

RICHLAND COUNTY
DEVELOPMENT & SERVICES
COMMITTEE AGENDA



Tuesday, APRIL 23, 2019

5:00 PM

COUNCIL CHAMBERS

The Honorable Gwen Kennedy, Chair

County Council District 7

The Honorable Allison Terracio

County Council District 5

The Honorable Jim Manning

County Council District 8

The Honorable Chip Jackson

County Council District 9

The Honorable Chakisse Newton

County Council District 11

RICHLAND COUNTY COUNCIL 2019



Bill Malinowski
District 1
2018-2022



Joyce Dickerson
District 2
2016-2020



Yvonne McBride
District 3
2016-2020



Paul Livingston
District 4
2018-2022



Allison Terracio
District 5
2018-2022



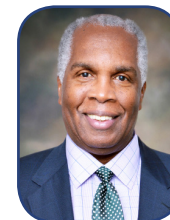
Joe Walker, III
District 6
2018-2022



Gwendolyn Kennedy
District 7
2016-2020



Jim Manning
District 8
2016-2020



Calvin "Chip" Jackson
District 9
2016-2020



Dalhi Myers
District 10
2016-2020



Chakisse Newton
District 11
2018-2022





Richland County Development & Services Committee

April 23, 2019 - 5:00 PM
Council Chambers
2020 Hampton Street, Columbia, SC 29204

1. **CALL TO ORDER** The Honorable Gwen Kennedy
2. **APPROVAL OF MINUTES** The Honorable Gwen Kennedy
 - a. Regular Session: March 26, 2019 [PAGES 8-15]
3. **ADOPTION OF AGENDA** The Honorable Gwen Kennedy
4. **ITEMS FOR ACTION** The Honorable Gwen Kennedy
 - a. I move that all RC contracts must be reviewed & approved by the Office of the County Attorney & that notices under or modifications to RC contracts must be sent to the County Attorney, but may be copied to external counsel, as desired [MYERS] [PAGES 16-18]
 - b. Petition to Close Portion of Old Percival Rd/Spears Creek Rd [PAGES 19-23]
 - c. Revisit the bed and breakfast ordinance to increase the number of rooms up to 20, so the business can be profitable and flourish. This would be in line with keeping the rural character and allow opportunities for small businesses [N. JACKSON] [PAGES 24-26]
 - d. I move, based on my being horrified as I heard for the first time the week of March 4, 2019 of the need to address current critical needs for Administrative office space as the number of vacancies we currently have in our County administration is tremendous, but we are limited in filling these vacancies by physical office space; and that we don't have anywhere to put the people we need to hire and that addressing this need will also

create a County level employment opportunity, that the Interim County Administrator commandeer the unneeded office formed and assigned to me, Richland County District 8 Councilman Jim Manning, by the former County Administrator with no official input by the Richland County Council so as to create a currently funded Richland County employment opportunity, the ability to address to a degree the critical need for an Administrative office space, and the opportunity for citizens and stakeholders to have needs met that are going unmet or services enhancement because we did not have an Administrative office space for the unfilled vacant position. [MANNING] [PAGES 27-28]

5. ITEMS FOR INFORMATION/DISCUSSION

- a. Determine if there is any state/federal law that prohibits a county from creating an ordinance that will address the use of plastic bags by commercial entities. If not, create an ordinance that would prohibit the use of plastic bags for use in putting product purchases, with certain exceptions if deemed necessary. Example: many products already come prepackaged in plastic and could not come under these restrictions [MALINOWSKI and N. JACKSON] [PAGES 29-52]
- b. Request staff to consider a public/private partnership for ambulance services in Richland County. Private ambulance companies could be utilized at various sporting events or in response to situations that are not life and death with where immediate qualified EMT personnel are not needed. This would reduce the current incident responses for Richland County personnel. [MALINOWSKI] [PAGES 53-58]

6. ITEMS PENDING ANALYSIS: NO ACTION REQUIRED

- a. I move to direct the County Administrator to solicit proposals for a survey to residents of Richland County. The purpose of the survey will be to help the County strategically plan for the future as they continue to grow and meet new challenges. The survey will also assist elected officials, as well as County administrators, in making critical decisions about prioritizing resources and helping set the direction for the future of the County. The survey will gather and analyze input and data from residents on service quality, priorities and overall performance and satisfaction with County services. [WALKER]

- b. I move that Richland County Council secure the services of a public relations firm to, among other things, assist Council as a whole and its individual members in informing the media and general public of the body's collective work and activities and community engagements of individual members. A public relations contractor will complement the work of the Clerk's Office, as well as the Public Information Office, which promotes activities of the entire County organization; while a public relations firm will focus solely on Council and its members. The assistance of a contractor will ensure Council abides by state law in its interactions with staff, as the nature of public relations assistance can involve individual requests or directives to staff, which falls outside the authority of individual members.
[DICKERSON]

7. **ADJOURNMENT**



Special Accommodations and Interpreter Services Citizens may be present during any of the County's meetings. If requested, the agenda and backup materials will be made available in alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), as amended and the federal rules and regulations adopted in implementation thereof. Any person who requires a disability-related modification or accommodation, including auxiliary aids or services, in order to participate in the public meeting may request such modification, accommodation, aid or service by contacting the Clerk of Council's office either in person at 2020 Hampton Street, Columbia, SC, by telephone at (803) 576-2061, or TDD at 803-576-2045 no later than 24 hours prior to the scheduled meeting.



Richland County Council

DEVELOPMENT AND SERVICES COMMITTEE

March 26, 2019 – 5:00 PM

Council Chambers

2020 Hampton Street, Columbia, SC 29204

COMMITTEE MEMBERS PRESENT: Gwen Kennedy, Chair, Allison Terracio, Jim Manning, Calvin Jackson and Chakisse Newton

OTHER COUNCIL MEMBERS PRESENT: Paul Livingston, Bill Malinowski, Joyce Dickerson and Dalhi Myers

OTHERS PRESENT: Michelle Onley, Trenia Bowers, Sandra Yudice, Kimberly Williams-Roberts, Larry Smith, Stacey Hamm, Edward Gomeau, Ashiya Myers, Clayton Voignier, Dwight Hanna, Janet Claggett, Art Braswell, Brad Farrar, John Thompson, Ismail Ozbek, Geo Price, Ashley Powell

1. **CALL TO ORDER** – Ms. Kennedy called the meeting to order at approximately 5:00 PM.
2. **APPROVAL OF MINUTES**
 - a. **February 26, 2018** – Mr. Jackson moved, seconded by Ms. Newton, to approve the minutes as distributed.

In Favor: Terracio, Jackson, Newton and Kennedy

Present but Not Voting: Manning

The vote in favor was unanimous.
3. **ADOPTION OF AGENDA** – Ms. Terracio moved, seconded by Mr. Jackson, to adopt the agenda as published.

In Favor: Terracio, Jackson, Newton and Kennedy

Present but Not Voting: Manning

The vote in favor was unanimous.

Mr. Manning inquired about who is doing analysis on Item 6(b).

Ms. A. Myers stated this item was assigned to the Clerk of Council's Office for further research.

Ms. Onley stated Ms. Roberts is presently working on this item, and will report back to the committee.

4. **ITEMS FOR ACTION**

- a. I move that all RC contracts must be reviewed & approved by the Office of the County Attorney & that notices under of modifications to RC contracts must be sent to the County Attorney, but may be copied to external counsel, as desired [MYERS] – Mr. Smith stated they were requested to comment on this motion by Ms. Myers. The comments are contained on p. 13 of the agenda packet. They wanted to make certain that the review did not include certain item such as: work orders; work authorizations; notice to proceed, where the master contract has already been reviewed; where Legal has created a template of documents to be used as a guide, as that would be repetitive; notice regarding contract performance because these items fall under the Procurement Manager; and contract renewable where there are no amendments and Legal has previously reviewed the contract. They also wanted to make certain, in terms of reviewing these contracts, their review was in addition to, and not in lieu of the department of Procurement’s review of these documents. In certain instances, these contracts related to technical or operational issues, and obviously, they are not the subject matter experts in those areas. In those cases, where there are operational issues, or technical issues, that are a part of the contract, those matters need to be reviewed by those individuals that are involved in that.

Ms. Terracio inquired where this policy would be codified (i.e. Legal Department Policy and Procedures).

Mr. Smith stated the maker of the motion did not indicate one way or another. It simply says develop a policy. Unless someone decides to do otherwise, it will be a policy.

Mr. Livingston inquired if the Legal Department reviews the Sheriff, Solicitor, etc. contracts.

Mr. Smith stated, typically, they do not get contracts from departments that the County may be related to like the Elected and/or Appointed Officials. There are times when they get contracts related to the Sheriff’s Department, but in most instances they do not. He stated he is not certain the maker of the motion intended to include Elected and Appointed, or just those departments that fall under the Administrator.

Mr. Manning stated he knows Council recently took up a concern with a contract, and there seemed to be a great deal of concern about the contract being lucrative. He inquired if this will include review for lucrativeness.

Mr. Smith stated, typically, when the Legal Department reviews contract, they are reviewing them to address specific issues. Most contracts that the County does, in terms of whether or not that contract is lucrative or not lucrative, would be subject to a process of competitive bid, and whatever the parameters were for the scope of work. So, when they review the document itself, it probably would not include those kinds of issues because that would have been determined by the solicitation process through the Procurement Department.

Ms. Newton inquired if approving this would be approving the staff recommendation to develop a policy.

Mr. Smith stated the recommendation is to develop a policy and mechanism to track the review of all contracts and amendments thereto. In terms of tracking, that was not a part of the initial motion that was made by Ms. Myers, which was that we simply review them. In terms of how they are going to be tracked, and developing a mechanism, he is not sure about that portion of the recommendation.

Ms. Terracio inquired if there will be a report back to Council about what policy is developed.

Mr. Smith stated they can certainly report back to Council, in terms of the policy, which will be consistent with what was stated in the briefing document, as well as addressing Mr. Livingston's question regarding the issue of what we mean by "all contracts". Does that include contract that fall outside of County government, as it relates to Elected and Appointed Officials?

Mr. Manning moved, seconded by Mr. Jackson, to defer this item to the April committee meeting, pending further input from the Legal Department.

In Favor: Terracio, Jackson, Kennedy and Manning

Present but Not Voting: Newton

The vote in favor was unanimous.

- b. Rural Zoning vs. Open Space Provision – Rural minimum lot size is 0.76 acre lots. Open space provision will allow high density lots with green space set aside. The uses for housing are similar but the capacity is different; therefore, there should be a zoning change from any current zoning to another defined use [N. JACKSON] – Ms. Newton stated her understanding is that this is inaccurate and it does not actually allow what is stated in this motion. Based on that, and the fact we are currently doing a comprehensive review of our zoning, she would suggest we table this item.

Mr. Malinowski stated, reading the information given to us on p. 15, it states, "...the densities for each district are not increased...", but when you go to p. 30, "(i) Density." it shows, based on the % of open space provided, there is a bonus density. So, he is seeing a conflict.

Mr. Price stated, within the Code, when you apply the open space, you are allowed a gross number of units. However, there is a provision that allows for what is deemed a density bonus. For example, if you are allowed a 100 homes, and you preserve a certain amount of open space, you may get a 10% density bonus, so you get 10 more units. They have deemed this not a major a change to the density, so overall the density it pretty much the same.

