \$200.00 nor more than \$500.00 or imprisoned for not more than 90 days. In addition, the court shall require the violator to pick up litter or perform other community service commensurate with the offense committed, up to 100 hours.
- (e) (1) A person who violates the provisions of this section in an amount exceeding 50 pounds in weight or 100 cubic feet in volume is guilty of a misdemeanor and, upon conviction, shall be fined not less than \$500.00 or more than \$1,000.00, or imprisoned not more than one year, or both. In addition, the court may order the violator to:
- a. — Remove or render harmless the litter that he dumped in violation of this subsection;
 - b. — Repair or restore property damaged by, or pay damages for damage arising out of, his dumping of litter in violation of this subsection; or
 - c. — Perform community public service relating to the removal of litter dumped in violation of this subsection or relating to the restoration of an area polluted by litter dumped in violation of this subsection.
- (2) — A court may enjoin a violation of this subsection.
- (3) — A motor vehicle, vessel, aircraft, container, crane, winch, or machine involved in the disposal of more than 500 pounds in weight or more than 100 cubic feet in volume of litter in violation of this subsection is declared contraband and is subject to seizure and summary forfeiture to the state.
- (4) — If a person sustains damages in connection with a violation of this subsection that gives rise to a felony against the person or his property, a court, in a civil action for those damages, shall order the wrongdoer to pay the injured party threefold the actual damages or \$200.00, whichever amount is greater. In addition, the court shall order the wrongdoer to pay the injured party's court costs and attorney's fees.
- (5) — A fine imposed pursuant to this subsection shall not be suspended, in whole or in part.
- (f) (1) — When the penalty for a violation of this section includes litter gathering labor in addition to a fine or imprisonment, the litter gathering portion of the penalty is mandatory and shall not be suspended; however, the court, upon the request of a person convicted of violating this section, may direct that the person pay an additional monetary penalty instead of the litter gathering portion of the penalty that must be equal to the amount of \$5.00 an hour of litter gathering labor. Probation shall not be granted instead of the litter gathering requirement, except for a person's physical or other incapacities.
- (2) — Funds collected pursuant to this subsection instead of the mandatory litter gathering labor shall be remitted to the county or municipality where the littering violation took place. The money collected may be used for the litter gathering supervision.
- (g) — For purposes of the offenses established by this section, litter includes cigarettes and cigarette filters.
- (h) — A prior violation within the meaning of this section means only a violation of this section which occurred within a period of five years including and immediately preceding the date of the last violation.
- (i) — Magistrates and municipal courts have jurisdiction to try violations of subsections (a), (b), (c), and (d) of this section.

(Ord. No. 2007/37, 10-22-2007)

Sec. 62-6. Uniform service charges.

- (a) The county council shall impose millage as part of its annual budget process to fund the solid waste and recycling enterprise system. At any point in the future, county council may, by ordinance, impose uniform service charges, and rates fees, and charges. The proceeds from the millage, uniform service charges, and rates, fees and charges established by county council shall be used to pay in whole or in part the costs of acquiring, equipping, operating, and maintaining facilities and services for the collection, transportation, storage, handling, separation, treatment, reduction, recycling, reuse, and disposal of residential solid waste generated within the county.
- (b) If imposed, there shall be a uniform residential solid waste fee annually imposed upon the owner of record of each residence in the county, including all single and multi-family homes, mobile homes, and all lease and rental properties, in accordance with the then prevailing fee schedule, subject to the rules and regulations governing the solid waste and recycling enterprise system, and further subject to any applicable exemptions, which exemptions shall include, but not be limited to, a complete or partial exemption for users in any municipality within the county to the extent the respective municipality provides a service in lieu of the county. In addition to fees, charges, and rates with respect to solid waste and recycling facilities and services, fees, charges, and rates in connection with other solid waste and recycling facilities and services may be imposed within the corporate limits of a municipality in the county by contract with an individual, corporation, or municipal governing body to the extent the county is providing solid waste and recycling services in a municipality pursuant to subsection 62-1(b).

Residential solid waste fees, if imposed, shall be levied as a uniform assessment by the county auditor and placed upon the annual real estate tax notice and collected by the county treasurer, pursuant to state law. The fiscal officers of the county shall have the authority to nulla bona or abate these fees to the same extent and under the same conditions as they do for a comparable tax.

- (c) Further, if residential solid waste charges are imposed, there shall be imposed a late fee and supplemental processing charge, for all solid waste fees not timely remitted to the county treasurer by March 16 of the year when due. For all past due accounts in excess of one year, the county shall impose an additional annual penalty. The county shall pursue all legal remedies available to it to recover past due amounts, and shall hold the property owner or record responsible for all costs of collection, including reasonable attorney fees, as a part of such collection efforts and as a part of the fees imposed by county council pursuant to state law, in order that lawful tax-paying citizens not be forced to subsidize those taxpayers who do not pay this lawful fee in a timely manner.

(Ord. No. 2020/19, § 2.C, 6-8-2020; Ord. No. 2021/24, § 2.C, 5-24-2021)

Sec. 62-7. Special fund.

All taxes, charges, rates, fees, or other revenues collected pursuant to this chapter shall be deposited to a special fund to be known as the solid waste and recycling enterprise fund, and all funds deposited in the solid waste and recycling enterprise fund shall be expended for the administration, operation, and maintenance of the county solid waste and recycling programs and the acquiring, constructing, renovating, and equipping of apparatus and facilities necessary or convenient therefor. Should the county issue bonds or enter into other obligations the proceeds of which benefit the solid waste and recycling enterprise system, it may secure such bonds and other obligations with a pledge of all or a portion of the revenues deposited to or derived from the solid waste and recycling enterprise fund. Nothing shall prohibit the creation of sub-funds or accounts as may be necessary or appropriate.

(Ord. No. 2020/19, § 2.D, 6-8-2020; Ord. No. 2021/24, § 2.D, 5-24-2021)

Sec. 62-8. Severability.

If any section, subsection, or clause of this chapter shall be deemed unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

Secs. 62-9 to 62-19 ~~8-62-9~~. Reserved.

Move this Article II to Chapter 38 as a more appropriate location to address this.

