



County Council Meeting Beaufort County, SC

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

Monday, September 25, 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 Paula Brown
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 - August 14, 2023
6. ADMINISTRATOR'S REPORT
- [7.](#) PROCLAMATION RECOGNIZING NATIONAL HISPANIC HERITAGE MONTH - Council Member Larry McElynn
- [8.](#) PROCLAMATION RECOGNIZING THE BEAUFORT COUNTY DIXIE JUNIOR BOYS BASEBALL TEAM - Council Member Larry McElynn
- [9.](#) PROCLAMATION RECOGNIZING THE BEAUFORT COUNTY DIXIE BOYS BASEBALL TEAM - Council Member Larry McElynn

CITIZEN COMMENTS

[10.](#) 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

11. LIASION AND COMMITTEE REPORTS

PUBLIC HEARINGS AND ACTION ITEMS

12. APPROVAL OF CONSENT AGENDA

13. **TIME SENSITIVE ITEM FROM THE 9.25.2023 PUBLIC FACILITIES AND SAFETY COMMITTEE MEETING - APPROVAL OF THE PROPOSED MEMBERS DISCUSSED DURING THE PUBLIC FACILITIES AND SAFETY COMMITTEE MEETING TO THE SALES TAX COMMITTEE**

14. PUBLIC HEARING AND THIRD READING OF AN ORDINANCE TO AMEND BEAUFORT COUNTY'S BUDGET ORDINANCE FOR FISCAL YEAR 2024 (ORDINANCE 2023/22) TO APPROPRIATE \$350,000 TO COUNTY COUNCIL TO COVER COST OF REVIEWS, AUDITS, AND INVESTIGATIONS (**FISCAL IMPACT: this ordinance will appropriate \$350,000 from the General Fund, Fund Balance to Council's FY24 line item budget**)

First Reading by Title only on August 28, 2023 - 10:0

Second Reading on September 11, 2023 - 10:0

15. PUBLIC HEARING AND SECOND READING OF AN ORDINANCE AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE THE NECESSARY DOCUMENTS AND PROVIDE FUNDING FOR THE PURCHASE OF REAL PROPERTY IDENTIFIED AS 34 ULMER ROAD (**FISCAL IMPACT: \$3,150,000 Purchase Price plus closing costs and to include all due diligence costs. Funding source is the General Fund- Fund Balance**)

Vote at First Reading on July 10, 2023- 11:0

Vote at Public Hearing and Second Reading on August 14, 2023: Postpone until September 25, 2023- 11:0

16. FIRST READING OF AN ORDINANCE ADOPTING AMENDMENTS TO CHAPTER 62, SOLID WASTE, BEAUFORT COUNTY CODE OF ORDINANCE

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

18. FIRST 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

19. FIRST READING OF AN ORDINANCE FOR A ZONING MAP AMENDMENT/REZONING REQUEST FOR 71.54 ACRES (R600 013 000 0008 0000 AND R600 013 000 0050 0000), LOCATED AT 1691 OKATIE HIGHWAY, FROM T2 RURAL (T2R) TO T4 NEIGHBORHOOD CENTER (T4NC) AND T3 NEIGHBORHOOD (T3N) USING A VILLAGE PLACE TYPE OVERLAY (PTO) (ARTICLE 3 DIVISION 4 SECTION 80, ARTICLE 7 DIVISION 3 SECTION 50).

Item failed at the Community Services and Land Use Committee on September 11, 2023: 5/5

20. 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**)

- [21.](#) APPROVAL OF A RESOLUTION TO ACCEPT A GRANT FOR PROJECT COMIDA (**FISCAL IMPACT: No fiscal impact**)
- [22.](#) APPROVAL OF PURCHASE AND PAYMENT OF HANDICAP ACCESSIBLE PLAYGROUND EQUIPMENT AT BEAUFORT COUNTY'S PORT ROYAL CENTER IN THE AMOUNT OF \$799,052. (**FISCAL IMPACT: \$799,052 to be paid out of Capital Improvement Project Fund 10401600-54436; account balance is \$4,820,179**)
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CITIZEN COMMENTS

23. 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

24. PURSUANT TO S. C. CODE SEC. 30-4-70(A)(1) TO DISCUSS EMPLOYMENT, APPOINTMENT, COMPENSATION, PROMOTION, DEMOTION, DISCIPLINE, OR RELEASE OF A PERSON REGULATED BY A PUBLIC BODY.
-

END OF EXECUTIVE SESSION

25. MATTERS ARISING OUT OF EXECUTIVE SESSION
26. ADJOURNMENT

CONSENT AGENDA

Items Originating from the Community Services and Land Use Committee

1. SECOND 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

Vote at First Reading on September 11, 2023- 10:0

(public hearing will be held on October 9, 2023)

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

2. THIRD 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

Vote at First Reading on August 14, 2023- 11:0

Vote at Public Hearing and Second Reading on September, 2023 - 10:0

3. APPROVAL TO RENEW MEMBERSHIP WITH THE SOUTHERN CAROLINA REGIONAL DEVELOPMENT ALLIANCE (**FISCAL IMPACT: funds for this come from the General Fund account #10001198-55240. \$495,000 is budgeted for the year in this account. \$120,000 is for the Southern Carolina. \$375,000 is for the Beaufort County Economic Development Corporation**)

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>



County Council Meeting Beaufort County, SC

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

Monday, August 14, 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/269074>

1. CALL TO ORDER

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

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
Council Member Mark Lawson
Council Member Anna Maria Tabernik
Council Member Thomas Reitz

2. PLEDGE OF ALLEGIANCE AND INVOCATION

Chairman Passiment led the Pledge of Allegiance, and Council Member Glover gave 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

Motion to Amend: It was moved by Council Member Howard, seconded by Council Member Reitz, to amend the agenda, adding item number 10; Approval of a Resolution to name the Boundary Street Open Space/ Pocket Park located in the City of Beaufort: "1st South Carolina Volunteers Park" from the Community Services and Land Use Committee as a Time-Sensitive Item and to be listed as item number 12a.

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

The Vote - The motion was approved without objection.

The Chairman also mentions the postponement of item number 19.

5. APPROVAL OF MINUTES

Motion: It was moved by Council Member Cunningham, seconded by Council Member Tabernik, to approve the minutes from June 12, 2023, June 26, 2023, July 24, 2023, and July 28, 2023.

The Vote - The motion was approved without objection.

6. ADMINISTRATOR'S REPORT

Interim County Administrator John Robinson thanked the Council for entrusting him to take on the position of Interim County Administrator for the care of Beaufort County and said that he will lead with character and integrity. He is also thankful for the professional team of Beaufort County and the hard work they have done.

Mr. Robinson recognized employee Jennifer Holstein with Beaufort County Animal Services and introduced the new Executive Director of Beaufort Black Chamber of Commerce, Marily Harris. Ms. Harris said it was an honor to serve as the new Executive Director and invited her new team to the meeting. Ms. Harris spoke about the work of the Black Chamber of Commerce and its purpose.

During the 2023 South Carolina Association of Counties Annual Conference, the county was awarded; the 2022 J. Mitchell Graham Memorial Award for the implementation of a collection center decal system along with a Barrett Lawrimore Memorial Regional Award for Southern Lowcountry Stormwater Design. The 2023 J. Mitchell Graham Memorial Award was presented for the PATH program, which was designed to respond to the shortage of state healthcare workers by using ARPA funds to make Beaufort County's healthcare system more resilient.

Beaufort and Jasper County received an Honorable Mention J. Graham Memorial award for Implementation of a Regional Housing Trust Fund.

2023 Barret Lawrimore Memorial Regional Cooperation Award Winner- Barnwell County Land Fire was a joint application and effort of Aiken, Barnwell, Beaufort, Dorchester, and Hampton Counties.

Mr. Robinson noted that the Detention Center recently had a DHEC health inspection for the food prep area in the kitchen and received a 100%. Also, the purchase of two ambulances back in April or May have now been delivered and are currently being outfitted for use.

Chairman Passiment recognized all the Council Members and Staff who attended the 2023 South Carolina Association of Counties Annual Conference.

7. PROCLAMATION RECOGNIZING THE BLUFFTON ALLSTAR SOFTBALL TEAM ON THEIR STATE CHAMPIONSHIP WIN

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

<https://beaufortcountysc.new.swagit.com/videos/269074>

Vice-Chairman McElynn presented a Proclamation to the team and coaches for their win.

8. PRESENTATION OF FRIENDS OF FORT FREEMONT 2022 ANNUAL REPORT

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

<https://beaufortcountysc.new.swagit.com/videos/269074>

9. RURAL AND CRITICAL LAND PRESERVATION BOARD ANNUAL REPORT (2022)

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

<https://beaufortcountysc.new.swagit.com/videos/269074>

10. CITIZEN COMMENTS PERIOD

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

<https://beaufortcountysc.new.swagit.com/videos/269074>

1. Mike McShane

11. LIASION AND COMMITTEE REPORTS

Council Member Howard commented on the 80th Anniversary of Beaufort Memorial Hospital. The Hospital's Sickle Cell Program has exceeded its goal of \$2,000,000.00. Also, workforce housing continues to work with the Town of Hardeeville on increasing the density of a PUD. They are also planning to build a learning center on Allison Road to support people working at the Hospital. There is an article about a success story of the property that the county purchased from TCL. An employee from the hospital won the lottery for housing and is now living at that property with her son. Lastly, Council Member Howard mentions the Town of Port Royal and the City of Beaufort having a joint meeting on Thursday at 6:00 p.m.

Council Member Tabernik gave updates on the Library Board's meeting in July. They have revised their challenged materials policy and procedures. The summer reading program and the number of students involved. The summer lunch program. The Transportation Committee did a Highway 170 triangle update, and the Highway 278 plan is in draft. The resurfacing project is in six years. The pavement preservation project, the rejuvenator, gave an update. Every district representative was to bring a list of roads that need attention to the Transportation Committee. Districts 2, 3, 4, 6, and 7 had no roads that needed attention. District 1, Poppy Hill Circle, District 5, Cherokee Farms Road, Roof Rack Road, and Salem Drive. District 11 Ibis Street, District 7 Gibbet Drive, District 9 Ulmer Road, and Ulmer Drive, and District 10 Wilborne Road.

12. APPROVAL OF CONSENT AGENDA**ORIGINATING FROM THE PUBLIC FACILITIES AND SAFETY COMMITTEE****THIRD READING OF AN ORDINANCE AMENDING ORDINANCE 2022/45 BY REMOVING THE PROPERTY LOCATED AT 68 HESMAN WAY WITH TMS NO. R55201000003090000 AND OTHER MATTERS RELATED THERETO.**

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

DISCUSSION: No discussion

The Vote - The motion was approved without objection.

12a. TIME-SENSITIVE ITEM ORIGINATING FROM THE AUGUST 14TH COMMUNITY SERVICES AND LAND USE COMMITTEE -APPROVAL OF A RESOLUTION TO NAME THE BOUNDARY STREET OPEN SPACE/ POCKET PARK LOCATED IN THE CITY OF BEAUFORT: "1ST SOUTH CAROLINA VOLUNTEERS PARK"

Motion: It was moved by Council Member Bartholomew, seconded by Council Member Reitz, to approve a resolution to name the Boundary Street Open Space/ Pocket Park in the City of Beaufort: "1st South Carolina Volunteers Park".

DISCUSSION: No discussion

The Vote - The motion was approved without objection.

13. TIME-SENSITIVE ITEM ORIGINATING FROM THE AUGUST 14TH COMMUNITY SERVICES AND LAND USE COMMITTEE -APPROVAL OF A RESOLUTION AUTHORIZING THE REALLOCATION OF AMERICAN RESCUE PLAN ACT (ARPA) FUNDS FOR THE PLANNING, PERMITTING, AND CONSTRUCTION OF INFRASTRUCTURE NECESSARY TO RELOCATE THE OPERATION OF THE PUBLIC DAUFUSKIE ISLAND FERRY SERVICE

Motion: It was moved by Council Member Lawson, seconded by Council Member Brown, to approve a resolution authorizing the reallocation of American Rescue Plan Act (ARPA) funds for the planning, permitting, and construction of infrastructure necessary to relocate the operation of the public Daufuskie Island Ferry Service.

DISCUSSION: No discussion

The Vote - The motion was approved without objection.

14. **TIME-SENSITIVE ITEM ORIGINATING FROM THE AUGUST 14TH COMMUNITY SERVICES AND LAND USE COMMITTEE -APPROVAL OF A RESOLUTION APPROVING THE EMERGENCY PROCUREMENT OF AND FUNDING FOR THE DESIGN, PERMITTING, AND CONSTRUCTION SERVICES NECESSARY FOR IMPROVEMENTS TO THE CROSS ISLAND BOAT LANDING TO ACCOMMODATE THE DAUFUSKIE ISLAND FERRY BY JANUARY 1, 2024, TO COMPLY WITH A COURT ORDER**

DISCUSSION: No discussion

Motion: It was moved by Council Member Lawson, seconded by Council Member Brown, to approve the resolution approving the emergency procurement of and funding for the design, permitting, and construction services necessary for improvements to the Cross Island Boat Landing to accommodate the Daufuskie Island Ferry by January 1, 2024, to comply with a court order.

The Vote - The motion was approved without objection.

15. **TIME-SENSITIVE ITEM ORIGINATING FROM THE AUGUST 14TH COMMUNITY SERVICES AND LAND USE COMMITTEE – APPROVAL OF A RESOLUTION TO ACCEPT SC AERONAUTICS COMMISSION GRANT OFFER 23-025 FOR \$378,044 FOR TAXIWAY F STRENGTHENING AND FOR A PARTIAL ACQUISITION OF EXEC AIR PROPERTY AT THE HILTON HEAD ISLAND AIRPORT**

DISCUSSION: No discussion

Motion: It was moved by Council Member Reitz, seconded by Vice-Chairman McElynn, to approve a resolution to accept SC Aeronautics Commission Grant Offer 23-025 for \$378,044 for Taxiway F strengthening and for a partial acquisition of Exec Air property at the Hilton Head Island Airport

The Vote - The motion was approved without objection.

16. **TIME-SENSITIVE ITEM ORIGINATING FROM THE AUGUST 14TH COMMUNITY SERVICES AND LAND USE COMMITTEE – APPROVAL 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/269074>

Motion: It was moved by Council Member Cunningham, seconded by Council Member Howard, to approve the first 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.

Discussion: Council Member Howard wanted to emphasize what Mr. McShane said, that Beaufort is at the cusp of the county and the cusp of the state on this program and will write new ground.

Chairman Passiment commented that several counties approached him at the South Carolina Association of Counties Conference and understood what Beaufort County was trying to do with the program.

The Vote – The motion to amend was approved without objection.

17. TIME-SENSITIVE ITEM ORIGINATING FROM THE AUGUST 14TH COMMUNITY SERVICES AND LAND USE COMMITTEE – FIRST READING OF AN ORDINANCE AMENDMENT TO PROVIDE FOR A MODIFIED MILLAGE RATE FOR THE LEVY OF TAX FOR SCHOOL PURPOSES FOR BEAUFORT COUNTY FOR THE FISCAL YEAR BEGINNING JULY 1, 2023, AND ENDING JUNE 30, 2024, AND TO MAKE APPROPRIATIONS FOR SAID PURPOSES

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

<https://beaufortcountysc.new.swagit.com/videos/269074>

Motion: It was moved by Council Member Tabernik, seconded by Council Member Dawson, to approve the first reading of an ordinance amendment to provide for a modified millage rate for the levy of tax for school purposes for Beaufort County for the fiscal year beginning July 1, 2023, and ending June 30, 2024, and to make appropriations for said purposes.

DISCUSSION: Chairman Passiment spoke to the public regarding this item, explaining that during the Community Services and Land Use Committee earlier, information was presented, and a millage rate was established as required by law and that County Council could change that millage rate if necessary because the County is in a reassessment year. The millage rate reduction was 3.8 mills.

Council Member Tabernik wanted to point out that this item was explained and questioned in detail at the committee level.

Chairman Passiment added that at the committee level, all the heavy details and questions are heard, and during Council meetings, Council approves what was recommended by the committee. This item will be heard on August 21st and August 28th so that this amendment can be issued by August 30th.

The Vote - The motion was approved without objection.

18. PUBLIC HEARING AND SECOND READING OF AN ORDINANCE TO AMEND THE BEAUFORT COUNTY ORDINANCE REGARDING A ROAD USE FEE

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

<https://beaufortcountysc.new.swagit.com/videos/269074>

Chairman Passiment opened the floor for public comment.

Skip Hoagland spoke regarding two previous items questioning if the School Districts will be a part of the audit and stating that the SC Association of Counties is a trademark and cannot make laws only recommended.

The Chairman closed the public comment.

Motion: It was moved by Council Member Glover, seconded by Council Member Howard, to approve the public hearing and second reading of an ordinance to amend the Beaufort County Ordinance regarding a road use fee.

The Vote - The motion was approved without objection.

19. PUBLIC HEARING AND SECOND READING OF AN ORDINANCE AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE THE NECESSARY DOCUMENTS AND PROVIDE FUNDING FOR THE PURCHASE OF REAL PROPERTY IDENTIFIED AS 34 ULMER ROAD

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

<https://beaufortcountysc.new.swagit.com/videos/269074>

The Chairman requested that a member of Council make a motion to postpone the public hearing and second reading of this ordinance until the Council meeting on September 25th.

Motion: It was moved by Council Member Cunningham, seconded by Council Member Lawson, to postpone the public hearing and second reading of an ordinance authorizing the County Administrator to

execute the necessary documents and provide funding for the purchase of real property at 34 Ulmer Road until the Council meeting on September 25th.

Discussion: Council Member Cunningham wanted to make sure that it was clear to the public why this item was being postponed. The postponement is to make sure that the reason the County was purchasing this land was achievable and could be accomplished before \$3,000,000.00 of public funds were used. If this goal can't be established, staff will need time to discuss with other departments if they have a purpose for the land. Extension is being requested to give our staff time and Rural and Critical Lands time to discuss different options if the county cannot fulfill what is intended for the land.

Council Member Howard wanted to express that there are limited funds in the Rural and Critical Lands Program, and this purchase will have to go to the Rural and Critical Lands Board. It will be taken into consideration what is left and what the county can do.

The Vote - The motion was approved without objection.

20. PUBLIC HEARING AND THIRD READING OF AN ORDINANCE AUTHORIZING THE FRIPP ISLAND PUBLIC SERVICE DISTRICT, SOUTH CAROLINA TO ISSUE NOT EXCEEDING \$5,250,000.00 OF GENERAL OBLIGATION BONDS SUBJECT TO VOTER APPROVAL, PROVIDING FOR THE PUBLICATION OF NOTICE OF THE SAID FINDING AND AUTHORIZATION; AND PROVIDING FOR OTHER MATTERS RELATED THERETO

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

<https://beaufortcountysc.new.swagit.com/videos/269074>

Motion: It was moved by Council Member Glover, seconded by Council Member Bartholomew, to approve the public hearing and third reading of an ordinance authorizing the Fripp Island Public Service District, South Carolina, to issue not exceeding \$5,250,000.00 of general obligation bonds subject to voter approval, providing for the publication of notice of the said finding and authorization; and providing for other matters related thereto.

Chairman Passiment opened the floor for public comment.

Skip Hoagland commented, asking if the Burr Forman Law Firm was handling or has anything to do with these bonds and would like to know what bonds Burr Forman does and if hospitality tax is used to retire bonds. There are a lot of hospitality taxes that are unaccounted for, and all this needs to be tied into future audits.

The Chairman closed the public comment.

The Vote - The motion was approved without objection.

21. APPROVAL OF A RESOLUTION ORDERING BOND REFERENDA TO BE HELD IN THE FRIPP ISLAND PUBLIC SERVICE DISTRICT, SOUTH CAROLINA, ON THE QUESTION OF THE ISSUANCE OF NOT EXCEEDING \$5,250,000.00 OF GENERAL OBLIGATION BONDS OF FRIPP ISLAND PUBLIC SERVICE DISTRICT, SOUTH CAROLINA IN THREE SEPARATE QUESTIONS; PROVIDING FOR THE FORM OF THE BALLOTS TO BE USED; PROVIDING FOR NOTICE

Motion: It was moved by Council Member Glover, seconded by Council Member Batholomew, to approve a resolution ordering bond referenda to be held in the Fripp Island Public Service District, South Carolina, on the question of the issuance of not exceeding \$5,250,000.00 of general obligation bonds of Fripp Island Public Service District, South Carolina in three separate questions; providing for the form of the ballots to be used; providing for notice

Discussion: Council Member Glover wanted to comment for the record that this bond is for the Fripp Island Public Service District. The citizens of Fripp Island will basically decide their destination as far as bonding, funding, payments, etc.

The Vote - The motion was approved without objection.

22. CITIZEN COMMENT PERIOD

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

<https://beaufortcountysc.new.swagit.com/videos/269074>

1. Lisa Lynch
2. Skip Hoagland
3. Lynne Greely (Time given to Skip Hoagland) Chairman recessed during this time because giving time to another is prohibited according to Beaufort County's Rules and Procedures
4. Ms. Scott
5. Marilyn Hemingway

EXECUTIVE SESSION

23. PURSUANT TO S.C. CODE SECTION 30-4-70(A)(2) TO RECEIVE LEGAL ADVICE ON MATTERS COVERED BY THE ATTORNEY-CLIENT PRIVILEGE (ERIC GREENWAY'S REQUEST FOR A PUBLIC HEARING PURSUANT TO S.C. CODE SECTION 4-9-620).

24. PURSUANT TO S.C. CODE SECTION 30-4-70(A)(2) TO RECEIVE LEGAL ADVICE ON MATTERS COVERED BY THE ATTORNEY-CLIENT PRIVILEGE (RETENTION OF OUTSIDE LAW FIRM TO CONDUCT REVIEWS AND AUDITS AS PREVIOUSLY APPROVED BY COUNCIL)

25. PURSUANT TO S.C. CODE SECTION 30-4-70(A)(1) DISCUSSION OF EMPLOYMENT OF A PERSON REGULATED BY COUNTY COUNCIL (JOHN ROBINSON)

Motion: It was moved by Vice-Chairman McElynn, seconded by Council Member Brown, for Council to enter executive session.

The Vote – The motion was approved without objection.

Executive Session 6:35 pm – 7:29 pm

26. MATTERS ARISING OUT OF EXECUTIVE SESSION

No matters arising out of the executive session.

24. ADJOURNMENT

Adjourned at or around 7:30 PM

COUNTY COUNCIL OF BEAUFORT COUNTY

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

ATTEST:

Sarah W. Brock, Clerk to Council

Ratified:

~ Proclamation ~

Whereas, September 15 through October 15 is observed nationwide as National Hispanic Heritage Month; and

Whereas, in 1968, California Congressman George E. Brown pushed to recognize the contributions of the Latino community leading to Congress passing the official request for President Johnson to mark September 15 and September 16 as the beginning of National Hispanic Heritage Week; and

Whereas, in 1987, Representative Esteban E. Torres of California proposed expanding the observance to cover a 31- day period and, in 1988, Senator Paul Simon from Illinois submitted a similar bill that successfully passed Congress; and

Whereas, on September 14, 1989, President George H.W. Bush became the first president to declare the 31-day period stating “Not all of the contributions made by Hispanic Americans are so visible or widely celebrated, however, Hispanic Americans have enriched our Nation beyond measure with the quiet strength of closely knit families and proud communities”; and

Whereas, National Hispanic Heritage Month traditionally honors the culture and contributions of both Hispanic and Latino Americans, celebrating heritage rooted in all Latin American Countries; and

Whereas, National Hispanic Heritage Month starts on September 15th, which marks the anniversary of independence for Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua; and

Whereas, National Hispanic Heritage Month running through October 15th also pays tribute to Mexico, Chile and Belize’s celebration of independence which is September 16th, September 18th and September 21st.