Mr. Malinowski stated the maker of the motion was correct that we are no longer keeping to the lot size required. He understands it is not a significant change, but it is a change and that is why the question becomes do we need another zoning category.

Mr. Price stated, it is his understanding, from the maker of the motion, the concern was that by applying the provision of the open space and allowing the lots to be reduced, it changes the character of the particular area. For example, in a Rural area the density is the same for the surrounding areas, but because the homes are more compacted in one particular area, the character seems to have changed from the surrounding properties.

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Mr. Livingston stated that also changes the lot sizes.

Mr. Price stated the provision allows for the reduction of the lot sizes within these districts, but overall the actual density for that particular district does not change.

Ms. Newton moved, seconded by Ms. Terracio, to forward to Council with a recommendation to table this item.

In Favor: Terracio and Newton

Abstain: Kennedy

Present but Not Voting: Jackson and Manning

The vote in favor was unanimous with Ms. Kennedy abstaining from the vote.

- c. I move to amend Richland County Code of Ordinances, Chapter 16, Licenses and Miscellaneous Business Regulations by adding Section 16-23, Health Massage, Bodywork Therapists, and Massage Establishments [MANNING] – Mr. Manning moved, seconded by Ms. Newton, to forward to Council with a recommendation for approval.

Mr. Livingston stated there is one concern when we get issues like this, and he recognizes that at times staff is going to say this is a Council initiated response; therefore, they may not have a recommendation, but it would be helpful if they do not have a recommendation to at least provide what may be the implications or concerns.

Ms. Dickerson stated when we start talking about these particular establishments it could affect the establishments we actually use. She has some serious concerns, and would like for them to be outlined, as to which ones, and how we describe these particular facilities.

Mr. Farrar stated, if you look back at the Renaissance, a part of that was an anti-blight component and worrying about some of places in the County that are problematic. As part of that overall program, you have the nuisance ordinance that Council is currently considering. You have the hotel/motel ordinance that we are looking at, and you have a massage ordinance. There are a lot of things that go into nuisance activity. There are a lot of legitimate businesses that do health massage. He stated you want input from the individuals from the industry that are doing this legitimately. This ordinance is to go more toward the things that are on the nuisance end of the spectrum. One of the biggest ones is human trafficking. That is something that is out there internationally and nationally, but what about Richland County. What are we doing here? That is the impetus for this. This is not intended to negatively impact legitimate businesses.

Mr. Manning stated when this was first published on Council's agenda, along with the motion, was the draft ordinance. So, the first opportunity for all of us to read the draft ordinance was several months ago because it was a part of the motion. The draft ordinance was based on an ordinance that has already been approved in Mecklenburg County. We are pretty confident that they were not looking at shutting down any legitimate businesses or massage therapy and body works. When this was on the agenda, as a motion, a gentleman named Rob McCue came and spoke during Citizens' Input. He spoke with Mr. McCue following that meeting, and Mr. McCue put him in touch with Jan Shaw, who chairs the LLR – SC Board that licenses and regulates massage therapists. He sent Ms. Shaw the draft ordinance. Ms. Shaw forwarded the ordinance to Debra Gallup, who is a government liaison for the SC Chapter of the American Massage Therapy Association and Holly Beeson, who is with the SC Licensing and Labor Regulation – Government Affairs Division. All of that got sent to Jason Richie, Program Manager, Government Relations with the American Massage Therapy Association. Mr. Richie reviewed the ordinance, did not

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recommend any changes to the ordinance. However, Mr. Richie forwarded a 31-page ordinance from a town in Colorado, which could provide additional language.

Ms. Myers requested Legal review:

- Section 8 – Operation in connection with living or sleeping quarters prohibited; May exclude hotels that operate spas. She would suggest an exception for spas within hotels.
- Section 9 – Hours of Operation; Some hotels do have 24-hour spas and people take advantage of that.
- Section 13 – Access; right of entry; She would like to see some evidence that normal spas allow the Sheriff to come in. This right of inspection does not have limitations, which would mean that someone could be on a masseuse’s table and the Sheriff could want to come in and inspect. She thinks that might be intrusive, so there are privacy concerns she would like to see addressed.

Ms. Terracio stated there was a bill at the State House and the American Massage Therapy Association (AMTA) was concerned with striking and amending part of that bill. She is assuming that Mr. Manning’s conversations helped us to modify our ordinance to be more in alignment with the AMTA’s preferences.

Mr. Manning stated the State people kicked it up to the National. The National staff has read it, and did not send back any concern with our wording.

Ms. Newton inquired if Ms. Myers wanted her concerns addressed prior to this going forward to Council.

Mr. Manning stated he is happy to look at Ms. Myers’ concerns and consult with Charlotte regarding how they addressed the issue.

Mr. Malinowski inquired if the County currently regulates hours of operation for other businesses. The reason he inquired is, can we get into the business of regulating hours for businesses because it seems we could go on and on for a lot of businesses.

In Favor: Terracio, Jackson, Newton, Kennedy and Manning

The vote in favor was unanimous.

- d. Bulk Item Collection Procedure – Mr. Braswell stated this item came to you in February as an informational item. We are now bringing back to you for action. Currently, we pick up bulk items by appointment. Residents call in and schedule an appointment. What initiated this was that we were getting so many calls to the Ombudsman’s Office that the Administrator wanted us to look at other ways to possibly handle the bulk item collection. He put together a “Situation Team” and came up with the proposed process of the haulers collecting the items every other week, on the same day as yard waste collection. The number of bulk items would be limited to 4 per week for pick up, and the items must be handled and lifted by human power. The item was brought to Council in July 2018, and Council requested that we take it to the communities for feedback on the proposed changes. The Solid Waste Recycling Division, in conjunction with Public Information, set up a series of “Talking Trash” meetings around the County. There were 6 meetings at St. Andrews Park, Upper Richland Community Center, Doko Manor – Blythewood, Council Chambers, Hopkins Park Adult Community Activity Center, and Ballentine Library. The residents were asked to fill out a comment card on how bulk items should be handled. Based on the feedback, 95% of the community said they would prefer to keep the bulk item collection like it is. The reason they like the current method is they were concerned that if you put it out by the curb, without calling it in, if you put it out late and miss the pickup, then it would be on the curb

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for the next 2 weeks. One thing they have done since this initiative was proposed was to set up a dedicated line to take calls to help relieve some of the calls from the Ombudsman's Office. He stated they are taking about 1,000 calls a month. Staff's recommendation is to keep the current process in place.

Ms. Newton inquired if they are asking the residents that call for pickup what their preference would be.

Mr. Braswell stated they have not done so.

Ms. Newton stated it might be interested to get their opinions.

Mr. Braswell stated one advantage to the current process, and taking the calls directly, it cuts out one step in the process, so they are able to get to the haulers quicker to schedule an appointment for pickup.

Ms. Terracio inquired if Mr. Braswell had any insight into whether we could experience any energy savings by doing it on a regular basis.

Mr. Braswell stated the current process should save gas because if you picked up every 2 weeks the haulers would not know where the bulk items were so they would have to drive the entire route to get to the bulk items. This way they know the location and date the resident will put out the items, plus it gives Solid Waste a chance to educate the public on what they can and cannot put out.

Ms. Newton moved, seconded by Ms. Terracio, to forward to Council with a recommendation to approve staff's recommendation to maintain the status quo.

In Favor: Terracio, Newton and Kennedy

The vote in favor was unanimous.

- e. Petition to Close Portion of Old Percival Rd./Spears Creek Rd. – Mr. Smith stated this was a proposed petition, which was forwarded to the County by the law firm of Bernstein & Bernstein, who apparently represent Spears Creek Quadrant Partners. They have indicated their intent to file a petition to close a portion of Old Percival Road. Apparently, prior to the notice of this action, the other portion of Old Percival Road was closed. At that time, they came to the County and indicated their intent to close that portion of the road. The County had no objections to that, so now they are coming back indicating that they would like to close the other portion. As is our process, whenever these letters or petitions come in, we contact EMS, the Sheriff's Department and those departments that would have public response responsibility to see whether or not closing this road would impede their ability to get to someone in case of an emergency. In this particular case, none of the departments indicated that they had any concerns about closing this road. The Legal Department has no objection to it. It is a matter of what the committee wants to do at this point.

Ms. Myers stated she and Mr. Jackson represent the constituents in that area and they would like to hold a community meeting prior to this moving forward.

Mr. Manning moved, seconded by Mr. Jackson, to defer this item to the April committee meeting.

In Favor: Terracio, Jackson, Newton and Kennedy

The vote in favor was unanimous.

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6. **ITEMS FOR INFORMATION/DISCUSSION**

- a. Determine if there is any state/federal law that prohibit a county from creating an ordinance that will address the use of plastic bags by commercial entities. If not, create an ordinance that would prohibit the use of plastic bags for use in putting product purchases, with certain exceptions if deemed necessary. Example: many products already come prepackaged in plastic and could not come under these restrictions [MALINOWSKI and N. JACKSON] – Mr. Malinowski stated there a great deal of discussion on this in the July 24, 2018 committee meeting. The final motion that came out of committee was made by Mr. Rose and seconded by Mr. Manning to bring back recommendations and options. The recommendation on p. 67 of the agenda packet says, “This is a Council initiated request.”, so we not further along than we were 8 months ago. He stated he would like to see recommendations and options brought back.

Ms. A. Myers requested clarity on the intent of the motion to ensure that staff gives Mr. Malinowski the recommendations and options he is looking for (i.e. ordinance language or what other municipalities have done, as far as their best practices).

Mr. Malinowski stated, his understanding is, the intent of the motion was to bring back recommendations and options for a potential ordinance.

Ms. Terracio stated she would like to see, in addition to options for this ordinance, would be some of the best practices about the ways that Councils have worked with the business community. For instance, going out and asking for input. She thinks some of the ordinances were put online with the opportunity to ask questions and make comments. This is something that is going to affect all of us. She is support in moving this along, and would like to know some of those best practices by other Councils.

Mr. Malinowski stated, for clarification, Attachment 20 is a comprehensive one that relates to what Ms. Terracio is asking for.

Mr. Manning stated, for future reference, there is no markings to clearly denote each attachment and their page numbers.

Mr. Manning moved, seconded by Ms. Terracio, to place this item on the April committee agenda for action.

Mr. Jackson stated he hopes a recommendation comes back with the best practices, and then present a plan instead of leaving that up to the committee.

In Favor: Terracio, Jackson, Newton, Kennedy and Manning

The vote in favor was unanimous.

7. **ITEMS PENDING ANALYSIS: NO ACTION REQUIRED:**

- a. I move to direct the County Administrator to solicit proposals for a survey to residents of Richland County. The purpose of the survey will be to help the County strategically plan for the future as they continue to grow and meet new challenges. The survey will also assist elected officials, as well as County administrators, in making critical decisions about prioritizing resources and helping set the direction for the future of the County. The survey will gather and analyze input and data from residents on service quality, priorities and overall performance and satisfaction with County services [WALKER] – Mr. Manning stated the status of this item was contained in the Administrator’s Report.

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Mr. Malinowski stated surveys were sent out to residents approximately 3 years ago. If someone could find those responses, and provide them to Councilmembers it would provide a benchmark, in terms of where we are now.