~~ARTICLE II. LITTERING, SCAVENGING, AND PROPERTY MAINTENANCE~~**~~Sec. 62-10. Littering on or along public rights of way prohibited.~~**

- (1) ~~It shall be unlawful for any person to throw, drop, leave, or in any way to intentionally or unintentionally deposit or dispose of litter on any property or on or along any street, road, highway, curb, sidewalk, or public right-of-way, except as required by the authorized and franchise municipal solid waste collector for that district; nor shall any person throw or deposit any litter in any stream or other body of water within the boundaries of the county.~~
- (2) ~~Furthermore, when litter is thrown, blown or allowed to escape from a vehicle, if the identity of the driver cannot be determined, the operator and/or the owner of the vehicle shall be held responsible even when the operator or owner did not throw the litter out or allow the litter to escape.~~
- (3) ~~Responsibility for the immediate removal and proper disposal of litter from property is upon the person convicted under this chapter of littering. However, if there is no conviction, the responsibility for removal and proper disposal shall be upon the owner and/or occupant of the property where the litter was deposited.~~

~~(Ord. No. 2007/37, 10-22-2007)~~

~~Sec. 62-11. Scavenging at county solid waste management facilities.~~

~~It shall be unlawful for any person to rummage through, remove, salvage items or otherwise scavenge from county-operated or private solid waste management facilities to include solid waste collection and storage containers. A summons may be issued to any violator to appear in the magistrate's court of the county to answer the charge of violation of this section.~~

~~(Ord. No. 2007/37, 10-22-2007)~~

~~Sec. 62-12. Solid waste on lots.~~

- (1) ~~[Unlawful disposal or accumulation.] It shall be unlawful for any person to dispose of or cause to be disposed of or allow to accumulate, or for any property owner to allow any person to dispose of or cause to be disposed of or cause to accumulate any type of solid waste anywhere in the county except at a solid waste~~

management facility that has been approved by county council and/or the South Carolina DHEC or as otherwise provided for under article III of this chapter.

- (2) ~~*Declaration of nuisance.*~~ Solid waste allowed to accumulate and remain on any lot or parcel of land in the county may be deemed and declared a nuisance in the judgment of the county administrator.
- (3) ~~*Duties of owner, etc.*~~ It shall be the duty of any owner, lessee, occupant, agent, or representative of the owner of any lot or parcel of land in the county to remove and properly dispose of such solid waste as often as may be necessary to prevent the accumulation of such waste. Furthermore, it shall be the responsibility of the owner, lessee, occupant, agent, or representative of the owner to limit access to said property such that indiscriminate disposal of solid waste is minimized.
- (4) ~~*Notice to owner, etc., to remove.*~~ Whenever the county administrator shall find that solid waste has been allowed to accumulate and remain upon any lot or parcel of land in the county in such a manner as to constitute a nuisance, the county administrator may serve written notice upon the owner, or the occupant of the premises, or upon the agent or representative of the owner of such land having control thereof to comply with the provisions of this chapter. It shall be sufficient notification to personally deliver the notice to the owner (or occupant or agent), or to deposit a copy of such in the United States mail, properly stamped, and directed to the owner (or occupant or agent) at his/her address of record, or to post a copy of the notice upon such premises.
- (5) ~~*Failure to comply with notice.*~~ If the person to whom the notice is directed, under the provisions of the preceding subsection fails or neglects to cause such solid waste to be removed from any such premises and properly disposed of within ten days after such notice has been served or deposited in the United States mail, or posted upon premises, such person shall be deemed guilty of a misdemeanor and subject to the penalty provisions of this chapter.
- (6) ~~*Removal by county.*~~ In the event any property is determined to be a nuisance, and 20 days has elapsed after such notice has been served, deposited in the United States mail, or posted upon the premises, then the county administrator may enter upon any such property and abate such nuisance by removing and disposing of the solid waste, and the cost of doing so may become a lien upon the property affected, or may be recovered by the county through judgment proceedings initiated in a court of competent jurisdiction.
- (7) ~~*Work may be done by county upon request.*~~ Upon the written request to the county administrator by the owner or the person in control of any lot or parcel of land subject to the provisions of this section and payment to the county for the services consistent with the overgrowth cleanup fee structure, the county administrator or his/her designated contractor may enter onto such land and perform such cleanup activities as necessary to remove and properly dispose of the solid waste thereon.
- (8) ~~*Solid waste on lots cleanup fee structure.*~~ A fee schedule and any amendments thereto for disposal of solid waste resulting from cleanup of such waste on lots shall be developed and approved by the county administrator.

(Ord. No. 2007/37, 10-22-2007)

Sec. 62-13. Unlawful acts.

- (1) It shall be unlawful to dispose of broken or whole bricks, broken or whole blocks, or cured/uncured concrete, land clearing debris or another other type of solid waste anywhere in the unincorporated area of the county except at landfills permitted by the state under regulations R.61-107.11, Part IV, R.61-107.16 or R.61-107.258 and permitted consistent with the provisions of Sec. 62-46 of this chapter. Responsibility for the immediate removal and proper disposal of such waste from property is upon the person convicted under this chapter. However, if there is no conviction, the responsibility for removal and proper disposal shall be upon the owner and/or occupant of the property where the waste was deposited.

(2) Organized collection, e.g., green boxes, etc., of solid waste shall be at a frequency which ensures the prevention of hazards and nuisances to human health and the environment. It shall be unlawful for the owner(s) of such container(s) to fail to pick up and properly dispose of the waste therein at a frequency that exceeds seven calendar days.

(Ord. No. 2007/37, 10-22-2007)

Sec. 62-14. Weeds and rank vegetation.