Now, therefore be it resolved, that Beaufort County Council does hereby proclaim September 15th through October 15th

“National Hispanic Heritage Month”



Dated this 25th Day of September 2023

Joseph F. Passiment, Chairman
Beaufort County Council

~ Proclamation ~

Whereas, in July of 2023 the Beaufort County Dixie Junior Boys Baseball Team won the State Tournament hosted in Bluffton, SC; and

Whereas, played with the mindset of being a team, being cohesive, and building a positive mindset through the season; and

Whereas, the coaches: Alex Hunt, Jason Cotter, and Mike Simonsen entered the state tournament as the host team from Beaufort County and went 3-1 in the tournament overcoming adversity and winning the if-necessary game; and

Whereas, the Dixie Junior Boys represented Beaufort County well in the Dixie Junior Boys Baseball World Series held in Opelika, AL, with two well played, back and forth games; and

Whereas, the members of Beaufort County Council are extremely proud of this entire team and wishes now to acknowledge all 11 players:

Chase Cotter
Landon Bilcze
Landon Greenwalt
Dylan Simonsen
Jensen Boretti
Brandon Hunter



Hogan Wareham
Ashton Smith
Ty Eanes
Joey Patterson Jr.
Rylan McGarvey

Now, therefore be it resolved, Beaufort County Council wishes to recognize and congratulate the Beaufort County Dixie Junior Boys Baseball Team on their fantastic accomplishments on the field. We look forward to seeing all that these young men will accomplish in the future!



Dated this 25th Day of September 2023

Joseph F. Passiment, Chairman
Beaufort County Council

~ Proclamation ~

Whereas, in July of 2023 the Beaufort County Dixie Boys Baseball Team won the State Tournament hosted in Bluffton, SC; and

Whereas, all season they rallied around the motto of teamwork over individual efforts, trying to pull the same rope; and

Whereas, the coaches: Danny Morgan, Chad Mayles, Jim Siatkowski, Jason Cotter, and AJ Colella entered the state tournament as the host team from Beaufort County and went 6-0 in the state tournament, outscoring opponents 77-7 ; and

Whereas, the Dixie Boys represented Beaufort County well in the Dixie Boys Baseball World Series held in South Hill, VA, with a 2-2 record and losing to eventual champion Louisiana; and

Whereas, the members of Beaufort County Council are extremely proud of this entire team and wishes now to acknowledge all 14 players:

Chase Colella
Carson Colmer
Logan Cotter
Wyatt Lather
Brody Mayles
Eli Morgan
Micah Morgan



Tucker Nelson
Jackson Reilley
Kollin Sanchez
Anthony Seminara
Phoenix Shapiro
Ethan Siatkowski
Ian Steiner

Now, therefore be it resolved, Beaufort County Council wishes to recognize and congratulate the Beaufort County Dixie Boys Baseball Team on their fantastic accomplishments on the field. We look forward to seeing all that these young men will accomplish in the future!



Dated this 25th Day of September 2023

Joseph F. Passiment, Chairman
Beaufort County Council

CITIZEN COMMENTS 1st PORTION

COUNTY COUNCIL AGENDA ITEMS ONLY September 25, 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

John Kammer	19 Cherry Point Re-zoning
DEREK STEITER	"
Felice LAMARCA	149 Cherry Pt.
Scottie Daniel	cherry point rd
Terry Laseter	146 Cherry Point Rd
Ford Bartholow	19 Cherry Pt Rd
Joshua Hower	19 Cherry Pt Rd
Rebecca Vaux	15 75 ALL JOY Rd

CITIZEN COMMENTS 2ND PORTION

COUNTY COUNCIL
September 25, 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

X THERESA WHITE

PINE ISLAND GOLF

~~Jim Pince~~

~~Noise complaint / VFW field~~

X Roy Brown

PINE ISLAND DEV ✓

X MARLYN HEMMINGWAY

PINE ISLAND

X Willie Tuccal

"

X Tade Oyeilumi

" "

X Millie Harris

St. Helena Isl

X ROBERT ADAMS

St. Helena Island



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
AN ORDINANCE TO AMEND BEAUFORT COUNTY’S BUDGET ORDINANCE FOR FISCAL YEAR 2024 (ORDINANCE 2023/22) TO APPROPRIATE \$350,000 TO COUNTY COUNCIL TO COVER COST OF REVIEWS, AUDITS, AND INVESTIGATIONS
MEETING NAME AND DATE:
County Council, September 11, 2023
PRESENTER INFORMATION:
Thomas J. Keaveny, II 10 Minutes
ITEM BACKGROUND:
On July 24, 2023, County Council authorized the Finance, Administration, and Economic Development Committee (“Committee”) to contract with one or more professionals or professional firms to conduct certain reviews, audits, investigations and additional investigations as Council and the Committee and Council may deem appropriate. Council needs to authorize a supplemental appropriation to its budget for fiscal year 2024 to cover the anticipated expenses associated with this effort.
PROJECT / ITEM NARRATIVE:
See above
FISCAL IMPACT:
If adopted, this ordinance will appropriate \$350,000 from the Fund Balance to Council’s FY24 line item budget.
STAFF RECOMMENDATIONS TO COUNCIL:
Staff recommends approval.
OPTIONS FOR COUNCIL MOTION:
Motion to approve the appropriation as requested, to increase it, to decrease it, or to deny it.

ORDINANCE 2023/ _____

AN ORDINANCE TO AMEND BEAUFORT COUNTY’S BUDGET ORDINANCE FOR FISCAL YEAR 2024 (ORDINANCE 2023/22) TO APPROPRIATE \$350,000 TO COUNTY COUNCIL TO COVER COST OF REVIEWS, AUDITS, AND INVESTIGATIONS

WHEREAS, on June 12, 2023, Beaufort County Council adopted Ordinance No. 2023/22 which sets forth and establishes the County’s FY 2023-24 budget and associated expenditures; and

WHEREAS, On July 24, 2023, County Council authorized the Finance, Administration, and Economic Development Committee (“Committee”) to contract with one or more professionals or professional firms to conduct certain reviews, audits, investigations and additional investigations as Council and the Committee and Council may deem appropriate; and

WHEREAS, on August 28, 2023, the Committee recommended that Council retain the law firm of Haynsworth Sinkler Boyd to conduct and oversee this work. On that same day, Council County voted unanimously to accept, approve, and ratify the Committee’s recommendation; and

WHEREAS, Council needs to authorize a supplemental appropriation to its budget for fiscal year 2024 to cover the anticipated expenses associated with this effort.

NOW, THEREFORE, BE IT ORDAINED that Beaufort County’s Budget Ordinance for Fiscal Year 2024 (Ordinance 2023/22), is hereby amended to provide \$350,000 in supplemental appropriations from the General Fund, Fund Balance to Council’s account to cover the costs of reviews, audits, and investigations as directed by Council and the Committee.

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 AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE THE NECESSARY DOCUMENTS AND PROVIDE FUNDING FOR THE PURCHASE OF REAL PROPERTY IDENTIFIED AS 34 ULMER ROAD
MEETING NAME AND DATE:
County Council; August 14, 2023
PRESENTER INFORMATION:
Brittany Ward, County Attorney <i>5 Minutes</i>
ITEM BACKGROUND:
<i>County Council Vote at First Reading on July 10, 2023 – 11:0</i>
PROJECT / ITEM NARRATIVE:
<p>Beaufort County (“County”) desired to purchase the real property located at 34 Ulmer Road, Bluffton, South Carolina, identified as TMS No. R600 039 00B 0038 0000, consisting of approximately 41 acres (“Property”). In May 2019 the County purchased the real property located at 75 Confederate Avenue through the Rural and Critical Lands Program in order to construct a passive park, which is located adjacent to the Property. The County desired to purchase the Property and create a combined active and passive park facility.</p> <p>County staff was aware of a satellite/cell phone tower (“Tower”) on the property and was under the belief there was a remaining two (2) years on said lease. Staff has obtained a survey showing the location of the Tower on the property with guide wire easements that expand over a significant portion of the property. Staff was informed after the First Reading that the real property where the Tower is located is owned by the previous property owner. The location of this Tower is not desirable and limits the ability to have the desired number of active fields on the property.</p>
FISCAL IMPACT:
\$3,150,000 Purchase Price plus closing costs and to include all due diligence costs. Funding source is the General Fund- Fund Balance
STAFF RECOMMENDATIONS TO COUNCIL:
Disapprove due to additional knowledge received by seller regarding a satellite/cell phone tower located on the property which does not allow for the number of active park fields desired.
OPTIONS FOR COUNCIL MOTION:
Move forward to Third Reading on September 11, 2023. Postpone the Third Reading to September 28, 2023 in order to obtain additional information through due diligence. Disapprove.

ORDINANCE 2023/_____

AN ORDINANCE AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE THE NECESSARY DOCUMENTS AND PROVIDE FUNDING FOR THE PURCHASE OF REAL PROPERTY IDENTIFIED AS 34 ULMER ROAD

WHEREAS, Beaufort County (“County”) desires to purchase the real property located at 34 Ulmer Road, Bluffton, South Carolina, identified as TMS No. R600 039 00B 0038 0000, consisting of approximately 41 acres and further described in Exhibit “A” attached hereto and incorporated herein by reference, collectively hereinafter referred to as the “Property”; and

WHEREAS, the County recognizes that there is a need to provide the citizens and residents of Beaufort County with additional active parks and open spaces to enjoy outdoor activities. In an effort to protect the environment and provide a space for citizens to enjoy outdoor activities, in May 2019 the County purchased the real property located at 75 Confederate Avenue through the Rural and Critical Lands Program in order to construct a passive park, which is located adjacent to the Property. For the benefit of its citizens, the County desires to purchase the Property and create a combined active and passive park; and

WHEREAS, the County has negotiated with the seller and agreed upon a fair market value purchase price not to exceed Three Million One Hundred and Fifty (\$3,150,000) Dollars plus closing costs, whereby said purchase price includes the cost of any and all due diligence, including but not limited to, environmental reports and surveys that is to be provided by the seller. Funding for the purchase price and closing costs to be allocated from General Fund-Fund Balance; and

WHEREAS, Beaufort County Council finds that it is in the best interest of the citizens and residents of Beaufort County to purchase the Property as described above.

NOW, THEREFORE, BE IT ORDAINED by Beaufort County Council, duly assembled, authorizing the County Administrator to execute the necessary documents and provide funding in an amount not to exceed Three Million One Hundred and Fifty (\$3,150,000) Dollars plus closing costs from impact fees for the purchase of real property identified as 34 Ulmer Road.

DONE 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 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:
- Collectors who are licensed by the county.
 - Licensed collectors who are franchised by the county for collection in specific areas of the county.
 - Licensed collectors under contract with a municipality to provide curbside service.
 - Municipal collectors in an incorporated solid waste district.
 - 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)

Created: 2022-06-21 16:57:26 [EST]

- (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:

- (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-~~57~~ 56. Effective dates.

This ordinance [Ord. No. ~~2007/37~~23/_____] shall be effective from and after July 1, ~~2008~~-2023.

(Ord. No. 2007/37, 10-22-2007 2023/____Section 62-57 Reserved.

ARTICLE ~~VI~~ 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



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 <i>(10 mins)</i>
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.

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.
- (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.
- (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.
- (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.
- (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.
- (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),

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.

- (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

- (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 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:
<i>ZONING MAP AMENDMENT/REZONING REQUEST FOR 71.54 ACRES (R600 013 000 0008 0000 AND R600 013 000 0050 0000), LOCATED AT 1691 OKATIE HIGHWAY, FROM T2 RURAL (T2R) TO T4 NEIGHBORHOOD CENTER (T4NC) AND T3 NEIGHBORHOOD (T3N) USING A VILLAGE PLACE TYPE OVERLAY (PTO) (ARTICLE 3 DIVISION 4 SECTION 80, ARTICLE 7 DIVISION 3 SECTION 50).</i>
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>The rezoning application went before the Beaufort County Planning Commission at their August 7, 2023 meeting. At that time, the Commission voted 5 for and 2 against to recommend denial of the proposed amendment to County Council.</i>
PROJECT / ITEM NARRATIVE:
<i>The applicant is requesting to rezone two parcels into two zoning districts (T4 Neighborhood Center and T3 Neighborhood) by using the Place Type Overlay (PTO) Village Place Type. The proposed PTO adjoins Okatie Elementary School and River Oaks and will have connection to Malind Bluff. Connecting a Village Place Type with a school and an adjoining residential community would accomplish the Comprehensive Plan's objective of providing walkable mixed-use nodes at intervals along the SC 170 corridor.</i>
FISCAL IMPACT:
<i>Not applicable</i>
STAFF RECOMMENDATIONS TO COUNCIL:
<i>Staff recommends approval. Place Type Overlays are recommended in the CDC and Comprehensive Plan to encourage high quality development in walkable urban nodes as opposed to low density sprawl. Because the proposed rezoning follows the requirements of the CDC and Comprehensive Plan and is a model of how an upzoning along SC 170 should occur, staff recommends approval on the condition that the applicant continues to work with staff updating the regulating plans as needed.</i>
OPTIONS FOR COUNCIL MOTION:
<i>To approve or deny the zoning amendment for 1691 Okatie Highway from T2 Rural to T4 Neighborhood Center and T3 Neighborhood utilizing Place Type Overlay (Village Place Type).</i>

ZONING MAP AMENDMENT/REZONING REQUEST FOR 71.54 ACRES (R600 013 000 0008 0000 AND R600 013 000 0050 0000), LOCATED AT 1691 OKATIE HIGHWAY, FROM T2 RURAL (T2R) TO T4 NEIGHBORHOOD CENTER (T4NC) AND T3 NEIGHBORHOOD (T3N) USING A VILLAGE PLACE TYPE OVERLAY (PTO) (ARTICLE 3, DIVISION 4, SECTION 80 AND ARTICLE 7, DIVISION 3, SECTION 50)

WHEREAS, the property located at 1691 Okatie Highway (R600 013 000 0008 0000 AND R600 013 000 0050 0000) is currently zoned T2 Rural; and

WHEREAS, the owner of the property has requested to rezone into two zoning districts (T4 Neighborhood Center and T3 Neighborhood) by utilizing the Place Type Overlay (PTO) Village Place Type; and

WHEREAS, the Beaufort County Comprehensive Plan encourages high quality development in walkable urban nodes as opposed to low density sprawl and designates this site as a location to implement a Village Place Type; and

WHEREAS, the Beaufort County Planning Commission considered the request on August 7, 2023, voting to recommend that County Council deny the request; and

WHEREAS, County Council now wishes to amend the zoning map to change the zoning of the property from T2 Rural to T4 Neighborhood Center and T3 Neighborhood by using the Place Type Overlay (PTO) Village Place Type.

NOW, THEREFORE be it ordained by County Council in a meeting duly assembled as follows:

The zoning map of the County is hereby amended to change the zoning of the property located at 1691 Okatie Highway from T2 Rural (T2R) to T4 Neighborhood Center (T4NC) and T3 Neighborhood (T3N) using a Village Place Type Overlay (PTO).

Ordained this ___ day of _____, 2023.

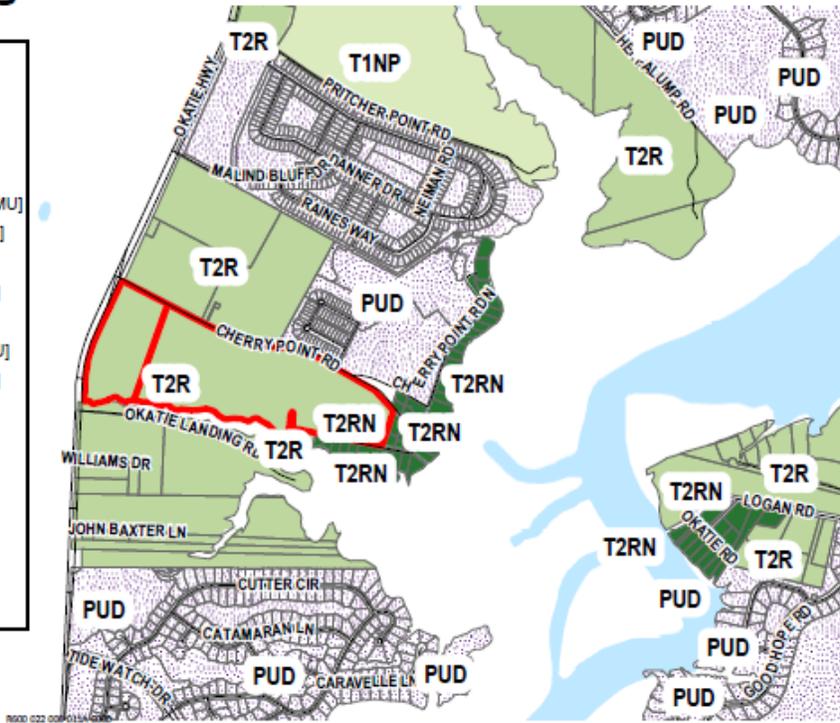
COUNTY COUNCIL OF BEAUFORT COUNTY

By: Joseph Passiment, Chairman

Sarah Brock,
Clerk to Council

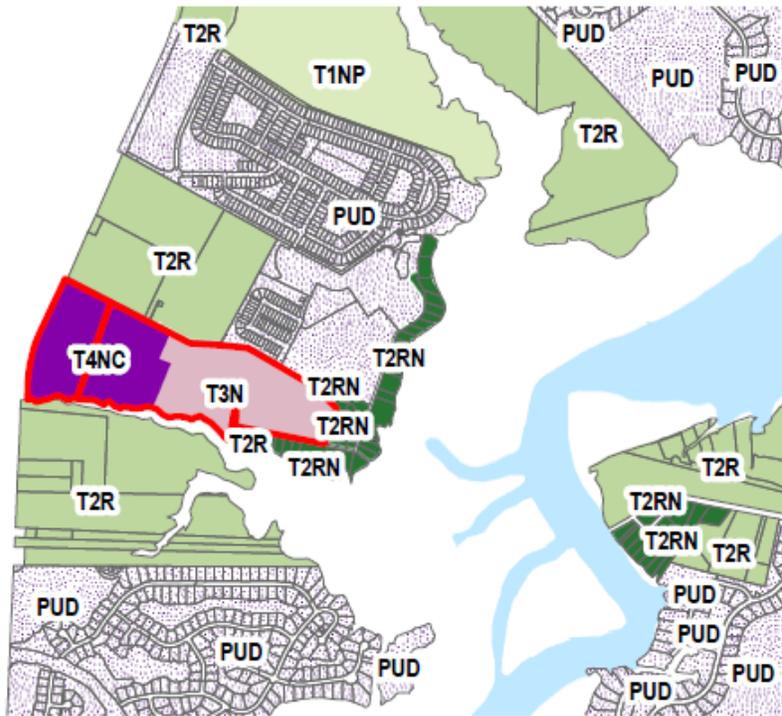
Existing Zoning

Legend	
	80013 8 & 50
Zone Districts	
FBCode	
	C3 Neighborhood Mixed Use [C3NMU]
	C4 Community Center Mixed Use [C4CCMU]
	C5 Regional Center Mixed Use [C5RCMU]
	Military [Mil]
	Existing Planned Unit Development [PUD]
	S1 Industrial [S1]
	Seabrook-Stuart Point Mixed Use [SSPMU]
	Seabrook-Stuart Point Residential [SSPR]
	T1 Natural Preserve [T1NP]
	T2 Rural [T2R]
	T2 Rural Neighborhood [T2RN]
	T3 Edge [T3Edge]
	T3 Hamlet Neighborhood [T3HN]
	T3 Neighborhood [T3N]
	T4 Hamlet Center [T4HC]
	T4 Neighborhood Center [T4NC]



Proposed Zoning

Legend	
	800 13 8 & 50
FBCode	
	C3 Neighborhood Mixed Use [C3NMU]
	C4 Community Center Mixed Use [C4CCMU]
	C5 Regional Center Mixed Use [C5RCMU]
	Military [Mil]
	Existing Planned Unit Development [PUD]
	S1 Industrial [S1]
	Seabrook-Stuart Point Mixed Use [SSPMU]
	Seabrook-Stuart Point Residential [SSPR]
	T1 Natural Preserve [T1NP]
	T2 Rural [T2R]
	T2 Rural Neighborhood [T2RN]
	T3 Edge [T3Edge]
	T3 Hamlet Neighborhood [T3HN]
	T3 Neighborhood [T3N]
	T4 Hamlet Center [T4HC]
	T4 Neighborhood Center [T4NC]





MEMORANDUM

TO: Alice Howard, Chair, Community Facilities and Land Use Committee

FROM: Robert Merchant, AICP, Beaufort County Planning and Zoning Department

DATE: September 11, 2023

SUBJECT: ZONING MAP AMENDMENT/REZONING REQUEST FOR 71.54 ACRES (R600 013 000 0008 0000 AND R600 013 000 0050 0000), LOCATED AT 1691 OKATIE HIGHWAY, FROM T2 RURAL (T2R) TO T4 NEIGHBORHOOD CENTER (T4NC) AND T3 NEIGHBORHOOD (T3N) USING A VILLAGE PLACE TYPE OVERLAY (PTO) (ARTICLE 3 DIVISION 4 SECTION 80, ARTICLE 7 DIVISION 3 SECTION 50).

STAFF REPORT:

A. BACKGROUND:

Case No. CDPA-000028-2023

Owner: Represented by Bret Clark

Property Location: 1691 Okatie Highway

District/Map/Parcel: R600 013 000 0008 0000 and R600 013 000 0050 0000

Property Size: 71.54 Acres

Current Future Land Use Designation: Rural, Place Type Overlay (Village Place Type)

Current Zoning District: T2 Rural

Proposed Zoning District: T4 Neighborhood Center and T3 Neighborhood utilizing Place Type Overlay

B. SUMMARY OF REQUEST: The applicant presented the rezoning request to the Planning Commission at the July 6th, 2023 meeting. A deferral of action until the August meeting was motioned and passed. The only revision is the increase of the buffer between this development and the abutting residential area along Cherry Point Road from 20' to 50'. The applicant has given additional documentation of the impact of this development on SC 170 and on the environment. The applicant is requesting to rezone two parcels into two zoning districts (T4 Neighborhood Center and T3 Neighborhood) by using the Place Type Overlay (PTO) Village Place Type. The proposed PTO adjoins Okatie Elementary School and River Oaks and will have connection to Malind Bluff. Connecting a Village

Place Type with a school and an adjoining residential community would accomplish the Comprehensive Plan’s objective of providing walkable mixed-use nodes at intervals along the SC 170 corridor.