- b. I move that Richland County Council secure the services of a public relations firm to, among other things, assist Council as a whole and its individual members in informing the media and general public of the body's collective work and activities and community engagements of individual members. A public relations contractor will complement the work of the Clerk's Office, as well as the Public Information Office, which promotes activities of the entire County organization; while a public relations firm will focus solely on Council and its members. The assistance of a contractor will ensure Council abides by state law in its interactions with staff, as the nature of public relations assistance can involve individual requests or directives to staff, which falls outside the authority of individual members [DICKERSON] – The Clerk's Office is presently working on this item.
 - c. Request staff to consider a public/private partnership for ambulance services in Richland County. Private ambulance companies could be utilized at various sporting events or in response to situations that are not life and death with where immediate qualified EMT personnel are not needed. This would reduce the current incident responses for Richland County personnel [MALINOWSKI] – Mr. Byrd stated they are looking into this item and all of the implications that could come for it. He thinks when you look at a situation like that, you have to look at the quality of care that is being given to the public now and what the impact of that would be.
 - d. Revisit the bed and breakfast ordinance to increase the number of rooms up to 20, so the business can be profitable and flourish. This would be in line with keeping the rural character and allow opportunities for small businesses [N. JACKSON] – Mr. Farrar stated there is a State law on the Bed and Breakfast Act. Once you get above 10 rooms, it becomes something other than a bed and breakfast. The Community Planning and Development Committee will be providing input on this matter and will be brought back at the April committee meeting.
7. **ADJOURNMENT** – The meeting adjourned at approximately 5:56 PM.



Briefing Document

Agenda Item

During its December 11, 2018 County Council meeting, Councilmember Dalhi Myers made the following motion:

“I move that all RC contracts must be reviewed & approved by the Office of the County Attorney & that notices under or modifications to RC contracts must be sent to the County Attorney, but may be copied to external counsel, as desired”

Background

Contracts and/or modifications thereto which may obligate the County in some manner should be reviewed and approved by the County’s Legal Department prior to signature. Chapter 2; Article 3; Division 5; Section 2095 of the Richland County Code of Ordinances states “[t]he county attorney...shall advise the county administrator and all county officers and department heads in all matters wherein they may seek advice or counsel.” The County’s Legal department has concurred that contract and amendments should come through its office; however, it does not review work orders or similar documents.

At its February 26, 2019 meeting, the committee requested a list of those documents the County’s Legal Department would review. The response follows:

- *Exclusions from contractual type items routinely sent to Legal*
 - *Routine work orders, work authorizations, or Notices to Proceed where the master contract has already been reviewed by Legal. Legal will review the “template” of these documents, which may then be used as a guide.*
 - *Notices regarding contract performance. These fall under the Procurement Manager.*
 - *Contract renewals where there are no amendments and Legal has previously reviewed the contract.*

Legal’s review is in addition to, not in lieu of, the Department and/or Procurement’s review. Legal is not the technical or subject matter expert of your contract. Legal reviews for certain language and contract provisions, in addition to spotting liability and other legal issues with the contract - not substance.

There is not an exhaustive list. Legal will assist anytime there is a question involving the above items, or any other matter.

Issues

None.

Fiscal Impact

Costs associated with the use of outside counsel may be incurred and will be determined upon engagement thereof.

Past Legislative Actions

None.

Alternatives/Solutions

None.

Staff Recommendation

This is a Council initiated request. Staff in concurrence with the County's Legal Department will develop a policy and mechanism to track the review and approval of all contracts and amendments thereto.

Contract Review Policy

All contracts, including modifications, must be reviewed by the Richland County Attorney's Office prior to execution; provided, however, the following are exceptions to the rule:

Exclusions from contractual type items routinely sent to Legal

- Routine Work orders, work authorizations or Notices to Proceed where the master contract has already been reviewed by Legal. Legal will review the "template" of these documents, which may then be used as a guide.
- Notices regarding contract performance. These fall under the Procurement Manager.
- Contract renewals where there are no amendments and Legal has previously reviewed the contract.

The County Attorney's review is in addition to, not in lieu of, the Department and/or Procurement's review. Legal reviews for certain language and contract provisions, in addition to spotting liability and other legal issues with the contract - not substance.

There is not an exhaustive list. Legal will assist anytime there is a question involving the above items, or any other matter.



Briefing Document

Agenda Item

Petition to Close Portion of Old Percival Rd/Spears Creek Rd

Background

County Council is requested to approve, deny or make a recommendation with respect to a Petition for a Road/Right of Way Closing regarding Old Percival Rd/Spears Creek Rd in accordance with Richland County Code of Ordinances (Roads, Highways and Bridges) section 21-14. The road is more particularly described in the attached Notice of Intention to File a Petition for Road Closing and Abandonment from Attorney Rip Sanders who represents Petitioner Spears Creek Quadrant Partners. Also, see attached plat provided by Petitioner. A portion of this road has already been closed without objection from County Council in 2018; this Petition is to close the remainder of that road/right of way.

Richland County Code of Ordinances (Roads, Highways and Bridges) section 21-14 requires the County Attorney to consult with the County's Community Planning and Development, Public Works, and Emergency Services departments and to forward the request to abandon or close a public road or right-of-way to County Council for disposition. All afore-mentioned departments have been informed of the need for input, and none have an objection. According to Public Works, this particular road/right of way has been abandoned for several years. Petitioners contend this portion of Old Percival Rd/Spears Creek Rd has not been used in decades and is currently impassable by any vehicular or pedestrian traffic. Petitioners have received no objections from surrounding landowners to the closure of this road. Also, this road was not affected by the 2015 flood.

Issues

None.

Fiscal Impact

None.

Past Legislative Actions

None.

Alternatives/Solutions

1. Approve petitioner's request to close the subject road and direct Legal to answer the forthcoming lawsuit accordingly, or
2. Deny petitioner's request to close the road, state reasons for such denial, and direct Legal to answer the suit accordingly.

Staff Recommendation

Staff does not have a recommendation.

Motion Requested

n/a

Attachment

1. Notice of Intention to File a Petition for Road Closing and Abandonment

2. Plat

Submitted by

Lauren Hogan, Assistant County Attorney, County Attorney's Office

BERNSTEIN & BERNSTEIN
ATTORNEYS AT LAW

1019 ASSEMBLY STREET (29201)
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COLUMBIA, SOUTH CAROLINA 29202
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LOWELL E. BERNSTEIN
BETH E. BERNSTEIN

ISADORE S. BERNSTEIN
(1922 - 2010)

OVERTURE E. WALKER
KNOWLTON "RIP" SANDERS

November 8, 2018

VIA CERTIFIED MAIL, RESTRICTED
DELIVERY, RETURN RECEIPT REQUESTED

c/o Lauren Hogan, Assistant County Attorney
Richland County Attorney's Office
2020 Hampton Street, Room 4018
Columbia, South Carolina 29202

RE: Notice of Intention to File a Petition to Close an approximately 1,150' portion of State Road S-40-1098, also now or formerly known as Old Percival Road and/or Spear Creek Road, in or near the City of Columbia, Richland County, South Carolina.

Dear Sir/Madam:

Please allow this letter to inform you that this firm has been retained to represent Spears Creek Quadrant Partners ("SCQP") to bring an action to close and abandon a portion of State Road S-40-1098, in or near the City of Columbia, Richland County, South Carolina. The public record reveals that you currently own real property abutting this road.

As required by South Carolina Code of Laws Section 57-9-10, I am hereby notifying you of the intent to file an action with the Richland County Clerk of Court. A copy of the Notice of Intent is enclosed herewith.

I have included herewith for your information, a copy of the tax map annotated to indicate the portion of the subject to be closed.

With kind regards, I am

Very truly yours,


Knowlton (Rip) Sanders
Bernstein & Bernstein,

KS/cw

**NOTICE OF INTENTION TO FILE A PETITION TO
CLOSE A PORTION OF SOUTH CAROLINA STATE ROAD S-40-1098, ALSO NOW
OR FORMERLY KNOWN AS SPEAR CREEK ROAD AND/OR OLD PERCIVAL
ROAD IN OR NEAR THE CITY OF COLUMBIA, RICHLAND COUNTY, SOUTH
CAROLINA**

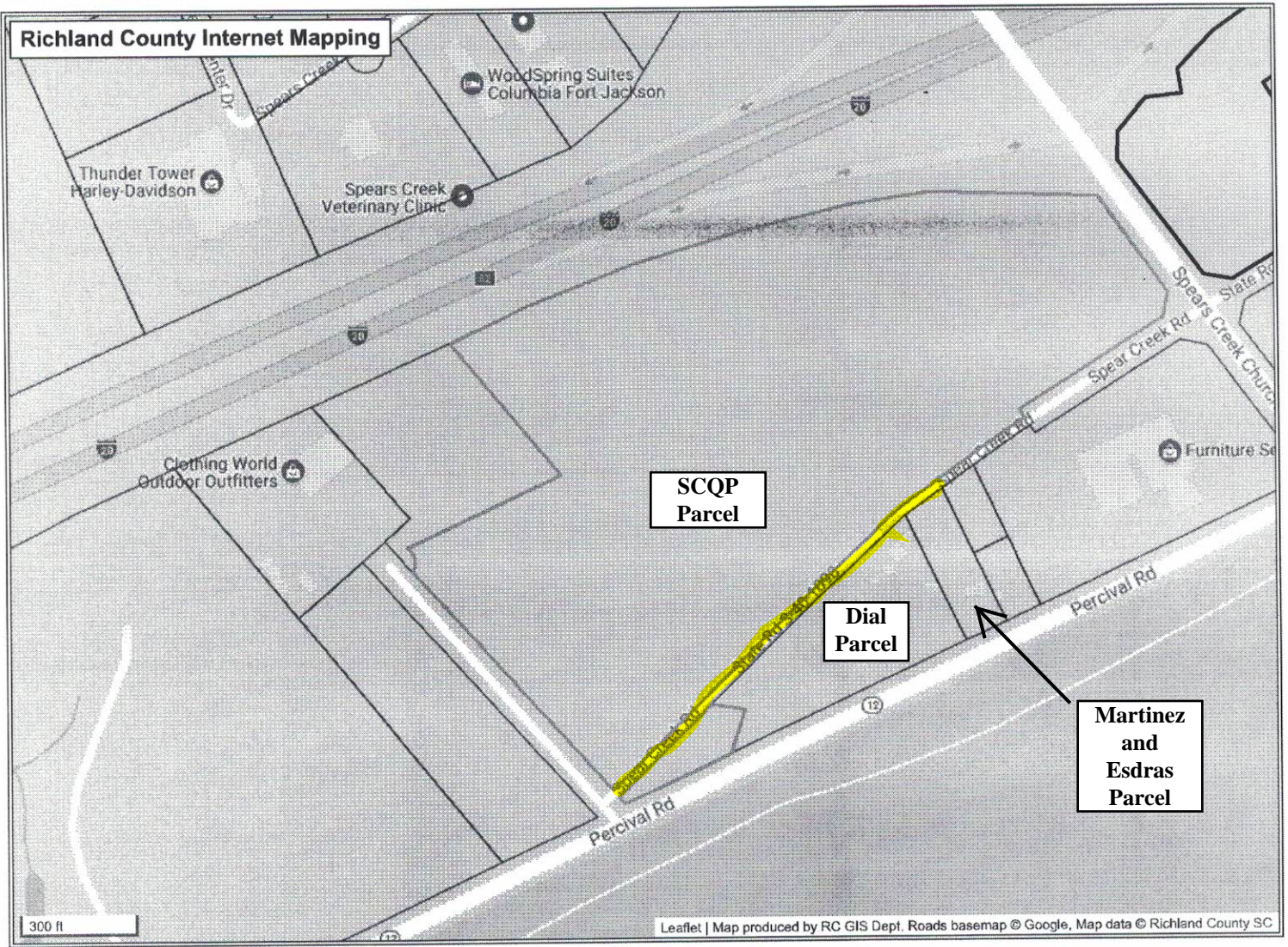
TO ALL INTERESTED PARTIES:

YOU WILL PLEASE TAKE NOTICE that the undersigned Petitioner hereby gives notice that he intends to petition the Court of Common Pleas for the Fifth Judicial Circuit for an Order of the Court closing and forever abandoning a certain portion of South Carolina State Road S-40-1098, also formerly known as Spear Creek Road, located in or near the City of Columbia, Richland County, State of South Carolina. The portion of State Road S-40-1098 sought to be abandoned is that portion of the road located on the western side of Spears Creek Church Road and beginning from its western terminus into an unnamed Richland County public right-of-way serving as an access drive for those certain parcels of real property commonly referred to as (i) 4681 Percival, Richland County Tax Map# R28800-06-02 & (ii) Richland County Tax Map# R28800-06-03, and running in an easterly direction for approximately 1,150' (+/-), ending at its eastern terminus into that certain parcel of real property bearing Richland County Tax Map Number R28800-05-02, and currently owned by Spears Creek Storage, LLC. This Petition will be filed pursuant to section 57-9-10 of the Code of Laws for the State of South Carolina.

All inquiries regarding this action should be addressed to the attorneys representing the Petitioner: Bernstein & Bernstein, LLC, 1019 Assembly Street, Columbia, South Carolina 29201 Telephone (803) 799-7900, attn: Rip Sanders, Esq..



Rip Sanders, Esq.
Bernstein & Bernstein Law Firm



Highlighted area indicates portion of road to be closed.



Agenda Briefing

To: Committee Chair Gwendolyn Kennedy and Honorable Members of the Committee
Prepared by: Clayton Voignier
Department: Community Planning and Development
Date Prepared: April 02, 2019 **Meeting Date:** April 16, 2019

Legal Review	Elizabeth McLean via email	Date:	April 09, 2019
Budget Review	James Hayes via email	Date:	April 09, 2019
Finance Review	Stacey Hamm via email	Date:	April 09, 2019
Approved for Council Consideration	Assistant County Administrator	Ashley Powell, AIA	

Committee Development & Services

Subject: Increasing the maximum number of rooms to twenty (20) for Bed and Breakfast Homes/Inns

Recommended Action:

Staff recommends that County Council keep the current provisions of the Land Development Code, which prescribes a maximum number of nine (9) guest rooms provided by a bed and breakfast home/inn. Increasing the maximum number of guest rooms to twenty (20) conflicts with Section 45-4-20 of the *South Carolina Bed and Breakfast Act* of the South Carolina Code of Laws, which limits the number of guest rooms to ten (10) for bed and breakfast homes/inns.

Motion Requested:

Move to accept staff’s recommendation to keep the current provisions of the Land Development Code, which prescribes a maximum number of nine (9) guest rooms provided by a bed and breakfast home/inn.

Request for Council Reconsideration: Yes

Fiscal Impact:

None

Motion of Origin:

“Revisit the bed and breakfast ordinance to increase the number of rooms up to 20, so the business can be profitable and flourish. This would be in line with keeping the rural character and allow opportunities for small businesses.”

Council Member	Councilman Norman Jackson
Meeting	County Council
Date	December 4, 2018

Discussion:

Previously, Bed and Breakfast Homes/Inns were permitted in the Rural (RU), Office and Institutional (OI), Neighborhood Commercial (NC), and Light Industrial (M-1) zoning districts as permitted uses and in the Rural Residential (RR), Rural Commercial (RC), and the Residential, Multi-family (RM-MD and RM-HD) zoning districts, subject to special requirements, with a maximum of five (5) guest rooms per home/inn. At the December 22, 2009 Administration and Finance Committee meeting, the Committee unanimously voted in favor of requesting staff to explore options for properties zoned Rural Commercial, so as to increase the capacity of such lodging to make them more profitable. Ordinance 020-10HR, adopted May 4, 2010, increased the maximum number of rooms from five (5) to nine (9) and designated all bed and breakfast establishments as permitted uses, subject to special requirements.

The current Richland County Land Development Code permits bed and breakfast homes/inns in the RU, RR, RM-MD, RM-HD, OI, NC, RC and GC zoning districts as permitted uses, subject to the special requirements of section 26-161 (c) (10) which requires compliance with the following provisions:

1. Bed and breakfast homes/inns shall be located a minimum of one thousand five hundred (1,500) feet from any other bed and breakfast home/inn.
2. The owner or manager of the home/inn shall reside on the property.
3. The maximum number of guest rooms provided by the bed and breakfast home/inn shall be nine (9).
4. Activities and functions designed to accommodate the guests shall take place within the principal structure.
5. Off-street parking for bed and breakfast homes/inns shall be provided as required in Section 26-173 of this chapter. Parking shall be provided on the same lot on which the bed and breakfast inn is located, at the rear of the lot, and screened (with vegetation) from adjacent properties and from the road.
6. In the residential districts, signage shall be limited to a single sign, not to exceed three (3) square feet and not containing internal lighting. Such signage shall be attached to the building.
7. Exterior lighting shall be residential in nature and shall not be directed toward adjacent properties.
8. No meals may be served to anyone other than staff and guests registered at the inn.
9. No exterior alterations, other than those necessary to ensure the safety and accessibility of the structure, shall be made to any building for the purpose of providing a bed and breakfast home/inn.

According to Section 45-4-20 of the South Carolina Code of Laws, a bed and breakfast use is "...a residential-type lodging facility having no more than ten guestrooms where transient guests are fed and lodged for pay."

The motion proposing to amend the current provisions of the Land Development Code and increase the maximum number of guest rooms to twenty (20) conflicts with the referenced section.

Attachments:

1. South Carolina Bed and Breakfast Act

Title 45 - Hotels, Motels, Restaurants and Boardinghouses

CHAPTER 4

South Carolina Bed and Breakfast Act

SECTION 45-4-10. Short title.

This chapter shall be cited as the "South Carolina Bed and Breakfast Act".

HISTORY: 1998 Act No. 300, Section 1, eff May 27, 1998.

SECTION 45-4-20. Definitions.

As used in this chapter:

(A) "Bed and breakfast" means a residential-type lodging facility having no more than ten guestrooms where transient guests are fed and lodged for pay. This chapter does not apply to other types of transient accommodations, such as hotels, motels, motor inns, resorts, rooming houses, boarding houses, hunting lodges, or campgrounds. The phrase includes the following types of residential-type lodging facilities:

(1) "bed and breakfast" or "bed and breakfast inn", which are residential-type lodging facilities that have three to ten guestrooms and that serve only breakfast to registered guests;

(2) "home stay bed and breakfast", a residential-type lodging facility that has one to three guestrooms and that serves only breakfast to registered guests; and

(3) "country inn", a residential-type lodging facility that has three to ten guestrooms and that serves breakfast to registered guests.

(B) "Residential-type lodging facility", means a facility that:

(1) serves as both the innkeeper's residence and a place of lodging for transient guests; and

(2) is primarily residential in style with regard to the amenities provided to guests.

(C) "Guestroom" means a sleeping room, or a combination of rooms for sleeping and sitting, which includes, among other amenities:

(1) a bed or beds;

(2) a private or shared bathroom;

(3) clothes hanging and storage amenities; and

(4) a selection of furniture and lighting.

(D) "Innkeeper" means the proprietor of a bed and breakfast.

(E) "Residential kitchen" means a private-home-type kitchen in a bed and breakfast used for food service to registered guests as well as the innkeeper.

HISTORY: 1998 Act No. 300, Section 1, eff May 27, 1998.

Council Member	Jim Manning
Meeting	Regular Session
Date	March 19, 2019

Discussion:

During its April 02, 2019 meeting, County Council approved appointing an Internal Auditor as set forth by Section 2-79(2) of the Richland County Code of Ordinances. The motion of origin from Councilmember Malinowski included "...that Council hire (under a negotiated contract) an internal auditor, and appropriate funding for salary, benefits and other needs to cover this function within the County Council Services/Office." Other needs may be defined as office space and equipment to perform the duties as assigned to the job.

Attachments:

Motion of Origin:

Determine if there is any state/federal law that prohibits a county from creating an ordinance that will address the use of plastic bags by commercial entities. If not, create an ordinance that would prohibit the use of plastic bags for use in putting product purchases, with certain exceptions if deemed necessary. Example: many products already come prepackaged in plastic and could not come under these restrictions

Council Member	Bill Malinowski, Norman Jackson
Meeting	Special Called
Date	July 10, 2018

Discussion:

Relevant Terminology:

- a) **Mil:** a unit of measurement equal to a thousandth of an inch
- b) **Post-consumer recycled content:** material from products that people or businesses have already used
- c) **Fee/charge:** money that retailers are mandated to charge, but is retained by the retailer
- d) **Reusable bag:** bags greater than 2.25 mils thick or as otherwise defined by material, load capacity, durability, and/or minimum lifetime of use

Successful Plastic Bag Ordinance Development

As the proposed ordinance is developed, input from potentially impacted retailers, food establishments, and the general public is greatly encouraged. The following have proven effective in public education campaigns:

- Record of specific harms caused by plastic bags to include costs of associated litter clean-ups and municipal waste impact
- Effective ordinances from other municipalities

The most effective plastic bag ordinances offer a comprehensive method to address all carryout bags via ban/fee hybrids that charge a fee on all other carryout bags (paper, reusable, compostable). This method is the most effective in changing consumer behavior and reducing carryout bag consumption. Fees/charges may range from 5 cents to 25 cents per bag and are set as minimums rather than as flat fees.

“Straight” plastic bag bans are ineffective as paper and reusable bags are still available for free, resulting in increased use of free paper and plastic bags greater than 2.25 mils thick.

It is recommended that any plastic bag law:

- Include a minimum fee/charge component
- Cover as many businesses as possible
- Paper bags should be recyclable and contain at least 40% post-consumer recycled content
- Include a reporting mandate for the implementation/enforcement agency

To address concerns of the impact of a ban/fee hybrid ordinance on low-income residents, require education and outreach as well as reusable bag giveaways in low-income communities during the transition period and during special events. Also, include an exemption for transactions paid in whole or in part by food stamp programs.

As plastic bag ordinances are intended to apply only to carryout bags, the ordinance should also include exemptions for other specific types of bags. Most ordinances/laws exempt bags without handles used to carry unpackaged food and bags provided by a pharmacy to carry prescriptions. Further exemptions may be determined by public input and/or state regulatory requirements.

Enforcement of the ban/fee varies by jurisdiction. Examples include departments of waste management, business licensing departments, city/town mayors/managers, and local tourism boards.