- (1) *Declaration of nuisance.* Any residential lot/parcel or any nonresidential lot/parcel located contiguous to a residential lot in the county that becomes substantially overgrown with weeds and rank vegetation such that it poses potential safety risks to humans and/or becomes a harborage for vectors may be deemed and declared a nuisance in the judgment of the county administrator.
- (2) *Duties of owner, etc.* It shall be the duty of any owner, lessee, occupant, agent, or representative of the owner of any residential lot/parcel or any nonresidential lot/parcel located contiguous to a residential lot in the county to cut, trim and remove for proper disposal such weeds and rank vegetation as often as may be necessary to prevent the growth of such weeds and rank vegetation that shall constitute a nuisance. However, lots of three acres or more shall only be required to cut 100 feet from contiguous road(s) and each side property line.
- (3) *Notice to owner, etc., to remove.* Whenever the county administrator shall find that overgrowth of weeds and rank vegetation on a residential lot/parcel or any nonresidential lot/parcel located contiguous to a residential lot in the county constitutes a nuisance, the county administrator may serve written notice upon the owner, or the occupant of the premises, or upon the agent or representative of the owner of such land having control thereof to comply with the provisions of this section. It shall be sufficient notification to personally deliver the notice to the owner (or occupant or agent), or to deposit a copy of such in the United States mail, properly stamped, and directed to the owner (or occupant or agent) at his/her address of record, or to post a copy of the notice upon such premises.
- (4) *Failure to comply with notice.* If the person to whom the notice is directed, under the provisions of the preceding subsection fails or neglects to cause such overgrowth of weeds and rank vegetation to be removed from any such premises and properly disposed of within ten days after such notice has been served or deposited in the United States mail, or posted upon premises, such person shall be deemed guilty of a misdemeanor and subject to the penalty provisions of this chapter.
- (5) *Removal by county.* In the event any overgrowth of weeds and rank vegetation is determined to be a nuisance, and twenty (20) days has elapsed after such notice has been served, deposited in the United States mail, or posted upon the premises, then the county administrator or his/her designated contractor may enter upon any such property and abate such nuisance by cutting, trimming, removing and disposing of the vegetative waste, and the cost of doing so, pursuant to the cleanup fee structure noted below, may become a lien upon the property affected, or may be recovered by the county through judgment proceedings initiated in a court of competent jurisdiction.
- (6) *Work may be done by county upon request.* Upon the written request to the county administrator by the owner or the person in control of any lot or parcel of land subject to the provisions of this section and payment to the county for the services consistent with the overgrowth cleanup fee structure, the county administrator or his/her designated contractor may enter onto such land and perform such cleanup activities as necessary to remove and properly dispose of the weeds and rank vegetation thereon.
- (h) *Overgrowth cleanup fee structure.* A fee schedule and any amendments thereto for necessary or requested cleanup and disposal of waste resulting from cleanup of nuisance overgrowth of weeds and rank vegetation on lots shall be developed and approved by the county administrator.

(Ord. No. 2007/37, 10-22-2007)

~~Secs. 62-15~~

~~Secs. 62-16 — 62-19. Reserved.~~

**ARTICLE ~~III~~ II. COLLECTION, TRANSPORTATION, AND DISPOSAL OF MUNICIPAL
SOLID WASTE**

Sec. 62-20. Applicability.

This article shall apply to the preparation, storage, collection, transportation and disposal of all municipal solid waste in the area under jurisdiction of the county council as presently or hereafter established. It shall prescribe rules and regulations relating to collection and disposal of municipal solid waste; prescribing rules and regulations for hauling municipal solid waste within and through the county; providing for the proper disposal of municipal solid waste; and prohibiting the spilling of loads within the county.

(Ord. No. 2007/37, 10-22-2007)

Sec. 62-21. Establishment of solid waste districts.

- (1) Beaufort County shall be divided into nine solid waste districts. They shall be designated numerically as follows:
 - (a) District 1, City of Beaufort. All of the area within the boundaries of that incorporated city. Includes Tax District 120.
 - (b) District 2, Town of Port Royal. All of the area within the boundaries of that incorporated town. Includes Tax District 110.
 - (c) District 3, Town of Hilton Head Island. All of the area within the boundaries of that incorporated town and Jenkins Island and Pinckney Island. Includes Tax Districts 500, 501, 510, 520, 530, 540, 541 and 550.
 - (d) District 4, Town of Bluffton. All of the area within the boundaries of that incorporated town. Includes Tax District 610.
 - (e) District 5, Sheldon Township. All of the area within Beaufort County which is on the north side of the Whale Branch River. This includes the Beaufort County portion of the Town of Yemassee. Includes Tax Districts 700 and 710.
 - (f) District 6, Unincorporated Port Royal Island (Burton). All of the area between the Whale Branch River, the Beaufort River, and the Broad River exclusive of previously listed incorporated areas. Includes Tax District 100.
 - (g) District 7, Lady's Island. All of the area between the Beaufort River and Chowan Creek including Coosaw Island exclusive of the City of Beaufort. Includes Tax District 200.
 - (h) District 8, Saint Helena Island and Islands East. All of the area and islands east of Chowan Creek within Beaufort County. Includes Tax Districts 300 and 400.
 - (i) District 9, Bluffton Township. All of the area south of the Broad River and west of Pinckney Island exclusive of the Town of Bluffton and Daufuskie Island. Includes Tax District 600.

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(Supp. No. 47, Update 4)

- (j) Because of the remote nature of Daufuskie Island, the minimum level of solid waste services differs from that in other solid waste districts in the county. Recovered materials are not collected by the county on Daufuskie Island.

Note(s)—Solid waste collection, transportation and disposal from Daufuskie Island generated outside of the planned unit developments (PUDs) shall be paid for from the county general fund.

- (2) Solid waste districts are established in order to track expenditures for all publicly provided solid waste and recycling services within that district. Solid waste and recycling services include the collection, transportation, processing or disposal of solid waste or recovered material. Collection methods may vary between districts depending upon demographics, population or other factors.
- (3) Solid waste districts 1, 2, 3 and 4 shall be administered through intergovernmental agreements between the Beaufort County Council and the City Council of Beaufort, the Town Council of Port Royal, the Town Council of Hilton Head Island and the Town Council of Bluffton respectively. Solid waste districts 5, 6, 7, 8 and 9 shall be collectively administered by the county administrator.