- C. EXISTING ZONING:** The lot is currently zoned T2 Rural (T2R), which permits residential development at a density of one dwelling unit per three acres. T2 Rural also permits very limited non-residential uses.
- D. COMPREHENSIVE PLAN FUTURE LAND USE MAP:** Although the Comprehensive Plan states the Future Land Use of these two properties to be Rural, it also expresses for the option to create a Village Place Type. The purpose of the Place Type Overlay (PTO) Zone is to provide the opportunity for properties that are identified in the Comprehensive Plan as rural crossroad, hamlet, and village place types to seek a comprehensive zoning amendment to establish transect zones (Division 3.2) to implement the vision for these place types. The Place Type Overlay (PTO) Zone is intended to create and reinforce walkable, urban environments with a mix of housing, civic, retail, and service choices. The Beaufort County Comprehensive Plan specifically addresses development along the SC 170 corridor. It states under the SC 170 Corridor section: “Establishing Place Types that coincide with major intersections, consistent buffers of native vegetation, joint review of proposed plans along the corridor, and agreement on access management standards will lead to a corridor with walkable mixed-use nodes at intervals, natural buffers between the road and development, compatible land uses across jurisdictions, and safer, better managed traffic.” The Comprehensive Plan also has action BE 3.2 which states: “Initiate a prototype community- based Place Type implementation plan that involved property owners, and other stakeholders to serve as a vision for other areas of the county where walkable urbanism is appropriate.” The usage of a Place Type Overlay is the only way to properly upzone a property such as this.
- E. PROPOSED ZONING:** The CDC defines Village Place Type as “made up of clusters of residential neighborhoods of sufficient intensity to support a central, mixed-use environment. The mixed-use environment can be located at the intersection of multiple neighborhoods or along a corridor between multiple neighborhoods. Habersham is a good example of a place that is evolving into a village.” It gives greater opportunity for a mixture of development types than a common subdivision because it is made up of a combination of transect zones. A PTO has requirements that create a format for a successful development as it includes standards such as percentages of land assigned to a certain zoning district, size and intensity, an organized transition of transect zones, pedestrian sheds, thoroughfare networks, open and civic space, neighborhood centers/main streets, suitability for the site’s specific topographical and environmental constraints, and compliance with architectural and design standards. In this instance, the applicant is requesting a Village Place Type which is to abide by the following:

Village Place Type



110 acres min., 500 acres max.

6 du./ac. max.

Village Place Type		
T3 Edge (T3E)	No min.	25% max.
T3 Hamlet Neighborhood (T3HN)	No min.	25% max.
T3 Neighborhood (T3N)	25% min.	70% max.
T4 Hamlet Center Open (T4HCO) and/or T4 Neighborhood Center (T4NC)	10% min.	50% max.

The applicant has proposed to use the following transect zones for the PTO development:

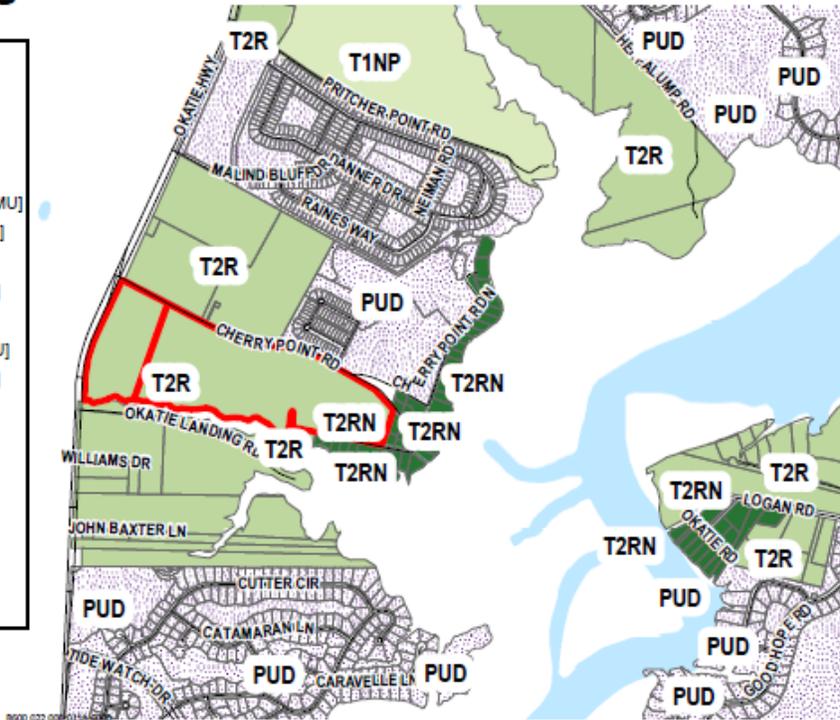
- a. T3 Neighborhood district is “intended to provide a walkable, predominantly single- family neighborhood that integrates compatible multi-family housing types, such as duplexes and cottage courts within walking distance to transit and commercial areas.” Businesses such as General Offices & Services, Medical Services, and Meeting Facility/Place of Worship are some of the permitted/conditional uses.
- b. T4 Neighborhood Center district is “intended to integrate vibrant main-street commercial and retail environments into neighborhoods, providing access to day-to-day amenities within walking distance, creating potential for a transit stop, and serving as a focal point for the neighborhood.” Businesses such General Retail, Hotel, and Residential Storage Facility are some of the permitted/conditional uses.

F. TRAFFIC IMPACT ANALYSIS (TIA): According to Section 6.3.20.D of the CDC, “An application for a rezoning shall include a TIA where the particular project or zoning district may result in a development that generates 50 trips during the peak hour or will change the level of service of the affected street.” A TIA was completed and submitted with the application. The Transportation Department has been actively involved in reviewing the plans and the TIA in a holistic manner regarding SC 170 including traffic flow, road capacity, pedestrian safety, future improvements, and overall infrastructure. See Appendix D for Beaufort County Engineering Department’s comments.

- G. SCHOOL CAPACITY IMPACTS:** Appendix D contains a letter from the school district. Because there is a six dwelling units per acre maximum for Village Place Types, +/-400 units are allowed altogether in the proposed base site area. However, a referendum of \$439 million is proposed to be on the ballot in November to reduce overcrowding, especially in elementary schools in Bluffton.
- H. STAFF RECOMMENDATION:** Place Type Overlays are recommended in the CDC and Comprehensive Plan to encourage high quality development in walkable urban nodes as opposed to low density sprawl. Because the proposed rezoning follows the requirements of the CDC and Comprehensive Plan and is a model of how an upzoning along SC 170 should occur, staff recommends approval on the condition that the applicant continues to work with staff updating the regulating plans as needed. By allowing for increased density and mixed land uses, the proposed upzoning is to have positive impacts on the community. It will encourage internal trip capture thus reducing vehicle miles traveled, strengthen the local economy through the introduction of commercial space located along SC 170, foster social connections with its proximity to Okatie Elementary School and Malind Bluff, promote sustainable land use planning through its 12 acres of civic open space, and align with the County's Comprehensive Plan's intent of concentrated growth.
- Staff is working internally to determine whether a Development Agreement would be an appropriate tool to implement on site and off site improvements related to this proposal. This agreement would outline the terms, conditions, and obligations of both the County and the Developer. This will be determined by County Council and would be required to be done prior to third reading.
- I.** At their August 7, 2023, meeting, the Planning Commission recommended to deny the proposed zoning.
- J. ATTACHMENTS**
- a. Appendix A: Zoning Map (existing and proposed)
 - b. Appendix B: Regulating Plan, Civic, Buffer, and Open Space Plan, and Thoroughfare Plan
 - c. Appendix C: TIA
 - d. Appendix D: Engineering and School District Comments
 - e. Appendix E: Environmental Study

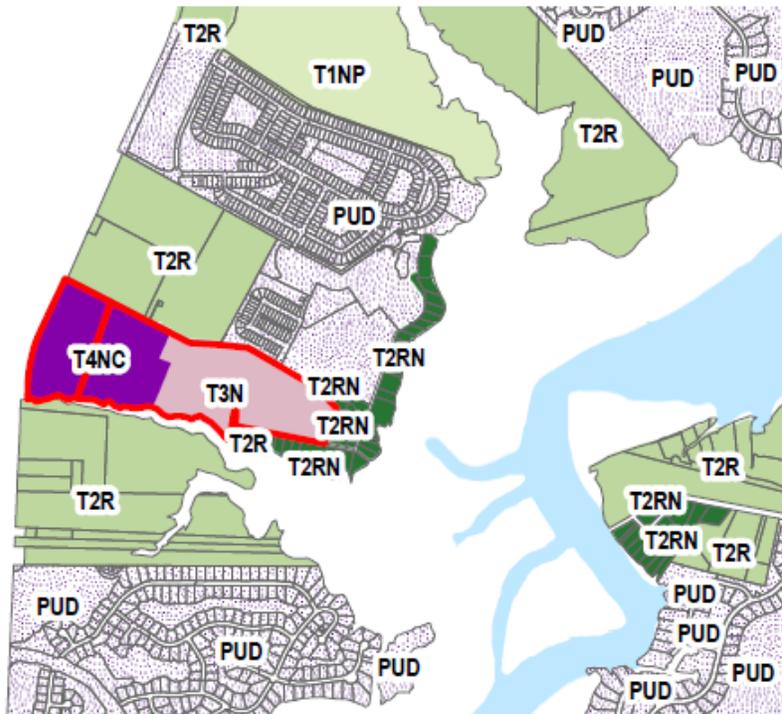
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Proposed Zoning

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9/25/23

Dear Chairman Passiment & County Council Members,

On behalf of the Coastal Conservation League, thank you for the opportunity to comment on the Cherry Point rezoning utilizing the Place Type Overlay and located at 1691 Okatie Highway, along the SC 170 Corridor. The proposed development on this property consists of up to 400 residential units. **We ask the County Council to consider postponing this rezoning request until a SC 170 Corridor Plan is complete. Additionally, we strongly suggest referring this matter to the SoLoCo growth committee for an opinion.**

The Envision Beaufort County 2040 Comprehensive Plan focuses on the SC 170 Corridor, noting that “signage, sprawling development, traffic management, and the loss of rural lands is of concern to the residents that use this road for their primary access.” The Comprehensive Plan recommends channeling new growth into municipalities and existing developments to limit greenfield development and protect sensitive lands.

More specifically, the plan calls for the action BE 1.3: development of an SC 170 Area Plan “in conjunction with the City of Hardeeville and Jasper County that defines a growth framework for the corridor and addresses the issues of joint concern such as transportation and environmental protection.”

Decisions on specific rezoning requests, such as the Cherry Point rezoning, should be informed by the jointly planned policies and standards of an SC 170 Corridor plan. We appreciate that the applicant has increased the buffers to 50 ft., added an endangered species report, and proposed attainable housing. However, many concerns about potential impacts to the environment and infrastructure remain. The site’s proximity to a small tidal creek and the Okatie Landing property, which is protected by a conservation easement held by the Open Land Trust, heightens the need for sensitivity (map provided).

In summary, we request a deferral on this matter. The Conservation League believes the SoLoCo growth committee is well qualified to make a recommendation on this project, which will have region-wide implications. SC 170 Corridor plan be completed Thank you very much for your time and consideration. Please do not hesitate to reach out if we can provide any additional information, clarification, or support as you consider this important decision.

Respectfully,

Grant McClure
South Coast Project Manager
(843) 522-1800 | grantm@scccl.org

Open Land Trust Conserved Lands Database OLT Website Recent Acquisitions Featured Property

1691 okatie hwy

Show search results for 1691 okatie...

Layer List

Layers

- OLT_Conservation_Easement_Boundaries_local ...
- OLT_Owned_Conserved_Lands_local ...
- OLTeasements_local ...
- OLTowned_local ...
- SC_Counties ...
- SC_Conserved_Lands ...
- Private ...

The map displays a geographic area with various land parcels. A red rectangle highlights a parcel located between Cherry Point Rd and Okatie Landing. Other labeled roads include Pearlstone Dr, Schinger Ave, Green Acres Rd, and N Okatie Hwy. Landmarks such as Okatie Landing and Olsen Tract are also visible. The map interface includes standard navigation controls like zoom in (+), zoom out (-), and a home button.



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 Bountu 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:
Resolution to Accept a Grant for Project Comida
MEETING NAME AND DATE:
Finance, Administration, and Economic Development Committee – September 18, 2023
PRESENTER INFORMATION:
Hank Amundson – Special Assistant to the County Administrator <i>5 minutes</i>
ITEM BACKGROUND:
This is a grant to an Economic Development Project, named Project COMIDA. <i>It is referred to us by the Beaufort County Economic Development Staff</i>
PROJECT / ITEM NARRATIVE:
The Department of Agriculture is granting \$50,000 to an economic development project for the use in building a new processing facility. Their investment is \$8,100,000 and they have committed to create 40 jobs. The County must be the pass-through entity that receives and disburses the grant. There are multiple forms required for this process that protect the County from any liability. We collect a ‘proof of payment’ from the Development Corporation before reimbursing the project with the fund.. The County has done this two other times this year with Project Lawn and Project Packet.
FISCAL IMPACT:
No Fiscal Impact
STAFF RECOMMENDATIONS TO COUNCIL:
Staff recommends the approval of this resolution to receive and disburse these grant funds.
OPTIONS FOR COUNCIL MOTION:
Motion to approve/deny “Resolution to Accept a Grant for Project Comida” Move forward to Council Meeting on September 25, 2023



South Carolina
DEPARTMENT OF AGRICULTURE
OFFICE OF AGRIBUSINESS DEVELOPMENT

Item 21.

Hugh E. Weathers, Commissioner

July 12, 2023

Beaufort County Economic Development Corporation
PO Box 7017
Hilton Head Island, SC 229938

Re: Notice of Award – Project Comida

Dear Beaufort County,

Please allow this letter to serve as notification that the South Carolina Department of Agriculture Agribusiness Infrastructure Incentives Distribution Initiative Panel (the “Panel”) has approved a Grant Award for Beaufort County. On July 11, 2023, the Panel held its scheduled Panel Meeting where it reviewed the Grant Application from Beaufort County on behalf of SERG Restaurant Group for the above-referenced Project. The Panel considered the following criteria:

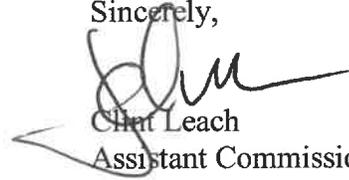
- (i) But for the award of a Grant (“Grant Award”) and the provision of funds pursuant to a Grant Award (“Grant Award Funds”), the Project would not locate in South Carolina.
- (ii) Competitiveness of Project.
- (iii) Economic viability of Project: i.e. the Project is more likely than not to succeed.
- (iv) Jobs: both the number of jobs and average wage of jobs in context of the current employment numbers and average wage of the location of the Project must be considered. Projects with higher number of projected jobs to be created with higher projected wages shall be given greater consideration.
- (v) Anticipated tax revenue to be directly generated from Project.
- (vi) Total projected investment in the Project.
- (vii) Financial stability and corporate record of entity to receive the Grant Award Funds.
- (viii) Infrastructure needs of the county and surrounding region generally and with respect to agribusiness.
- (ix) Other funding sources sought

After reviewing the aforementioned criteria, the Panel, by a majority vote of a quorum, made a finding that funds will increase the tax base, jobs, etc. of Beaufort County and therefore approved a Grant Award in the amount of \$50,000.

Included with this Notice of Award is a proposed Performance Agreement and Grant Award Agreement. Please review both agreements and reach out should you have any questions.

Otherwise, if you do not have any comments or questions regarding the agreements, please have the County and Company execute the appropriate documents and return signed originals to the address below within thirty days of this letter.

Sincerely,



Clint Leach
Assistant Commissioner

cc: Norris Thigpen, SCDA Director of Agribusiness

**SOUTH CAROLINA DEPARTMENT OF AGRICULTURE
PERFORMANCE AGREEMENT
(Agribusiness Initiative Grant)**

This **Performance Agreement** (“Agreement”) is made to be effective the __ day of ___, 2023 (the “Effective Date”), by and among Beaufort County, a body politic and corporate and political subdivision of the State of South Carolina (the “Grantee” or “County”), SERG Restaurant Group, LLC, (the “Company”), and the South Carolina Department of Agriculture (the “Department”).

The Department created the Agribusiness Infrastructure Incentives Distribution Initiative (the “Agribusiness Initiative”) to distribute grants to induce new and expanding agribusiness infrastructure projects to counties in South Carolina (the “State”) that are rated a Tier III or Tier IV, as determined annually by the South Carolina Department of Revenue. The Department formed the Agribusiness Infrastructure Panel (the “Panel”) to manage and operate the Agribusiness Initiative.

The Department, upon recommendation by the Panel, has approved the provision of a grant pursuant to the Agribusiness Initiative (the “Grant”) for the benefit of the Project (here and hereinafter, as described in **Section 2.0** hereof) to be acquired, constructed, and/or equipped by the Company.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and for other valuable consideration, the receipt, adequacy, and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

- 1.0 **Use of Grant Funds.** The Grantee will use the Grant to reimburse the Company for incurred costs for the following activities and expenses: engineering, grading, road construction, utility service construction or improvements, construction, and real estate purchase. No more than 10% of the Grant Award Funds for any Grant Award may be used for reimbursement for engineering. Any material changes in the scope of work to be paid for by the Grant funds must be submitted in writing by the Grantee to the Department as a request for a Grant Award adjustment, and such request must clearly identify the need for the change or relief. Any adjustment granted by the Department shall be appended to this Agreement as an amendment.
 - 1.1 **Grant Award.** The Department has approved a Grant in the amount of \$50,000 (the “Grant Award”) to be used for site preparation and infrastructure improvements in connection with the Project.
 - 1.2 **Disbursement of Funds.** The Grant Award will be disbursed only upon the submission of invoices and proof of payment to the Grantee and approval of disbursement by the Department.
 - 1.3 **Third Party Contracts.** Upon request by the Grantee or the Department, the Company must submit to the Department any agreements with third party vendors or contractors engaged for the performance of work to be funded in whole or in part with the Grant Award.

- 1.4 **Notice to Proceed.** The Company must obtain from the Department written notice to proceed prior to incurring any costs against the Grant Award. If the Company needs to incur expenses prior to the Department’s notification to proceed, the Grantee must submit a written request to the Department and obtain prior written approval from the Department. Otherwise, any expenditure made prior to the date of the written notice to proceed is made by the Grantee or the Company at its own risk and expense and may not be eligible for payment with Grant Award funds, which such eligibility shall be in the Department’s good faith and reasonable discretion. No further written request to Department by the Company, or written approval from Department, shall be required unless otherwise stated herein.
- 1.5 **Compliance with Agribusiness Initiative Requirements.** The Grantee and the Company must comply with all terms set forth herein and any statutory, policy and regulatory guidelines of the State government and the Department governing the use of the Grant under the Agribusiness Initiative.
- 1.6 **Funding Overruns.** The Company agrees that it will commit and provide monies from its own resources, or resources to which it has access, for cost overruns that it deems necessary in connection with the Project. This Agreement creates no obligation on the part of the Grantee, the Department, or the State to provide funds for any such cost overruns.
- 1.7 **Timing of Disbursement of Grant Award Funds.** Following satisfaction of the requirements set forth in **Section 1.2** hereof, the Grant Award funds shall be available through January 2025 for reimbursement to the Company for eligible expenditures incurred and paid by the Company.
- 2.0 **Project Description.** The Company anticipates purchasing land and constructing a new SERG Production Kitchen intended to serve as a manufacturing, distribution, and preparation facility to supply SERG restaurants, retail customers, and other local restaurants and food preparation facilities with wholesale food, beverage, and supplies (the “Project”), in the County. As of the Effective Date, the County is ranked a Tier I County by the South Carolina Department of Revenue and is, therefore, eligible for the Grant if the Tier III and IV requirement is waived as set forth in guidelines established for purposes of the Agribusiness Initiative.
- 3.0 **Project Start-Up.** The Project must have begun prior to, or within three months of, the Effective Date. If the Company has not begun the Project prior to, or within three months of, the Effective Date, the Department reserves the right to rescind the Grant, require the repayment of any Grant funds expended hereunder and terminate this Agreement. For purposes of this section, the Company shall have begun the Project once it has incurred material obligations in connection with the Project reasonably satisfactory to the Department to indicate that the Project will be timely completed.
- 4.0 **Minimum Investment Requirement.** The Company agrees to make and maintain, or cause to be made and maintained by one or more Affiliates (as hereinafter defined), a capital investment of not less than \$8,100,000 (without regard to depreciation or other

diminution in value), in the aggregate for building construction and other real property improvements, site improvements, infrastructure improvements, and/or personal property including, but not limited to, machinery and equipment, within a period beginning on the Effective Date of this Agreement and ending on the first to occur of: (i) the date that the Company certifies, and provides satisfactory supporting documentation to the Department, that the Company has satisfied both the Investment Requirement and the Job Requirement (as such terms are defined herein); or, (ii) July 31st, 2028 (the “Grant Period”). Such capital investment requirement shall hereinafter be referred to as the “Investment Requirement.” Project investment may be verified at the request of the Grantee or the Department. For the purposes of this Agreement, “Affiliate” shall mean any corporation, limited liability company, partnership or other individual or entity which now or hereafter controls, is controlled by, or is under common control with the Company.

- 5.0 **Minimum Job Requirement.** The Company agrees to create and maintain, or cause to be created and maintained by one or more Affiliates, no fewer than 40 new, full-time jobs at the Project within the Grant Period. Such job creation requirement shall hereinafter be referred to as the “Job Requirement.”
- 6.0 **Contractor Selection.** If the Company desires to select a private contractor to undertake all or any part of the scope of work of any portion of the Project to be funded by the Grant Award, then the selection of that contractor by the Company must follow, at a minimum, the bidding requirements set forth in Exhibit A attached hereto. The use of the Grant Award funds is not subject to the requirements of the State Procurement Code or the regulations promulgated thereunder. Any county or municipal procurement laws, rules or regulations may apply depending on the terms of such local requirements.
- 7.0 **Maintenance Period; Term.** Once the Company has satisfied both the Job Requirement and the Investment Requirement within the Grant Period, the Company shall be required to maintain the Job Requirement and the Investment Requirement at the Project for a period beginning on the first date following the expiration of the Grant Period and ending on the fifth anniversary thereof (the “Maintenance Period”).
- 8.0 **Access to Project Site and Records; Reporting.** The Company agrees to provide the Grantee and the Department reasonable access to the Project and records to confirm that the work for which invoices have been submitted and reimbursed, or is scheduled to be reimbursed, through Grant Award funds has been completed. This covenant shall continue until notified in writing by the Department that the Grant Award funds have been expended and documented, the Grant Period and the Maintenance Period have each expired, or until repayment of the Grant Award, if required, occurs in accordance with this Agreement. During the Grant Period, the Department or the Grantee may request a periodic status report from the Company, which requests may not be made more than once each calendar month, and the form of which report is set forth in Exhibit B, as such form may be updated by the Department and provided to the Company, setting forth: (i) the total number of new, full-time jobs created and maintained by the Company and/or any Affiliates at the Project as of such date; and (ii) the total investment made by the Company and/or any Affiliates in the Project as of such date. During the Maintenance Period, within thirty (30) days after each anniversary of the end of the Grant Period, the Company shall provide the Department a

written report, in the form set forth in Exhibit C, as such form may be updated by the Department and provided to the Company, setting forth: (i) the monthly average of new, full-time jobs created and maintained by the Company and/or any Affiliates at the Project during such year determined in accordance with the provisions of **Section 11.2.1** of this Agreement regarding determination of such monthly average; and (ii) the monthly average of total investment of the Company and/or any Affiliates in the Project during such year.