Penalties also vary by jurisdiction, but the overall trend is monetary enforcement fines levied which may gradually increase per violation. Activists do not recommend the use of plastic bag ordinances/laws as a punitive measure against the consumer or as a means to generate general fund revenue.

Plastic Bag Ordinance Implementation

Effective implementation requires education about the ordinance to residents and businesses. Notices should inform businesses of the ordinance's requirements as well as signs for them to post near points of sale.

Most ordinances/laws allow a period between implementation and penalty enforcement. The first violation may be a warning with any subsequent violations resulting in penalties that gradually increase.

To measure the effectiveness of the law, one may look for reductions in the amount of single-use carryout bags used at businesses and the amount of plastic bag litter. Observational data, bag purchase data, and litter clean-up data may be analyzed to assist in ordinance effectiveness measurement efforts.

Concerns

Presently, legislation has been introduced at the state level to preempt local ordinances relative to plastic bans/fees. Activists encourage the development of statewide coalitions of groups working on the initiative as well as lobbying state legislators to combat the proposed legislation.

Administrative staff developed its recommendations based upon its review of local ordinances as well as national publications that document the efforts of other municipalities and states. The County Attorney's office has indicated it will draft an ordinance at the request and direction of Council.

Attachments:

1. Model Ordinance Banning Single-use Carryout Bags and Requiring a \$0.10 Charge on Disposable Carryout Bags
2. SC Bill H3371
3. SC Bill H3529
4. SC Bill S394

Model Ordinance Banning Single-use Carryout Bags and Requiring a \$0.10 Charge on Disposable Carryout Bags¹

**AN ORDINANCE of the [insert name of jurisdiction]
AMENDING [if ordinance is amended prior legislation, insert reference]**

Section 1. Findings and Purpose

The [insert relevant legislative body] finds and determines that:

- a) The use of single-use carryout bags by consumers at retail establishments is detrimental to the environment, public health, and welfare.
- b) The manufacture and distribution of single-use carryout bags requires utilization of natural resources and results in the generation of greenhouse gas emissions.
- c) Single-use carryout bags contribute to environmental problems, including litter in storm drains, rivers and streams, and the ocean.
- d) Single-use carryout bags impose unseen costs on consumers, local governments, the state, and taxpayers, and constitute a public nuisance.

The [insert relevant legislative body] does therefore find and declare that it should restrict the use of single-use carryout bags.

Section 2. Definitions

For the purposes of this ordinance, the following words shall have the following meanings:

- a) “Department” means [relevant department].
- b) “Director” means the Director of [relevant city department].
- c) “Person” means an individual, trust, firm, joint stock company, corporation, cooperative, partnership, or association.
- d) “Postconsumer recycled material” means a material that would otherwise be destined for solid waste disposal, having completed its intended end use and product life cycle. Postconsumer recycled material does not include materials and byproducts generated from, and commonly reused within, an original manufacturing and fabrication process.
- e) “Recycled paper bag” means a paper carryout bag provided by a store to a customer at the point of sale that meets all of the following requirements:
 - 1) Contains only post-consumer recycled fiber, and fiber from sources accredited by the Forest Stewardship Council or other independent certification organization, as approved by the Director.

¹ Based the State of California law regulating single-use carryout bags, and on ordinances in San Francisco and San Mateo County, CA, and Seattle, WA. In this ordinance, stores keep all moneys from the \$0.10 per bag charge. PSI developed this potential model based on actual legislation. **The specific language used may not necessarily reflect the views of PSI, and no official endorsement should be inferred.**

- 2) Contains a minimum of 40% post-consumer recycled content. The Department may modify the requirements for recycled content by regulation adopted after a public hearing and at least 60 days' notice, based upon environmental benefit, cost, and market availability.
- 3) Displays the word "Recyclable" in a highly visible manner on the outside of the bag, and is labeled with the name of the manufacturer, the location (country) where the bag was manufactured, and the percentage of post-consumer recycled content in an easy-to-read size font.
- 4) Is accepted for recycling in curbside programs in a majority of households that have access to curbside recycling programs in the [jurisdiction].
- f) "Reusable bag" means a bag that is provided by a store to a customer at the point of sale that is specifically designed and manufactured for multiple reuse and meets all of the requirements of Section 3.
- g) 1) "Reusable bag producer" means a person or entity that does any of the following:
- A) Manufactures reusable bags for sale or distribution to a store.
 - B) Imports reusable bags into this state, for sale or distribution to a store.
 - C) Sells or distributes reusable bags to a store.
- 2) "Reusable bag producer" does not include a store, with regard to a reusable bag for which there is a manufacturer or importer, as specified in subparagraph (A) or (B) of paragraph (1).
- h) 1) "Single-use carryout bag" means a bag made of plastic, paper, or other material that is provided by a store to a customer at the point of sale and that is not a recycled paper bag or a reusable bag that meets the requirements of Section 3.
- 2) A single-use carryout bag does not include either of the following:
- A) A bag to hold prescription medication dispensed from a pharmacy
 - B) A nonhandled bag used to protect a purchased item from damaging or contaminating other purchased items when placed in a recycled paper bag or a reusable bag.
 - C) A bag provided to contain an unwrapped food item.
 - D) A nonhandled bag that is designed to be placed over articles of clothing on a hanger.
- i) "Food establishment" means [food service establishment, as defined in relevant law].
- j) "Store" means a retail establishment or food establishment located within the geographical limits of [jurisdiction]. A "retail establishment" includes any public commercial establishment engaged in the sale of personal consumer or household items to the customers who will use or consume such items.

Section 3. Reusable Bags

a) On and after [Month date, year]², a store, as defined in Section 2, may sell or distribute a reusable bag to a customer at the point of sale only if the reusable bag is made by a producer certified pursuant to this section to meet all of the following requirements:

- 1) Has a stitched handle and is designed for at least 125 uses, as provided in this section.
- 2) Has a volume capacity of at least 15 liters.
- 3) Is machine washable or made from a material capable of being washed so as to be cleaned and disinfected at least 100 times.
- 4) Has printed on the bag, or on a tag attached to the bag that is not intended to be removed, and in a manner visible to the consumer, all of the following information:
 - A) The name of the manufacturer.
 - B) The country where the bag was manufactured.
 - C) A statement that the bag is a reusable bag and designed for at least 125 uses.
 - D) If the bag is eligible for recycling in the [jurisdiction], instructions to return the bag to the store for recycling or to another appropriate recycling location. If recyclable in the [jurisdiction], the bag shall include the chasing arrows recycling symbol or the term “recyclable,” consistent with the Federal Trade Commission guidelines use of that term, as updated.
- 5) Does not contain lead, cadmium, or any other toxic material that may pose a threat to public health.
- 6) Complies with Section 260.12 of Part 260 of Title 16 of the Code of Federal Regulations related to recyclable claims if the reusable bag producer makes a claim that the reusable bag is recyclable.

b) In addition to the requirements in subdivision (a), a reusable bag made from plastic film shall meet all of the following requirements:

- 1) On and after [Month date, year], it shall be made from a minimum of 20 percent postconsumer recycled material.
- 2) On and after [Month date, year], it shall be made from a minimum of 40 percent postconsumer recycled material.
- 3) Meets any further standards for minimum recycled content established by regulation adopted by the Department after a public hearing and at least 60 days’ notice, based upon environmental benefit and market availability.
- 4) It shall be recyclable in this [jurisdiction], and accepted for return to at-store recycling programs.

² Operative dates for different types of stores may be staggered so that the program is phased-in over the necessary transition period, typically the first year of operation.

5) It shall have, in addition to the information required to be printed on the bag or on a tag, pursuant to paragraph (4) of subdivision (a), a statement that the bag is made partly or wholly from postconsumer recycled material and stating the postconsumer recycled material content percentage, as applicable.

6) It shall be capable of carrying 25 pounds over a distance of 300 feet for a minimum of 125 uses and be at least 4 mils thick, measured according to the American Society of Testing and Materials (ASTM) Standard D6988-13.

7) It shall be made of plastic other than polyethylene (HDPE, LDPE, PETE, etc.) or polyvinyl chloride that is durable, non-toxic, and generally considered a food-grade material.

c) In addition to the requirements of subdivision (a), a reusable bag that is not made of plastic film and that is made from any other natural or synthetic fabric, including, but not limited to, woven or nonwoven nylon, polypropylene, polyethylene-terephthalate, or Tyvek, shall satisfy all of the following:

1) It shall be sewn.

2) It shall be capable of carrying 22 pounds over a distance of 175 feet for a minimum of 125 uses.

3) It shall have a minimum fabric weight of at least 80 grams per square meter.

Section 4. Single-Use Carryout Bags

a) On and after [Month date, year], a store, as defined in Section 2, shall not provide a single-use carryout bag to a customer at the point of sale.

b) 1) On and after [Month date, year], a store, as defined in Section 2, shall not sell or distribute a reusable bag at the point of sale except as provided in this subdivision.

2) On and after [Month date, year], a store, as defined in Section 2, may make available for purchase at the point of sale a reusable bag that meets the requirements of Section 3.

3) On and after [Month date, year], a store, as defined in Section 2, that makes reusable bags available for purchase pursuant to paragraph (2) shall not sell the reusable bag for less than ten cents (\$0.10) in order to ensure that the cost of providing a reusable bag is not subsidized by a customer who does not require that bag.

c) 1) On and after [Month date, year], a store, as defined in Section 2, shall not sell or distribute a recycled paper bag at the point of sale except as provided in this subdivision.

2) A store, as defined in Section 2, may make available for purchase a recycled paper bag. On and after [Month date, year], the store shall not sell a recycled paper bag for less than ten cents (\$0.10) in order to ensure that the cost of providing a recycled paper bag is not subsidized by a consumer who does not require that bag.

d) Exemption

1) Notwithstanding any other law, on and after [Month date, year], a store, as defined in Section 2, that makes reusable bags or recycled paper bags available for purchase at the point of sale shall provide a reusable bag or a recycled paper bag at no cost at the point of sale to a customer receiving [supplemental food assistance, WIC and other public assistance programs, as applicable in relevant state/jurisdiction].

- 2) A store shall not charge for a reusable bag that is distributed to a customer without charge during a limited duration promotional event, not to exceed 12 days per year.
- e) A store, as defined in Section 2, shall not require a customer to use, purchase, or accept a single-use carryout bag, recycled paper bag, or reusable bag as a condition of sale of any product.
- f) Any owner or operator of a Store may petition the Director of the [relevant department] for a full or partial waiver of the requirements of this Section, for a period of up to one year, if the owner or operator can:
- 1) Demonstrate that application of this Section would create undue hardship or practical difficulty for the store not generally applicable to other stores in similar circumstances, or
 - 2) Establish that the business as a whole cannot, under the terms of this Section, generate a return that is commensurate with returns on investments in other enterprises having corresponding risks and is sufficient to attract capital.
- g) All moneys collected pursuant to this section shall be retained by the store³ and may be used only for the following purposes:
- 1) Costs associated with complying with the requirements of this ordinance.
 - 2) Actual costs of providing recycled paper bags or reusable bags.
 - 3) Costs associated with a store's educational materials or educational campaign encouraging the use of reusable bags
- h) Covered stores shall separately itemize the fee charged pursuant to this Section on the standard receipt provided to customers.