(Ord. No. 2007/37, 10-22-2007)

Sec. 62-22. Residential solid waste and recovered materials collection

- (1) Municipal solid waste and recovered materials shall be collected from single-family county residences by roll-cart service and/or bin service only by:
- (a) Collectors who are licensed by the county.
 - (b) Licensed collectors who are franchised by the county for collection in specific areas of the county.
 - (c) Licensed collectors under contract with a municipality to provide curbside service.
 - (d) Municipal collectors in an incorporated solid waste district.
 - (e) County collectors in an unincorporated solid waste district.
- (2) Collectors providing curbside collection of residential solid waste shall provide curbside collection of recovered materials to same residential properties. Failure to provide collection of recovered materials shall be cause for suspension of the collector's license.
- (3) Collectors shall deliver collected recovered materials to a recovered materials processing facility. Disposal of collected recovered material in any other manner, without written permission from the county administrator, is deemed as illegal dumping and shall be prosecuted subject to the penalties in section 62-5.
- (4) Collection and disposal of municipal solid waste and/or discarded materials resulting from evictions shall be the responsibility of the property owner or his/her designated agent. Municipal solid waste and/or discarded materials resulting from evictions shall not be placed within 25 feet of any curbside.

(Ord. No. 2007/37, 10-22-2007)

Sec. 62-23. Preparation and storage of residential solid waste and recovered materials for collection.

- (1) It shall be the duty of the occupant or owner of any residential property to store all solid waste and recovered materials properly prior to collection by the county or its contractor or licensed hauler..
- (2) All solid waste and recovered material containers shall be kept clean and free of accumulated waste.

(Supp. No. 47, Update 4)

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- (3) Each property owner shall prevent the continued, excessive, and unsightly accumulations of solid waste upon the property he and/or she owns.
- (4) No person shall place or cause to be placed in any municipal solid waste or recovered material container for collection any acid, explosive material, flammable liquid, or dangerous or corrosive material of any kind, or any other hazardous waste beyond household quantities of household hazardous wastes.
- (5) No person other than the owner thereof, his or her agents or employees, or employees of licensed haulers or contractors of the county for the collection of municipal solid waste or recovered materials shall tamper or meddle with any municipal solid waste or recovered materials container or the contents thereof or remove the contents of the container from the location where the same shall have been placed by the owner thereof or his agents.
- (6) Property owners shall be prohibited from receiving for deposit in their municipal solid waste containers any type municipal solid waste that originates outside of their designated collection area.
- (7) Property owners shall be responsible for policing any litter resulting from municipal solid waste or recovered materials not properly prepared for collection or from any other cause other than mishandling by the contractor or licensed hauler.

(Ord. No. 2007/37, 10-22-2007)

Sec. 62-24. Transporting loads of solid waste or recovered materials.

- (1) No person shall operate on any public highway or roadway in the county any vehicle with any load of solid waste or recovered materials unless such load and any covering thereon is securely fastened so as to prevent such covering or load from becoming loose, detached or in any manner a hazard to other users of the highway or roadway.
- (2) No vehicle may be driven or moved on any public highway or roadway in the county unless the vehicle is so constructed or loaded with solid waste or recovered material as to prevent any of its load from dropping, sifting, leaking, or otherwise escaping from the vehicle, except that sand, salt, or other chemicals may be dropped for the purpose of securing traction, and water or other substance may be sprinkled on a highway in the cleaning or maintaining of the highway by the public authority having jurisdiction.
- (3) Trucks, trailers, or other vehicles when loaded with rock, gravel, stone, metals, or other similar substances which could blow, leak, sift, or drop shall not be driven or moved on any public highway or roadway in the county unless the height of the load against all four walls does not extend above a horizontal line six inches below their tops when loaded at the loading point; or, if the load is not level, unless the height of the sides of the load against all four walls does not extend above a horizontal line six inches below their tops, and the highest point of the load does not extend above their tops, when loaded at the loading point; or, if not so loaded, unless the load is securely covered by tarpaulin or some other suitable covering; or unless it is otherwise constructed so as to prevent any of its load from dropping, sifting, leaking, blowing, or otherwise escaping from the vehicle.
- (4) Proof of litter, as defined herein, escaping from a vehicle shall not be necessary to be in violation of the requirements of this section.
- ~~(5) Violations of this section shall be prosecuted subject to penalties prescribed by South Carolina law.~~

(Ord. No. 2007/37, 10-22-2007)

Sec. 62-25. Items not covered in residential solid waste collection service.

- (1) *Dead animals.* Disposal of dead animals or household pets shall be the responsibility of the animal owner.
- (2) *Construction and demolition (C&D) debris.* The county shall not be responsible for collection or disposal of construction and demolition debris when quantities exceed household quantities.
- (3) *Industrial and hazardous waste.* The county shall not be responsible for collection or disposal of discarded industrial and/or hazardous waste except when such wastes are household quantities of household hazardous waste.
- (4) *Waste generated by commercial tree or yard contractor activities.* Waste from commercial tree cutters and surgeons shall be properly disposed of by the person performing the work or by the owner who engaged that person at their expense.

(Ord. No. 2007/37, 10-22-2007)

Sec. 62-26. Collected municipal solid waste is county property.

- (a) All municipal solid waste collected by county forces or franchised collectors shall be disposed of and/or delivered to such places and used for such purposes as may be ordered by the county administrator.
- (b) The County may request that franchised collectors provide evidence/proof that all municipal solid waste collected as residential solid waste originated from Beaufort County residents.

(Ord. No. 2007/37, 10-22-2007)

Sec. 62-27. Revenue for solid waste and recycling services.

- (a) All required Beaufort County solid waste and recycling revenue shall be generated through a combination of property tax millage, other fees as may be approved by the county council, reimbursement by federal government organizations and the sale of recovered materials.
- (b) Municipal governments which choose to provide collection or recycling services may fund their programs through appropriate municipal fees or taxes or a combination thereof.
- (c) A fee schedule, and any amendments thereto, for disposal of waste or handling of waste at any county-operated solid waste management facility, to include but not be limited to county collection centers or transfer stations shall be developed and approved by the county administrator.
- (d) Residents may deliver to collection centers household quantities of construction, demolition and land-clearing debris and other solid wastes as allowed in the receiving facility's operating permit, which are generated from his/her primary residence.
- (e) Rental and investment properties are considered commercial. Therefore, owners of such property will pay the disposal fee for solid waste originating from such properties.