- 9.0 **Compliance.** The Department will review the hiring records and notify the Company in writing of its compliance or non-compliance with this Agreement. Upon written notification from the Department that both the Job Requirement and the Investment Requirement have been fulfilled and the Grant Period and the Maintenance Period have each expired, this Agreement and all obligations of the Company, unless otherwise stated, hereunder shall terminate.
- 10.0 **Maintenance of Records.** The Company shall retain all records in connection with expenditures reimbursed totally or partially with Grant Award funds for a period of three years after the final disposition of all Grant Award funds. The Company shall maintain records relating to the Grant Award and the Project, including financial records, supporting documents, and statistical records shall be retained for a minimum of three years after notification in writing by the Department of the closure of the Grant. However, if any litigation, claim, or audit is initiated before the expiration of any such period, then records must be retained for three years after the litigation, claim, or audit is resolved.
- 11.0 **Repayment Obligations.** Failure to satisfy and maintain the Job Requirement and the Investment Requirement as set forth herein may result in repayment of all or a portion of Grant Award funds as further set forth below.
- 11.1 As of the end of the Grant Period, the number of jobs created by the Company and/or any Affiliates at the Project may not be less than the Job Requirement (40 new, full-time jobs), and the investment made by the Company and/or any Affiliates in the Project may not be less than the Investment Requirement (\$8,100,000) (without regard to depreciation or other diminution in value). If the Company does not locate in South Carolina or otherwise fails to create, or cause to be created, any new jobs and make, or cause to be made, any investment in South Carolina, repayment of all of the Grant funds expended will be immediately due and payable. If the Company does create, or cause to be created, jobs and/or make, or cause to be made, investment but fails to meet the Job Requirement and/or the Investment Requirement as of the end of the Grant Period, the Company will be required to repay a portion of the Grant funds expended as follows:
- 11.1.1 **Pro-Rata Repayment.** The Company shall be required to repay a pro-rata amount of the Grant funds expended under this Agreement based on the actual number of jobs created and/or investment level achieved as of the last day of the Grant Period, as compared to the Job Requirement and/or the Investment Requirement, as applicable. For purposes of this **Section 11.1**, pro rata repayment for failure to meet either the Job Requirement or the

Investment Requirement will be calculated independently with each calculation based on 50% of the Grant funds expended hereunder.

11.1.2 If required, repayments under this **Section 11.1** are due and payable within thirty (30) days of the end of the Grant Period and should be submitted to the Grantee. The Grantee will immediately notify and return all payments to the Department.

11.1.3 Notwithstanding anything in this Agreement to the contrary, if the Company satisfies the Job Requirement and the Investment Requirement as of the end of the Grant Period, it shall not have any repayment obligations under this **Section 11.1**.

11.2 During each year of the Maintenance Period, the number of jobs maintained by the Company and/or any Affiliates at the Project may not be less than the Job Requirement (40 new, full-time jobs) and the investment maintained, or caused to be maintained, by the Company in the Project may not be less than the Investment Requirement (\$8,100,000) (without regard to depreciation or any diminution in value). If the Company fails to maintain the Job Requirement or the Investment Requirement as required herein, the Company will be required to repay a portion of the Grant Funds expended as follows:

11.2.1 Pro-Rata Repayment. The Company shall be required to repay a pro-rata amount of the Grant Funds expended under this Agreement, based on the actual number of jobs maintained and amount of investment maintained during each year of the Maintenance Period. The Company's repayment obligation, if any, with respect to any such year of the Maintenance Period, shall be calculated utilizing the monthly average of new, full-time jobs created and existing and the monthly average of investment maintained during the applicable year of the Maintenance Period. For purposes of determining the monthly average, the Company may, after the end of the first year of the Maintenance Period, select a reasonable day, in its sole discretion, upon which such jobs and investment will be determined on a monthly basis. Thereafter, that day in the month shall apply for each month in such first year and for each month in each applicable year for the remainder of the Maintenance Period. The pro-rata repayment obligation for failure to maintain the Job Requirement or the Investment Requirement during each year of the Maintenance Period will be calculated based on an annual base amount equal to the lesser of 10% of the Grant Funds expended or \$10,000. For purposes of this **Section 11.2.1**, pro rata repayment for failure to maintain the Job Requirement or the Investment Requirement during any year of the Maintenance Period will be calculated independently with each calculation based on 50% of the annual base amount attributable to such year.

11.2.2 If required, repayments under this **Section 11.2** are due and payable within thirty (30) days of the end of the applicable year of the Maintenance Period

and should be submitted to the Grantee. The Grantee will immediately notify and return all payments to the Department.

- 12.0 **Representations and Warranties.** The Company hereby makes the following representations and warranties and acknowledges and agrees that such representations and warranties have been material to the Department's decision to enter into this Agreement and further agrees that each representation and warranty is true, accurate and complete in all material respects as of the Effective Date and will remain true and correct throughout the term of this Agreement.
- 12.1 **Good Standing.** The Company is duly organized, validly existing and in good standing under the laws of the jurisdiction in which it is organized, has the power and authority to own its property and to carry on its business in each jurisdiction in which it does business, and has registered for and is duly qualified to conduct business in, and is in good standing in, the State of South Carolina.
- 12.2 **Authority and Compliance.** The Company has full power and authority to execute and deliver this Agreement and to incur and perform the obligations provided herein. No consent or approval of any public authority or other third party is required as a condition to the validity of this Agreement, and the Company is in compliance with all laws and regulatory requirements to which it is subject.
- 12.3 **No Conflicting Agreement.** There is no charter, bylaw, stock provision, partnership agreement or other document pertaining to the organization, power or authority of the Company and no provision of any existing agreement, mortgage, deed of trust, indenture or contract binding on the Company or affecting the Company's property which would conflict with or in any way prevent the execution, delivery, or carrying out of the terms of this Agreement.
- 12.4 **Litigation.** To the best of the Company's knowledge, there is no proceeding involving the Company or any owner with more than 5% ownership in the Company as of the Effective Date, pending or threatened before any court or governmental authority, agency or arbitration authority which if adversely decided would materially affect the Company's ability to meet its obligations under this Agreement and conduct its operations at the Project.
- 12.5 **Compliance with Laws.** To the best of its knowledge, the Company is in compliance with all federal, state and local laws, regulations and governmental requirements including, but not limited to, environmental laws and the applicable federal and state laws, executive orders and regulations concerning discrimination on the basis of race, color, religion, sex, national origin, familial status, or disability, applicable to its facility including without limitation the property, business operations, employees, and transactions thereof.
- 12.6 **Binding Agreement.** Each part of this Agreement is a legally valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except as may be limited by bankruptcy, insolvency or similar laws

affecting creditors' rights. This Agreement has been signed by an authorized Company representative and such signature is recognized by the Company as legally binding.

- 13.0 **Indemnification.** The Company agrees to defend, indemnify, and hold the Department and the Grantee harmless from and against the costs of any litigation (including reasonable attorney's fees) arising from this Agreement or the Grant Award provided by the Department to the Grantee for the direct or indirect benefit of the Company. Please note that the SC Tort Claims Act, Section 15-78-10 et seq. of the S.C. Code of Laws, 1976, as amended (the "Code") provides full or limited immunity to governmental parties from third party claims and prohibits recovery of punitive or exemplary damages. This provision shall survive the termination of this Agreement for any claim arising during the term of this Agreement.
- 14.0 **Assignability.** No party to this Agreement may assign the terms of this Agreement, in whole or in part, to another entity without the written permission of the other parties to this Agreement.
- 15.0 **Notification.** The Company must notify the Grantee and the Department if there are any changes in the status of the Company that will impact or alter the Company's ability to comply with this Agreement. All notices required or otherwise provided under this Agreement shall be deemed made upon mailing by first class mail, postage prepaid, and addressed to the other party as follows:

Notices to the Department shall be sent to:

South Carolina Department of Agriculture
Attn: Agribusiness Infrastructure Panel
1200 Senate Street
Columbia, SC 29201

Notices to Grantee shall be sent to:

Beaufort County
Attn: _____

Notices to the Company shall be sent to:

SERG Restaurant Group, LLC
Attn: _____

With a copy to:

- 16.0 **Severability.** If any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect, the legality, validity and enforceability of the other provisions of this Agreement shall not in any way be affected or impaired thereby.
- 17.0 **Governing Law and Jurisdiction.** This Agreement is made under and shall be construed in accordance with the laws of the State of South Carolina, without regard to conflicts of laws principles. By executing this Agreement, the Company also agrees to submit to the jurisdiction of the courts of the State of South Carolina for all matters arising hereunder. In the event of a dispute, the Department shall have standing to represent the State of South Carolina.
- 18.0 **Freedom of Information.** The Company understands and agrees that: (i) the Grantee and the Department are each a public body within the meaning of the South Carolina Freedom of Information Act, Title 30, Chapter 4 of the Code (the “Act”); (ii) the Grantee and the Department are each required to comply with the provisions of the Act by disclosing certain public records upon receipt of a written request; and (iii) after execution of this Agreement, this Agreement and all documents and other information incidental to this Agreement are subject to disclosure pursuant to Sections 30-4-40(a)(9) and 30-4-40(a)(5) of the Code upon request. If disclosure of this Agreement and related information is required, pursuant to Section 30-4-40(a)(5)(c) of the Code, the Department agrees to redact any information in this Agreement, or any documents incidental thereto, that is clearly marked by the Company as confidential and proprietary and has been provided to the Department for economic development or contract negotiation purposes. However, the Grantee, the Department, and their respective members, employees, and staff shall not be liable for the inadvertent release of any information contained in the Agreement or any other documents related to the Project, absent gross negligence or willful misconduct.

To the extent an action at law or equity is brought to require the disclosure of any information related to the Project under the Act, the Department reserves the right to include the Company in such action and the Company hereby agrees to bear all costs associated with defending such action.

- 19.0 **Events of Default.** The following shall constitute events of default by the Company under this Agreement:
 - 19.1 any representation or warranty made by the Company herein that is false or misleading in any material respect at the time made;
 - 19.2 failure of the Company to comply with all applicable statutory, policy and regulatory guidelines of the State government and the Department governing the use of Agribusiness Initiative funds;

- 19.3 failure of the Company to observe and perform any covenant, condition or agreement hereunder on its part to be performed and continuance of such failure for a period of thirty (30) days after receipt by the Company of written notice from the Department specifying the nature of such failure and requesting that it be remedied; provided, however, except as otherwise set forth herein, if, by reason of the nature of such failure, the same cannot be remedied within the said thirty (30) days and the Company proceeds with reasonable diligence after receipt of the notice to cure the failure, the period may be extended upon the prior written consent of the Department;
- 19.4 the Company's consenting to the appointment of a receiver, trustee or liquidator of itself or of a substantial part of its property, or admitting in writing its inability to pay its debts generally as they come due, or making a general assignment for the benefit of creditors;
- 19.5 the Company's filing a voluntary petition in bankruptcy or a voluntary petition or an answer seeking reorganization in a proceeding under any bankruptcy laws (as now or hereafter in effect), or, by voluntary petition, answering or consenting, seeking relief under the provisions of any other now existing or future bankruptcy or other similar law providing for the reorganization or winding-up of corporations, or providing for an agreement, composition, extension or adjustment with its creditors;
- 19.6 the entry of an order, judgment, or decree in any proceeding by any court of competent jurisdiction appointing, without the consent of the Company, a receiver, trustee or liquidator of the Company or of any substantial part of its property, or sequestering any substantial part of its property, and any such order, judgment or decree of appointment or sequestration remaining in force undismissed, unstayed, or unvacated for a period of 90 days after the date of entry thereof; or
- 19.7 a petition against the Company in a proceeding under applicable bankruptcy laws or other insolvency laws as now or hereafter in effect is filed and not withdrawn or dismissed within 120 days thereafter, or if, under the provisions of any law providing for reorganization or winding-up of corporations which may apply to the Company, any court of competent jurisdiction shall assume jurisdiction, custody or control of it or of any substantial part of its property and such jurisdiction, custody or control shall remain in force unrelinquished, unstayed or untermiated for a period of 120 days.
- 20.0 **Remedies.** If any event of default shall occur and be continuing, then the Department may undertake any of the remedial actions set forth in this Agreement. If any such event of default shall occur and be continuing, then the Department shall, to the extent permitted by law and without notice of any kind to the Company (except to the extent required by law or as expressly required herein), seek to enforce the rights of the Department hereunder by exercising any or all of the following remedies:

- 20.1 Refrain from extending any further assistance or Grant Award funds until such time as the Company is in full compliance with the terms and conditions of this Agreement;
- 20.2 Require repayment of all or a portion of the Grant Award funds expended under this Agreement. Provided, however, notwithstanding anything contained in this Agreement to the contrary, if an event of default arises from a failure to satisfy and/or maintain the Investment Requirement and/or the Job Requirement, as applicable, as required herein, any such repayment of Grant funds shall be pursuant to the provisions of **Section 11.0** hereof;
- 20.3 Cancel, terminate or suspend this Agreement; or
- 20.4 Take such other reasonable action as may be necessary to protect its rights and interests hereunder.

21.0 **Additional Remedial Provisions.**

- 21.1 No remedy herein conferred or reserved to the Department is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. A waiver of any particular breach or default under any provision hereof shall not operate as a waiver of any further or subsequent breach or default under such provision. The remedies herein provided are cumulative and not exclusive of any remedies provided by law, and any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Department to exercise any remedy reserved to them in this Agreement, it shall not be necessary to give notice other than such notice as may be required in this Agreement.
- 21.2 Neither the Grantee nor the Department shall be required to do any act whatsoever or exercise any diligence whatsoever to mitigate the damages to the Company if an event of default shall occur hereunder.

- 22.0 **Counterparts.** This Agreement may be executed in two or more counterparts each of which shall be deemed to be an original, but all of which shall constitute one and the same instrument.

[Signatures on following page]

IN WITNESS WHEREOF, the parties have caused this Agreement to be fully executed by their authorized representatives under seal to be effective as of the date first written above.

GRANTEE

By:
Its:

SERG RESTAURANT GROUP, LLC

By:
Its:

**SOUTH CAROLINA DEPARTMENT
OF AGRICULTURE**

By: Hugh E. Weathers
Its: Commissioner

[Signature page to Performance Agreement]

Exhibit A

Bidding Process to be used for Costs to be reimbursed with Grant Funds

1. Use full and open competition to the maximum extent practicable.
2. Permit acquisitions without competition only when the purchasing agent determines in writing, after conducting a good faith review of available sources, that there is only one source for the required timely supply, service, or construction item. A copy of such written determination must be included with any request to disbursement of Grant funds to reimburse for the costs of such supply, service or construction item. In addition, the Company must maintain a copy of such written determination as set forth in **Section 6.0** hereof.
3. Restrict competition only when necessary to satisfy a reasonable public requirement.
4. Provide clear, adequate, and sufficiently definite information about Project needs to allow bidders to enter the acquisition on an equal basis.
5. Use reasonable methods to publicize bidding requirements and timely provide solicitation documents (including amendments, clarifications and changes in requirements).
6. State in solicitations the bases to be used for evaluating bids and proposals and for making the award.
7. Evaluate bids and proposals and make the award based solely on the criteria in the solicitation.
8. Grant maximum public access to procurement information subject to the Company's needs to protect its trade secrets, proprietary or confidential source selection information, and personal privacy rights.
9. Ensure that all parties involved in the bidding process participate fairly, honestly, and in good faith.
10. Recognize that adherence to these bidding process requirements is essential to maintenance of the integrity of the project.

Exhibit B

GRANT PERIOD PERIODIC REPORT

Grant #: _____

Grantee: Beaufort County

Report for the Year Ended: _____

Minimum Investment Requirement \$8,100,000.00

Minimum Job Requirement: 40 full-time

Inspection, Record Keeping and Reporting:

Total investment in real and personal property in the Project as of the date of this report: \$ _____

Total number of new, full-time jobs at the Project as of the date of this report: _____

Total amount of grant funds disbursed as of the date of this report: \$ _____

I declare the above information to be correct and complete, and that I am authorized to report this information.

Authorized Company Representative (Signature)

Date

Authorized Company Representative (Printed)

Title

Telephone Number

Please return to:
South Carolina Department of Agriculture
Agribusiness Infrastructure Panel
1200 Senate Street ■ Columbia, SC 29201

Exhibit C

MAINTENANCE PERIOD ANNUAL REPORT

Grant #: _____

Grantee: Beaufort County

Report for the Year Ended: _____

Minimum Investment Requirement \$8,100,000.00

Minimum Job Requirement: 40 full-time

Inspection, Record Keeping and Reporting:

Monthly average of the total investment in real and personal property in the Project for the preceding year: \$ _____

Monthly average of the total number of new, full-time jobs created at the Project for the preceding year: _____

Total amount of grant funds disbursed as of the date of this report: \$ _____

I declare the above information to be correct and complete, and that I am authorized to report this information.

Authorized Company Representative (Signature)

Date

Authorized Company Representative (Printed)

Title

Telephone Number

Please return to:
South Carolina Department of Agriculture
Agribusiness Infrastructure Panel
1200 Senate Street ■ Columbia, SC 29201

SOUTH CAROLINA DEPARTMENT OF AGRICULTURE
1200 Senate Street | Wade Hampton Building, 5th Floor
Columbia, South Carolina 29201

GRANT AWARD AGREEMENT

In accordance with Agribusiness Infrastructure Incentives Distribution Initiative, developed by the Department and initially funded in the Department's budget for fiscal year 2019/2020, the South Carolina county Beaufort County, hereinafter called the Grantee, the sum in dollars set forth in Section 3 below for the Project identified in Section 2 below. The acceptance of the Agreement creates a contract between the Department and the Grantee, legally binding the Grantee to carry out the activities and obligations set forth in the Application and this Agreement, all in accordance with the terms and conditions set forth in this Agreement and in any appendices attached hereto and any other documents or conditions referred to herein.

Section 1: DEFINITIONS:

- (a) Agreement means this Grant Award Agreement.
- (b) Application means the grant application forms submitted by the Grantee to the Department.
- (c) Company means the economic development corporate entity that is identified in the Application.
- (d) Contractor means a private contractor who undertakes all or part of the Grant Project.
- (e) Department means the South Carolina Department of Agriculture (SCDA).
- (f) Grant means the dollars committed by the Department to the Grantee for the Project.
- (g) Grant Project means the portion of the Project that is within the scope of work as described in Section 2.0 hereof and approved by the Department to be reimbursed with Grant funds.
- (h) Grantee means the unit of government designated for the Grant and set forth above.
- (i) Project means the project identified and described in the Application.
- (j) State means the State of South Carolina and any agencies or offices thereof.

Section 2: PROJECT DESCRIPTION: Funds will be used for approved expenses related to the purchase of land and construction of a new SERG Production Kitchen

intended to serve as a manufacturing, distribution, and preparation facility to supply SERG restaurants, retail customers, and other local restaurants and food preparation facilities with wholesale food, beverage, and supplies. The Grant Project has been approved by the Department and is included by reference as Project Comida.

Section 3: AWARD AMOUNT: The Department hereby commits an amount not to exceed Fifty Thousand and No/100 Dollars (\$50,000.00), to be used only for the Grant Project and related costs, as described in the Application. Eligible costs that can be paid from the Grant shall include only those costs within the scope of work approved by the Department.

3.1: Approval of Third Party Contracts: The Grantee must submit all agreements with a Contractor engaged to perform work within the scope of the Grant Project to the Department when it submits a reimbursement request relating to a payment to that Contractor.

3.2: Notice to Proceed: The Grantee must obtain from the Department written notice to proceed prior to incurring costs against the Grant. If the Grantee or the Company needs to incur expenses prior to the Department's notification to proceed, the Grantee must submit a written request to the Department and obtain prior written approval from the Department. Otherwise, any expenditure made prior to the date of the written notice to proceed is made by the Grantee or the Company at its own risk and expense and is not eligible for payment with Grant funds.

3.3: Engineering Costs: Reimbursement of engineering costs will be capped at 10% of the total grant award amount. Requests that exceed 10% must have substantial justification and require prior approval by the Department to be reimbursable.

3.4. Administrative Fees: The Grantee may not charge an administration fee in connection with the Grant.

Section 4: AMENDMENTS: Any changes in the scope of work of the Grant Project, including change orders or cost increases, must be submitted in writing by the Grantee to the Department as a request for an award adjustment, and such request must clearly identify the need for the change or relief. Any adjustment granted by the Department shall be appended to this Agreement as an amendment.

Section 5: PERFORMANCE: By acceptance of this Grant, the Grantee warrants that it will complete or cause to be completed the Grant Project as described in the approved Application, including any approved amendments appended hereto. Should Grantee fail to cause the completion of all or part of the Grant Project, the Department shall be entitled to reimbursement from the Grantee of any Grant funds that were received by the Grantee for any work that was not performed.

Section 6: FUNDING UNDERRUNS: The Grantee agrees that it will return surplus Grant funds that result from Grant Project cost underruns.

Section 7: AUDIT: The Grantee must include an examination and accounting of the expenditures of Grant funds in its first annual audit following the completion of the Grant Project, and submit a copy of the audit report to the Department. The Grantee agrees that it will reimburse the Department for unauthorized and unwarranted expenditures

disclosed in the audit, if so directed by the Department. Upon request of the Department, the Grantee shall make available, and cause the Company to make available, for audit and inspection by the Department and its representatives all the books, records, files and other documents relating to any matters pertaining to the Grant Project, the Application or this Agreement. The Grantee shall have prepared an audit of Grant funds received under this Agreement that adheres to the following audit requirements, whichever is applicable:

- (a) Generally accepted auditing standards established by the American Institute of Certified Public Accountants, (AICPA);
- (b) The General Accounting Office (GAO) Standards for Audits of Governmental Organizations, Programs, Activities, and Functions, latest revised edition (Yellow Book);

Section 8: CONTRACTOR SELECTION:

- (a) In the event that the Grantee will be engaging a Contractor to undertake all or any part of the scope of work of the Grant Project, then the selection of that Contractor by the Grantee must follow the applicable procurement laws, regulations and guidelines of the county. The use of the grant funds is not subject to the requirements of the State Procurement Code or the regulations promulgated thereunder. If the Grantee fails to adhere to procurement requirements as set forth herein, the Department may call for repayment by the Grantee for Grant funds that were expended in a disallowable manner.

A Contractor must represent that it has, or will secure at its own expense, all personnel required in the performance of the services covered by this Agreement. Such personnel shall not be employees of, or have any contractual relationship with the Department or the Grantee.

All of the services required to complete the Project will be performed by the Grantee and/or a Contractor, or under its supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized under state and local law to perform such services.

The Grantee and/or a Contractor shall be liable for and pay all taxes required by local, state, or federal governments, which may include, but not be limited to, social security, worker's compensation, and employment security as required by law. No employee benefits of any kind shall be paid by the Department to or for the benefit of the Grantee and/or a Contractor or his employee or agents by reason of this Agreement.

- (b) In the event that the Company will be engaging a Contractor to undertake all or any part of the scope of work of the Grant Project, the Grantee warrants that it will ensure that the selection of the Contractor complies with the requirements set forth in Exhibit A attached hereto.

Section 9: CONFIDENTIAL INFORMATION: Any reports, information, data, or other documentation given to or prepared or assembled by the Grantee under this Agreement which the Department requests to be kept confidential shall not be made

available to any individual or organization by the Grantee without the prior written approval of the Department.

Section 10: DISCRIMINATION: The Grantee shall not, and in the event it engages Contractors it shall impose on its Contractors the obligation not to, discriminate against any employee or applicant for employment because of race, color, religion, age, sex, national origin, or handicap. The Grantee and any Contractor shall be required to take affirmative action to ensure that applicants for employment and employees are treated without regard to their race, color, religion, age, sex, national origin, or handicap.

Section 11: INTEREST OF CERTAIN FEDERAL OR STATE OFFICIALS: No elected or appointed State or federal official shall be admitted to any share or part of the Grant funds, this Agreement or to any benefit to arise from the same.

Section 12: INTEREST OF MEMBERS, OFFICERS OR EMPLOYEES OF THE GRANTEE, MEMBERS OF LOCAL GOVERNING BODY OR OTHER PUBLIC OFFICIALS: No member, officer or employee of the Grantee, or its designees or agents, no member of the governing body of the locality in which the Project is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the Project during his tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the Grant Project or this Agreement. If the Grantee engages any Contractors for the Grant Project, the Grantee shall incorporate, or cause to be incorporated, in all of its contracts or subcontracts relating to the Grant Project and this Agreement this provision prohibiting such interest.