SECTION 5. Outreach and Implementation

Covered stores that provide reusable or recycled paper bags at the point of sale shall display a sign in a location outside or inside of the business, viewable by customers, alerting customers of the charge per bag.

The Department's responsibilities for implementing this ordinance include conducting outreach to stores, providing multi-lingual information to educate store employees and customers, and making available lists of vendors who sell recycled paper, or reusable bags. The Director, after a public hearing, may adopt and may amend guidelines, rules, regulations and forms to implement this ordinance.

To further promote the use of reusable shopping bags and reduce the quantity of single-use carryout bags entering the [jurisdiction]'s waste stream, the [relevant department] is authorized to make reusable carryout bags available to the public at low cost or free-of-charge, targeting such programs to reach low-income households to the greatest degree possible.

³ In some states, local governments are not permitted to collect moneys from charges on single-use carryout bags. Others choose not to collect the moneys to avoid complaints that the fee is a tax. To cover such situations for the purposes of this model, we have used language that allows stores to retain the full amount. In other states, governments collect all or a portion of the moneys generated by the charge. In these cases, the moneys are used to mitigate the impacts of disposable bags, or for other environmental programs. See "Model Fee on Disposable Bags – 10 cents" for sample language.

SECTION 6. Enforcement and Penalties

[Relevant city government department and division (ex. Police officers and Health Agents)] shall have the authority to enforce this ordinance.

[Jurisdiction name] may impose civil liability on a person or entity that knowingly violated this ordinance, or reasonably should have known that it violated this ordinance, in the amount of one thousand dollars (\$1,000) per day for the first violation of this ordinance, two thousand dollars (\$2,000) per day for the second violation, and five thousand dollars (\$5,000) per day for the third and subsequent violations.

SECTION 7. Severability

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held invalid or unconstitutional by the decision of any court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions of this ordinance. Such decision shall not affect the validity of the remaining portions of this ordinance, which shall remain in full force and effect.

South Carolina General Assembly
123rd Session, 2019-2020

H. 3371

STATUS INFORMATION

General Bill

Sponsors: Rep. Gilliard

Document Path: I:\council\bill\ncd\11030cz19.docx

Introduced in the House on January 8, 2019

Currently residing in the House Committee on **Labor, Commerce and Industry**

Summary: Plastic bags

HISTORY OF LEGISLATIVE ACTIONS

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
12/18/2018	House	Prefiled
12/18/2018	House	Referred to Committee on Labor, Commerce and Industry
1/8/2019	House	Introduced and read first time (House Journal-page 213)
1/8/2019	House	Referred to Committee on Labor, Commerce and Industry (House Journal-page 213)

View the latest [legislative information](#) at the website

VERSIONS OF THIS BILL

[12/18/2018](#)

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A BILL

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 77 TO TITLE 39 SO AS TO PROHIBIT A STORE IN THIS STATE FROM PROVIDING A SINGLE USE PLASTIC BAG TO A CUSTOMER.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 39 of the 1976 Code is amended by adding:

“CHAPTER 77

Single Use Plastic Bags

Section 39-77-10. As used in this chapter:

(1) ‘Produce bag’ or ‘product bag’ means a bag without handles used exclusively to carry produce, meats, other food items, or merchandise to the point of sale inside a store or to prevent the items from coming into direct contact with each other.

(2) ‘Single use plastic bag’ means a bag made of plastic or similar material that is not recyclable and is provided at the checkout stand, cash register, point of sale, or other point of departure for the purpose of transporting food or merchandise out of the establishment. The term does not include product bags, produce bags, or bags provided by pharmacists to transport prescription drugs.

(3) ‘Store’ means a retail establishment located in this State that is a:

(a) full-line, self-service market located in a permanent building that operates year round that sells a line of staple foods, meats, produce, household supplies, dairy products, or other perishable items at retail;

[3371]

1 (b) drug store, pharmacy, supermarket, grocery store,
2 convenience food store, food mart, or other entity engaged in the
3 retail sale of a limited line of goods that include milk, bread, soda,
4 and snack food; or

5 (c) store engaged in the retail sale of household supplies,
6 hardware, plumbing supplies, electrical supplies, and miscellaneous
7 merchandise or other items customarily placed in single-use
8 carryout bags.

9 The term 'store' does not include businesses where the sale of
10 prepared food is the essential part of the business or where the sale
11 of food is an incidental part of the business. Food sales are
12 considered incidental if the sales compromise no more than two
13 percent of the business's gross sales as measured by the dollar value
14 of food sales as a percentage of the dollar value of total sales at a
15 single location.

16
17 Section 39-77-20. No store in this State may provide a customer
18 with a single use plastic bag."

19
20 SECTION 2. This act takes effect upon approval by the Governor.

21 ----XX----

22

South Carolina General Assembly
122nd Session, 2017-2018

H. 3529

STATUS INFORMATION

General Bill

Sponsors: Reps. Bedingfield, Sandifer, Hamilton, Forrester, Atwater, Yow, Clemmons, Crawford, Fry, Hill, Lowe, Pitts, Putnam, Anderson, Martin, G.R. Smith, Williams, Hixon, Henegan and Henderson
Document Path: I:\council\ills\dka\3054sa17.docx

Introduced in the House on January 18, 2017

Introduced in the Senate on February 8, 2018

Last Amended on February 7, 2018

Currently residing in the Senate

Summary: Auxiliary containers

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
1/18/2017	House	Introduced and read first time (House Journal-page 19)
1/18/2017	House	Referred to Committee on Labor, Commerce and Industry (House Journal-page 19)
1/19/2017	House	Member(s) request name added as sponsor: Putnam
1/25/2017	House	Member(s) request name added as sponsor: Henderson
2/1/2017	House	Member(s) request name removed as sponsor: Henderson
2/2/2017	House	Member(s) request name added as sponsor: Anderson
2/2/2017	House	Committee report: Favorable with amendment Labor, Commerce and Industry (House Journal-page 1)
2/7/2017	House	Member(s) request name added as sponsor: Martin, G.R.Smith
2/7/2017	House	Requests for debate-Rep(s). Bedingfield, Toole, Brown, Hiott, Mack, Cogswell, Crosby, Danning, Arrington, Clary, Bernstein, Stavrinakis, McCoy, Henderson, Burns, B Newton, Martin, Forrester, Robinson-Simpson, Dilliard, Mitchell, Norrell, GR Smith, VS Moss, Cobb-Hunter, McEachern, Ridgeway, Douglas, W Newton, Erickson, Clemmons, Williams, Ott, Knight, King, Bradley, Finlay, Henegan, Johnson, S Rivers, Yow, Jefferson (House Journal-page 16)
2/23/2017	House	Debate adjourned until Tues., 2-28-17 (House Journal-page 12)
2/28/2017	House	Debate adjourned until Wed., 3-1-17 (House Journal-page 12)
3/1/2017	House	Debate adjourned until Thur., 3-1-17 (House Journal-page 14)
3/2/2017	House	Debate adjourned until Tues., 3-7-17 (House Journal-page 28)
3/7/2017	House	Amended (House Journal-page 83)
3/7/2017	House	Continued (House Journal-page 83)
1/10/2018	House	Debate adjourned until Wed., 1-24-18 (House Journal-page 14)
1/25/2018	House	Debate adjourned until Tues., 1-30-18 (House Journal-page 53)
1/30/2018	House	Member(s) request name added as sponsor: Henderson
1/31/2018	House	Member(s) request name added as sponsor: Williams, Hixon, McGinnis
2/1/2018	House	Member(s) request name removed as sponsor: McGinnis
2/7/2018	House	Member(s) request name added as sponsor: Henegan
2/7/2018	House	Amended (House Journal-page 21)
2/7/2018	House	Read second time (House Journal-page 47)
2/7/2018	House	Roll call Yeas-73 Nays-41 (House Journal-page 47)

2/8/2018 House Read third time and sent to Senate ([House Journal-page 22](#))
2/8/2018 Senate Introduced and read first time ([Senate Journal-page 10](#))
2/8/2018 Senate Referred to Committee on **Labor, Commerce and Industry** ([Senate Journal-page 10](#))
4/17/2018 Senate Committee report: Favorable with amendment **Labor, Commerce and Industry** ([Senate Journal-page 8](#))
4/18/2018 Scrivener's error corrected

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VERSIONS OF THIS BILL

[1/18/2017](#)

[2/2/2017](#)

[3/7/2017](#)

[2/7/2018](#)

[4/17/2018](#)

[4/18/2018](#)

1 COMMITTEE REPORT
2 April 17, 2018
3

H. 3529

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5
6 Introduced by Reps. Bedingfield, Sandifer, Hamilton, Forrester,
7 Atwater, Yow, Clemmons, Crawford, Fry, Hill, Lowe, Pitts,
8 Putnam, Anderson, Martin, G.R. Smith, Williams, Hixon, Henegan
9 and Henderson

10
11 S. Printed 4/17/18--S. [SEC 4/18/18 10:59 AM]
12 Read the first time February 8, 2018.

13
14

15 **THE COMMITTEE ON**
16 **LABOR, COMMERCE AND INDUSTRY**

17 To whom was referred a Bill (H. 3529) to amend the Code of
18 Laws of South Carolina, 1976, by adding Chapter 77 to Title 39 so
19 as to provide that any regulation regarding the use, disposition, sale,
20 etc., respectfully

21 **REPORT:**

22 That they have duly and carefully considered the same and
23 recommend that the same do pass with amendment:

24

25 Amend the bill, as and if amended, page 2, by striking lines 26
26 through 30 and inserting:

27 / (C) Nothing in this chapter may be construed as applying to
28 the use of auxiliary containers within the boundaries of a state,
29 county, or municipal park; on a property owned by a county or
30 municipality, including, but not limited to, coastal tidelands and
31 wetlands; or on a public beach, river, or other body of water
32 maintained by a county or municipality. A county or municipality
33 that elects to enact an ordinance pertaining to the use of auxiliary
34 containers on the exempted properties listed herein may fine a
35 person or business in violation of the ordinance up to one thousand
36 dollars per violation. /

37 Renumber sections to conform.

38 Amend title to conform.

39

40 THOMAS C. ALEXANDER for Committee.

41

42

[3529-1]

1 **STATEMENT OF ESTIMATED FISCAL IMPACT**

2 **Explanation of Fiscal Impact**

3 **Local Expenditure**

4 This bill defines an auxiliary container as a bag, cup, package,
5 container, bottle, or other packaging that is designed to consume or
6 transport food or beverage from a food service or retail facility. This
7 bill restricts enacting laws and regulations regarding the use, sale,
8 or taxation of auxiliary containers to the General Assembly. Any
9 county or municipality that has ordinances or regulations pertaining
10 to the use, sale, or taxation of auxiliary containers is superseded by
11 this bill. The provisions of this bill do not apply to the use of
12 auxiliary containers within the boundaries of state parks, coastal
13 tidelands, wetlands, or public beaches maintained by any county or
14 municipality.

15 The provisions of this bill do not apply to auxiliary container
16 regulations adopted before January 31, 2018, including regulations
17 with a delayed implementation date or that are conditioned on future
18 municipal action. A municipality located within a county that has
19 adopted an ordinance before January 31, 2018, may pass the same
20 or similar ordinance as the county within which it is located.