(Ord. No. 2007/37, 10-22-2007)

Sec. 62-28. County facility acceptance of solid waste generated outside county.

- (1) All solid waste generated from outside the boundaries of the county are banned from being disposed of in any county-operated facility.

- (2) The term "generated," as used in this section, shall relate to the point of origin of the solid waste.
- (3) The county administrator is hereby authorized to implement such programs and procedures as deemed necessary to further implement this ban; to inspect all loads designated for any county facility for any violations thereof; and to issue warrants according to law for any violations of this section.
- (4) Any person bringing waste to any county facility shall, on request, sign a statement authenticating that said solid waste was generated within the county.
- ~~(5) Any residential solid waste collector found in violation of this section by the county shall forfeit their license to collect/haul solid waste within Beaufort County.~~
- (65) Any dispute as to the point of origin of the solid waste shall be resolved by the county administrator.
- (76) Any and each false statement signed by a person disposing of solid waste referred to in subsection (4) of this section shall constitute a violation of this chapter.
- (87) The county administrator may seek an injunction to enforce the provisions of this section.

(Ord. No. 2007/37, 10-22-2007)

Sec. 62-29. Use of county-operated collection centers.

- (1) It shall be a violation of this chapter for any person to:
 - (a) Fail to comply with directions for proper disposal that are given by county personnel charged with the operation of county solid waste management facilities.
 - (b) Exhibit disruptive or abusive conduct towards county personnel or other patrons at county-operated solid waste management facilities.
 - (c) Dispose of unauthorized solid waste at county-operated solid waste management facilities. Out-of-county generated solid waste shall be included as an unauthorized solid waste.
- (2) In addition to the penalty provisions of this chapter, the county administrator may ban any person who violates any requirement of this section from the use of county-operated solid waste management facilities for indefinite periods of time.

(Ord. No. 2007/37, 10-22-2007)

Sec. 62 - 30 Scavenging at county solid waste management facilities prohibited. (moved from 62-11)

It shall be unlawful for any person to rummage through, remove, salvage items or otherwise scavenge from county-operated or private solid waste management facilities to include solid waste collection and storage containers. A summons may be issued to any violator to appear in the magistrate's court of the county to answer the charge of violation of this section.

Sec. 62-30 31. Collection centers.

- (a) The county administrator is empowered and directed to establish procedures and guidelines for the efficient and safe operation of county collection centers.
- (b) No commercial waste shall be accepted at the collection centers. Any commercial waste dumped at collection centers shall be treated as illegal dumping and subject to enforcement actions as specified by South Carolina Law.

(Supp. No. 47, Update 4)

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- (c) Allowable truck/trailer loads for disposal at collection centers are defined as follows:
- (1) No trucks larger than a pickup or utility trailer (eight feet long, five feet wide, 28 inches or less inside height) are allowed at the collection centers.
 - (2) No loaded pickups with loaded trailers are allowed at the collection centers.
 - (3) A truck load is a load at or below the 28 inches side height of the pickup/trailer; no over-the-bed loads are allowed at the collection centers.
 - (4) No commercial trucks may use the collection centers for solid waste disposal except as described in subsection (g) of this section.
- (d) A ten-gallon per visit limit for oil disposal is established for the collection centers.
- (e) A four-tire per visit disposal limit for residents is established for the collection centers and the landfill.
- (f) No tires on rims shall be accepted at collection centers.
- (g) Residents driving commercial vehicles may bring one fifty-gallon trash bag or two thirty-gallon tall kitchen bags or less at a time into a collection center. Larger loads must be taken to the landfill and shall be treated as commercial waste.
- (h) Hours and days of operation at collection centers shall be posted at the sites and all changes to such hours or days (except in emergency situations) shall be posted/advertised prior to the effective date of the change.
- (Ord. No. 2007/37, 10-22-2007)

Sec. 62- 32. Collector/hauler licenses.

- (a) Collectors/haulers of solid waste shall dispose of all such waste at a DHEC approved landfill, with the exception of items specifically prohibited from such facilities which should be disposed at facilities permitted to take such items.
- (b) All privately operated solid waste collectors operating within Beaufort County shall be required to possess a collector/hauler license and a vehicle permits for each of the vehicles in their fleet traveling within the county. The collector/hauler license and vehicle permits shall be issued by the county administrator. Collector/hauler licenses and vehicle permits shall remain in effect from issuance to a period ending on June 30 annually for up to 12 months. **Operating in Beaufort County without a collector/hauler license and a permit on each vehicle operating in the county is a misdemeanor, and violators shall be fined not less than \$500.00 and not more than \$1,000.00.**
- (c) All licensed collectors/haulers are required to report on a monthly basis to the county administrator, by solid waste district, the number of residential customers served and the tons of residential solid waste and recovered material collected. Reports of previous month activity are due by the close of business on the tenth business day of each month.
- (d) Under no circumstance shall licensed collectors/haulers mix loads of residential and commercial solid waste. Any licensed collector found in violation of this section by the county shall forfeit their license to collect/haul solid waste within Beaufort County.
- (e) Licensed solid waste haulers shall advertise and offer, at a minimum, a residential curbside recycling program to all of their residential customers, where not otherwise offered by the county or a municipal government.
- (f) Upon approval of an application for a license to collect municipal solid waste in the county, collectors/haulers shall be furnished a copy of the following information pertaining to solid waste in Beaufort County and the State of South Carolina:

- (1) This ordinance [Ord. No. 2007/37]; 2023/_____
- (2) Section 16-11-700 of the Code of Laws of South Carolina, 1976, as amended, regarding dumping trash or refuse on property of another or on highways, oceans or riverfronts, etc.
- (g) Collectors shall sign a written statement that they have received and read this ordinance [Ord. No. 2007/37], 2023/_____ rules and regulations and information in paragraph (c) and agree to abide by them.
- (h) The following fees shall accompany all applications for a collector/hauler license:
- (1) Annual license fee for collectors of residential, business, commercial or industrial MSW and recovered material:
- Initial vehicle charge: \$100.00
- Additional vehicle charge: \$50.00
- (i) All collectors/haulers shall be required as a condition of their license to offer recycling services for their business, commercial and industrial customers.
- (j) Any residential solid waste collector found to have committed repeated violations of this chapter by the County Administrator, in addition to being subject to prosecution for the violation, may have their license to collect/haul solid waste within Beaufort County revoked. A residential solid waste collector who has had their license to collect/haul solid waste revoked by the County Administrator may appeal the decision to County Council in writing within 15 days of such decision by the County Administrator.