Section 13: PROHIBITION AGAINST PAYMENTS OF BONUS OR COMMISSION: The assistance and Grant funds provided under this Agreement shall not be used for the payment of any bonus or commission for the purpose of obtaining the Department's approval of the Application, or the Department's approval of any applications for additional assistance or Grant funds, or any other approval or concurrence of the Department required under this Agreement. However, the payment from Grant funds of reasonable fees for bona fide technical, consultant, managerial or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as Grant Project costs.

Section 14: MAINTENANCE OF AND ACCESS TO RECORDS: The Grantee shall retain records for property purchased totally or partially with Grant funds and records relating to procurement matters for a period of three years after the final disposition of the Grant. All other pertinent Grant and Project records including financial records, supporting documents, and statistical records shall be retained for a minimum of three years after notification in writing by the Department of the closure of the Grant. However, if any litigation, claim, or audit is initiated before the expiration of any such period, then records must be retained for three years after the litigation, claim, or audit is resolved. Upon request, the Grantee must make these records available to the Grantee's auditor, the Department, and its representatives.

Section 15: MBE OBLIGATION: The Grantee agrees to use its best efforts to ensure that minority business enterprises, as identified in Article 21, Sections 11-35-5210 through 11-35-5270 of the Code have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Grant funds provided under this Agreement. In this regard, the Grantee and any Contractors shall

take all necessary and reasonable steps to ensure that minority business enterprises have the maximum opportunity to compete for and perform contracts

Section 16: PROJECT COMPLETION: The Grantee must complete, or cause to be completed, the Grant Project within 18 months of the Date of Award of this Grant. Completion is defined as the final documentation by the Grantee to the Department of Grant funds expended and issuance by the Department of a notification in writing of the closure of the Grant. The Department may grant extensions to this completion period requirement at its discretion.

Section 17: SANCTIONS: If the Grantee fails or refuses at any time to comply with any of the terms and conditions of this Agreement, the Department may take, in addition to any relief that it is entitled to at law, any or all of the following actions: require repayment of all or a portion of any Grant funds provided; cancel, terminate, or suspend, in whole or in part, the Grant and this Agreement; or refrain from extending any further assistance or Grant funds to the Grantee until such time as the Grantee is in full compliance with the terms and conditions of this Agreement.

Section 18: APPLICABLE LAW: This Agreement is made under and shall be construed in accordance with the laws of the State, without regard to conflicts of laws principles. The federal and state courts within the State shall have exclusive jurisdiction to adjudicate any disputes arising out of or in connection with this Agreement.

Section 19: APPROPRIATIONS: Notwithstanding any other provisions of this Agreement, the parties hereto agree that the Grant funds awarded hereunder are payable by appropriations from the State. In the event sufficient appropriations, grants, and monies are not made available to the Department to pay the compensation and expenses hereunder for any fiscal year, this Agreement shall terminate without further obligation of the Department. In such event, the Department shall certify to the Grantee the fact that sufficient funds have not been made available to the Department to meet the obligations of this Agreement; and such written certification shall be conclusive upon the parties.

Section 20: COPYRIGHT: No material produced in whole or in part under this Grant shall be subject to copyright in the United States or in any other country. The Department shall have the unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data or other materials prepared under this Grant.

Section 21: TERMS AND CONDITIONS: The Department reserves the right to add or delete terms and conditions of this Agreement as may be required by revisions and additions to changes in the requirements, regulations, and laws governing the Department and any other agency of the State.

Section 22: REPORTING REQUIREMENTS: The Grantee agrees to submit quarterly progress reports that provide a status update and identification of any material issues affecting the Project. Progress reports will be due on the first day of the month beginning with the first full month after commencement of the Project. Failure to submit progress reports will be subject to sanctions identified in Section 17 herein. The Grantee further agrees to complete and submit all quarterly progress reports and any other reports, in such form and according to such schedule, to the extent not specified herein, as may be required by the Department.

Section 23: PROJECT START-UP: The Project must begin within three months of the Date of Award of the Grant. If the Grantee or the Company does not begin the Project within three months of the Date of Award of the Grant, the Department reserves the right to rescind the Grant, require the repayment of any Grant funds provided to Grantee and terminate this Agreement. For purposes of this section, the Grantee or the Company shall have begun the Project once it has incurred material obligations in connection with the Project satisfactory to the Department to indicate that the Project will be timely completed.

Section 24: LIABILITY: The Grantee understands that Department accepts no liability for the Project nor any responsibility other than its agreement to provide the Grantee the Grant funds for the Grant Project in the amount shown in Section 3, insofar as such funds are expended in accordance with the terms and conditions of this Agreement. During the term of the Grant, the Grantee shall maintain tort liability insurance or shall have a self-funded and excess liability program with coverage amounts sufficient to meet the limits set forth under the SC Torts Claims Act in Section 15-78-120, as may be amended.

Section 25: PAYMENT: The Grantee must submit to the Department a certified request for payment for work that is documented by the Grantee. The Department, upon its approval of the request for payment, shall forward such requests to the Finance Department of the South Carolina Department of Commerce. Payments are issued from the Comptroller General's office. Payment requests should be submitted to the Department no more than once a month.

The Grantee will certify, to the best of its knowledge, information and belief, that the work on the Project for which reimbursement is requested has been completed in accordance with the terms and conditions of this Agreement, and that the payment request is due and payable from Grant funds.

All requests for payment must be certified as valid expenditures by an official representative of the Grantee. Invoices and canceled checks supporting the Grantee's request for reimbursement from Grant funds must be kept on file and be available for inspection at any time.

Section 26: RESPONSIBILITY FOR MAINTENANCE: Maintenance of new roads and other improvements to the Grantee's or Company's right of way and/or property is the sole responsibility of the Grantee. Neither the Department nor the State shall have any responsibility whatsoever to maintain such roads and other improvements relating to the Project. The Grantee may assign this responsibility to any agreeable party.

Section 27: SEVERABILITY: If any provision of this Agreement is or becomes illegal, invalid, or unenforceable in any respect, the legality, validity, and enforceability of the other provisions of this Agreement shall not in any way be affected or impaired thereby.

[Signatures on following page]

This Agreement shall become effective, as of the Date of Award, upon receipt of one copy of this Agreement which have been signed in the space provided below. The agreement must have original signatures and must be returned within fifteen days from the Date.

Date of Award

Hugh E. Weathers
Commissioner
South Carolina Department of Agriculture

ACCEPTANCE FOR THE GRANTEE

Signature of Official with Legal Authority
to Execute this Agreement for the Grantee

Date

Typed Name and Title of Authorized Official

ATTEST:

Signature of Elected City or County Council
Member, as appropriate

Signature of Elected City or County Council
Member, as appropriate

Exhibit ABidding Process to be used for Costs to be reimbursed with Grant Funds

1. Use full and open competition to the maximum extent practicable.
2. Permit acquisitions without competition only when the purchasing agent determines in writing, after conducting a good faith review of available sources, that there is only one source for the required timely supply, service, or construction item. A copy of such written determination must be included with any request to disbursement of grant funds to reimburse for the costs of such supply, service or construction item. In addition, the company must maintain a copy of such written determination as set forth in Section 12 of the Agreement.
3. Restrict competition only when necessary to satisfy a reasonable public requirement.
4. Provide clear, adequate, and sufficiently definite information about project needs to allow bidders to enter the acquisition on an equal basis.
5. Use reasonable methods to publicize bidding requirements and timely provide solicitation documents (including amendments, clarifications and changes in requirements).
6. State in solicitations the bases to be used for evaluating bids and proposals and for making the award.
7. Evaluate bids and proposals and make the award based solely on the criteria in the solicitation.
8. Grant maximum public access to procurement information subject to the Company's needs to protect its trade secrets, proprietary or confidential source selection information, and personal privacy rights.
9. Ensure that all parties involved in the bidding process participate fairly, honestly, and in good faith.
10. Recognize that adherence to these bidding process requirements is essential to maintenance of the integrity of the project.



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
RECOMMEND APPROVAL OF PURCHASE AND PAYMENT OF HANDICAP ACCESSIBLE PLAYGROUND EQUIPMENT AT BEAUFORT COUNTY’S PORT ROYAL CENTER IN THE AMOUNT OF \$799,052. (FISCAL IMPACT: \$799,052 TO BE PAID OUT OF CAPITAL IMPROVEMENT PROJECT FUND 10401600-54436; ACCOUNT BALANCE IS \$4,820,179)
MEETING NAME AND DATE:
FINANCE, ADMINISTRATION, AND ECONOMIC DEVELOPMENT COMMITTEE; MONDAY, SEPTEMBER 18th, 2023 @ 3PM.
PRESENTER INFORMATION:
CHUCK ATKINSON, ACA DEVELOPMENT AND RECREATION DIVISION <i>10 MINUTES</i>
ITEM BACKGROUND:
A HANDICAP ACCESSIBLE PLAYGROUND STRUCTURE WAS PROCURED VIA A SOURCEWELL NATIONAL COOPERATIVE CONTRACT. BECAUSE THE VALUE OF THE CONTRACT WAS \$799,052, APPROVAL SHOULD HAVE COME THROUGH COUNCIL PURSUANT TO BEAUFORT’S CODE OF ORDINANCES SEC. 509(d). FOR REASONS SET FORTH BELOW IT DID NOT. BEAUFORT’S CODE OF ORDINANCES SEC. 510 (d) ALLOWS THE ADMINISTRATOR TO RATIFY ACTS OBLIGATING THE COUNTY IN A CONTRACT BY ANY PERSON WITHOUT THE REQUISTE AUTHORITY. ALTHOUGH THE CODE HAS DELEGATED TO THE ADMINISTRATOR THE AUTHORITY TO RATIFY THIS CONTRACT SO THE COUNTY CAN PAY THE INVOICES (TOTALING \$799,052), THE ADMINISTRATOR CHOOSES INSTEAD TO BRING THE MATTER TO COUNCIL FOR APPROVAL AND AUTHORIZATION GIVEN THE AMOUNT OF MONEY INVOLVED AND THE CIRCUMSTANCES SURROUNDING THE AQUISITION .
PROJECT / ITEM NARRATIVE:
THE PLAYGROUND WAS ORIGINALLY ORDERED BY A NEIGHBORING JURISDICTION WHICH CANCELLED THE ORDER WHILE THE PLAYGROUND WAS BEING MANUFACTURED. BECAUSE THE SUPPLIER (CHURCHICH RECREATION, INC.) HAD THE EQUIPMENT IN ITS INVENTORY, THE TOTAL PRICE OF THE INSTALLED PLAYGROUND INCLUDES A DISCOUNT OF \$95,801 AND WAS AVAILABLE FOR INSTALLATION 18 MONTHS EARLIER THAT PREVIOUSLY ANTICIPATED IN BEAUFORT COUNTY’S FY23 ANNUAL BUDGET, FUNDING WAS ALLOCATED FOR MULTIPLE RECREATIONAL CAPITAL IMPROVEMENTS, INCLUDING PLAYGROUND EQUIPMENT PROCUREMENT AND INSTALLATION. THROUGHOUT FISCAL YEAR 2023 SEVERAL OTHER PLAYGROUND PROCUREMENTS WERE MADE AND INSTALLED. EACH OF THESE PURCHASES AND INSTALLATIONS WERE LESS THAN \$150,000 SO THEY WERE APPROVED BY THE ADMINISTRATOR PURSUANT TO CODE SECTION 2-509 (WHICH INDICATES COUNCIL’S APPROVAL IS NOT REQUIRED). DUE TO CONFUSION RESULTING FROM MULTIPLE PLAYGROUNDS BEING PURCHASED USING THE SOURCEWELL NATIONAL COOPERATIVE CONTRACT FOR MULTIPLE SITES THROUGHOUT THE COUNTY SIMULTANIOUSLY AND A PROCEDURAL SEQUENCING ERROR BY STAFF, THE HANDICAP ACCESSIBLE PLAYGROUND WAS DELIVERED AND ASSEMBLED PRIOR TO COUNTY COUNCIL APPROVING THE PENDING CONTRACT. ALTHOUGH THE ACCESSIBLE PLAYGROUND HAS BEEN DELIVERED AND ASSEMBLED, NO FUNDS HAVE BEEN DISBURSED FOR THIS PROJECT AND THE INVOICES ARE ON HOLD PENDING COUNCIL’S APPROVAL.

THE ASSISTANT COUNTY ADMINISTRATOR FOR DEVELOPMENT AND RECREATION HAS PREPARED THE WRITTEN DETERMINATION WHICH IS REQUIRED BY CODE SECTION 2-510(e).

FISCAL IMPACT:

\$799,052 TO BE PAID OUT OF CAPITAL IMPROVEMENT PROJECT FUND 10401600-54436; ACCOUNT BALANCE IS \$4,820,179.

STAFF RECOMMENDATIONS TO COUNCIL:

STAFF RECOMMENDS APPROVAL OF PURCHASE AND PAYMENT OF HANDICAP ACCESSIBLE PLAYGROUND EQUIPMENT AT BEAUFORT COUNTY'S PORT ROYAL CENTER IN THE AMOUNT OF \$799,052.

OPTIONS FOR COUNCIL MOTION:

MOTION TO APPROVE/DENY PURCHASE AND PAYMENT OF HANDICAP ACCESSIBLE PLAYGROUND EQUIPMENT AT BEAUFORT COUNTY'S PORT ROYAL CENTER IN THE AMOUNT OF \$799,052.

IF APPROVED, THIS ITEM WILL MOVE FORWARD TO COUNTY COUNCIL ON MONDAY, SEPTEMBER 25TH.

Sec. 2-509. Authority and duties of purchasing director.

- (a) *Principal public procurement official.* The purchasing director shall serve as the principal public procurement official of the county and shall be responsible for the procurement of supplies, services, and construction in accordance with this division, as well as the management and disposal of supplies.
- (b) *Duties.* In accordance with this division, the purchasing director shall:
- (1) *Purchase.* Purchase all supplies, materials, equipment, and contractual services required by county agencies and perform the purchasing-related functions required of the purchasing director in this division.
 - (2) *Negotiate contracts.* Negotiate contracts for personal services and submit them for approval and award as provided in this division.
 - (3) *Use standard specifications.* Use standard specifications wherever they are applicable to purchase orders and contracts, and ensure compliance with such specifications through adequate inspection of deliveries.
 - (4) *Transfer between agencies.* Transfer between agencies supplies, materials, and equipment that are no longer needed by a holding agency but that can be used by the receiving agency.
 - (5) *Exchange, trade in and sell.* Exchange, trade in or sell those supplies, materials and equipment which are surplus, obsolete or unused and which are found by the county administrator not to be required for public use.
 - (6) *Develop standard forms and conditions.* Develop, with the approval of the county attorney as to legal sufficiency, standard forms and conditions of invitations to bid and purchase orders and contracts; develop and prescribe the use by agencies of other forms required in carrying out this division, and amend or eliminate any such forms.
 - (7) *Acquire and dispose of real property.* Upon request of the county council and subject to its approval of each transaction, perform all delegable functions in connection with acquisition and disposal of real property.
 - (8) *Perform other duties.* Perform other duties as assigned by the county administrator and ACA, finance.
- (c) *Operational procedures.* Consistent with this division, the purchasing director shall adopt operational procedures relating to the execution of his duties.
- (d) *Dollar limitations.* Provided that funds have been preapproved by the county council as part of the budget process, an award is made to the lowest responsive and responsible bidder, the contracting authority for the county, except as otherwise provided in section 2-512 pertaining to authority to contract for certain services, section 2-513 pertaining to exemption and section 2-514 pertaining to exemption for real property, shall be as follows:
- (1) Purchasing director, chief financial director, \$50,000.00 or less.
 - (2) County administrator or his designee, over \$50,000.00, but less than \$150,000.00. The county administrator may approve contract renewals and be exempt from the dollar limitations on expenditure authority identified in this section 2-509, authority and duties of purchasing director, paragraph (d), dollar limitations in paragraphs (1)—(4), provided that the funds have been approved by the county council as part of the annual budget appropriation process, and that any expenditure of funds regardless of the amount will not result in a budget deficit.
 - (3) Council committee, over \$150,000.00, but less than \$200,000.00.
 - (4) The county council, \$200,000.00 and over.

- (e) *Elected and appointed officials.* Provided that funds have been approved by the county council as part of the annual budget appropriation process, and that any expenditure of funds regardless of the amount will not result in a budget deficit within any elected official's office, the sheriff, auditor, treasurer, clerk of court, coroner, solicitor, public defender, probate judge, and magistrates shall be exempt from the dollar limitations on expenditure authority identified above provided that they shall comply with all of [the] provisions of competitive purchasing as may be required by South Carolina law and the Beaufort County Purchasing Ordinance. The county council may request such reports and information as it deems necessary and prudent on the purchasing activities of these offices to ensure compliance with these provisions.

(Code 1982, § 12-10; Ord. No. 99-14, 5-24-1999; Ord. No. 2014/4, 2-10-2014 ; Ord. No. 2021/42 , 12-13-2021; Ord. No. 2022/47 , 11-14-2022)

Sec. 2-510. Delegation of authority of purchasing director.

- (a) The purchasing director may delegate authority to designees of the office of the purchasing director.
- (b) Notwithstanding section 2-509 pertaining to authority and duties, procurement authority with respect to certain supplies, services, or construction may be delegated to other county officials by the county administrator, when such delegation is deemed necessary for the effective procurement of these supplies, services, or construction.
- (c) The sections of this division shall apply to every delegation of authority.
- (d) The ratification of an act obligating the county in a contract by any person without the requisite authority to do so by an appointment or delegation under this division rests with the county administrator.
- (e) The department head shall prepare a written determination as to the facts and circumstances surrounding unauthorized procurement, what corrective action is being taken to prevent occurrence, action taken against the individual committing the act, and documentation that the price paid is fair and reasonable. If the price paid is unreasonable, the individual committing that act may be held pecuniarily liable for the difference.

(Code 1982, § 12-11)

Churchich Recreation (CRD of Hilton Head, Inc.)

20 Towne Drive PMB 186
Bluffton, SC 29910
843-757-3156



INVOICE

BILL TO
Beaufort County PARS
County Council
Attn: Finance Dept
P.O. Drawer 1228
Beaufort,
Beaufort, SC 29901-2228

SHIP TO
Beaufort County PARS
Port Royal Community Center
1514 Richmond Ave,
Port Royal, SC 29935

INVOICE 3448
DATE 05/25/2023
TERMS Net 30

ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
MREC	Miracle Recreation Equip per drawing	1	416,528.00	416,528.00T
Turf	Shaw "play 50" sports turf, nailer edge, silica sand infill, stone base, 2" brock fall pad	0	11.00	0.00T
Installation	turf installation	0	11.00	0.00
Concrete	concrete curbs for turf	0	33.00	0.00T
Shade Systems	8' x 30' shade walk, in ground bury, standard colors, 8' eave	2	8,991.00	17,982.00T
Premier Polysteel	6' bench w back perforated metal	4	1,300.00	5,200.00T
Freight	Shipping Charge	1	21,000.00	21,000.00T
Discount	Sourcewell - 010521	1	-95,801.44	-95,801.44T
Installation	Installation of shade and equipment, assumes good access to site, site is prepped, no hand digging of holes, no possible permits, no dumpster cost, *additional charges possible upon site work	0	120,000.00	0.00

Thank you for your business

SUBTOTAL	364,908.56
TAX	25,543.60
TOTAL	390,452.16
BALANCE DUE	\$390,452.16

Churchich Recreation (CRD of Hilton Head, Inc.)

20 Towne Drive PMB 188
Bluffton, SC 29910
843-757-3158



INVOICE

BILL TO
Beaufort County PARS
County Council
Attn: Finance Dept
P.O. Drawer 1228
Beaufort,
Beaufort, SC 29901-2228

SHIP TO
Beaufort County PARS
Port Royal Community Center
1514 Richmond Ave,
Port Royal, SC 29935

INVOICE 3494
DATE 06/29/2023
TERMS Net 30

ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
Turf	Shaw "play 50" sports turf, nailer edge, silica sand infill, stone base, 2" brock fall pad	12,000	11.00	132,000.00T
Installation	turf Installation	12,000	11.00	132,000.00
Concrete	concrete curbs for turf	435	33.00	14,355.00T
Installation	Installation of shade and equipment, assumes good access to site, site is prepped, no hand digging of holes, no possible permits, no dumpster cost, *additional charges possible upon site work	1	120,000.00	120,000.00

Thank you for your business

SUBTOTAL	398,355.00
TAX	10,244.85
TOTAL	408,599.85
BALANCE DUE	\$408,599.85



**COUNTY COUNCIL OF BEAUFORT COUNTY
DEVELOPMENT and RECREATION DIVISION**



**Multi Government Center – 100 Ribaut Road
Post Office Drawer 1228, Beaufort, SC 29901 – 1228
Phone: (843) 255-2065 - Fax: (843) 255-9410**

9/7/2023

To: John Robinson, Beaufort County Interim Administrator

From: Charles Atkinson, ACA Development and Recreation Division

Subject: Staff report concerning the contract ratification relating to an accessible playground delivered and assembled at the Port Royal Community Center.

Dear Mr. Robinson,

This staff report is being provided to you in accordance with Beaufort County Code of Ordinances, Chapter 2, Division 4, Section 2-510 (a-e) – Delegation of Authority of Purchasing Director. These code sections provide prescriptive guidance concerning how to correct procedural purchasing errors to include the ratification of improperly authorized contracts. When goods and/or services are procured by any person without the requisite authority to do so by an appointment or delegation under this division, ratification rests with the county administrator; and the supervisor in charge shall prepare a written determination as to the facts and circumstances surrounding the unauthorized procurement, what corrective action is being taken to prevent occurrence, action taken against that individual committing the act, and documentation that the price paid is fair and reasonable. It is my intent through the submission of this report to satisfy these requirements and to provide a complete and accurate account of the actions and circumstances associated with this matter.

In 2019, Beaufort County Administration acknowledged that many of the county's recreation facilities were in a state of disrepair and were in some cases unusable or hazardous as a result of age, overuse, and years of deferred maintenance. In addition to these repairs, an immediate need for child specific handicap accessible recreation opportunities and expansion of facilities for racquet sports was also identified. To correct these issues a multi-year strategic plan was created to not only correct existing deficiencies but also to ensure that once these facilities were brought back into usable

condition via repair, replacement, or installation annual maintenance and periodic repairs would no longer be neglected or differed. The first part of this plan involved identifying the facilities that were in most need of repair or installation, estimating the cost of the initial procurements, and including a fiscal year specific budget request for funding allocations. This effort resulted in funds being allocated as part of the operating budget for fiscal years 2021, 2022, 2023, and 2024. In addition, staff has been successful in securing limited grant funding to help with offsetting costs. The total amount allocated to date is approximately \$6 million.

The second part of this plan was to hire an outside consultant to develop a Beaufort County Parks and Recreation Facilities Masterplan. In 2021 a contract was awarded to Wood & Partners to develop the plan. The master planning process was very complex and involved community engagement, site surveys of all existing recreation facilities throughout the county, a detailed level of service standards analysis, and resulted in a multifaceted action plan. Final results and recommendations were presented to Council on June 19, 2023. The estimated cost to facilitate the county's current and future recreation facility needs is estimated to be \$85 million over a ten-year period.

In Beaufort County's FY2023 budget, operational and capital funding was provided for multiple recreation projects. The original budget was approved in June 2022 and was amended in October of 2022 and in March of 2023. Both budget amendments provided additional funding for recreational facility projects. Included in this budget was funding for the replacement of multiple playgrounds and the installation of a new state-of-the-art handicap accessible playground facility. The total funding appropriated for playgrounds was approximately \$1.5 million. Because of known long lead times for playground equipment staff began sourcing the needed equipment early in FY 2023. Unfortunately, the limited availability of accessible playground equipment was a much bigger issue than originally anticipated. The lead time for an accessible playground was estimated to be in excess of 18 months. The non-accessible playgrounds were ordered through a Sourcewell National Cooperative Contract vendor who had successfully done work for Beaufort County in the past and site installation of these playgrounds began mid-spring 2023. It was the staff's intention to install the playgrounds that were available and then process an order for the accessible playground which would not be available for installation until late-2024.