21 The Revenue and Fiscal Affairs Office contacted forty-six
22 counties and the Municipal Association of South Carolina (MASC)
23 regarding the expenditure impact of this bill. Charleston, Clarendon,
24 Fairfield, Florence, Greenville, Hampton, Horry, Lancaster, and
25 Pickens counties all indicated there will be no expenditure impact
26 since they do not have auxiliary container ban ordinances in their
27 localities. On the municipal level, the Isle of Palms banned
28 businesses from offering auxiliary containers in 2015 and Folly
29 Beach did the same in 2016. In each case, there was no expected
30 cost associated with enforcing the ban. Additionally, this bill would
31 not affect their auxiliary container bans because their ordinances
32 went into effect prior to January 31, 2018. The MASC indicated they
33 do not expect an expenditure impact from this bill for all other
34 municipalities.

35
36 Frank A. Rainwater, Executive Director
37 Revenue and Fiscal Affairs Office
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[3529-2]

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A BILL

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 77 TO TITLE 39 SO AS TO PROVIDE THAT ANY REGULATION REGARDING THE USE, DISPOSITION, SALE, OR ANY IMPOSITION OF ANY PROHIBITION, RESTRICTION, FEE IMPOSITION, OR TAXATION OF AUXILIARY CONTAINERS MUST BE DONE ONLY BY THE GENERAL ASSEMBLY, TO DEFINE AUXILIARY CONTAINER, TO PROVIDE FOR LEGISLATIVE FINDINGS, AND TO PROVIDE FOR EXCEPTIONS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 39 of the 1976 Code is amended by adding:

“CHAPTER 77

Auxiliary Containers

Section 39-77-10. The General Assembly finds that:
(1) prudent regulation of auxiliary containers is crucial to the welfare of the state’s economy;
(2) retail and food establishments are sensitive to the costs and regulation of auxiliary containers; and
(3) if individual political subdivisions of the State regulate auxiliary containers, there exists the potential for varying regulations which could lead to unnecessary increased costs for retail and food establishments to comply with the regulations.

Section 39-77-20. As used in this chapter, ‘auxiliary container’ means a bag, cup, package, container, bottle, or other packaging that is:

- 1 (1) designed to be either reusable or single-use;
- 2 (2) made of cloth, paper, plastic, including foamed or expanded
- 3 plastic, cardboard, expanded polystyrene, corrugated material,
- 4 aluminum, glass, postconsumer recycled, or similar material or
- 5 substrates, including coated, laminated, or multilayer substrates; and
- 6 (3) designed for, but not limited to, consuming, transporting, or
- 7 protecting merchandise, food, or beverages from or at a food service
- 8 or retail facility.

9
10 Section 39-77-30. (A) Any regulation regarding the use,
11 disposition, sale, or any imposition of any prohibition, restriction,
12 fee imposition, or taxation of auxiliary containers must be done only
13 by the General Assembly. This chapter supersedes and preempts any
14 ordinance enacted by a political subdivision that purports to regulate
15 the use, disposition, sale, or any imposition of any prohibition,
16 restriction, fee imposition, or taxation of auxiliary containers at the
17 retail, manufacturer, or distributor level.

18 (B) Nothing in this chapter may be construed to prohibit or limit
19 any county or municipal ordinance regulating solid waste, any
20 agreement pertaining to the disposal of solid waste, curbside
21 recycling program, designated residential or commercial recycling
22 locations, or commercial recycling program.

23 (C) The provisions of this chapter do not apply to the use of
24 auxiliary containers within the boundaries of a State park, on a
25 property owned by a county or municipality including, but not
26 limited to, coastal tidelands and wetlands, or on a public beach,
27 river, or other body of water maintained by a county or municipality.

28 (D) The provisions of this chapter do not apply to auxiliary
29 container regulations adopted before January 31, 2018, including
30 regulations with a delayed implementation date or that are
31 conditioned on future municipal action. A municipality located
32 within a county that has adopted an ordinance before January 31,
33 2018, may pass the same or similar ordinance as the county within
34 which it is located.”

35
36 SECTION 2. This act takes effect upon approval by the Governor.

37 ----XX----

38

South Carolina General Assembly
123rd Session, 2019-2020

S. 394

STATUS INFORMATION

General Bill

Sponsors: Senators Talley and Climer

Document Path: I:\s-res\sft\014auxi.sp.sft.docx

Introduced in the Senate on January 22, 2019

Currently residing in the Senate

Summary: Auxiliary containers

HISTORY OF LEGISLATIVE ACTIONS

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
1/22/2019	Senate	Introduced and read first time (Senate Journal-page 5)
1/22/2019	Senate	Referred to Committee on Labor, Commerce and Industry (Senate Journal-page 5)
4/11/2019	Senate	Committee report: Favorable Labor, Commerce and Industry (Senate Journal-page 4)

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VERSIONS OF THIS BILL

[1/22/2019](#)

[4/11/2019](#)

1 COMMITTEE REPORT

2 April 11, 2019

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S. 394

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6

Introduced by Senators Talley and Climer

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8 S. Printed 4/11/19--S.

9 Read the first time January 22, 2019.

10

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12 **THE COMMITTEE ON LABOR, COMMERCE AND**
13 **INDUSTRY**

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17

To whom was referred a Bill (S. 394) to amend Chapter 17, Title 39 of the 1976 Code, relating to containers and grades, by adding Article 7, to provide that any regulation regarding the use, disposition, etc., respectfully

18

REPORT:

19

20

That they have duly and carefully considered the same and recommend that the same do pass:

21

22

THOMAS C. ALEXANDER for Committee.

23

24

25 **STATEMENT OF ESTIMATED FISCAL IMPACT**

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Explanation of Fiscal Impact

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Introduced on January 22, 2019

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Local Expenditure

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This bill requires that any regulation regarding the use, disposition, sale, or imposition of any prohibition, restriction, fee imposition, or taxation of auxiliary containers must be done only by the General Assembly. This bill supersedes and preempts any county or municipality ordinance that regulates the use, disposition, sale, or imposition of any prohibition, restriction, fee imposition, or taxation of auxiliary containers. The provisions of this bill do not apply to the use of auxiliary containers within the boundaries of state parks, coastal tidelands, wetlands, or on a public beach, river, or other body of water maintained by a county or municipality. Based on our research, we found that at least one county and ten municipalities impose some type of ban on auxiliary containers. These include Beaufort County and the municipalities of Charleston, Isle of Palms, Mount Pleasant, Hilton Head Island,

[394-1]

1 Bluffton, Port Royal, Beaufort, Surfside Beach, Folly Beach, and
2 Arcadia Lakes.

3 The Revenue and Fiscal Affairs Office contacted forty-six
4 counties and the Municipal Association of South Carolina (MASC)
5 regarding the expenditure impact of this bill. Fifteen counties and
6 two municipalities responded. Charleston, Cherokee, Clarendon,
7 Dillon, Florence, Georgetown, Greenville, Horry, Lee, Lancaster,
8 McCormick, Lexington, Marion, and Oconee counties all indicated
9 there will be no expenditure impact since they do not have auxiliary
10 container ban ordinances. Beaufort County indicates that they
11 adopted a ban of single-use plastic bags on January 22, 2018. The
12 county suggests that a repeal of this ordinance will encourage the
13 use of these plastic bags, which would increase the amount of litter.
14 The county did not estimate the additional cost from the increased
15 amount of litter. The municipalities of Mount Pleasant and Folly
16 Beach report that they ban the use of auxiliary containers and the
17 repeal of the local ordinance may result in additional litter. Folly
18 Beach estimates that personnel and other operating costs to pick up
19 the additional litter from the beach during the summer would
20 increase expenditures by \$158,600 per year.

21 Based on these responses, we expect that this bill will have no
22 expenditure impact on the counties and municipalities that currently
23 do not regulate auxiliary containers. Except for Folly Beach, the
24 counties and municipalities that currently regulate auxiliary
25 containers did not estimate the amount of additional expenditures
26 required from this bill. Therefore, due to the limited data available
27 from local governments that currently regulate auxiliary containers,
28 our office is unable to determine the expenditure impact of this bill
29 on counties and municipalities.

30 **Local Revenue**

31 A county or municipality may elect to impose a fine of up to
32 \$1,000 for violation of an ordinance pertaining to the use of
33 auxiliary containers within the exempted properties listed below:

34 a state, county, or municipal park

35

36 a property owned by the county or municipality, including, but
37 not limited to, coastal tidelands, wetlands

38

39 a public beach, river, or other body of water maintained by a
40 county or municipality.

41

42 Since this bill allows a county or municipality to elect to impose
43 a fine of up to \$1,000 for a violation of a local ordinance pertaining

[394-2]

1 to the use of auxiliary containers within the exempted properties
2 listed above, our office is unable to determine the expenditure
3 impact of this bill on county and municipal governments.

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5 Frank A. Rainwater, Executive Director

6 Revenue and Fiscal Affairs Office

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[394-3]

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A BILL

TO AMEND CHAPTER 17, TITLE 39 OF THE 1976 CODE, RELATING TO CONTAINERS AND GRADES, BY ADDING ARTICLE 7, TO PROVIDE THAT ANY REGULATION REGARDING THE USE, DISPOSITION, SALE, OR IMPOSITION OF ANY PROHIBITION, RESTRICTION, FEE IMPOSITION, OR TAXATION OF AUXILIARY CONTAINERS MUST BE DONE BY THE GENERAL ASSEMBLY, TO PROVIDE FOR EXCEPTIONS, AND TO DEFINE NECESSARY TERMS.

Be it enacted by the General Assembly of the State of South Carolina:

- SECTION 1. The General Assembly finds that:
- (1) prudent regulation of auxiliary containers is crucial to the welfare of the State's economy;
 - (2) retail and food establishments are sensitive to the costs and regulation of auxiliary containers; and
 - (3) if individual political subdivisions of the State regulate auxiliary containers, then there exists the potential for varying regulations, which could lead to unnecessary increased costs for retail and food establishments to comply with the regulations.

SECTION 2. Chapter 17, Title 39 of the 1976 Code is amended by adding:

“ARTICLE 7
Auxiliary Containers

1 Section 39-17-710. As used in this article, ‘auxiliary container’
2 means a bag, cup, package, device, container, bottle, or other
3 packaging that is:

- 4 (1) designed to be either reusable or single-use;
- 5 (2) made of cloth; paper; plastic, including foamed or
6 expanded plastic; cardboard; expanded polystyrene; corrugated
7 material; aluminum; glass; or postconsumer recycled, or similar,
8 material or substrates, including coated, laminated, or multilayer
9 substrates; and
- 10 (3) designed for, but not limited to, consuming, transporting,
11 or protecting merchandise, food, or beverages from or at a food
12 service or retail facility.

13
14 Section 39-17-720.(A) Any regulation regarding the use,
15 disposition, sale, or imposition of any prohibition, restriction, fee
16 imposition, or taxation of auxiliary containers must be done only by
17 the General Assembly. This article supersedes and preempts any
18 ordinance enacted by a political subdivision that purports to regulate
19 the use, disposition, sale, or imposition of any prohibition,
20 restriction, fee imposition, or taxation of auxiliary containers at the
21 retail, manufacturer, or distributor level.