(Ord. No. 2007/37, 10-22-2007)

Sec. 62-~~32~~ 33. Collectors'/haulers' vehicles.

- (a) All vehicles used to collect and haul solid waste or recovered materials in the county must meet the standard for solid waste hauling established by SCDOT.
- (b) All vehicles used to transport solid waste or recovered materials for a fee shall be owned and operated under the supervision of the collector/hauler holding a valid collectors/haulers license issued by the county. Every permitted vehicle shall display a current permit in the vehicle windshield.
- (c) Solid waste and recovered materials collection vehicles shall be kept in a clean and sanitary condition. No wastes shall be permitted to remain overnight anywhere in the vehicle body. The county administrator may inspect any collector/hauler vehicle at any time. If the vehicle is found to be unsanitary, the operator shall be required to steam-clean and deodorize the equipment at their expense.
- (d) All vehicles used for the collection and transportation of solid waste or recovered materials are to be so constructed, maintained, and operated to prevent liquid leakage and loss of materials in transit. The body of all vehicles that transport solid waste or recovered materials shall be wholly enclosed or shall be covered with a canvas cover or net with eyelets and rope tie-downs or any other approved method which will prevent blowing or spillage of the vehicle's contents.
- (e) All collectors/haulers shall furnish the county administrator a list identifying, by unique number or designator, all equipment to be used in the collection and transportation of solid waste or recovered materials.

(Ord. No. 2007/37, 10-22-2007)

Secs. 62-33 —Penalties**Secs. 62-34—62-41. Reserved.**

**ARTICLE ~~IV~~-III. CONSTRUCTION, MODIFICATION, EXPANSION, AND/OR
OPERATION OF SOLID WASTE MANAGEMENT FACILITIES AND COMPOSTING
FACILITIES**

Sec. 62-42. Applicability.

- (1) This article applies to solid waste management facilities and composting facilities.
- (2) The following uses are exempt from the requirements of this article:
 - (a) Landfills used solely for disposal of industrial solid waste generated in the course of normal operations on property under the same ownership or control as the landfill.
 - (b) Land-clearing debris generated and disposed of on the same property.
 - (c) Backyard composting where the compost is produced from materials generated on-site.
 - (d) Agricultural operations where the compost is produced from materials generated on the owner's land.
 - (e) Mobile chipping/shredding equipment which chips/shreds wood waste, e.g., the type used by utilities to clear rights-of-way or manage storm debris, and which may spread the wood waste on rights-of-way after it has been chipped or shredded. Chipped and unchipped material related to this exemption shall not be stockpiled more than 90 days.
 - f. Temporary chipping/shredding and storage of wood waste for distribution to the public, e.g., grinding of the greens and other similar programs, as approved by the county council.
 - g. Shredding or chipping of untreated wooden pallets or other wooden packaging utilized by industry in its own operations that have not been in direct contact with hazardous constituents, e.g., petroleum products, pesticides, lead-based paint, etc.
 - h. Composting at industrial sites where the compost is produced from materials generated on properties under the same ownership or control within one-fourth mile of each other, unless otherwise approved by the county council and where the compost product is used for noncommercial purposes.
 - i. Land application sites permitted by DHEC under Regulation R.61-107.15 (Solid Waste Management: Land Application of Solid Waste).
 - j. Construction sites where an engineered foundation requires the use of clean sand, clean soil, and/or clean rocks. Such sites shall possess a valid county building permit.

(Ord. No. 2007/37, 10-22-2007)

Sec. 62-43. Federal, state and local law.

All solid waste management facilities and composting facilities shall adhere to all federal and state rules and regulations, and all local zoning, land use and other applicable local ordinances.

(Ord. No. 2007/37, 10-22-2007)

Secs. 62-44—62-46. Reserved.**Sec. 62-47. Remedies.**

In case any solid waste management facility or composting facility is operated, constructed, modified, or expanded in violation of this article, the county council, county attorney, or any person aggrieved, may, in addition to other remedies provided by law, institute injunction, abatement, or any other appropriate action or proceeding to prevent, enjoin, abate, or remove such unlawful construction, modification, or expansion.

(Ord. No. 2007/37, 10-22-2007)

ARTICLE IV ~~¶~~. RESIDENTIAL SOLID WASTE COLLECTION CONTRACTS**Sec. 62-48. General conditions for granting contracts or franchises for residential solid waste collection**

The unincorporated areas of the county are divided into solid waste districts which shall be designated as service areas. Contracts or franchises may be awarded for the unincorporated areas of the county incrementally, when approved by county council. These areas shall be plainly outlined on a map of the county as approved by county council. Such maps shall be made a part of the contract with the collectors and shall be available for public inspection.

(Ord. No. 2007/37, 10-22-2007)

Sec. 62-49. Collection contract.

Upon award by the county council, a franchise or contract shall not become effective until the collector has executed a written agreement or contract consistent with the terms of the bid specifications.

(Ord. No. 2007/37, 10-22-2007)

Secs. 62-50, 62-51. Reserved.**ARTICLE ~~IV~~ V . SOLID WASTE AND RECYCLING BOARD²****Sec. 62-52. Purpose.**

In compliance with and under authority of section 62-21 et seq., the county council establishes the solid waste and recycling board (referred to in this article as the board) to advise the council and county staff in determining appropriate levels of public recycling and solid waste management services for residential, commercial and industrial taxpayers and governmental entities within the county; to recommend appropriate funding levels for provision of services in the aforementioned sectors; and to support and promote source

²Cross reference(s)—Boards and commissions, § 2-191 et seq.

reduction, reuse, recycling and composting and means of diverting and managing the solid waste stream within the county.