Several months after orders were placed for the non-accessible playground the vendor called to inform our staff that an accessible playground had been ordered by the Charleston County School District and that they had cancelled their order. They stated that the playground was already in production and would be available for installation soon. In addition, because of the unique circumstance the vendor offered to provide a substantial discount (-\$95,801) well below the competitively bid Sourcewell National Cooperative Contract amount. Staff notified the contractor that the funding for the accessible playground had already been approved and authorized them to move forward with delivery and assembly. Although multiple other administrator approved playground procurements were made and installed throughout the county (each were under the administrator's approval threshold), the accessible playground's discounted installed price of \$799,052 exceeds the administrator's allowed purchase amount threshold and requires County Council's approval. Due to confusion resulting from multiple

playgrounds being purchased using the Sourcewell National Cooperative Contract for multiple sites throughout the county simultaneously and a procedural sequencing error by staff, the accessible playground was delivered and assembled prior to County Council approving the pending contract. Although the playground has been delivered onsite and assembled, no funds have been disbursed for this project and the invoices are on hold pending Council's approval.

On July 7th, 2023, Parks and Recreation Department staff discovered the error and immediately notified Administration and the Procurement Services Department. In the weeks following this notification, staff has been diligently working to correct and ratify the error in accordance with applicable county ordinances, policies, and procedures. Although the net result of staff's incorrect actions are the receipt of a planned and funded accessible playground \$95,801 below the Sourcewell National Cooperative Contract competitively bid price and having the playground installed 18 months earlier than originally anticipated, authorizing the delivery and installation prior to getting County Council's approval unquestionably constitutes a violation of Beaufort County's Procurement Code. As such, appropriate disciplinary action and remediation training are appropriate. Specific actions are being taken in cooperation with and under the guidance of Beaufort County's Human Resources Department in this regard.

This report along with an agenda item recommending approval of contract payment to Churchich Recreation, Inc, (Sourcewell National Cooperative Contract) for playground equipment and installation services provided at Beaufort County's Port Royal Center in the amount of \$799,052 will be presented to the Beaufort County Finance, Administration, and Economic Development Committee on Monday, September 18th, 2023.

Please let me know if you have any questions.

Sincerely,

Charles Atkinson
ACA – Development and Recreation Division



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
RECOMMENDATION OF APPROVAL 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.
MEETING NAME AND DATE:
Finance, Administration, and Economic Development Committee 8/21/2023
PRESENTER INFORMATION:
Pope Flynn, LLC 15 minutes
ITEM BACKGROUND:
The Hilton Head No.1 Public Service District Commission has determined to seek authorization from the Beaufort County Council to issue general obligation bonds. The Commission requests that, following a public hearing on the matter, the County Council enact the ordinance authorizing the issuance of the bonds. This ordinance authorizing the bond issuance is required pursuant to S.C. Code Section 6-11-860.
PROJECT / ITEM NARRATIVE:
<p>The Hilton Head No.1 Public Service District (HHPSD) has determined to issue bonds to defray the costs of: (i) improvements and/or repairs to the wastewater system, including (A) replacement of three screw pumps, (B) the purchase of on-site chemical generation equipment, (C) upgrades to the lift stations, including tank, pump and site upgrades, (D) construction of a sludge building and warehouse building, and (E) the construction of back-up to the band screen, and (ii) improvements and/or repairs to the waterworks system, including (A) the construction of an aquifer storage and recovery system and expansion of the District’s reverse osmosis (“RO”) plant, (B) purchase of on-site chemical generation equipment, (C) purchase of a generator for the RO plant; and (D) acquiring additional wholesale water capacity from Beaufort-Jasper Water and Sewer Authority, (iii) design and engineering costs related to the U.S. Highway 278 bridge relocation project, and (iv) other general improvements, repairs and expansion to the District’s water and sewer system.</p> <p>By way of additional background, some portions of the Project are related to the District’s planned grant funding from South Carolina Rural Infrastructure Administration as part of the South Carolina Infrastructure Improvement Program (SCIIP). Bond funds will be used to make the District’s required grant match.</p>
FISCAL IMPACT:
Limited millage impact is expected in connection with the bonds. The District anticipates structuring new debt service taking into account existing debt service, which, after taking into account the amortization of existing obligations, is not expected to result in a significant millage increase. Additionally, the District may pay some or all of the excess debt service from the revenues of its combined water and sewer utility system. However, the District, acting through the duly elected members of the Hilton Head No.1 Public Service District Commission, reserves the right to levy additional debt service millage as necessary to fund any required debt payments associated with the bonds.

STAFF RECOMMENDATIONS TO COUNCIL:

Recommend approval

OPTIONS FOR COUNCIL MOTION:

Motion to approve/deny "RECOMMENDATION OF APPROVAL 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"

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

AUTHORIZING ORDINANCE

September 25 ~~October 9~~, 2023

BE IT ORDAINED BY THE COUNTY COUNCIL OF BEAUFORT COUNTY, SOUTH CAROLINA, AS FOLLOWS:

ARTICLE I – FINDINGS

Section 1.01 Findings of Fact.

The County Council of Beaufort County (the “**County Council**”), the governing body of Beaufort County, South Carolina (the “**County**”), hereby finds and determines:

(a) Article X, Section 14 of the Constitution of the State of South Carolina, 1895, as amended (the “**Constitution**”), provides that special purpose districts may incur general obligation bonded indebtedness upon such terms and conditions as the General Assembly may prescribe by general law, subject to the following limitations: (i) such debt must be incurred only for a purpose which is a public purpose and a corporate purpose, and (ii) unless excepted therefrom, such debt may be issued in an amount not exceeding 8% of the assessed value of all taxable property of such special purpose district (the “**Bonded Debt Limit**”).

(b) Pursuant to Title 6, Chapter 11, Article 5 of the Code of Laws of South Carolina 1976, as amended (the “**Enabling Act**”), the governing body of any county in the State of South Carolina (the “**State**”) may authorize the issuance of general obligation bonds by special purpose districts located within its bounds to defray the cost of any authorized purpose and for any amount not exceeding such special purpose district’s applicable Bonded Debt Limit..

(c) Hilton Head No. 1 Public Service District, South Carolina (the “**District**”) was created and established as a special purpose district, a body politic and corporate, pursuant to the provisions of Act No. 569 of the Acts and Joint Resolutions of the General Assembly of the State of South Carolina for the year 1969, as amended. The District is located wholly within the County and is authorized, *inter alia*, (i) to provide water and sewer services, (ii) to acquire, purchase, hold, use, lease, mortgage, sell, transfer and dispose of any property, real, personal, or mixed, or any interest therein, and (iii) to do all other acts and things necessary or convenient to carry out any function or power committed or granted to the District.

(d) Pursuant to Section 6-11-830 of the Enabling Act, the County Council, upon petition of the governing body of any special purpose district, may determine that it is in the interest of such special purpose district to raise moneys for the furtherance of any power or function of the special purpose district and order a public hearing to be held upon the question of the issuance of general obligation bonds of the District.

(e) The County is in receipt of a petition from the Hilton Head No. 1 Public Service District Commission (the “**Commission**”), the governing body of District, requesting authorization to issue not exceeding \$23,000,000 of general obligation bonds (the “**Bonds**”) in order to (1) defray the costs of (i) improvements and/or repairs to the wastewater system, including (A) replacement of three screw pumps, (B) the purchase of on-site chemical generation equipment, (C) upgrades to the lift stations, including tank, pump and site upgrades, (D) construction of a sludge building and warehouse building, and (E) the construction of back-up to

the band screen, and (ii) improvements and/or repairs to the waterworks system, including (A) the construction of an aquifer storage and recovery system and expansion of the District’s reverse osmosis (“**RO**”) plant, (B) purchase of on-site chemical generation equipment, (C) purchase of a generator for the RO plant; and (D) acquiring additional wholesale water capacity from Beaufort-Jasper Water and Sewer Authority, (iii) design and engineering costs related to the U.S. Highway 278 bridge relocation project, and (iv) other general improvements, repairs and expansion to the District’s water and sewer system (collectively, to the extent financed with proceeds of the Bonds, the “**Project**”), and (2) pay the costs of issuance of the Bonds.

(f) The Bond proceeds will also provide the requisite matching funds to permit the District to receive approximately \$10,000,000 in grant funding (the “**SCIIP Grant**”) from the South Carolina Rural Infrastructure Administration under the South Carolina Infrastructure Improvement Program. The proceeds of the SCIIP Grant will be used by the District to finance additional improvements to the District’s wastewater system related to the Project.

(g) By action previously taken, the County Council ordered that a public hearing (the “**Public Hearing**”) on the question of the issuance of the Bonds be held on ~~September 25~~October 9, 2023, at 5:00 p.m., and the notice of the Public Hearing was duly published once a week for three successive weeks in *The Beaufort Gazette* and *Island Packet*, newspapers of general circulation in the County.

(h) The Public Hearing has been duly held at the time and date and in the manner set forth above and was conducted publicly. Both proponents and opponents of the proposed action were given full opportunity to be heard and it is now in order for the County Council to proceed, after due deliberation, in accordance with the provisions of the Enabling Act to make a finding as to whether or not the Bonds should be issued.

(i) The County Council finds that it is in the interest of the District to authorize and provide for the issuance and sale of the Bonds of the District pursuant to the aforesaid provisions of the Constitution and laws of the State for the purposes of providing funds for the Project and providing for the costs of issuance of the Bonds.

ARTICLE II – AUTHORIZATIONS

Section 2.01 Authorizations.

(a) It is found and determined that each statement of fact set forth in the preamble of this ordinance (this “**Ordinance**”) is in all respects true and correct.

(b) On the basis of the facts adduced at the Public Hearing, it is found and determined that the Commission is authorized to issue the Bonds.

(c) The County Council finds that the Commission should issue the Bonds in the amount of not exceeding \$23,000,000 as a single issue or from time to time as several separate issues, as the the Commission, in its sole discretion, shall determine. The issuance of the Bonds

is not conditioned upon the holding of a special election and no further action or authorization of the County shall be required as a condition for the issuance of the Bonds.

(d) Notice of the enactment of this Ordinance, as required by Section 6-11-870 of the Enabling Act and in substantially similar form to that attached hereto as Exhibit A, shall be published in both the *Beaufort Gazette* and *Island Packet* for three successive weeks. Such notice, upon the first publication thereof, shall also constitute proper notice of action as authorized by Section 11-27-40(8) of the Code of Law of South Carolina 1976, as amended.

Section 2.02 Ordinance to be Provided to District.

A certified copy of this Ordinance shall forthwith be transmitted to the Commission to advise it of the action taken by the County Council, whereby the Commission has been authorized to issue, pursuant to the provisions of the Enabling Act, the Bonds in the aggregate principal amount of not exceeding \$23,000,000.

Section 2.03 Further Action.

The Chairman and other County officers are herewith authorized and empowered to take such further action as may be necessary to fully implement the action contemplated by this Ordinance.

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DONE AT BEAUFORT COUNTY, SOUTH CAROLINA, this ~~25th~~9th day of ~~September~~
October 2023.

COUNTY COUNCIL OF BEAUFORT COUNTY

(SEAL)

Joe Passiment, Chairman

Attest:

Sarah W. Brock, Clerk
County Council of Beaufort County

First Reading: ~~August 28~~September 11, 2023
Second Reading: September ~~11~~25, 2023
Public Hearing: ~~September 25~~October 9, 2023
Third Reading: ~~September 25~~October 9, 2023

EXHIBIT A

NOTICE OF ACTION

Notice is hereby given pursuant to the provisions of Sections 6-11-870 and 11-27-40(8) of the Code of Laws of South Carolina 1976, as amended (together, the “Authorizing Acts”), as follows:

Following a public hearing held ~~September 25~~October 9, 2023, the County Council of Beaufort County (the “County Council”), the governing body of Beaufort County, South Carolina, enacted that certain ordinance, entitled “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” on ~~September 25~~October 9, 2023 (the “Ordinance”).

Hilton Head No. 1 Public Service District, South Carolina (the “District”), a special purpose district established in Beaufort County, as a body politic and corporate pursuant to the provisions of Act No. 596 of the Acts and Joint Resolutions of the General Assembly of the State of South Carolina for the year 1969, as amended, has been authorized by the provisions of the Ordinance to issue not exceeding \$23,00,000 in aggregate principal amount of general obligation bonds of the District (the “Bonds”) as a single issue or from time to time as several separate issues, in order to (1) defray the costs of (i) improvements and/or repairs to the wastewater system, including (A) replacement of three screw pumps, (B) the purchase of on-site chemical generation equipment, (C) upgrades to the lift stations, including tank, pump and site upgrades, (D) construction of a sludge building and warehouse building, and (E) the construction of back-up to the band screen, and (ii) improvements and/or repairs to the waterworks system, including (A) the construction of an aquifer storage and recovery system and expansion of the District’s reverse osmosis (“RO”) plant, (B) purchase of on-site chemical generation equipment, (C) purchase of a generator for the RO plant; and (D) acquiring additional wholesale water capacity from Beaufort-Jasper Water and Sewer Authority, (iii) design and engineering costs related to the U.S. Highway 278 bridge relocation project, and (iv) other general improvements, repairs and expansion to the District’s water and sewer system, and (2) pay the costs of issuance of the Bonds.

For the payment of the principal of and interest on the Bonds as they respectively mature, and for the creation of such sinking fund as may be necessary therefor, the full faith, credit and taxing power of the District will be irrevocably pledged, and there will be levied annually a tax without limit on all taxable property within the area of the District sufficient to pay the principal of and interest on the Bonds as they respectively mature, and to create such sinking fund therefor.

No election has been ordered in the District upon the question of the issuance of the Bonds.

Any persons affected by the action aforesaid of the County Council may object to the Ordinance and challenge the action of the County Council by following the procedures provided in the Authorizing Acts.

COUNTY COUNCIL OF BEAUFORT COUNTY

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

AUTHORIZING ORDINANCE

October 9, 2023

BE IT ORDAINED BY THE COUNTY COUNCIL OF BEAUFORT COUNTY, SOUTH CAROLINA, AS FOLLOWS:

ARTICLE I – FINDINGS

Section 1.01 Findings of Fact.

The County Council of Beaufort County (the “*County Council*”), the governing body of Beaufort County, South Carolina (the “*County*”), hereby finds and determines:

(a) Article X, Section 14 of the Constitution of the State of South Carolina, 1895, as amended (the “*Constitution*”), provides that special purpose districts may incur general obligation bonded indebtedness upon such terms and conditions as the General Assembly may prescribe by general law, subject to the following limitations: (i) such debt must be incurred only for a purpose which is a public purpose and a corporate purpose, and (ii) unless excepted therefrom, such debt may be issued in an amount not exceeding 8% of the assessed value of all taxable property of such special purpose district (the “*Bonded Debt Limit*”).

(b) Pursuant to Title 6, Chapter 11, Article 5 of the Code of Laws of South Carolina 1976, as amended (the “*Enabling Act*”), the governing body of any county in the State of South Carolina (the “*State*”) may authorize the issuance of general obligation bonds by special purpose districts located within its bounds to defray the cost of any authorized purpose and for any amount not exceeding such special purpose district’s applicable Bonded Debt Limit..

(c) Hilton Head No. 1 Public Service District, South Carolina (the “*District*”) was created and established as a special purpose district, a body politic and corporate, pursuant to the provisions of Act No. 569 of the Acts and Joint Resolutions of the General Assembly of the State of South Carolina for the year 1969, as amended. The District is located wholly within the County and is authorized, *inter alia*, (i) to provide water and sewer services, (ii) to acquire, purchase, hold, use, lease, mortgage, sell, transfer and dispose of any property, real, personal, or mixed, or any interest therein, and (iii) to do all other acts and things necessary or convenient to carry out any function or power committed or granted to the District.

(d) Pursuant to Section 6-11-830 of the Enabling Act, the County Council, upon petition of the governing body of any special purpose district, may determine that it is in the interest of such special purpose district to raise moneys for the furtherance of any power or function of the special purpose district and order a public hearing to be held upon the question of the issuance of general obligation bonds of the District.

(e) The County is in receipt of a petition from the Hilton Head No. 1 Public Service District Commission (the “*Commission*”), the governing body of District, requesting authorization to issue not exceeding \$23,000,000 of general obligation bonds (the “*Bonds*”) in order to (1) defray the costs of (i) improvements and/or repairs to the wastewater system, including (A) replacement of three screw pumps, (B) the purchase of on-site chemical generation equipment, (C) upgrades to the lift stations, including tank, pump and site upgrades, (D) construction of a sludge building and warehouse building, and (E) the construction of back-up to the band screen, and (ii) improvements

and/or repairs to the waterworks system, including (A) the construction of an aquifer storage and recovery system and expansion of the District’s reverse osmosis (“**RO**”) plant, (B) purchase of on-site chemical generation equipment, (C) purchase of a generator for the RO plant; and (D) acquiring additional wholesale water capacity from Beaufort-Jasper Water and Sewer Authority, (iii) design and engineering costs related to the U.S. Highway 278 bridge relocation project, and (iv) other general improvements, repairs and expansion to the District’s water and sewer system (collectively, to the extent financed with proceeds of the Bonds, the “**Project**”), and (2) pay the costs of issuance of the Bonds.

(f) The Bond proceeds will also provide the requisite matching funds to permit the District to receive approximately \$10,000,000 in grant funding (the “**SCIIP Grant**”) from the South Carolina Rural Infrastructure Administration under the South Carolina Infrastructure Improvement Program. The proceeds of the SCIIP Grant will be used by the District to finance additional improvements to the District’s wastewater system related to the Project.

(g) By action previously taken, the County Council ordered that a public hearing (the “**Public Hearing**”) on the question of the issuance of the Bonds be held on October 9, 2023, at 5:00 p.m., and the notice of the Public Hearing was duly published once a week for three successive weeks in *The Beaufort Gazette* and *Island Packet*, newspapers of general circulation in the County.

(h) The Public Hearing has been duly held at the time and date and in the manner set forth above and was conducted publicly. Both proponents and opponents of the proposed action were given full opportunity to be heard and it is now in order for the County Council to proceed, after due deliberation, in accordance with the provisions of the Enabling Act to make a finding as to whether or not the Bonds should be issued.

(i) The County Council finds that it is in the interest of the District to authorize and provide for the issuance and sale of the Bonds of the District pursuant to the aforesaid provisions of the Constitution and laws of the State for the purposes of providing funds for the Project and providing for the costs of issuance of the Bonds.

ARTICLE II – AUTHORIZATIONS

Section 2.01 Authorizations.

(a) It is found and determined that each statement of fact set forth in the preamble of this ordinance (this “**Ordinance**”) is in all respects true and correct.

(b) On the basis of the facts adduced at the Public Hearing, it is found and determined that the Commission is authorized to issue the Bonds.

(c) The County Council finds that the Commission should issue the Bonds in the amount of not exceeding \$23,000,000 as a single issue or from time to time as several separate issues, as the the Commission, in its sole discretion, shall determine. The issuance of the Bonds is not conditioned upon the holding of a special election and no further action or authorization of the County shall be required as a condition for the issuance of the Bonds.

(d) Notice of the enactment of this Ordinance, as required by Section 6-11-870 of the Enabling Act and in substantially similar form to that attached hereto as Exhibit A, shall be published in both the *Beaufort Gazette* and *Island Packet* for three successive weeks. Such notice, upon the first publication thereof, shall also constitute proper notice of action as authorized by Section 11-27-40(8) of the Code of Law of South Carolina 1976, as amended.

Section 2.02 Ordinance to be Provided to District.

A certified copy of this Ordinance shall forthwith be transmitted to the Commission to advise it of the action taken by the County Council, whereby the Commission has been authorized to issue, pursuant to the provisions of the Enabling Act, the Bonds in the aggregate principal amount of not exceeding \$23,000,000.

Section 2.03 Further Action.

The Chairman and other County officers are herewith authorized and empowered to take such further action as may be necessary to fully implement the action contemplated by this Ordinance.

[Remainder of Page Intentionally Blank]

DONE AT BEAUFORT COUNTY, SOUTH CAROLINA, this 9th day of October 2023.

COUNTY COUNCIL OF BEAUFORT COUNTY

(SEAL)

Joe Passiment, Chairman

Attest:

Sarah W. Brock, Clerk
County Council of Beaufort County

First Reading: September 11, 2023
Second Reading: September 25, 2023
Public Hearing: October 9, 2023
Third Reading: October 9, 2023

EXHIBIT A**NOTICE OF ACTION**

Notice is hereby given pursuant to the provisions of Sections 6-11-870 and 11-27-40(8) of the Code of Laws of South Carolina 1976, as amended (together, the “Authorizing Acts”), as follows:

Following a public hearing held October 9, 2023, the County Council of Beaufort County (the “County Council”), the governing body of Beaufort County, South Carolina, enacted that certain ordinance, entitled “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” on October 9, 2023 (the “Ordinance”).

Hilton Head No. 1 Public Service District, South Carolina (the “District”), a special purpose district established in Beaufort County, as a body politic and corporate pursuant to the provisions of Act No. 596 of the Acts and Joint Resolutions of the General Assembly of the State of South Carolina for the year 1969, as amended, has been authorized by the provisions of the Ordinance to issue not exceeding \$23,00,000 in aggregate principal amount of general obligation bonds of the District (the “Bonds”) as a single issue or from time to time as several separate issues, in order to (1) defray the costs of (i) improvements and/or repairs to the wastewater system, including (A) replacement of three screw pumps, (B) the purchase of on-site chemical generation equipment, (C) upgrades to the lift stations, including tank, pump and site upgrades, (D) construction of a sludge building and warehouse building, and (E) the construction of back-up to the band screen, and (ii) improvements and/or repairs to the waterworks system, including (A) the construction of an aquifer storage and recovery system and expansion of the District’s reverse osmosis (“RO”) plant, (B) purchase of on-site chemical generation equipment, (C) purchase of a generator for the RO plant; and (D) acquiring additional wholesale water capacity from Beaufort-Jasper Water and Sewer Authority, (iii) design and engineering costs related to the U.S. Highway 278 bridge relocation project, and (iv) other general improvements, repairs and expansion to the District’s water and sewer system, and (2) pay the costs of issuance of the Bonds.

For the payment of the principal of and interest on the Bonds as they respectively mature, and for the creation of such sinking fund as may be necessary therefor, the full faith, credit and taxing power of the District will be irrevocably pledged, and there will be levied annually a tax without limit on all taxable property within the area of the District sufficient to pay the principal of and interest on the Bonds as they respectively mature, and to create such sinking fund therefor.

No election has been ordered in the District upon the question of the issuance of the Bonds.

Any persons affected by the action aforesaid of the County Council may object to the Ordinance and challenge the action of the County Council by following the procedures provided in the Authorizing Acts.