22 (B) Nothing in this article may be construed to prohibit or limit
23 any county or municipal ordinance regulating solid waste,
24 agreement pertaining to the disposal of solid waste, curbside
25 recycling program, designated residential or commercial recycling
26 locations, or commercial recycling program.

27 (C) Nothing in this article may be construed as applying to the
28 use of auxiliary containers within the boundaries of a state, county,
29 or municipal park; on a property owned by a county or municipality,
30 including, but not limited to, coastal tidelands and wetlands; or on a
31 public beach, river, or other body of water maintained by a county
32 or municipality. A county or municipality that elects to enact an
33 ordinance pertaining to the use of auxiliary containers on the
34 exempted properties listed herein may fine a person or business in
35 violation of the ordinance up to one thousand dollars per violation.”

36
37 SECTION 3. This act takes effect upon approval by the Governor.
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Agenda Briefing

To: Committee Chair Gwendolyn Kennedy and Honorable Members of the Committee
Prepared by: Michael A. Byrd, Director
Department: Emergency Services
Date Prepared: April 08, 2019 **Meeting Date:** April 23, 2019

Legal Review	Elizabeth McLean via email	Date:	April 16, 2019
Budget Review	James Hayes via email	Date:	April 15, 2019
Finance Review	Stacey Hamm via email	Date:	April 16, 2019
Approved for Council consideration:	Assistant County Administrator	Sandra Yúdice, Ph.D.	

Committee Development & Services
Subject: Public/Private Partnership for Ambulance Services

Recommended Action:

Staff recommends receipt of this report as information as well as continued funding of additional EMS positions and its operational budget to meeting community standards.

Motion Requested:

N/A

Request for Council Reconsideration: Yes

Fiscal Impact:

The potential fiscal impact of a public/private partnership for ambulance services includes the following:

1. Loss of revenue generated from patient billing collections. Collections netted \$14.2 million during the 2018 calendar year;
2. Costs to pay private services to respond to 911 calls are unknown;
3. Potential increase treatment and transportation costs to patients transported by private services;
4. Eliminated EMS standby coverage may result in decreased overtime costs; however, the exact impact is unknown.
5. Potential loss of patient services quality control and exposure to liability and claims from poor patient care services.

Motion of Origin:

“Request staff to consider a public/private partnership for ambulance services in Richland County. Private ambulance companies could be utilized at various sporting events or in response to situations that are not life and death with where immediate qualified EMT personnel are not needed. This would reduce the current incident responses for Richland County personnel.”

Council Member	Bill Malinowski
Meeting	Regular Session
Date	March 5, 2019

Discussion:

Richland County EMS operates under a “community standard” as developed by input from County Council, the medical community, governmental agencies, etc. The community standard is what the public expects from EMS. It includes, but is not limited to: prompt 911 emergency response; emergency treatment and transportation by an experienced and competent paramedic and EMT work force; emergency standby for community events and sporting venues with high risk or a large number of spectators in case of a life or death emergency; guaranteed response and service regardless of the ability to pay; and low cost for treatment and transportation to one of eight (8) area hospitals including the Trauma Center and several cardiac and stroke centers as appropriate for each patient. EMS also provides educational outreach to schoolchildren and others.

There are four parts within Councilmember Malinowski’s motion to consider:

(1) Request staff to consider a public/private partnership for ambulance services in Richland County. (2) Private ambulance companies could be utilized at various sporting events or (3) in response to situations that are not life and death with where immediate qualified EMT personnel are not needed. (4) This would reduce the current incident responses for Richland County personnel.

(1) “Request staff to consider a public/private partnership for ambulance services in Richland County...”

Presently, Richland County EMS has a public/private partnership with private ambulance services as defined within the County Code of Ordinances to meet the demand for responses that are not life or death and/or that are “non-emergency transports.” Private ambulance services authorized to respond to calls in Richland County must meet criteria as defined in Section 2-139 (1) of the County Code of Ordinances to operate within Richland County:

“(c) The county council hereby grants permission for the operation of private convalescent transport units within the county.

Private convalescent transport units are any vehicle making nonemergency calls within the county and to destinations within the county as scheduled to a physician’s office or hospital for treatment, routine physical examinations, x-rays, or laboratory tests which is used for transporting within the county, patients upon discharge from a hospital or nursing home to a hospital, nursing home or residence, or a vehicle making any other calls dispatched within the county as nonemergency. Such vehicles are described in S.C. Code 1976, s 44-61-10 et seq. (as amended).

(d) The department of emergency services is hereby authorized to promulgate and enforce rules and regulations governing and controlling such private convalescent transport units and the nonemergency ambulances as deemed by the department to be necessary pursuant to federal, state and applicable regulating agency requirements.

Further, all nonemergency private ambulances that originate calls within the county shall be required to comply with the provisions of this Code of Ordinances, including the business license ordinance [chapter 16], and reporting requirements promulgated by the division.”

There are currently six (6) approved private ambulance services:

1. Fast Trac Ambulance Service
2. Medshore Ambulance
3. Metro One Ambulance, Inc.
4. Prince George Transport, LLC
5. Regional Ambulance Service
6. Gold Cross

Private ambulance services set their own rates and charges for services. Treating and transporting patients needing advanced life support can range up to \$1,800 and \$25 per loaded mile.

Often, private services cannot provide a guaranteed response causing nursing homes and other entities to call Richland County to handle the transports.

(2) “Private ambulance companies could be utilized at various sporting events...”

As a practice, Richland County EMS currently does not charge the publically funded school districts for providing coverage to high school sporting events or community related events. Private school events, other events, and the large, high-risk sport venues of the University of South Carolina (USC) are charged for extra EMS coverage; the rate per hour is \$52.66.

Most high school games have small spectator loads compared to USC football, basketball, baseball, softball, and soccer games. USC football games draw up to 100,000 people in and around the stadium. It is important Richland County ESD plan and provide logistics and coverage patterns that not only protect the response to the stadium and surrounding area, but also minimize service disruptions in other areas of the county. Extensive planning is required for all events. Football games are managed at the stadium operations center through a sophisticated action plan involving area public safety agencies. High-risk events at the Colonial Life Arena and other USC sports venues also draw thousands of people in and around the venue area.

University of South Carolina Sporting Events Covered:	
Men’s Basketball	21
Women’s Basketball	18
Equestrian	16
Track and Field	9
Soccer	27
Baseball	38
Softball	27
Football	7

EMS also provides emergency standby coverage to high school lower tier events that present a high risk to the high school players and students despite smaller spectator loads. Last year, EMS provided coverage to 114 high school football games. In addition to treating numerous minor injuries, ten (10) students required transportation to a hospital emergency department.

EMS also provided standby coverage to the following events:

Firefly Baseball Games	75
5K/10K/Marathons	27
Colonial Life Arena Concerts/Events	65
Koger Center	29
School Career Days	63
Township Concerts/Events	61
Criminal Justice Academy	62
State House Events	15
Community Events	142

Besides treating numerous minor injuries and illnesses, the above events generated an additional 109 emergency medical transports to hospital emergency departments. Many event organizers now plan for emergencies and request Richland County EMS to standby.

- (3) "...in response to situations that are not life and death with where immediate qualified EMT personnel are not needed..."

The South Carolina Department of Health and Environmental Control (DHEC) licenses ambulance services and EMS agencies in South Carolina. There are strict guidelines for licensed providers and the required credentials for EMS responders. There must be qualified personnel on each 911 EMS response ambulance. The certification level of the responder must be consistent with the level of the EMS license granted by DHEC and includes Paramedics for Advanced Life Support (ALS) licenses and EMT's for basic licenses. Each license class, including a First Responder license, requires at the minimum an EMT level of certification. In Richland County, we have an established community standard of advanced level response (ALS) with at least one Paramedic to all 911 calls. Responding with a lower level of service will be inconsistent with our DHEC license and our community standard to get the best response possible to our citizens.

Several jurisdictions allow call-takers, dispatchers, or tele-communicators to triage 911 calls and set priority response. The current Columbia 911 answering point personnel are not trained to make medical triage decisions and thus this option is not available at this time. When calls are received in the 911 Center, it is often difficult to determine the circumstances of the event or the condition of the patient or victim. Often, the caller cannot properly interpret the signs or symptoms of a true medical emergency, so EMS must initiate a full ALS response.

Licensing and allowing private ambulance services to respond to nonemergency calls in Richland County has created very few issues. The private ambulance services negotiate contracts or rates with facilities and patients and are called directly when needed. They handle payments directly with facilities and patients, often requiring payment prior to agreeing to provide service. Richland County may also have to guarantee payment to private services dispatched by Richland County as some emergency calls result in no one being transported; therefore, there are no billable costs for private services. Private ambulance services fees may also exceed those charged by Richland County for ALS service.

To expand the scope of using private ambulance services to supplement 911 emergency calls places Richland County in the chain of response where we will be sending out persons we have not trained and do not control. Areas of concern include the level of experience, qualifications, and training of private personnel, condition of equipment and vehicles, medical protocols and our community

standard of care, 911 response experience, reliability and availability for response, the level of care provided to patients, and the cost to provide emergency response and treatment. Because of the ALS level of care, costs of equipment and supplies used to treat and transport emergency patients is substantially higher than transporting nonemergency patients. Richland County has a flat treatment and transport fee that, in some cases does, does not totally cover the cost of equipment and supplies. Private services must cover their costs and make a profit to stay in business. Many 911 patients never pay the bill for emergency medical care and ambulance transportation.

Liability for failures, malpractice, ambulance accidents occurring when private ambulance vehicles respond emergently to Richland County 911 calls, and other litigious actions could involve the County because 911 calls originating at the Richland County 911 center would be passed-off to private third party services for response. When community standards for 911 call response and the expectation of a high level of service are not met, the public will seek corrective action and hold Richland County responsible for damages incurred.

Richland County currently utilizes private ambulance services in the most advantageous, lowest risk, and financially responsible manner possible. Additional uses continue to be evaluated including a potential use of a priority EMS dispatch solution.

(4) "...This would reduce the current incident responses for Richland County personnel."

On many occasions, Richland County EMS must respond to support and assist private or out-of- county ambulances that are in-bound to hospitals located in Richland County. The use of private ambulances to emergency calls in Richland County will continue to generate support or assistance calls. During sporting events, many events must stop if the emergency medical crew leaves the event to transport a patient; another EMS crew must be sent to the event. Richland County will be called to transport the patient or to stand-by so the event can continue. The exact effect on call volume cannot be determined.

In summary:

1. Richland County currently has public/private partnerships with private ambulance services.
2. Changing the current structure of service delivery may cause Richland County revenues to decrease.
3. Richland County may have to pay the cost of services to a private ambulance service if private services cannot cover their costs.
4. Potential decrease in the number of high school sporting events receiving ALS EMS coverage.
5. If high school EMS coverage is eliminated, school districts will need to plan and coordinate medical coverage.
6. Eliminating responses to medical facilities such as nursing homes and transports from medical clinics at state correctional facilities will reduce call volume. This will require pre-existing agreements between the facilities and private ambulance services.
7. Eliminating EMS coverage for community events will decrease public education opportunities and lengthen response times to patients.
8. Any change in operations will impact our community standard for services.
9. Any action or change in operations is at the discretion of County Council.

Attachments:

None.