(Ord. No. 2007/37, 10-22-2007)

Sec. 62-53. Membership.

- (a) The solid waste and recycling board shall consist of one nonvoting representative from the following districts as defined in section 62-29:

Solid Waste District	Municipality
1	City of Beaufort
2	Town of Port Royal
3	Town of Hilton Head Island
4	Town of Bluffton

- (b) The board shall consist of one voting representative from each of the following districts as defined in section 62-29:

Solid Waste District	Area
5	Sheldon Township
6	Unincorporated Port Royal Island
7	Lady's Island
8	Saint Helena Island and Islands East
9	Bluffton Township

- (c) Terms of office shall be staggered. Of the first five members appointed, three shall be appointed for four-year terms, and two shall be appointed for two-year terms. A chairman and vice-chairman shall be elected by the voting members of the board. The chairman and vice-chairman must be voting members of the board.
- (d) The board may consult, from time to time, with representatives of public and private solid waste management organizations.
- (e) While no other eligibility criteria are established, it is requested that members possess experience in one or more of the following areas:
 - (1) Solid waste management.
 - (2) Solid waste facilities planning.
 - (3) Environmental education.
 - (4) Budget and finance issues.
- (f) The board may invite military installations in Beaufort County to appoint a liaison person to serve as a nonvoting member of the board. The board may appoint representatives from other government organizations to serve as nonvoting members of the board.

(Ord. No. 2007/37, 10-22-2007)

Sec. 62-54. Powers and duties.

The powers and duties of the solid waste and recycling board shall be as follows:

(Supp. No. 47, Update 4)

- (1) Review and recommend to the county council for approval, a comprehensive county solid waste management plan which is in accordance with the state Solid Waste Management and Policy Act of 1991;
- (2) Develop and submit to the county council for approval service level plans for each of the five unincorporated area solid waste districts;
- (3) Review and approve the annual solid waste and recycling budgets prepared for each of the nine solid waste districts before submission to the county administrator; and present to the county council comments on the budget recommended by the county administrator;
- (4) Seek development of public/private partnership and facilitate intergovernmental contracting for provision of services where appropriate;
- (5) Cooperate with the state DHEC, office of waste reduction and recycling, as well as other public and private agencies having programs directed toward solid waste management programs; and
- (6) Review and make recommendations concerning development of any new public or private solid waste management facilities and services, or changes in existing solid waste management facilities or services to ensure consistency with the comprehensive solid waste management plan of the county.

(Ord. No. 2007/37, 10-22-2007)

~~Sec. 62-55. Severability.~~ Moved to Section 62-8

~~If any section, subsection, or clause of this chapter shall be deemed unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.~~

~~(Ord. No. 2007/37, 10-22-2007)~~

~~Sec. 62-56 55. Conflicting ordinances.~~

All ordinances or parts of ordinances in conflict with the provisions of this chapter are hereby repealed.

(Ord. No. 2007/37, 10-22-2007)

~~Sec. 62-5756. Effective dates.~~

This ordinance [Ord. No. ~~2007/3723~~/_____] shall be effective from and after July 1, ~~2008~~-2023.

(Ord. No. 2007/37, 10-22-2007 2023/____Section 62-57 Reserved.

ARTICLE ~~IV~~VI . LITTER CONTROL AND BEAUTIFICATION BOARD

Sec. 62-58. Title.

The name of the organization shall be known as the Keep Beaufort County Beautiful Board (KBCBB).

(Ord. No. 2018/4, 1-22-2018)

Sec. 62-59 Composition.

The board shall be comprised of the following membership:

- (a) One member from county council district 1.
- (b) One member from county council district 2.
One member from county council district 3.
- (d) One member from county council district 4.
- (e) One member from county council district 5.
- (f) One member from county council district 6.
- (g) One member from county council district 7.
- (h) One member from county council district 8.
- (i) One member from county council district 9.
- (j) One member from county council district 10.
- (l) One member from county council district 11.

(Ord. No. 2018/4, 1-22-2018)

Sec. 62-60. Filling of vacancies; removal of board members; terms.

- (1) A vacancy on the board is filled in the same manner as provided for under sections 2-191 through 2-198 of the Beaufort County Code of Ordinances, upon nomination of the respective member of county council.
- (2) Board members are subject to removal procedures provided in section 2-193 of the Beaufort County Code of Ordinances.
- (3) Board members shall serve at the pleasure of county council. Board members shall be appointed to one term. A term of appointment shall be for four years. No board member shall serve for more than four consecutive terms except that county council may approve a fifth term by unanimous vote.
 - a. Upon passage of this article, all 11 board members shall be appointed by county council.
 - b. For districts 1, 2, 3, 4, 5, and 6 the board members shall be re-appointed after the initial two years for a full four-year term, thereby staggering appointments of board members. The initial two-year term shall not count toward the four-term limit.
 - c. For districts 7, 8, 9, 10, and 11, the board members' term shall expire after the full four-year term and vacancies be filled by re-appointment or filled by new appointment.

(Ord. No. 2018/4, 1-22-2018)

Sec. 62-. Officers, officers' duties, and elections of officers.

The members shall elect three officers from its membership, a chairperson, a co-chairperson and a secretary. A majority of board members present and voting, when a quorum is established, shall elect the officers.

- (1) *Chairperson.* The chairperson shall be responsible for leading the board in program development and policy consistent with the Keep American Beautiful objectives. The chairperson shall be spokesperson for the board

at functions, prepare and work with the county staff in preparation of reports including but not limited to the annual Keep America Beautiful report and perform such other duties as the board shall elect.

- (2) *Co-chairperson*. The co-chairperson shall serve as the chairperson in his or her absence and shall discharge such other duties as the board shall direct.
- (3) *Secretary*. The secretary shall keep minutes of all board meetings and shall forward the approved minutes to the appropriate county staff person for record keeping and storage. The secretary shall also perform such other duties as the board shall direct.

(Ord. No. 2018/4, 1-22-2018)

Sec. 62-62. Meetings.