COUNTY COUNCIL OF BEAUFORT COUNTY

BOND SITUATION SHEET

Jurisdiction: Hilton Head No.1 Public Service District, South Carolina (the “District”)

Amount of Bonds: Not exceeding \$23,000,000

Type of Bonds: General Obligation (GO)

Purpose: The District is seeking authorization from Beaufort County Council (“County Council”) to issue general obligation bonds (the “Bonds”) to defray all or a portion of the costs of (i) improvements and/or repairs to the wastewater system, including (A) replacement of three screw pumps, (B) the purchase of on-site chemical generation equipment, (C) upgrades to the lift stations, including tank, pump and site upgrades, (D) construction of a sludge building and warehouse building, and (E) the construction of back-up to the band screen, and (ii) improvements and/or repairs to the waterworks system, including (A) the construction of an aquifer storage and recovery system and expansion of the District’s reverse osmosis (“RO”) plant, (B) purchase of on-site chemical generation equipment, (C) purchase of a generator for the RO plant; and (D) acquiring additional wholesale water capacity from Beaufort-Jasper Water and Sewer Authority, (iii) design and engineering costs related to the U.S. Highway 278 bridge relocation project, and (iv) other general improvements, repairs and expansion to the District’s water and sewer system (collectively, to the extent financed with proceeds of the Bonds, the “Project”), and the costs of the Bonds.

By way of additional background, some portions of the Project are related to the District’s planned grant funding from South Carolina Rural Infrastructure Administration as part of the South Carolina Infrastructure Improvement Program (SCIIP). Bond funds will be used to make the District’s required grant match.

Restrictions on Proceeds: All Bond proceeds are restricted to the purposes described above as set forth in the proposed authorizing ordinance.

Impact on Millage: Limited millage impact is expected in connection with the Bonds. The District anticipates structuring new debt service taking into account existing debt service, which, after taking into account the amortization of existing obligations, is not expected to result in a significant millage increase. Additionally, the District may pay some or all of the excess debt service from the revenues of its combined water and sewer utility system. However, the District reserves the

right to levy additional debt service millage as necessary to fund any required debt payments associated with the Bonds.

Procedural Posture: Upon receipt of the petition from the District, the South Carolina Code requires County Council to hold a public hearing on the question of the issuance of the Bonds. Following the hearing, the District requests that County Council enact an ordinance finding whether and to what extent the Bonds should be issued and authorizing the governing body of the District to issue the Bonds.

ACTIONS REQUESTED OF COUNTY COUNCIL

1. Adopt a resolution authorizing a public hearing and notice thereof;
2. Hold a public hearing on the proposed issuance of the Bonds; and
3. Enact an ordinance authorizing the District to issue Bonds in an amount not to exceed \$23,000,000.

RECOMMENDATIONS

1. Consideration by Finance Committee on August 21, 2023
2. Adopt a resolution on September 11, 2023, authorizing a public hearing on October 9, 2023 at 5:00 p.m.
3. County Council to give first reading to the authorizing ordinance on September 11, 2023, second reading on September 25, 2023, and public hearing/third reading on October 9, 2023.

BOND SITUATION SHEET

Jurisdiction: Hilton Head No.1 Public Service District, South Carolina (the “District”)

Amount of Bonds: Not exceeding \$23,000,000

Type of Bonds: General Obligation (GO)

Purpose: The District is seeking authorization from Beaufort County Council (“County Council”) to issue general obligation bonds (the “Bonds”) to defray all or a portion of the costs of (i) improvements and/or repairs to the wastewater system, including (A) replacement of three screw pumps, (B) the purchase of on-site chemical generation equipment, (C) upgrades to the lift stations, including tank, pump and site upgrades, (D) construction of a sludge building and warehouse building, and (E) the construction of back-up to the band screen, and (ii) improvements and/or repairs to the waterworks system, including (A) the construction of an aquifer storage and recovery system and expansion of the District’s reverse osmosis (“RO”) plant, (B) purchase of on-site chemical generation equipment, (C) purchase of a generator for the RO plant; and (D) acquiring additional wholesale water capacity from Beaufort-Jasper Water and Sewer Authority, (iii) design and engineering costs related to the U.S. Highway 278 bridge relocation project, and (iv) other general improvements, repairs and expansion to the District’s water and sewer system (collectively, to the extent financed with proceeds of the Bonds, the “Project”), and the costs of the Bonds.

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right to levy additional debt service millage as necessary to fund any required debt payments associated with the Bonds.

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1. Adopt a resolution authorizing a public hearing and notice thereof;
2. Hold a public hearing on the proposed issuance of the Bonds; and
3. Enact an ordinance authorizing the District to issue Bonds in an amount not to exceed \$23,000,000.

RECOMMENDATIONS

1. Consideration by Finance Committee on August 21, 2023
2. Adopt a resolution on ~~August 28~~September 11, 2023, authorizing a public hearing on ~~September 25~~October 9, 2023 at 5:00 p.m.
3. County Council to give first reading to the authorizing ordinance on ~~August 28~~September 11, 2023, second reading on September ~~11~~25, 2023, and public hearing/third reading on ~~September 25~~October 9, 2023.



General Obligation Bonds

August 2023



**Water
Production**



**Water
Treatment**



**Water
Distribution**



**Sanitary
Sewer
Collection**



**Wastewater
Treatment**



**Recycled
Water
Distribution**



Hilton Head PSD is a South Carolina special purpose district. It is governed by a seven-member Board of Commissioners. The Commissioners are elected during the general election cycle from voting districts comprising the PSD service area.

S.C. Infrastructure Investment Program (SCIIP) Grant Projects

PSD received a \$10-million SCIIP Grant for two long-term water supply projects:

- Expansion of the PSD's Reverse Osmosis (RO) Drinking Water Treatment Plant capacity
- Construction of a second Aquifer Storage & Recovery (ASR) well

The projects were estimated at \$17 million total in summer '22.

Local match is required to complete the projects.

Need for the S.C. Infrastructure Investment Program (SCIIP) Projects

1

Meet PSD's peak demands for tap water

2

Replace freshwater supply lost to saltwater intrusion

3

Create resiliency of supply for hurricane recovery

4

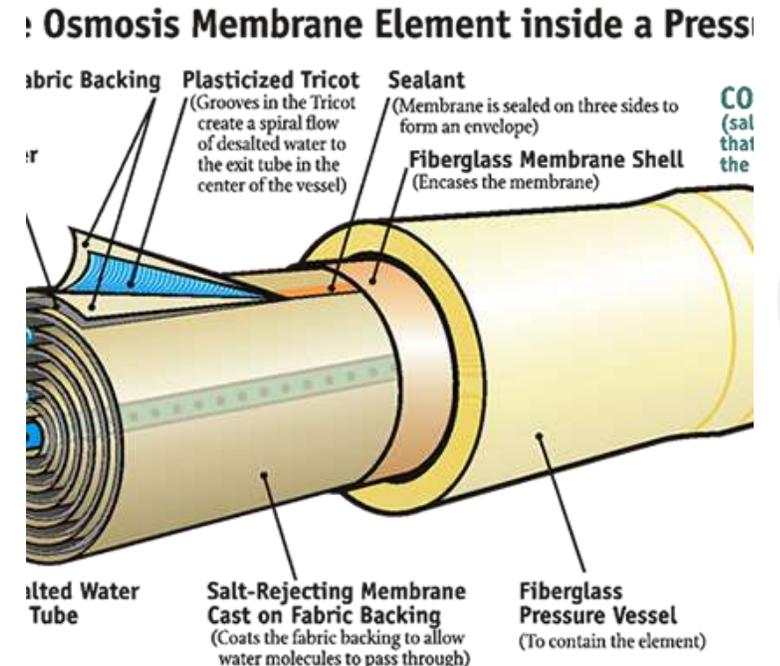
Protect water supply from PFAS contaminants

5

Lessen peak-season demand on wholesale provider

RO PLANT EXPANSION

- Membrane filtration of brackish groundwater (Middle Floridan Aquifer)
- Expand treatment capacity from 4 mgd to 6 mgd
- Add emergency power generator



RO Plant Expansion

Construct fourth Middle Floridan Aquifer brackish water production well necessary to add 2 mgd of RO Plant capacity.

Town of HHI providing site at Old Welcome Center parcel.



Aquifer Storage & Recovery (ASR) Well #2

Add a second ASR well for the PSD's water supply system.

Town of HHI providing site at Ashmore Tract.



ASR stores treated drinking water in the brackish aquifer during the winter months of lower demand, and then withdraws and retreats the water for distribution in the summer months of higher demand.

Yields 2 mgd of supply in summer

Key for disaster recovery

ASR Well = 260 mg ↓

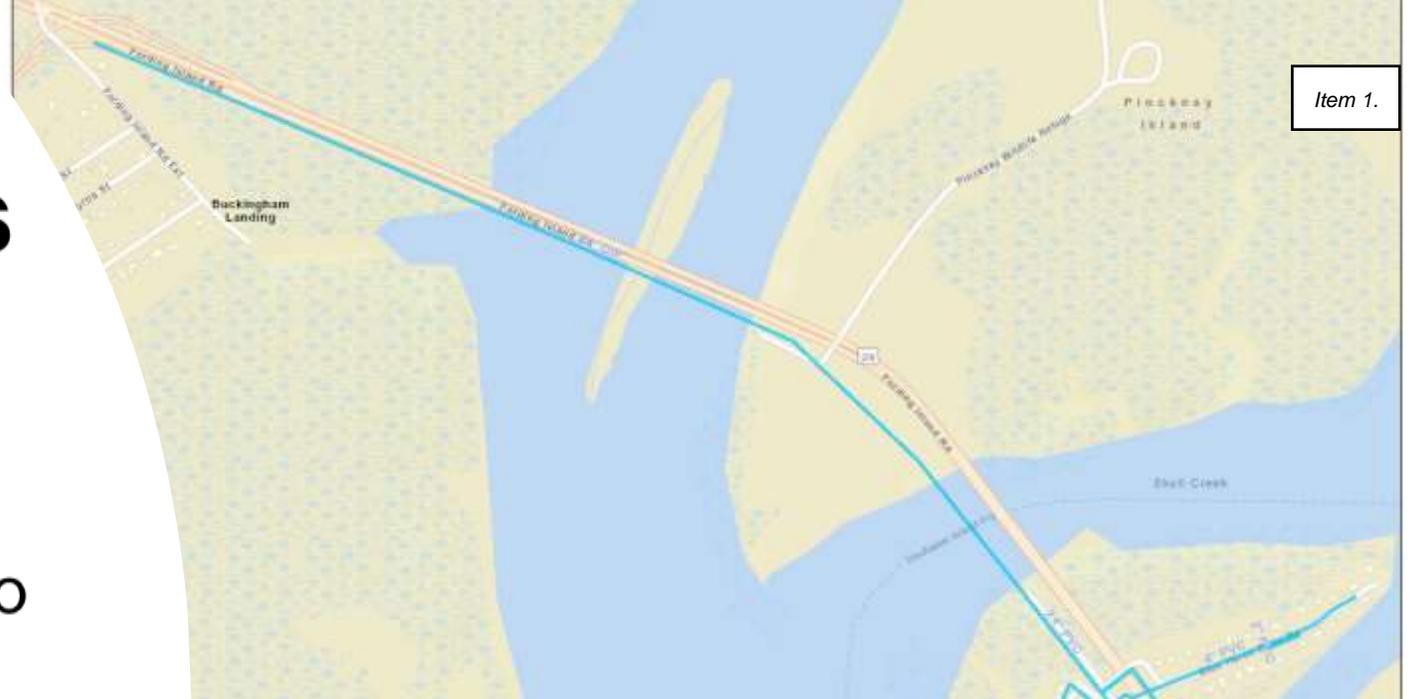


Ground Storage Tank = 2 mg



Additional Projects for GO Bonds

- Local funding for wholesale water pipeline relocation due to U.S. 278 Corridor project
- Purchase of additional wholesale water capacity
- Wastewater treatment plant and collection system upgrades



Project Funding

- Limited millage impact is expected in connection with the Bonds. The District anticipates structuring new debt service taking into account existing debt service.
- Actual FY 2024 PSD total millage: 7.1 (3 mills - Operations; 4.1 mills - Debt)
- Estimated FY 2025 PSD total millage (including borrowing): 8.1 mills (3 mills - Operations; 5.1 - Debt)
- Actual FY 2024 PSD taxes on a primary home valued at \$100,000.00 = \$28.40
- Estimated FY 2025 PSD taxes = \$32.40



Thank you

Questions?



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
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
MEETING NAME AND DATE:
Community Services and Land Use Committee Meeting, August 14, 2023
PRESENTER INFORMATION:
Michael McShane, Chair of the Green Space Advisory Committee 15 minutes
ITEM BACKGROUND:
On November 8, 2022, Beaufort County voters approved a referendum which authorized the establishment of the Beaufort County Green Space Program. Prior to the referendum, County Council approved an ordinance on October 3, 2022 that provided general guidelines for the Green Space Program. The Ordinance also established the duties and responsibilities for the County Council appointed Green Space Advisory Committee. The ordinance being considered at this meeting (pursuant to Code of Ordinances Section 38-195) is the adopted Green Space Advisory Committee (GSAC) Program Criteria and Application Process.
PROJECT / ITEM NARRATIVE:
This ordinance establishes the following: <ul style="list-style-type: none">• Application Process and Deadlines• Program Transparency and Equitable Distribution of Funds• Procurement Types and Minimum Application Requirements• Required Application Types, Components, and Measurable Scoring System• Minimum Procurement Requirements by Application Type and/or Location
FISCAL IMPACT:
The expenditure of Green Space funds (\$100,000,000)
STAFF RECOMMENDATIONS TO COUNCIL:
Staff recommends approval
OPTIONS FOR COUNCIL MOTION:
To recommend approval/disapproval of an amendment to the Beaufort County Code of Ordinances

ORDINANCE 2023/_____

**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**

WHEREAS, the Beaufort County Council recognizes the need to preserve land that has scenic, natural, recreational, rural, and open space character which is deemed essential to the County’s quality of life; and

WHEREAS, the Beaufort County Council on October 3, 2022, adopted an ordinance providing the general guidelines for the Green Space Program and the Green Space Advisory Committee duties and responsibilities; and

WHEREAS, the Beaufort County voters approved a referendum on November 8, 2022, establishing the Beaufort County Green Space Program; and

WHEREAS, the Beaufort County Council on March 13, 2023, adopted an ordinance to further define the Beaufort County Green Space Program Advisory Committee membership, terms, term limits, minimum requirements, procedures, and geographical representation; and

WHEREAS, the Beaufort County Council appointed a Green Space Advisory Committee to develop Green Space Program Criteria and Application Process pursuant to Beaufort County Code of Ordinances, Chapter 38, Article VII, Section 38-195; and

WHEREAS, the Beaufort County Green Space Advisory Committee has duly assembled in accordance with South Carolina FOIA laws to develop the Green Space Program Criteria and Application Process, which was adopted by the Green Space Advisory Committee on July 11, 2023.

NOW, THEREFORE, be it ordained by the County Council of Beaufort County in a meeting duly assembled that Chapter 38, Article VII, Section 38-200 of the Code of Ordinances is hereby established as set forth in Exhibit A hereto.

Exhibit A

Section 38-200 - Green Space Advisory Committee (GSAC) Program Criteria and Application Process.

Pursuant to Sections 38-192, 38-193, 38-194, 38-195, 38-196, 38-197, and 38-198 the GSAC shall apply the following program criteria and application process to all procurement types.

Section 38-201 - Application Process and Deadlines:

- A. The Green Space Advisory Committee (GSAC) will process applications on a quarterly cycle. Prior to an applicant applying, a pre-application/procurement intent meeting is required with staff no later than 15 days prior to the quarterly deadline. If an application is received by staff without having a pre-application/procurement intent meeting first, it shall be deemed incomplete.
- B. Once an application cycle has closed, staff will have 10 days to determine if the submitted application is complete. If the application is not complete, the applicant will have 10 days to provide the additional information to be considered for that application cycle. The GSAC will meet to consider complete applications no later than 45 days after each quarterly deadline. The quarterly application deadlines are as follows:
 - January 31
 - April 30
 - July 31
 - October 31
- C. The Green Space Advisory Committee reserves the right to amend the quarterly deadlines at the beginning of each year to best meet the requirements of the program, however, it shall remain a quarterly application cycle.
- D. Upon written support of both the Chair and Vice Chair of the Green Space Advisory Committee, or a majority of the Committee, an application can be submitted and reviewed outside of the quarterly cycle, however, this shall only be considered in instances where “time is of the extreme essence” and documented as such.

Section 38-202 - Program Transparency and Equitable Distribution of Funds:

- A. To ensure that funds are equally distributed within the county as required by the County Green Space Sales Tax Act and by Beaufort County's Green Space Ordinance, an objective set of criteria for the selection of recipients, as set forth herein below, are adopted and will be applied to applications in an open and transparent manner. (See Attorney General Opinion to Hon. Tom Davis, August 8, 2022; Memorandum Letter of Kenneth M. Moffit, Assistant Clerk of the South Carolina Senate and Assistant Director, Senate Research dated July 8, 2022; Memorandum Letter of Jason P. Luther, Chief Legal Offices for the South Carolina Department of Revenue dated July 11, 2022.) In addition to the requirements of each type of procurement set forth further below, consideration shall be given to several factors including, but not limited to, the following when evaluating preservation procurement applications:
- I. Geographical Dispersion of Previous Green Space Funds (Northern, Southern, Eastern, Western)
 - II. Environmental Benefits
 - III. Avoidance of adverse Regional, Economic, Environmental and Service Demand Impacts
 - IV. Proximity, Connectivity, Adjacency to and Impact of Previous Counties and Regional Conservation Investments
 - V. Proportional Leveraging of Funds
- B. Out of county fund expenditures may also be considered. These expenditures are defined as procurements in areas that are not inside the geographical boundaries of Beaufort County. When considering these applications, the program shall take into consideration the equitable impact of the proposed expenditures by identifying the geographical region(s) that the procurement best serves (i.e., the region(s) which experiences the greatest benefit).

Section 38-203 - Procurement Types and Minimum Application Requirements:

The Green Space Program will focus its efforts on the following preservation procurement types; conservation easements, fee simple government purchases for land protections, farmland preservations, natural/scenic/wildlife corridors, and existing planned development/development agreement buydowns. The Green Space Advisory Committee will evaluate the merits of each application and determine if additional fund matching is required and if "in-kind" contributions are appropriate.

- A. Applications for procurements within Beaufort County will be managed by staff for due diligence and acquisition. In these instances, county staff will act as the procuring manager. Beaufort County qualifies as an applicant. The minimum application requirements for procurements within Beaufort County are as follows:
- I. Applications for conservation easement procurements shall require a minimum 25% match.
 - II. Applications for fee simple county owned procurements shall require public access/use and may require a match.
 - III. Applications for fee simple “other government” owned procurements may require public access/use and may require a match.
 - IV. Applications for farmland preservation procurements may require a minimum 10% match.
 - V. Applications for natural/scenic/wildlife corridor procurements may require a match.
 - VI. Applications for existing planned development/development agreement buydown procurements (public access) shall require a minimum 100% match.
 - VII. Applications for existing planned development/development agreement buydown procurements (no public access) shall require a minimum 200% match.
 - VIII. Other application types not specifically listed in this section may be considered. For these application types, minimum matching and other requirements will be determined by the Green Space Advisory Committee based on the merits of the application.
- B. Regardless of application type, all applications for procurements outside of Beaufort County will be managed by the applicant for due diligence and acquisition. In these instances, county staff will process the application as a grant request. A detailed application process for funds to be used outside of the county shall be established along with the following minimum application requirements:

- I. All applications for procurements outside of Beaufort County shall require a minimum 300% match, or
- II. If applications for procurements are from a neighboring county that has adopted a Green Space Program or Greenbelt Program, there shall be a minimum 100% match for fee simple government procurements, if the neighboring county acts as the applicant.

Section 38-204 - Required Application Types, Components, and Measurable Scoring System:

- A. Each procurement type shall have its own application as deemed appropriate by staff. The GSAC shall approve each application type. Applications shall consist of a combination of factors to adequately score and rank using a systematic measurable approach. To accomplish this, all application types shall consist of the following components:
 - I. One half (1/2) of the score/rank will be based on a set of numerical values from defined benefits for each application type. The benefits and associated numerical values will be established by the GSAC.
 - II. One quarter (1/4) of the score/rank will be based on set of questions for each application type. The questions will be tailored to the specific application type and will be established by staff and the GSAC.
 - III. One quarter (1/4) of the score/rank will be based on consistency with relevant overarching master plans (e.g., Comprehensive Plans, Green Print Plans, etc.) which governmental jurisdictions have adopted.
- B. These components shall remain intact unless amended by County Council.

Section 38-205 - Minimum Procurement Requirements by Application Type and/or Location:

- A. For all applications located in other governmental jurisdictions (within or outside) Beaufort County, a governmental jurisdictional letter of support or opposition shall be required at the time of application. At minimum, other governmental jurisdictions shall consider their relevant overarching master plans that have been adopted.

- B. Applications for conservation easements and fee simple procurements by governmental entities shall consider, at minimum, the following as a part of the application review and consideration:
- I. Public access and/or public benefit.
 - II. Proximity and/or connectivity to existing preserved properties.
 - III. Proximity and/or connectivity to potential future preserved properties.
 - IV. Preservation and/or expansion of intact natural habitats.
 - V. Existing zoning, partner contributions, etc. to ensure best value.
 - VI. Degree of urgency for the project in terms of protection of resources and/or real estate market.
 - VII. Importance of the project in achieving multiple local, state and/or federal environmental goals.
 - VIII. Necessary restrictive covenants and/or easements to be recorded.
- C. Applications for farmland preservation procurements, including silviculture, are encouraged. To ensure these lands are adequately protected consistent with state laws and not used in a manner that violates the purposes of the Green Space Ordinance, the following should be considered as a part of the application review and consideration.
- I. Land use and Stormwater Best Management Practices (BMP's).
 - II. Sustainable farming and silviculture techniques that protect waterways, waterbodies, and watersheds.
 - III. Restrictive covenants and/or easements which are recordable, and which run with the land, shall be required.
- D. Applications for natural/scenic/wildlife corridor procurements shall consider, at minimum, the following as a part of the application review and consideration:
- I. Location along rivers, tidally influenced waterways/wetlands, public road rights-of-way, other roads with public benefits, and/or areas with wildlife habitat.
 - II. Minimum width and other requirements:
 - a. 250 feet wide for natural and/or scenic corridors along public road rights-of way and other roads with public benefits. These

- shall be measured from the existing or identified future road right-of way and already required buffers (if applicable).
- b. 300 feet wide for river and/or tidally influenced waterways/wetland corridors. These shall be measured from the established OCRM critical line and already required buffers which are present at the time of application (if applicable).
 - c. 300 feet wide for wildlife corridors and shall require connectivity to other preserved lands.
 - d. GSAC reserves the right to consider procurements in instances when only a small portion of the procurement fails to meet the minimum width requirements through no fault of the applicant, and circumstances are properly documented and justified.
- III. May require the removal of existing structures and/or encumbrances that are deemed contrary to the purpose of the procurement and documented prior to appraisal/closing.
 - IV. Shall require restrictions for allowed uses and/or improvements within the corridor.
 - V. Restrictive covenants and/or easements which are recordable, and which run with the land, shall be required.
- E. Applications for existing planned development/development agreement buydown procurements shall require, at minimum, the following as a part of the application review and consideration.
- I. Clearly establish that money will be saved from off-site infrastructure improvements (taxpayer responsible improvements). Developer required off-site improvements shall remain the responsibility of the developer in all instances. To satisfy this requirement, a Traffic Impact Analysis by a County approved firm shall be performed showing how the removal of trips generated will result in reducing required taxpayer off-site infrastructure improvements.
 - II. Documentation identifying environmental benefits, including but not limited to, reduction of stormwater runoff quantity, improving water quality, maintained tree canopy coverage, preservation of wildlife habitat, watershed protection, and marsh migration.