The board shall meet at the call of the chairperson, at least quarterly, and shall be conducted in compliance with the South Carolina Freedom of Information Act. Minutes shall be kept of any meetings and the minutes shall be stored in the Department of Public Works Office of Solid Waste and Recycling or the Records Management Department of the county. A majority of the number of members on the board shall constitute a quorum for transaction of business at any meeting. A majority of those present and voting shall be required to decide any issue after a quorum has been established.

(Ord. No. 2018/4, 1-22-2018)

Sec. 62-63. Purpose.

The purpose of the board will be to educate and empower the Beaufort County Community (including governments, businesses, schools, and citizens) to participate directly in improving the environment through an all-out effort in beautification, litter control, and waste reduction.

(Ord. No. 2018/4, 1-22-2018)

Sec. 62-. Objectives.

The objectives of the board include, but are not limited to:

- (a) Conduct and promote continuing education programs; and
- (b) Develop new programs which will result in the sustained reduction of litter, graffiti and increase recycling in Beaufort County; and
- (c) Encourage stricter code enforcement regarding litter and dumping; and
- (d) Review and recommend appropriate legislative changes regarding environmental ordinances in Beaufort County; and
- (e) Encourage placing, planting and preservation of trees, flowers, shrubs and objects of ornamentation in Beaufort County; and
- (f) Maintain affiliate certification with Keep America Beautiful; and
- (g) File the required annual report to Keep America Beautiful; and
- (h) Pursue and secure funding from available sources.

(Ord. No. 2018/4, 1-22-2018)

Sec. 62-65. Keep America Beautiful affiliation.

The board shall maintain the Keep America Beautiful affiliation status and utilize the KAB resources whenever possible. The board's activities are limited to the boundaries of Beaufort County but should not be construed to exclude activities within the municipal boundaries located in Beaufort County.

(Ord. No. 2018/4, 1-22-2018)

Sec. 62-66. Annual budget.

The board shall submit a recommended annual budget to Beaufort County Council for review and adoption indicating all anticipated sources of revenue, all anticipated expenditures, and any remaining funds that have been carried over from previous years. Additionally, the board shall advise and make recommendations to county council on the expenditure of any and all county funds that may be appropriate to it as well as the design and implementation of any improvement projects that will occur on land owned, maintained, or subject to the control of Beaufort County Council.

(Ord. No. 2018/4, 1-22-2018)

Sec. 62-. Appointment of other committees.

The board may appoint such other standing, special, or advisory committees from time to time as it deems appropriate. Members of such committees may include board members, as well as individuals representing specialized interests in areas that would be beneficial to the board carrying out its purpose.

(Ord. No. 2018/4, 1-22-2018)

Sec. 62-. Conflict of interest.

The board shall adhere to all conflict of interest prohibitions and disclosure requirements provided in S.C. § 8-13-700 et seq., as well as any applicable provisions of the Beaufort County Code of Ordinances.

(Ord. No. 2018/4, 1-22-2018)

ORDINANCE 2023/ XX

An Ordinance amending Ordinance 2007/27, Chapter 62 Solid Waste

WHEREAS, on October 22, 2007, Beaufort County adopted Chapter 62 of the Beaufort County Code of Ordinance for Solid Waste; and

WHEREAS, in May of 2005, Beaufort County adopted Article II – Trash and Litter control ; and

WHEREAS, staff of both Code Enforcement and Public Works Departments found conflicting language for litter control enforcement between Article II and Chapter 62; and

WHEREAS, staff wish to amend Chapter 62 to reflect language found within Article II, contained here within as exhibit A.

NOW, THEREFORE, BE IT ORDAINED BY BEAUFORT COUNTY COUNCIL THAT Ordinance 2007/37 which appears in Beaufort County Code of Ordinances at Chapter 262, Solid Waste are hereby amended.

Adopted this _____ day of _____ 2023

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____

Joseph Passiment, Chairman

ATTEST:

Sarah w. Brock, JD, Clerk to Council

RESOLUTION NO. 2023 /

A RESOLUTION TO ACCEPT A GRANT FROM THE SC DEPARTMENT OF AGRICULTURE IN THE AMOUNT OF \$50,000 FOR PROJECT COMIDA.

WHEREAS, The SC Department of Agriculture has awarded a total grant of \$50,000 to the Project Comida, and

WHEREAS, these projects reflect an \$8.1 M investment and 40 new jobs in Beaufort County, and

WHEREAS, the company associated with the project, SERG Restaurant Group, will be sourcing agricultural related products from within South Carolina, and

WHEREAS, the \$50,000 grant is a reimbursement grant from SCDOA to the company for building/infrastructure costs, and

WHEREAS, SC Department of Agriculture grants are structured as ‘flow through’ grants with the County. This requires SC Department of Agriculture to send the funds to the County and the County to provide the grant to the company, and

NOW, THEREFORE, be it resolved that Beaufort County Council, duly assembled, does hereby authorize the County Administrator to accept a grant from the SC Department of Agriculture in the amount of \$50,000 for Project Comida.

Adopted this 25th day of September 2023.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Joseph Passiment, Chairman

ATTEST:

Sarah W. Brock, Clerk to Council

Agencies, Boards, & Commissions: Appointments and Reappointments

1. Board of Assessment Appeals

RECOMMEND APPROVAL OF THE APPOINTMENT OF ROBERT MACKAY TO THE BOARD OF ASSESSMENT APPEALS FOR A FOUR-YEAR TERM WITH THE EXPIRATION DATE OF OCTOBER 2027.

2. Planning Commission

RECOMMEND APPROVAL OF THE APPOINTMENT OF PETE COOK (DISTRICT 6) TO FILL THE SOUTHERN BEAUFORT COUNTY OPENING ON THE PLANNING COMMISSION FOR A PARTIAL TERM APPOINTMENT WITH THE EXPIRATION DATE OF FEBRUARY 2024.

3. Disabilities and Special Needs Board

RECOMMEND APPROVAL TO THE GOVERNOR'S OFFICE OF THE APPOINTMENT OF FREDREKA WILLIAMSON TO THE DISABILITIES AND SPECIAL NEEDS BOARD FOR A FOUR-YEAR TERM WITH THE EXPIRATION DATE OF OCTOBER 2027.