- III. Consideration for this type of procurement in government jurisdictions that do not have adopted land use policies to prevent other lands from getting upzoned/developed without regard to the buydown, will be closely scrutinized. To help facilitate meaningful procurements, counties and municipalities will have current Comprehensive Plans with agreed upon/established growth boundaries in place along with adopted zoning and land development regulations. If these fiscally responsible land use policies are not in place, this type of procurement will be subject to a very high level of required matching funds as determined by the Green Space Advisory Committee.
- IV. Provide documentation that the existing planned development/development agreement was approved prior to the adoption of the Green Space Ordinance (October 3, 2022). This will include development rights secured through annexations, rezonings, and/or other entitlements.
- V. As previously stated, applications located in other governmental jurisdictions (within or outside) Beaufort County, a governmental jurisdictional letter of support or opposition shall be required at the time of application.
- VI. Restrictive covenants and/or easements which are recordable, and which run with the land, shall be required and subject to periodic inspections by Beaufort County staff.

Sections 38-206 --- 38-299 - Reserved

Adopted this _____ day of _____ 2023.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Joseph Passiment, Chairman

ATTEST:

Sarah W. Brock, JD, Clerk to Council



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
Renewal of Membership in the Southern Carolina Regional Development Alliance
MEETING NAME AND DATE:
Finance, Administration & Economic Development Committee September 18, 2023
PRESENTER INFORMATION:
Hank Amundson – Special Assistant to the County Administrator <i>5 Minutes</i>
ITEM BACKGROUND:
Beaufort County’s Membership Agreement with the Southern Carolina Regional Development Alliance is due for renewal. Previous agreements have been for renewable three-year terms. The latest agreement was from 2017-2020 and the renewal was 2020-2023. This agreement is for 5 years.
PROJECT / ITEM NARRATIVE:
Renewal of this agreement will extend the relationship between the County and the Regional Alliance for 5 years. The working relationship between Beaufort County, Southern Carolina, and the Beaufort Economic Development Corporation has never been better and this extension will help continue the progress being made.
FISCAL IMPACT:
Funds for this come from the General Fund account #10001198-55240 \$495,000 is budgeted for the year in this account \$120,000 is for the Southern Carolina \$375,000 is for the Beaufort County Economic Development Corporation <i>This renewal does not change the existing, budgeted membership fee.</i>
STAFF RECOMMENDATIONS TO COUNCIL:
Staff recommends approval of this contract renewal.
OPTIONS FOR COUNCIL MOTION:
MOTION TO MOVE THE SIGNING OF A NEW MEMBERSHIP AGREEMENT WITH SOUTHERN CAROLINA REGIONAL DEVELOPMENT ALLIANCE TO FULL COUNCIL WITH A RECOMMENDATION FOR APPROVAL

**BEAUFORT COUNTY
SERVICE AGREEMENT**

THIS SERVICE AGREEMENT (the "Agreement") is made and entered into as of this 25th day of September 2017 by and between Southern Carolina Regional Development Alliance (the "Alliance") and Beaufort County, South Carolina, a political subdivision of the State of South Carolina (the "County").

WHEREAS, the Alliance has agreed to provide a comprehensive economic development program for Beaufort County.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth herein, the adequacy of which is hereby acknowledged, the parties hereto agree as follows:

Services

The Alliance agrees to perform the following services for the County:

- 1) Provide assistance and support of a comprehensive development program for the County as an integrated function of the Alliance mission, which includes, without limitation:
 - Overall assistance services for local program;
 - Industrial Recruitment and Marketing Program Services as part of a Region;
 - Existing Industry and Large Employer Retention and Expansion Program;
 - Site Selection and Development Program;
 - Infrastructure Development Assistance;
 - Strategic Planning support;
 - South Carolina Department of Commerce Liaison; and
 - Community Development support, where appropriate.
- 2) Provide industrial recruitment services, including preliminary research, prospect identification, and marketing strategies to attract and locate job-creating investments.
- 3) Identify and support product development and enhancement strategies.
- 4) Identify, assist and support community development activities and programs that will enhance the opportunities for capital investment and job creation, where appropriate.
- 5) Professionally represent the County, as part of the region, on economic development matters related to potential prospects, other Alliance members, the South Carolina Department of Commerce, and any other entities, where appropriate.
- 6) Work with agencies and other allies to position the County, as part of the Alliance's strategy, as a site of choice for new industrial prospects and the expansion of existing employers within the area.

- 7) Work with and support, where practical, other entities (towns, chambers, schools, etc.) to enhance the overall environment for positive image building and community development, thereby enhancing opportunities for success.
- 8) Assist to enhance the local "Existing Industry Program," in conjunction with the regional EIP, to support and encourage expansion and job growth.
- 9) In conjunction with assigned project managers, work to increase the visibility of the efforts within the local area, and educate the public and State on such efforts to improve the perception of the County.
- 10) Oversee and manage County and BCEDC owned and leased properties that the parties mutually identify as economic development sites, parks or buildings. This includes review of service contracts with maintenance and landscaping providers, among others, and lease/rental agreements, and will make recommendations to the County and BCEDC as to the cost effectiveness of such agreements. Expenses related to County and BCEDC owned or leased properties will be invoiced and billed to the respective finance department for payment or reimbursement, as applicable.

The County acknowledges that the Alliance has limited capabilities and will therefore have to work with the County for certain tasks and/or hire third party service providers. Examples include tasks that must be performed by a licensed engineer, attorney or accountant, or other qualified service provider. The parties agree that the Alliance shall utilize County employees in such cases where commercially reasonable, or, where applicable, will agree in advance as to the responsibility of third party expenses.

Communications

- 1) The Alliance issues monthly marketing and activity reports to all member counties and EDCs, highlighting regional activities.
- 2) The Alliance will report on activities of the Alliance in person to the Council, jointly with the BCEDC on a quarterly basis and the BCEDC monthly as appropriate. Reporting will be generic in nature, so as to protect confidential project information. Protected project information concerning negotiations, proprietary information, and company identification will be delivered as appropriate.
- 3) The Alliance will work with and support the appropriate County offices, and continue to inform on activities, both public and private (where appropriate) that are undertaken.

Personnel

- 1) The Alliance will at all times provide a qualified economic development team with a designated individual educated in County priorities that reports directly to the Alliance President (the "County Development Team"), to work with and support BCEDC personnel.

- 2) The Alliance will direct, manage and oversee the activities of the County Development Team to ensure conformity and compliance with stated and agreed upon County and regional missions and objectives.

Oversight and Direction

The Alliance President and the County Development Team will seek advice, direction, and performance feedback from County representatives on the Alliance's Board of Directors, as well as interaction with BCEDC Chair and BCEDC Administration. The Alliance, based on such guidance, will perform the services required under this Agreement.

County Representation on the Alliance Board of Directors

The County shall appoint three individuals to serve on the Alliance Board of Directors. One of these appointees shall be selected to serve on the Executive Committee of the Alliance Board of Directors. Such appointments shall be made in accordance with the Alliance Bylaws and shall be subject to acceptance by the Alliance Board of Directors and Executive Committee, as the case may be.

Term of Agreement

This Agreement will be for a period of three years from the date hereof with automatic renewal after the contract period in three-year increments. Either party may provide written notice at least sixty days in advance of the expiration of the contract period of its intention not to renew this Agreement for an additional contract period.

Compensation to the Alliance

For Alliance membership and services as outlined: A payment of \$120,000 annually (to be distributed on a quarterly basis) for the term of this Agreement for Alliance services. Payment amount will be reviewed annually and adjusted if warranted and agreed upon by the parties.

The County, upon execution of this Agreement, will also pay a one-time fee of \$5,000 as an additional fee to enable the Alliance to conduct a County assessment and update its marketing and other materials to incorporate the County into the regional organization.

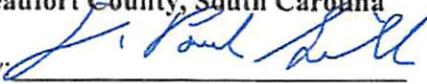
The Alliance and the County agree that this formula and payment may be adjusted, if an alternative method is identified and agreed upon by both parties.

Miscellaneous

- 1) **No Exclusivity.** County acknowledges that the Alliance performs similar services for other counties and may add additional counties in the future. Nothing herein shall be deemed to require the Alliance to perform duties exclusively for the County.

- 2) **South Carolina Law.** This Agreement shall be governed by the laws of the State of South Carolina and shall be construed in accordance therewith.
- 3) **No Waiver.** This Agreement shall not be modified or amended except by a further written document executed by the parties. No provision hereof may be waived except by an agreement in writing signed by the waiving party. A waiver of any term or provision hereunder shall not be construed as a continuing waiver of such term or provision or as a waiver of any other term or provision.
- 4) **No Third Party Beneficiary.** This Agreement is intended solely for the mutual benefit of the parties hereto, and there is no intention, expressed or otherwise, to create any rights or interests for any party or person other than the Alliance and the County.
- 5) **Independent Contractors.** The parties shall at all times be independent contractors with respect to each other in carrying out this Agreement. This Agreement does not create any agency, joint venture, or partnership, and neither party shall represent to any person or entity that it does.
- 6) **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.
- 7) **Entire Agreement.** This Agreement is the entire agreement between the parties with respect to the subject matter hereof, and replaces any previously executed agreement for similar services.

In Witness Whereof, the undersigned have caused this Agreement to be continued and executed by their duly authorized officers, as of the date first written above.

Beaufort County Council
Beaufort County, South Carolina
 By: 
 Its: Chairman

Southern Carolina Regional
Development Alliance
 By: 
 Its: Chairman

RESOLUTION 2017 / 17

A RESOLUTION AUTHORIZING THE BEAUFORT COUNTY ECONOMIC DEVELOPMENT CORPORATION TO NEGOTIATE THE SCOPE AND FEES OF AN AGREEMENT TO BE ENTERED INTO BY AND BETWEEN BEAUFORT COUNTY AND THE SOUTHERNCAROLINA ALLIANCE FOR AGREED UPON ECONOMIC DEVELOPMENT SERVICES

WHEREAS, Beaufort County is a political subdivision of the State of South Carolina pursuant to S.C. Code of Laws 4-1-10 et seq. authorized to make all contracts; and

WHEREAS, Beaufort County has established an Economic Development Policy pursuant to Resolution 2015/18; and

WHEREAS, Beaufort County Council pursuant to Resolution 2015/20 authorized the creation of the Beaufort County Economic Development Corporation as a non-profit organization, organized under the laws of South Carolina for the purpose of coordinating and implementing the County's economic development plans and policy; and

WHEREAS, the Beaufort County Economic Development Corporation Board has recommended that it pursue an agreement on behalf of Beaufort County with the SouthernCarolina Alliance for economic development services and fees; and

WHEREAS, Beaufort County Council desires that the Beaufort County Economic Development Corporation be authorized to negotiate, represent County Council in contractual negotiations and make recommendations for entering into contractual obligations for the purposes of economic development; and

WHEREAS, the Beaufort County Economic Development Corporation has begun the process of negotiating a contract with the SouthernCarolina Alliance for implementing the economic development policy of the County, however, nothing contained herein shall be construed to limit in any way the Beaufort County Economic Development Corporation's ability to pursue negotiations from other entities capable of providing economic development services for ultimate review and approval by the County Council; and

WHEREAS, neither the County Council nor the Economic Development Corporation shall be bound by any contractual obligations until such time as such negotiations have been presented to Council and a simple majority of Council members present vote to authorize the Administrator to execute a contract with terms approved by County Council.

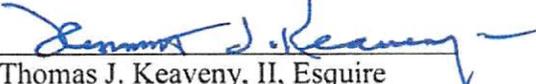
NOW, THEREFORE, BE IT RESOLVED, by the County Council of Beaufort County, South Carolina, that effective immediately the Beaufort County Economic Development Corporation is hereby authorized to negotiate contractual obligations, to represent County Council in contractual negotiations and to make recommendations to County Council about entering into contractual obligations. Any contractual obligations that the Economic Development Corporation seeks to enter on behalf of Beaufort County must first be approved by County Council.

Adopted this 12th day of June, 2017.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: 
D. Paul Sommerville, Chairman

APPROVED AS TO FORM:


Thomas J. Keaveny, II, Esquire
Beaufort County Attorney

ATTEST:


Ashley Bennett, Clerk to Council

RESOLUTION NO. 2015/ 18

A RESOLUTION TO ADOPT AN ECONOMIC DEVELOPMENT POLICY
FOR BEAUFORT COUNTY

WHEREAS, economic development and the diversification of the tax base within Beaufort County is a priority of Beaufort County Council; and

WHEREAS, in order to adequately support economic development initiatives, it is appropriate for County Council to establish a strategy on how to approach economic development, recognizing that the individual components require subsequent Council approval; and

WHEREAS, it is conventional wisdom that economic development requires the assemblage of property and associated public infrastructure for that purpose, which are typically called commerce parks; and

WHEREAS, the geographic makeup of Beaufort County is large and diverse and, as such, multiple commerce parks may be is required and

WHEREAS, it is generally agreed that the management of economic development activities should not be part of the County Administration; and

WHEREAS, it is agreed that in order for economic development activities to be successful in Beaufort County, there will need to be cooperative participation between the County and the Municipalities; and

WHEREAS, in order to successfully implement economic development activities, including business retention, public funding will be required until such time as sufficient commercial development and diversification has occurred, which will then foster continued development by private industries.

NOW, THEREFORE, BE IT RESOLVED, that Beaufort County Council hereby adopts an economic development strategy, which, among other things, will include the establishment of the following:

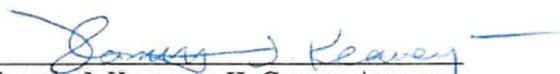
1. A Beaufort County Economic Development Corporation to include participation of the Municipalities and associated public funding.
2. The purchase and / or infrastructure development of properties in Beaufort County.

Adopted this 8th day of June, 2015.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: 
D. Paul Sommerville, Chairman

APPROVED AS TO FORM:


Thomas J. Keaveny, II, County Attorney

2015 / 20

A RESOLUTION OF BEAUFORT COUNTY COUNCIL TO AUTHORIZE THE COUNTY ADMINISTRATOR TO PREPARE THE NECESSARY DOCUMENTS TO ESTABLISH A NONPROFIT ECONOMIC CORPORATION TO COORDINATE AND IMPLEMENT ECONOMIC DEVELOPMENT PLANS AND INITIATIVES FOR BEAUFORT COUNTY

WHEREAS, the South Carolina Comprehensive Planning Enabling Act of 1994 requires adoption of a Comprehensive Plan that contains an Economic Development Element; and

WHEREAS, in 1997, Beaufort County adopted the “The Beaufort County Comprehensive Plan” which includes an Economic Development Element in accordance with the South Carolina Comprehensive Planning Enabling Act of 1994; and

WHEREAS, on June 8, 2015 County Council adopted “A Resolution to Adopt an Economic Development Policy for Beaufort County;” and

WHEREAS, Beaufort County Council resolved to establish a Beaufort County Economic Development Corporation and to purchase and/or establish infrastructure development for properties in Beaufort County; and

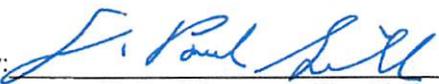
WHEREAS, Beaufort County proposes to create a nonprofit economic corporation controlled by a board; and

WHEREAS, the board shall be comprised of four municipal representatives, one county council representative and two representatives appointed by the board.

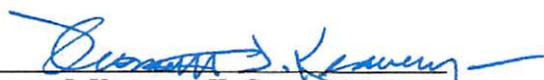
NOW, THEREFORE, be it resolved by the Beaufort County Council that the Council hereby authorizes the County Administrator to prepare the necessary documents to establish a nonprofit economic development corporation to coordinate and implement economic development plans and initiatives within Beaufort County.

DONE this 27th day of July, 2015.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: 
D. Paul Sommerville, Chairman

APPROVED AS TO FORM:


Thomas J. Keaveny, II, County Attorney

ORDINANCE 2016 / 19

AN ORDINANCE OF BEAUFORT COUNTY COUNCIL ESTABLISHING THE APPOINTMENT OF ITS REPRESENTATIVE TO THE BEAUFORT COUNTY ECONOMIC DEVELOPMENT CORPORATION

WHEREAS, on June 8, 2015 Beaufort County Council adopted "A Resolution to Adopt an Economic Development Policy for Beaufort County"; and

WHEREAS, on July 27, 2015 Beaufort County Council passed a resolution that authorized the County Administrator to prepare the necessary documents to establish a nonprofit economic development corporation to coordinate and implement economic development plans and initiatives; and

WHEREAS, the Articles of Incorporation have been filed with the Secretary of State and the Beaufort County Economic Development Corporation has been established; and

WHEREAS, Beaufort County Council resolved the corporation's board shall be comprised of four municipal representatives, one county council representative and two representatives appointed by the board; and

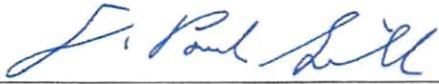
WHEREAS, Beaufort County Code Sec. 2-192 defines a board as a group established by the Beaufort County Code of Ordinances or laws of the state of South Carolina to advise council and its staff in appropriate matters as set forth by its charter, and/or perform such other functions granted to the group by the enabling statute or ordinance and any amendments thereto.

NOW, THEREFORE, BE IT ORDAINED by Beaufort County Council that a representative to the Beaufort County Economic Development Corporation shall be appointed according to the Beaufort County Code Article V, Division 1, Section 191 through 198.

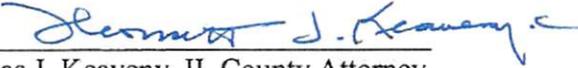
This ordinance shall become effective as of June 27, 2016.

Adopted this 27th day of June, 2016.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: 
D. Paul Sommerville, Chairman

APPROVED AS TO FORM:


Thomas J. Keaveny, II, County Attorney

ATTEST:


Suzanne M. Rainey, Clerk to Council

First Reading: May 23, 2016
Second Reading: June 13, 2016
Public Hearing: June 27, 2016
Third and Final Reading: June 27, 2016

Chronology

- Third and final reading occurred June 27, 2016 / Vote 11:0
- Public hearing occurred June 27, 2016
- Second reading occurred June 13, 2016 / Vote 10:0
- First reading occurred May 23, 2016 / Vote 11:0
- Governmental Committee discussion and recommendation to approve ordinance on first reading occurred May 16, 2016 / Vote 6:1

Southern Carolina MEMBERSHIP AGREEMENT

As a Member of the Southern Carolina Regional Development Alliance (SCA or Alliance), the Alliance will provide a comprehensive economic development program for each county Member. The Alliance staff will work closely with the Governing Body, its Administrative staff, and appointed Economic Development Commission in reaching goals set forth by the SCA Board of Directors that include the Member appointed directors.

In order to maximize the return on its economic development investment, the Southern Carolina Regional Development Alliance submits this agreement whereby the Member engages and agrees to have SCA provide and perform the following services:

SERVICES

- 1) Full-time direction and oversight of a comprehensive economic development program for the Member as an integrated function of the SCA mission, or in partnership with the Member providing its own staffing.
- 2) Industrial recruitment services, including preliminary research, prospect identification, and marketing strategies to attract and locate job-creating investments.
- 3) Identify and support product development and enhancement strategies.
- 4) Identify, assist, and support community development activities and programs that will enhance the opportunities for capital investment and job creation.
- 5) Professionally represent the County on economic development matters related to potential prospects, other Alliance members, the S.C. Department of Commerce, and other entities, where appropriate.
- 6) Work with agencies and other allies to position Member, as part of the Southern Carolina Regional Alliance strategy, as a site of choice for new industrial prospects and the expansion of existing employers within the area.
- 7) Alliance will work with and support town initiatives, where practical, and other entities (Chambers, Schools, etc.) to enhance the overall environment for positive image building and community development, whereby enhancing opportunities for success.
- 8) In conjunction with the Regional Existing Industry Program, Alliance personnel will work to enhance the local "Existing Industry" Program, to support and encourage expansion and job growth.
- 9) Alliance Marketing, working with the appropriate local managers, will work to increase the visibility of the efforts within the local area, educate the public and State on such efforts to improve the perception of the Member.

Communications

- 1) The Alliance will report on activities of the Organization in a timely manner. Written reports will be forwarded to the County Administrator for general distribution. Written reports will be generic in nature, so to protect confidential project information. Protected project information concerning negotiations, proprietary information, and company identification will be delivered as appropriate.
- 2) Alliance personnel will work with and support any Member appointed Economic Commission and Governing Administration appointed by a Member, and continue to inform on activities, both public and private, that are undertaken.

Personnel

- 1) Alliance will provide economic development project management, marketing services, product development and overall management, where appropriate.
- 2) Alliance will direct, manage, and oversee activities of assigned personnel to ensure conformity and compliance with stated and agreed upon Regional and Member missions and objectives.
- 3) Alliance will provide administrative support for personnel related matters to include: management and guidance, compensation and benefits administration, training, career development, etc.

Oversight and Direction

Alliance President will be ultimately responsible for all activities associated with this agreement. President will seek advice, direction, and performance feedback from Member Representatives of the Alliance Board, as well as interaction with Governing Chair, Governing Administration, and Member's appointed Economic Development Board or Commission.

Terms of Agreement

Length of Agreement: The agreement will be for a period of five years with automatic renewal after the contract period in five-year increments. Either party shall provide written notice ninety days in advance of the expiration of the membership period of its intention not to continue its membership in the SCA Organization. Premature cancellation of this Agreement by a Member shall result in a one-year payment penalty. During the membership period, the Member nor any of its representatives or appointees to the SCA board agrees not to pursue or join any other Alliance affiliation or competing economic development authority.

Non appropriation: Notwithstanding the ninety day termination notice requirements provided herein, in the event that Member does not appropriate or otherwise is unable to obtain funding for any annual payment during the five year Term, the Alliance shall have the right to terminate this Agreement on the next annual anniversary of the execution of this Agreement which was funded ("current term"), and Member shall neither be obligated to make any further annual payments due beyond the current term, nor to make any concluding payment whatsoever other than the one year termination penalty as contained in this Agreement, and the Alliance will not be obligated to provide further services to Member after the termination date.

Membership Fee

The membership fee shall remain the same (\$120,000/yr) and be paid annually for Alliance membership and services provided by the Alliance to its Members.

Payments may be made quarterly or annually by Member.

Membership fee payment amount shall be reviewed at the end of each 5-year term. (Membership fees will be determined by the SCA Executive Committee based on population, services provided, and other determining factors as appropriate.)

PROPOSAL SUMMARY

Alliance will market the region locally, domestically, and internationally and provide its services to each member county for specific marketing projects.

Alliance supports the region and its Members by conducting national and international business development missions. Missions are organized, planned, and executed by SCA and our local developers are encouraged to participate.

Alliance supports its Members through product development assistance and initiatives by offering grants and other resources to members.

Alliance coordinates with state and local government agencies, permitting entities, and utilities to make the process of locating in the region as smooth as possible.

Alliance provides numerous databases and research resources that are used to provide information to assist clients in making informed decisions when considering a location in the region.

Alliance assists in identifying the best buildings or sites based on the project's need. Extensive research and guided site tours to assist companies and allies shall be provided to ensure understanding and reasons to locate a business interest in the region.

Alliance will coordinate with its Members and the SC Department of Commerce to develop competitive incentive packages.

Alliance will work with local schools, colleges, tech centers, and the State employee training providers to ensure a world class workforce to assist our projects with their mission.

Alliance will provide overall management of Member Economic Development programs or assist local member's efforts where appropriate.

Alliance will conduct or assist with existing industry programs including support in labor retention where useful.

Alliance will represent Regional organization and its members to entities associated with our mission, including State agencies, as appropriate.

In Witness Whereof, the undersigned have caused this Agreement to be executed by their duly authorized officers, as of this _____ day of _____, 2020.

Member Governing Body
Beaufort County, South Carolina

Southern Carolina Regional
Development Alliance

By: _____

By: _____

Its: Chair

Its: Chair

By: _____

By: _____

Administrator

President and CEO